

MINUTES

SA STATE TAXES LIAISON GROUP

WEDNESDAY 11 SEPTEMBER 2024 (9.30AM)

FAHEY MEETING ROOMS, LEVEL 4, STATE ADMINISTRATION CENTRE

1. ATTENDANCE/APOLOGIES

PRESENT FOR REVENUESA

Julie Holmes (Chair), Ben Tuffnell, Kelly Tattersall, Kristy Ferguson and Shaun Davies

PRESENT FOR INDUSTRY GROUPS

Lee Jurga (Property Council of Australia), Marissa Mackie (Law Society of South Australia), Julie Van der Velde (CPA Australia), John Tucker (Law Council of Australia), Paul Ingram (The Tax Institute) and Fiona Stapleton (Chartered Accountants Australia and New Zealand)

APOLOGIES

Paul Maxwell (RevenueSA), Mark Christmas (RevenueSA), Alan Yates (CPA Australia), Peter Slegers (Business SA), Jeff Stevens and Carmel Noon (Australian Institute of Conveyances (SA Division), Andrea Heading (Real Estate Institute of South Australia), Bernie Walrut (Law Council of Australia) and Paul Tanti (Chartered Accountants Australia and New Zealand)

2. BUSINESS ARISING

2.1. Update on Action Register (see Attachment A)

- **Action Item 27 – Review of Circular 265 – Stamp Duty – Sale of Retirement Villages**

Julie Holmes reported that discussions had occurred and a further draft incorporating RevenueSA's comments was provided back to Bernie Walrut on 26 August 2024.

In the absence of any further comments from Bernie Walrut, this is considered the final draft.

Of particular note, RevenueSA has not adopted the suggestions as they relate to "net assets" and certain valuation methodologies, forming the view that the current process is well established, has not been the subject of any significant dispute and as such there are no compelling reasons for change.

Despite these differing perspectives, RevenueSA acknowledged and thanked Bernie Walrut for the time and effort that he has put into updating what is now a much improved and more contemporary Information Circular.

John Tucker suggested that Bernie Walrut may still like the opportunity to review and respond to RevenueSA's comments.

- **Action Item 29 – Review of Circular 156 – Access to documents held by solicitors and legal professional privilege – Guidelines.**

No further update. The review of Circular No: 156 remains on hold pending the outcome of a current High Court matter.

- **Action Item 30 – Exemption 33**

Julie Holmes reported that work has started on reviewing potential legislative amendments to Exemption 33 of the *Stamp Duties Act 1923*.

- **Action Item 2022-4 - Self-determining mining tenement acquisitions**

Julie Holmes reported discussions had occurred between Paul Ingram and Mark Christmas and RevenueSA is now in the process of finalising the necessary wording and advice to publish on the website.

- **Action Item 2023-6 – Emergency Services Levy**

No further update. Bernie Walrut to prepare submissions for the Treasurer seeking a review into this issue.

- **Action Item 2023-7 – Release of Unpublished Tribunal Orders**

No further update. Bernie Walrut to write to the South Australian Civil and Administrative Tribunal or the relevant Minister on this issue.

- **Action Item 2024-1 – Land Tax Review Outcome**

No further update. Bernie Walrut to prepare a list of policy and administrative issues raised as part of the stakeholder engagement from the Land Tax Review.

Paul Ingram advised that he had recently raised an issue relating to the deduction (which was supported by the Treasurer on objection) and whether the Land Tax Guide to Legislation would be updated to reflect this decision with Paul Maxwell.

Julie Holmes advised that, at this stage, a decision on whether the Land Tax Guide to Legislation will be amended was still being considered. Julie Holmes further advised that any specific matters can be sent directly to Kelly Tattersall.

- **Action Item 2024-2 - Payroll tax contractor provisions - Arrangements between businesses providing Australian Financial Services Licences and Australian Credit Licences**

Julie Holmes reported that, after further consideration and advice, RevenueSA will wait until a decision has been made in the Loan Market matter (which we understand may be further appealed) before publishing any guidance similar to New South Wales. In the meantime, our position remains the same as the position currently taken by New South Wales.

Julie Van der Velde suggested that the position across Australia is inconsistent and she would like South Australia's position officially stated, after the Loan Market matter is decided in New South Wales.

