

Information Circular No: 93

Stamp Duties Act 1923

Land Tax Act 1936

Payroll Tax Act 2009

State Budget 2016-17

Issued 7 July 2016

As part of the 2016-17 State Budget (handed down on 7 July 2016) the Government announced the following taxation measures:

- ▶ an extension of the stamp duty concession for purchases of off-the-plan apartments;
- ▶ an amendment to Section 67 of the *Stamp Duties Act 1923* (the "SDA");
- ▶ an amendment to Section 71(5)(j) of the SDA;
- ▶ the removal of the prescribed goods provisions in the SDA;
- ▶ the expansion of the land tax exemption for land held by sporting and racing associations;
- ▶ an amendment to Section 4(1)(j) of the *Land Tax Act 1936* (the "LTA");
- ▶ the expansion of the land tax principal place of residence exemption;
- ▶ the extension of the small business payroll tax rebate for a further four years;
- ▶ an amendment to Section 93(1) of the *Taxation Administration Act 1996* (the "TAA"); and
- ▶ the introduction of a tax for betting companies offering services in South Australia.

The legislative amendments to implement the above measures (except the extension of the small business payroll tax rebate which is an administrative scheme) are contained in the *Statutes Amendment (Budget 2016) Bill 2016* (the "Bill"), introduced into Parliament on 7 July 2016. The operation of these measures is subject to the Bill coming into force as an Act.

The Government also announced the introduction of a Job Accelerator Grant Scheme. These grants will be delivered through an administrative scheme.

Stamp duty

Extension of the stamp duty concession for purchases of off-the-plan apartments

As part of the 2012-13 Budget, the Government enacted Section 71DB of the SDA to provide a stamp duty concession for purchases of off-the-plan apartments. The concession provided a full stamp duty concession for eligible contracts entered into from 31 May 2012 to 30 June 2014 (capped at stamp duty payable on a \$500 000 apartment) and a partial concession from 1 July 2014 to 30 June 2016. Since 28 October 2013, the concession has applied to eligible off-the-plan apartment purchases within the inner metropolitan Adelaide area.

The Government has announced that the date for the partial off-the-plan concession will be extended by one year to 30 June 2017.

In addition, the Government has announced the removal of the boundary that applies to the off-the-plan concession so that the concession will apply state-wide for any eligible purchase of an off-the-plan apartment entered into between 20 June 2016 and to 30 June 2017.

Where eligible applications for the extended stamp duty concession are received before the amending Act comes into operation, the concession will be paid by way of *ex gratia* payment.

Other than the extension of the partial concession, the remaining criteria for the existing concession will remain the same.

The extended concession will not apply to contracts made before 20 June 2016 and will not be available if a contract replaces an existing contract made before 20 June 2016 for the same apartment.

Applicants should be aware that there are substantial penalties for providing incorrect or misleading information in relation to a concession application.

Further information on the stamp duty off-the-plan concession can be found in Information Circulars **48**, **65** and **89**.

Amendment to Section 67

Section 67 of the SDA will be amended to make clear that where a purchaser acquires property from two or more independent arm's length vendors the value of these properties will not be aggregated to determine the total stamp duty liability.

This amendment will take effect from the date of assent.

Section 71(5)(j) - land purchased by charitable and religious associations

Section 71(5)(j) of the SDA provides an exemption from *ad valorem* conveyance stamp duty where there is a conveyance of land to a body established wholly for charitable or religious purposes and the land will not be used (wholly or predominantly) for commercial or business purposes.

However, recent advice from the Crown Solicitor advised that the charity concessions demand that the legal owner of the relevant property (i.e. the trustee in instances where property is subject to a trust) satisfy the charity concession eligibility criteria, and it is irrelevant whether the property is subject to a charitable trust.

In light of this advice, the Government has announced that, from 1 July 2016, it will amend Section 71(5)(j) of the SDA to ensure that all trustees that hold eligible land as trustee of an eligible trust qualify for this stamp duty exemption.

In addition to the change above, the Bill moves this amended provision from Section 71(5)(j) of the SDA to Schedule 2 of the SDA to make clear that this exemption is available to purchases of property, as well as gifts of property, used wholly for charitable or religious purposes.

Removal of the Prescribed Goods Provisions

As part of the 2015-16 State Budget duty was removed, with effect from 18 June 2015, from all direct acquisitions of South Australian property, apart from land and prescribed goods.

Duty also remained payable on indirect acquisitions of South Australian land and goods, under the land holder duty provisions contained in Part 4 of the SDA.

Under these provisions, all acquisitions of South Australian land, whether completed by direct or indirect transaction, have been captured for duty. In addition, goods transferred as part of an arrangement with a dutiable land transaction that have a significant connection with the land have been dutiable. Specified categories of goods, such as goods that are stock-in-trade, are excluded and the Commissioner of State Taxation (the "Commissioner") is provided with a discretion to exclude other specified goods, or specified classes of goods, where the Commissioner considers it fair and reasonable to do so.

The Bill amends, from 1 July 2016, the SDA to remove all goods from duty, whether those goods are part of an arrangement that includes a dutiable land transaction or a landholder transaction.

The land definitions included at Sections 2(7) to 2(9) in the SDA will ensure that the essential dutiable value will remain in the land and be brought to duty.

In addition, Section 102A(7) of the SDA will be amended to ensure that a reduction in duty charged under Part 4 of the SDA on an indirect acquisition of South Australian land applies to any duty paid on the transaction under any other provision within the SDA.

