RevenueSA
DEPARTMENT OF TREASURY AND FINANCE

Information Circular No: 75

Stamp Duties Act 1923
Payroll Tax Act 2009
Land Tax Act 1936

2015-16 State Budget

Issued 18 June 2015

The following taxation measures were announced by the Government as part of the 2015-16 State Budget handed down today, 18 June 2015.

The legislative amendments to implement the measures (except the extension of the small business payroll tax rebate which is an administrative scheme) are contained in the *Statutes Amendment and Repeal (Budget 2015) Bill 2015* (the "Bill") which was introduced into Parliament today. The operation of these measures is subject to the Bill coming into force as an Act.

Measures to take effect from 18 June 2015

Abolition of stamp duty on non-quoted marketable securities

Stamp duty on non-quoted marketable securities (share duty) will be abolished from 18 June 2015.

Share duty (or non-quoted marketable securities duty) applies to the purchase or gift of shares not listed on a recognised stock exchange.

For any share transfer entered into pursuant to a share sale agreement dated between 18 June 2015 and the date on which the Bill is assented to by the Governor, the stamp duty will be paid by the Government on behalf of the taxpayer by way of *ex gratia* relief.

Changes will be made to RevenueSA's internet based system, RevNet, which will allow practitioners to calculate stamp duty and also facilitate the *ex gratia* relief being processed automatically on any eligible share transfers entered into between 27 June 2015 (the earliest date the system changes can be implemented) and the date of assent of the Bill.

For non-RevNet users, the share transfer must be submitted to RevenueSA for processing of the *ex gratia* relief.

Stamp duty on the transfer of marketable securities listed on a recognised stock exchange was abolished from 1 July 2001.

Further information on this amendment can be found in **Information Circular 76**.

Abolition of stamp duty on non-real property transfers

Stamp duty on non-real property transfers will be abolished from 18 June 2015.

Non-real property comprises property that is not land and buildings. Transfers of statutory leases and licences, such as fishing licences, taxi licences, gaming machine licences and entitlements, together with most forms of business assets including goodwill, trading stock (other than land), and intellectual property will obtain the benefit of the abolition of stamp duty on non-real property transfers. Transfers of water licences are already stamp duty exempt.

From 18 June 2015, only property transfers involving land, as defined in the *Stamp Duties Act 1923* (the "SD Act"), will remain liable for conveyance stamp duty.

In the event that a taxpayer enters into a non-real property transfer between 18 June 2015 and the date on which the Bill is assented to by the Governor, the stamp duty will be paid by the Government on behalf of the taxpayer by way of *ex gratia* relief.

Changes will be made to RevenueSA's internet based system, RevNet, which will allow practitioners to calculate stamp duty and also facilitate the *ex gratia* relief being made automatically on any eligible transfer of non-real property entered into between 27 June 2015 (the earliest date the system changes can be implemented) and the date of assent of the Bill.

For non-RevNet users, transfers of non-real property must be submitted to RevenueSA for payment of the *ex gratia* relief.

Information Circular 76 provides further information on the types of property that will no longer be dutiable from 18 June 2015 and the property which remains subject to duty until the abolition of duty on non-residential real property on 1 July 2018.

Expansion of the availability of corporate reconstruction relief

Stamp duty is payable on the transfer of property from one corporation to another regardless of whether the corporations are part of the same corporate group. As stamp duty may be an impediment to the restructuring of a corporate group, relief from the payment of stamp duty on restructuring transactions has been provided, under an administrative scheme, in the form of *ex gratia* relief.

Details of the administrative scheme are contained in RevenueSA **Circular No 227**.

Following the State Budget handed down on 6 June 2013, the Government has provided stamp duty relief, under the administrative scheme, of 100% of the duty payable on approved corporate reconstruction transactions, pending the introduction of a legislative exemption.