2.2. Payroll Tax and Medical Centres

Julie Holmes advised that:

- Regular meetings are taking place with the Royal Australian College of General Practitioners ("RACGP") and the Australian Medical Association ("AMA").
- The relevant amendments to the *Payroll Tax Act 2009* (the "PTA") were included in this year's State Budget Bill. The Bill passed the House of Assembly, unamended, on 27 August 2024.
- Instructions have been provided to Parliamentary Council to begin drafting the Regulations to facilitate both the new bulk billing exemption and the previous year's amnesties. Consultation with broader stakeholder groups is expected to occur in due course but with time restrictions given the urgency with which the Regulations will be enacted.

John Tucker raised concerns about the relevant contractor provisions and specifically the labour/non-labour deductions noting a recent objection outcome may suggest flaws in approach. Further, that Revenue Rulings PTA018 and PTA019 should be reviewed and adjusted in light of the gaps highlighted by the objection in question and a number of favourable appeal outcomes in other jurisdictions.

Julie Holmes advised that, following a request from the RACGP and SA Health for clarification, RevenueSA has prepared a draft Revenue Ruling about the treatment of payroll tax as it relates to Local Health Networks ("LHNs").

The purpose of this Revenue Ruling is to explain the application of the PTA to medical practitioners contracted by regional LHNs to deliver medical services in rural and regional hospitals under agreements including, but not limited to, a SA Health Rural GP Agreement 2024-28.

The RACGP, AMA and SA Health have been consulted on the draft Revenue Ruling and it will now be circulated to STLG members for consideration and comments with a 2 week timeframe for any comments.

Action: Paul Maxwell to circulate the draft revenue ruling to STLG members for comment.

2.3. Update on State Tax Appeals

Ben Tuffnell reported that the following has occurred since the last meeting:

- A decision was handed by the Tribunal on 23 June 2024 in the HomeBuilder Grant ("HBG") matter for Ms Nguyen. The Tribunal set aside the decision subject to review, and in its place, ordered that Ms Nguyen is entitled to a HBG of \$15,000. The issue in this matter was about replacement contracts and the decision is summarised on our website.

- We are awaiting decisions from the Tribunal in a HBG matter for Ms Loxton and the Court of Appeal in a payroll tax matter for Marmota Ltd.
- The High Court is hearing the casino duty matter involving SkyCity Adelaide Pty Ltd in Hobart tomorrow.
- 1 HBG matter (which is likely to be heard in October/November 2024) and 1 stamp duty (qualifying land) matter are still to be heard.
- No new Supreme Court or Tribunal appeals have been lodged since the last STLG meeting.

3. New Business

3.1. RevenueSA Website Review [RevenueSA]

Erik Chmielewski provided a slideshow which summarised the review that is being undertaken.

STLG members provided their feedback and suggestions which Erik Chmielewski and RevenueSA will consider as part of the review process. In particular, STLG members were interested in the website establishing a "Resource Centre" that provided easy and direct access to guides, rulings and circulars.

3.2. RevenueSA Online – Issues with Section 102B Returns and Requests for Opinion [Paul Tanti]

Carried over to the next meeting

4. Any Other Business

4.1. Payroll Tax – NSW Supreme Court decision in *Uber Australia Pty Ltd v Chief Commissioner of State Revenue* [2024] NSWSC 1124 (6 September 2024)

Lee Jurga asked what the views of RevenueSA were in respect of the decision in *Uber Australia Pty Ltd v Chief Commissioner of State Revenue* [2024] NSWSC 1124 (6 September 2024) and whether RevenueSA will be seeking their own independent advice from the Crown Solicitor on this issue.

Julie Holmes advised that RevenueSA were watching this space in light of the potential for any appeals before offering any further opinion on the matter.

