

SOUTH AUSTRALIA



STATE TAXATION OFFICE

Stamp Duties

Circular No. 18

STAMP DUTIES (ASSESSMENTS AND FORMS) AMENDMENT ACT, 1991 No. 74 of 1991

Motor Vehicles - Additional Duty and Penalties

Your attention is drawn to the above Act which was assented to and came into operation on 12 December, 1991. This circular refers only to the provisions of the Act relating to Motor Vehicles. The other amendments contained in the above Act are discussed in separate circulars. The information set out below is of necessity brief and the precise nature and scope of the changes must be taken from the reading of the provisions as set out in full in the Amending Act in conjunction with the Stamp Duties Act, 1923.

GENERAL PURPOSE OF THE AMENDMENTS

The Stamp Duties Act imposes duty on a range of instruments including applications to register and applications to transfer the registration of a motor vehicle. However, until this time no penalty provisions under the motor vehicle head of duty existed to ensure compliance. Under the other tax heads penalties are payable if duty is not paid on time or instruments are not lodged for assessment.

The lack of penalty provisions relating to motor vehicles has contributed to a reluctance by some taxpayers to comply with the Act which in turn has led to an erosion of the tax base. This amendment includes appropriate penalty provisions to apply to those persons who avoid or evade duty on applications to register or transfer registration of a motor vehicle.

The opportunity has also been taken to provide a default assessment provision in relation to the motor vehicle head of duty.

SPECIFIC DETAILS

The Stamp Duties (Assessments and Forms) Amendment Act, 1991 amends Section 42b by including new subsections (6a) and (6b) and also inserts a new Section 42c.

Penalties for underdeclaration of value

Section 42b(6a) provides for a penalty of an amount equal to twice the amount of any additional duty payable where it is discovered that an applicant to register or transfer a motor vehicle has underdeclared the value and consequently underpaid the stamp duty due. Section 42b(6b) gives the Commissioner power to remit this penalty.

You are reminded that for stamp duty purposes the value of a motor vehicle is defined in Section 42b (1) (a) of the Stamp Duties Act, 1923 and can be summarised as follows:

New Vehicles

The list price plus the list/actual price of any optional equipment. Optional equipment means equipment fitted by the manufacturer. Dealer fitted accessories are excluded from the calculation of value.

Used Vehicles

The price paid for the vehicle or the market value of the vehicle, whichever is higher.

Default Assessment

The inclusion of Section 42c enables the Commissioner to make an assessment of duty payable on the basis of estimates if necessary where the Commissioner has reason to believe or suspect that a person has:-

(i) failed to lodge an application for registration or transfer of registration as required under the Act;

or

(ii) failed to pay any duty or has paid insufficient duty in respect of the registration or transfer of registration of a motor vehicle as required by this Act.

Where an assessment under this Section is made the Commissioner must serve notice in writing of the assessment upon the person in default. The assessment may include further duty by way of penalty.

If the amount specified in the notice is not paid an offence (Penalty: \$2,000 plus twice the amount specified in the notice) may be committed.

Any enquiries should be directed to Rob Cameron, telephone (08) 226 3714.

9 January, 1992

COMMISSIONER OF STAMPS