From 18 June 2015, the eligibility criteria applying to stamp duty relief in South Australia will no longer:

- require ‘substantially all’ of the property of the transferor to be transferred to another member of the corporate group;
- require the transferor and the transferee to have been members of the same corporate group for at least three years prior to the restructure;
- require the assets transferred under an exempt transaction to be retained within the corporate group for at least three years after the exempt transaction; or
- preclude relief to a corporate group that has the trustee of a discretionary trust as the ultimate parent corporation (however, the transferee of the property cannot be the trustee of a discretionary trust).

For corporate reconstruction transactions entered into before 18 June 2015, the Minster for Finance will continue to consider applications for stamp duty relief on the basis of the current administrative scheme.

In the event that a taxpayer undertakes a corporate restructuring transaction between 18 June 2015 and the date on which this Bill is assented to by the Governor, and Part 4AA applies, the stamp duty will be paid by the Government on behalf of the taxpayer by way of *ex gratia* relief and relevant applications will be considered by the Commissioner of State Taxation (the “Commissioner”).

Further information in relation to the corporate reconstruction exemption is outlined in **Information Circular 77**.

Expansion of the stamp duty concession for exploration tenements to include retention tenements

From 18 June 2015, transfers of retention tenements will receive the same concessional duty arrangements that currently apply to transfers of exploration tenements.

Currently, the concessions from stamp duty afforded by Section 71D of the SD Act can only be applied to exploratory or investigatory expenditures in exploration tenements, which are designed to encourage resource exploration activity in South Australia.

The concessional stamp duty arrangements mean that eligible transfers of retention tenements will now only be required to pay stamp duty of up to $1000 rather than the duty rates that would normally apply.

If a transfer of a retention tenement occurs between 18 June 2015 and the date on which the Bill is assented to by the Governor, *ex gratia* relief of the difference between the duty rates that would normally apply and up to $1000 will be paid by the Government.

Introduction of a stamp duty exemption for a principal place of residence transferred into a Special Disability Trust for no consideration

Special Disability Trusts (SDTs) were introduced in September 2006 by the Commonwealth Government via amendments to the *Social Security Act 1991*. SDTs are special purpose trusts that can be established by the immediate family members of a disabled person to hold assets which provide for the future financial security of that disabled person.

Under current arrangements, conveyance duty is payable when a disabled person’s principal place of residence is transferred into a SDT.

A transfer of a disabled person’s principal place of residence into a SDT for no consideration will be exempt from duty with effect from 18 June 2015.

In the event that a property is transferred into a SDT between 18 June 2015 and the date on which the Bill is assented to by the Governor, stamp duty will be paid by the Government on behalf of the taxpayer by way of *ex gratia* relief .

Further information in relation to the relief available for special disability trusts is outlined in **Information Circular 79**.

Removal of the exemption available in relation to the partition of property between members of a family group.

The exemption available in relation to the partition of property between members of a family group will be removed from 18 June 2015.

Partition transfers entered into between 18 June 2015 and the date on of which the Bill is assented to by the Governor and found to have been stamped as exempt will be reassessed appropriately once the legislation is assented to.

Measures to take effect from 1 July 2015

Abolition of the Hindmarsh Island Bridge Levy

The Hindmarsh Island Bridge Levy will be abolished from 1 July 2015.

The levy is currently paid by owners of new allotments created on Hindmarsh Island. The levy represents the property owner's contribution towards to the construction of the Hindmarsh Island Bridge.

Those Levy payers who chose the annual payment option will no longer be required to remit their yearly payments and newly subdivided land on the island will not be subject to the Levy.

Annual bridge maintenance fees payable by the Council to the State Government will also be abolished.

Extension of the small business payroll tax rebate to 2015-16

The small business payroll tax rebate introduced in the 2013-14 State Budget will be available in 2015-16.

The rebate provides payroll tax savings for employers with taxable payrolls less than or equal to $1.2 million.

Eligibility criteria for the rebate will be unchanged from the rebate that applied in 2013-14 and 2014-15. Eligible employers will receive the rebate following the finalisation of the 2014-15 payroll tax annual reconciliation process.

Further information is outlined in **Revenue Ruling PTASA002[V2]**.