5. Next Meeting

11 December 2024

ATTACHMENT A – ACTION REGISTER

Item	Date of Meeting	Action	Who	Status as at 1 October 2024	Due Date
27	04/12/2019 [Historical Action Item]	Publication: Circular 265 – Stamp Duty – Sale of Retirement Villages	RevenueSA	Bernie Walrut provided his further submissions on 29 May 2023. Meeting held on 27 March 2024 to discuss the further submissions. RevenueSA will now finalise the revised publication.	On-going Completed End of September 2024
29	04/12/2019 [Historical Action Item]	Publication under consideration by RevenueSA: Circular 156 – Access to documents held by solicitors and legal professional privilege – Guidelines.	RevenueSA/ Bernie Walrut	On hold. To be considered once the outcome of a current High Court matter is known and considered by the Federal Government. Bernie Walrut to review the latest developments on the issue and report back to RevenueSA.	On-going
30		RevenueSA to draft a new Revenue Ruling in regard to Exemption 33 for consideration by the Rulings Sub-Committee.	RevenueSA	Paul Maxwell circulated the revised draft Revenue Ruling. Meeting held on 27 March 2024 to discuss the further submissions. RevenueSA has prepared a briefing minute to the Treasurer seeking his approval to make legislative amendments to Exemption 33.	On-going Completed Completed
2022-4	7/9/2022	RevenueSA to review and consider the appropriateness of self-determining mining tenement acquisitions and the associated necessary system changes	RevenueSA	Mark Christmas contacted Paul Ingram directly to discuss this issue further and a mutually agreed position has been reached. RevenueSA to articulate their position and provide a contact number on their website. Discussions had occurred between Paul Ingram and Mark Christmas and RevenueSA is now in the process of finalising the necessary wording and advice to publish on the website.	11 December 2024
2023-6	12/7/2023	RevenueSA to review why the Emergency Services Levy is not administered under the TAA.	RevenueSA	Bernie Walrut to prepare submissions for the Treasurer seeking a review into this issue.	Pending
2023-7	6/12/2023	RevenueSA to seek advice from the Crown Solicitor's Office in regard to whether Tribunal Orders can be released even when not published.	RevenueSA	Bernie Walrut to write to either SACAT directly or the relevant Minister to express the importance to all parties of	Pending

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				publishing all Orders in a timelier manner.	
2024-1	13/3/2024	Land Tax Review Outcome	RevenueSA	Bernie Walrut to prepare a list of those policy and administrative issues raised as part of the stakeholder engagement to facilitate further discussion.	Pending
2024-2	19/6/2024	Payroll tax contractor provisions - Arrangements between businesses providing Australian Financial Services Licences and Australian Credit Licences.	RevenueSA	RevenueSA to consider publishing guidance like Revenue NSW's Commissioner's Practice Note. RevenueSA have decided to await the final Loan Market decision (which we understand will be further appealed) before publishing any guidance like Revenue NSW's Commissioner's Practice Note. In the meantime, our position remains the same as the NSW position.	Completed
2024-3	11/9/2024	Draft Revenue Ruling about the treatment of payroll tax as it relates to Local Health Networks.	RevenueSA	NEW ACTION: Paul Maxwell to circulate the draft revenue ruling to STLG members for comment.	Completed

ATTACHMENT B – REVENUESA PUBLICATIONS AND UPDATES

1. Publications to reviewed now that the stamp duty rewrite is not progressing
 - 1.1. Stamp Duty – Residential land used for long term accommodation and discretionary trusts that are foreign trusts
 - 1.2. Section 71(6) of the SDA
 - 1.3. Stamp Duty – Unit Trust: Issues And Redemptions
 - 1.4. Circular 61 – Section 71E of the SDA. Obligation of a person to lodge a statement with the Commissioner
 - 1.5. Circular 109 – *Stamp Duties (Concessions) Amendment Act 1994* – Family Farm Transfers
 - 1.6. Circular 282 – Domestic Partners
2. New potential publications for consideration
3. Draft publications on hold
4. Other existing publications under consideration by RevenueSA
 - 4.1. Circular 265 – Stamp Duty – Sale of Retirement Villages
 - 4.2. Circular 156 – Access to documents held by solicitors and legal professional privilege – Guidelines
 - 4.3. Review of Information Circular 1 – RSA Publication Process
 - 4.4. DRAFT Revenue Ruling – Exemption from Duty – Charitable and Religious Bodies
5. Recent Updates
 - 5.1. 2024-25 Certificate Fees released
 - 5.2. 2023-24 Payroll Tax Annual Reconciliation
 - 5.3. 2024-25 State Budget
 - 5.4. 2024-25 Land tax rates and thresholds
 - 5.5. Extended RevenueSA Online outage for annual housekeeping