Concessional Duty on Designated Real Property Transfers

The Bill will also amend the SDA to give effect to the Government's announcement in the 2015-16 Mid-Year Budget Review that it would bring forward the first one third reduction in non-residential, non-primary production real property transfers from 1 July 2016 to 7 December 2015. This will replace the *ex gratia* scheme currently put in place by the Government.

Further information on this amendment can be found in [Information Circular 86](#).

Land tax

The Bill makes the following amendments to the LTA (all of which will take effect from midnight 30 June 2016):

Expansion of the land tax exemption for land held by sporting and racing associations

Currently, land that is owned by an association that holds the land wholly or mainly for the purpose of playing cricket, football, tennis, golf or bowling, or other athletic sports or exercises is exempt from land tax. Similarly, land that is owned by an association that holds the land wholly or mainly for the purpose of horse racing, trotting, dog racing, motor racing or other similar contests is exempt from land tax.

However, other land owned by the sporting or racing association that is used for non-sporting or non-racing activities is not exempt from land tax.

The Government has announced that it will expand the scope of the land tax exemptions available to sporting and racing associations to include all non-residential and non-vacant land from 1 July 2016. Land held by a sporting or racing association that constitutes residential or vacant land will continue to be subject to land tax under the proposed amendment.

In addition, the Government has announced that it will provide *ex gratia* relief for eligible land held by sporting and racing associations for the 2015-16 financial year.

Ex gratia relief for the 2015-16 financial year will be processed in due course by RevenueSA. Relief will not be paid to eligible sporting or racing associations who have land tax outstanding from previous years.

Section 4(1)(j) - land owned by charitable, educational, benevolent, religious, or philanthropic associations

Land owned by an association established for a charitable, educational, benevolent, religious or philanthropic purpose is generally exempt from land tax.

However, recent advice from the Crown Solicitor advised that the charity concessions demand that the legal owner of the relevant property (i.e. the trustee in instances where property is subject to a trust) satisfy the charity concession eligibility criteria, and it is irrelevant whether the property is subject to a charitable trust.

In light of this advice, the Government has announced that it will amend Section 4(1)(j) of the LTA to ensure that all trustees that hold eligible land as trustee of an eligible trust qualify for this land tax exemption.

For updated information please see [Information Circular 98](#)

Expansion of the principal place of residence land tax exemption

Currently, where a person moves out of their principal place of residence (PPR) to substantially renovate or rebuild their home, the site (land) may become liable for land tax.

The Government announced that it will expand the PPR exemption criteria to provide individuals with the ability to maintain a PPR on the site being redeveloped for up to two financial years from 1 July 2016. This will ensure that there is no additional land tax burden for home owners in circumstances where they move out and substantially renovate or rebuild their existing PPR. Individuals will be able to elect their existing PPR (that is under redevelopment) as exempt rather than the property they will reside in during the period of renovation/rebuild.

In addition, relief will also be available for up to two financial years from 1 July 2016 where a person buys a property, whether vacant land or other unoccupied property, with the intention to renovate or construct what will become their PPR.

Further information on all the land tax amendments can be found in [Information Circular 94](#).

Payroll Tax

Extension of the small business payroll tax rebate for a further four years

The small business payroll tax rebate introduced in the 2013-14 State Budget will be extended for an additional four years to 2019-20.

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 previous years. Eligible employers will receive the rebate following the finalisation of the payroll tax annual reconciliation process each financial year up to and including the 2018-19 financial year.

Further information on the small business payroll tax rebate can be found in [Revenue Ruling PTASA002\[V3\]](#).

Tax Administration

Amendment to Section 93(1)

Pursuant to Section 93(1) of the TAA, a taxpayer cannot exercise a right of appeal unless they have paid the Commissioner 50% of the whole amount of any tax to which the appeal relates.

The Bill amends Section 93(1) of the TAA to make clear that a taxpayer is only required to pay 50% of the primary tax in dispute before an appeal can be lodged (as opposed to 50% of the whole amount of tax assessed inclusive of interest and penalty tax).

General

Introduction of a tax for betting companies offering services in South Australia

A tax of 15% on the Net Wagering Revenue of betting companies offering services in South Australia, will be introduced effective from 1 July 2017.

Further information will be provided prior to the commencement date.

Introduction of a Job Accelerator Grant Scheme

The Government has announced a Job Accelerator Grant Scheme to encourage South Australian businesses to employ additional full-time, part-time and casual employees, and maintain them for at least 12 months.

Businesses that increase their number of South Australian employees will receive a grant for each additional worker employed by them in a new position between 1 July 2016 and 30 June 2018. The grant will be paid at the first and second anniversary date of employment.

A Job Accelerator Grant of up to \$10 000 (\$5000 each year for two years) for each new Full-Time Equivalent (FTE) job created is available for businesses liable for payroll tax in South Australia with Australian wages of \$5 million or less.

A Job Accelerator Grant for Small Business & Start-ups of up to \$4000 (\$2000 each year for two years) per new job created is available for most businesses that are not liable for payroll tax. This includes businesses with Australian wages below the payroll tax free threshold (currently \$600 000) and most organisations exempt from payroll tax (e.g. public benevolent institutions)

Further information on the Job Accelerator Grant Scheme can be found in [Information Circular 95](#).

Graeme Jackson
COMMISSIONER OF STATE TAXATION

7 July 2016

Further Information

Further information can be obtained from RevenueSA.

Website www.revenuesa.sa.gov.au

Email stamps@sa.gov.au

landtax@sa.gov.au

payrolltax@sa.gov.au

Telephone stamp duty (08) 8226 3750

land tax (08) 8204 9870

payroll tax (08) 8204 9880