Introduction of a land tax principal place of residence exemption for property transferred into a Special Disability Trust

Under previous arrangements, when a disabled person's principal place of residence was transferred into a SDT, the property was liable for land tax if its site value was above the tax free threshold.

A disabled person's principal place of residence transferred into a SDT for no consideration will be exempt from land tax with effect from 1 July 2015.

Further information in relation to the relief available for special disability trusts is outlined in **Information Circular 79**.

Other land tax amendments

The *Land Tax Act 1936* will be amended to:

- extend the exemption/waiver from land tax where a person owns more than one principal place of residence on 30 June and to remove the requirement that applications for a refund be lodged before 30 September;
- tighten the minor interest provisions in relation to how they apply to trusts to prevent land tax avoidance;
- clarify the operation of the minor interest provisions following the decisions in two Supreme Court cases; and
- allow for interest and penalty tax on assessments of land tax where a taxpayer had been receiving an exemption due to providing RevenueSA with false or misleading information or failing to provide information that should have been provided.

Further information on the land tax amendments are outlined in **Information Circular 78** and on **www.revenuesa.sa.gov.au**.

Measures to take effect from the date of assent

The Government is also making a number of other changes to the SD Act, the *Motor Vehicles Act 1959* and the *Taxation Administration Act 1996* (the "TAA"), these changes are summarised below.

The SD Act will be amended to:

Expand the stamp duty exemption for interfamilial farm transfers, in particular in relation to transfers involving the use of certain types of trusts

Section 71CC of the SD Act is to be amended to confirm RevenueSA's long standing assessing practice in relation to the stamp duty exemption for interfamilial farm transfers, in particular in relation to transfers to and from certain types of trusts.

Section 71CC of the SD Act came into effect on 30 May 1994. The section was introduced to provide an exemption from stamp duty on the transfer of primary production land and associated farming goods between specified categories of relatives (family members) and/or their trustees where certain criteria are met.

The amendment expands the exemption to transfers between trustees who are acting as trustee for the relatives involved in the intergenerational transfer. Accordingly, it has been RevenueSA's practice to exempt transfers involving trusts where the beneficiaries of those trusts are restricted to relatives of the transferor.

Further information in relation to the family farm exemption can be found in RevenueSA's **Revenue Ruling SDA007 - Section 71CC - Ex Gratia Scheme for Transferor/Transferee Trusts**.

Legislate *ex gratia* relief for incapacitated persons

The SD Act will be amended to provide an exemption from stamp duty on motor vehicle transfers where the parent or legal guardian of an incapacitated person who is a minor purchases a vehicle to transport the minor. Consequential amendments will also be made to the *Motor Vehicles Act 1959* to provide a 50% concession to the registration fee component of one motor vehicle where the vehicle is used mainly for transporting an incapacitated minor, subject to certain conditions.

An existing stamp duty exemption and registration fee reduction applies to cases where the incapacitated person (as defined) is over 16 years of age. This relief is not available in cases where motor vehicles are registered in the name of the parent or guardian of an incapacitated minor.

The Government has provided stamp duty *ex gratia* relief on a case-by-case basis, where a motor vehicle is registered in the name of the parent or legal guardian of an incapacitated person who is a minor. *Ex gratia* relief has also been provided in respect of the stamp duty payable on compulsory third party insurance (currently $60 per annum) and a fifty percent reduction in the registration fee component of the registration charges (refer to RevenueSA **Circular No 264** for details of the current *ex gratia* scheme).

This relief will replace the current *ex gratia* scheme, the subject of RevenueSA **Circular No. 264**.

In the event that a parent or legal guardian of an incapacitated person who is a minor purchases a motor vehicle or renews the registration for a motor vehicle between 18 June 2015 and the date on which the Bill is assented to by the Governor, relief will continue to be provided under the current *ex gratia* scheme.

Once the Bill is assented to by the Governor, applications for relief for new registrations are to be made in person at any branch of Service SA.

Legislate *ex gratia* relief for disability service providers

The SD Act will be amended to provide an exemption from stamp duty on motor vehicle transfers where disability service providers purchase vehicles to transport persons with disabilities.

Stamp duty *ex gratia* relief is currently available upon the purchase of motor vehicles by disability service providers where:

- the motor vehicle in question was purchased on or after 19 January 2006;
- the registered owner of the vehicle is a disability services provider which the Australian Taxation Office has endorsed as an income tax exempt charity and can produce evidence of that endorsement;
- the registered owner of the vehicle is a member of the disability services provider panel; and
- the motor vehicle is used solely or principally for the transport of persons with disabilities.

The amendments simplify the qualifying criteria by removing the requirement that the registered owner of the vehicle is a member of the disability services provider panel.

Details of the administration of the current *ex gratia* scheme are contained in RevenueSA's **Circular No 267**.

Applications for relief for new registrations are to be made in person at any branch of Service SA.

Legislate *ex gratia* relief for charitable and religious purposes

Section 71(5)(j) of the SD Act is to be amended so as to provide a stamp duty exemption to charitable and religious bodies that purchase property that is not wholly or predominantly used for business or commercial purposes.

Section 71(5)(j) of the SD Act provides for an exemption from stamp duty in respect of a voluntary disposition of property that is used wholly for charitable or religious purposes. Accordingly, gifts of property to charitable or religious bodies are exempt from *ad valorem* conveyance duty. However, there is no exemption in the SD Act in respect of conveyance duty on the purchase of property by a charitable or religious body.

The exemption will not extend to land used for business or commercial purposes by charities regardless of whether the funds generated from this activity are redirected to charitable purposes or not.

Extend the definition of family group to include domestic partners

The SD Act will be amended to extend the definition of family group in Section 71(15) to include domestic partners.

Section 71(15) of the SD Act defines 'family group' to mean a group of persons connected by an unbroken series of relationships of consanguinity (related by blood) or affinity (related by marriage). The definition of "family group" is relevant to certain exemptions contained in Section 71 of the SD Act.

The definition of 'family group' currently does not include domestic partners.

This extension applies to Sections 71(5)(f) and 71(5)(g) of the SD Act.

Retrospective date of sale amendments

The Bill retrospectively amends Section 60A of the SD Act and other sections of the SD Act including Sections 31, 31A, 65 and 71DB to clarify that the relevant date for determining the market value of property for stamp duty purposes is the date of transfer and not the date of contract.

Further information in regard to RevenueSA's position on this issue is outlined in **Revenue Ruling SDA008[V3] - State Budget Amendments to Section 60A(1) and other Sections**.

Payment of tax on appeal

The Bill contains an amendment to the TAA so that a taxpayer has to pay only half of the tax in dispute rather than the whole of the disputed amount before an appeal can be lodged with the Supreme Court.

A taxpayer who is dissatisfied with the Minister for Finance's (the "Minister") decision in relation to an objection, may, within 60 days, refer the matter to the Supreme Court. The Supreme Court has the discretion to allow a taxpayer to appeal after the 60 day limit (providing the appeal is not later than 12 months after the date of service of the Minister's determination). A person may also appeal to the Supreme Court if the person has lodged an objection and it has not been determined by the Minister within 90 days.

Under Section 93(1) of the TAA, a taxpayer cannot exercise a right of appeal to the Supreme Court unless the taxpayer has paid to the Commissioner the entire tax liability to which the appeal relates (as assessed by the Commissioner or by the Minister on an objection).

However, the Minister has a discretion to waive this requirement. The Minister's decision in this regard is a non-reviewable decision.

Measures to take effect from 1 July 2016

One third reduction of conveyance duty on the transfer of non-residential, non-primary production real property.

Measures to take effect from 1 July 2017

Further one third reduction of conveyance duty on the transfer of non-residential, non-primary production real property.

Measures to take effect from 1 July 2018

Abolition of conveyance duty on the transfer of non-residential, non-primary production real property.

Stamp duty on non-residential, non-primary production real property transfers will be phased out over a three year period commencing 1 July 2016. Duty rates will be reduced by a third from 1 July 2016, a further third from 1 July 2017, before the duty is abolished from 1 July 2018.

Stamp duty will continue to apply to non-exempt transfers of primary production land. A stamp duty exemption may be available to certain transfers of primary production land that is used to carry on a business when it is transferred between family members.

Vacant land will be considered to be used for primary production or residential purposes in certain circumstances.

Land will be taken to be used for residential purposes where the Commissioner, after taking into account information provided by the Valuer-General, determines that:

- it is being predominantly used for that purpose;
- although the land is not being used for any particular purpose at the relevant time the land should be taken to be used for residential purposes due to improvements that are residential in character having been made to the land; or
- that the land is vacant, or vacant with only minor improvements, that the land is within a zone established by a Development Plan under the *Development Act 1993* that envisages the use, or potential use, of the land as residential, and that the land should be taken to be used for residential purposes due to that zoning (subject to the qualification that if the zoning of the land indicates that the land could, in a manner consistent with the Development Plan, be used for some other purpose (other than for primary production) then the vacant land will not be taken to be used for residential purposes).

Land will be taken to be used for primary production purposes where the Commissioner, after taking into account information provided by the Valuer-General, determines that:

- it is being predominantly used for primary production purposes; or
- although the land is not being used at the relevant time the land should be taken to be used for primary production purposes due to a classification that has been assigned to the land by the Valuer-General.

The Commissioner will generally rely on land use codes to determine whether he considers land to be residential or primary production land.

In some cases the zoning of the land will be relevant where the land is unimproved or there are only minor improvements.

A further exception is in relation to land which although coded as residential by the Valuer-General will nevertheless be considered by the Commissioner to be commercial in nature.

This treatment will be consistent with the Local Government zoning of the land. Examples of land that falls into this category include Hotels, Motels, Serviced Apartments and short term unit accommodation.

If purchasers of land are in any doubt they should contact RevenueSA before stamping the land transfer on RevNet.

Anti-avoidance provisions

As the rates of stamp duty on non-residential, non-primary production land are phasing out over three years, a robust anti-avoidance provision has been included in the Bill to provide significant deterrence to persons who may attempt to artificially structure transactions in order to take advantage of a lower rate of duty in the future.

There are also a number of amendments contained in the Bill that will coincide with the abolition of stamp duty on non-residential, non-primary production real property transfers on 1 July 2018.

Abolition of stamp duty on transfers of units in unit trusts

Stamp duty will be abolished on the issue, redemption and transfer of units in private (or non-listed) unit trusts under Section 71 of the SD Act from 1 July 2018.

The issue, redemption or transfer of units in a private (or non-listed) unit trust is currently subject to stamp duty at conveyance rates based on the consideration or the market value, whichever is greater.

From 18 June 2015 duty will only be payable when unit trusts hold land.

Remove the $1 million landholder threshold

The Government will remove the $1 million landholder threshold in Part 4 of the SD Act from 1 July 2018.

The landholder model ensures that if control of an entity changes and that entity holds land assets above the threshold, conveyance rates of duty apply to the South Australian land transferred.

This change coincides with the full abolition of stamp duty on non-residential, non-primary production real property transfers and will therefore only apply where control of an entity holding South Australian residential and/or primary production land changes.

Mike Walker
COMMISSIONER OF STATE TAXATION

18 June 2015

Further Information

Further information in relation to any of the above taxation measures can be obtained from RevenueSA.

Location	RevenueSA State Administration Centre 200 Victoria Square East ADELAIDE SA 5000
Postal	Commissioner of State Taxation RevenueSA GPO Box 1353 ADELAIDE SA 5001
Telephone	(08) 8226 3750 (stamp duty) (08) 8204 9880 (payroll tax) (08) 8204 9870 (land tax)
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Email	stamps@sa.gov.au landtax@sa.gov.au
Website	www.revenuesa.sa.gov.au