

**MINUTES**  
**SA STATE TAXES LIAISON GROUP**  
**WEDNESDAY 6 DECEMBER 2023 (9.30AM)**  
**FAHEY MEETING ROOMS, LEVEL 4, STATE ADMINISTRATION**  
**CENTRE**

**1. ATTENDANCE/APOLOGIES**

**PRESENT FOR REVENUESA**

Julie Holmes (Chair), Kelly Tattersall, Paul Maxwell, Mark Christmas, Kristy Ferguson, Brandon DeVito and Paula Kemp (Minutes)

**PRESENT FOR INDUSTRY GROUPS**

Bernie Walrut (Law Council of Australia), Paul Ingram (The Tax Institute), Paul Tanti (Chartered Accountants Australia and New Zealand) and Peter Slegers (Business SA)

**PRESENT FOR DTF**

Danny Huynh (Budget and Performance Branch) (to discuss Agenda Item 3.3 only)

**APOLOGIES**

Alan Yates (CPA Australia), Julie Van der Velde (CPA Australia), Jeff Stevens (Australian Institute of Conveyances (SA Division)) and Will Fennell (Law Society of South Australia)

**2. BUSINESS ARISING**

**2.1. Update on Action Register (see Attachment A)**

- Action Item 27

Paul Maxwell reported that RevenueSA is continuing to work through submissions made by Bernie Walrut and this will be actioned in the New Year.

- Action Item 29

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

Bernie Walrut agreed to review the latest developments on the issue and report back to RevenueSA.

**New Action: Bernie Walrut to review the latest developments on the issue and report back to RevenueSA.**

- Action Item 30

Paul Maxwell reported that a revised draft Revenue Ruling had been prepared and would be circulated for consideration and comments by 15 December 2023. The due date for comments will be COB Friday 19 January 2024, after which a meeting will be organised, if necessary.

**New Action: Paul Maxwell to circulate the revised draft Revenue Ruling by 15 December 2023.**

- Action Item 2022-4

No further update. This Action Item is pending whilst RevenueSA reviews and considers prioritisation but continues to be on the RevenueSA forward work program.

- Action Item 2023-1

Paul Maxwell reported that, even after extending the timeframe for comments for a further two (2) weeks (i.e. to COB Friday 21 July 2023), only one (1) further response was received (or two (2) in total).

It was agreed to re-circulate the email and allow STLG members one final opportunity for comments and also the opportunity to include any new stamp duty issues that they consider require clarification. The new due date will be COB Friday 19 January 2024.

**New Action: Paul Maxwell to re-circulate the email and allow STLG members one final opportunity for comments and also the opportunity to include any new stamp duty issues that they consider require clarification.**

- Action Item 2023-2

Completed. Separate land tax meeting held on 25 August 2023.

- Action Item 2023-4

Completed. The payroll tax Revenue Ruling PTA041 – Relevant Contracts – Medical Centres was released on 22 November 2023.

This Revenue Ruling replaces ‘Revenue Ruling PTASA003 – Relevant Contracts – Medical Centres’ to ensure harmony with Victoria and New South Wales and has been updated to incorporate the latest developments in the Thomas and Naaz Pty Ltd v Chief Commissioner of State Revenue matter, and to rectify minor incorrect legislative references.

- Action Item 2023-5

Paul Maxwell reported that advice is being sought from the Crown Solicitor’s Office in regard to this issue.

Bernie Walrut agreed to share a paper – What is An Assessment in the Digital Age – he prepared for the Law Society bulletin earlier this year.

**New Action: Bernie Walrut to send a copy of the paper, What is An Assessment in the Digital Age, to RevenueSA.**

- Action Item 2023-6

Paul Maxwell reported that the Emergency Services Levy (“ESL”) is not administered under the *Taxation Administration Act 1996* due to the fact RevenueSA is only responsible for the collection of the fixed property component of the ESL with Transport SA being the responsible levy collector for the mobile property component.

A general discussion took place on this issue and Bernie Walrut advised that he would prepare submissions for the Treasurer seeking a review into this issue.

**New Action: Bernie Walrut to prepare submissions for the Treasurer seeking a review into this issue.**

## 2.2. Update on State Tax Appeals

Paul Maxwell advised that the following had occurred since the last STLG meeting:

- Judgment in the Full Court stamp duty (landholder) matter involving Edge Developments Pty Ltd was handed down on 17 August 2023, with the majority of the Court (2:1) finding in favour of the Commissioner of State Taxation (the “Commissioner”).

On 14 September 2023, the appellants applied for special leave to appeal the whole of the judgment of the Court of Appeal of the Supreme Court of South Australia. NOTE: On 7 December 2023, the High Court refused the special leave to appeal with costs; and

- The South Australian Civil and Administrative Tribunal handed down two (2) decisions in HomeBuilder Grant matters on 6 July 2023 and in both cases the Commissioner’s decision under review was affirmed. Neither matter has been published but both are summarised on RevenueSA’s website.

A general discussion took place in regard to the reasons the Tribunal is not publishing its decisions.

**New Action: Paul Maxwell to seek advice from the Crown Solicitor’s Office in regard to whether the Orders can be released.**

## 3. New Business

### 3.1. Update on Payroll Tax and Medical Centres/Medical Practitioners [RevenueSA]

Julie Holmes reported that the registration period for the payroll tax amnesty for medical practices with contracted general practitioners closed on 30 November 2023. Further, that 293 medical practices applied for the amnesty, however to date, 10 applications have been identified as duplicates.

All medical practices registered for the amnesty have been contacted by their case manager, requesting information about how the medical practice is structured and the number of contractor GPs engaged by the medical practice and copies of those contracts.

Upon receipt of the requested information, the case manager will review contract arrangements and practice structure, gather further information if needed to determine if contracts are deemed relevant contracts and if applicable, whether an exemption may apply.

The aim remains to provide medical practices with an outcome of the review process as soon as possible. RevenueSA anticipates all reviews will be completed by February/March 2024.

A general discussion took place regarding the possibility of extending the amnesty to other allied health professionals/industries and also the legality of the amnesty and whether the Treasurer and/or the Commissioner had the necessary powers to provide such. It was agreed that Bernie Walrut would raise these concerns with the Treasurer directly.

**New Action: Bernie Walrut to prepare submissions to go directly to the Treasurer about the legality of the amnesty.**

### **3.2. Land Tax Review [RevenueSA]**

Danny Huynh provided an update on the progress of Land Tax Review, which is seeking community feedback to better understand taxpayers' experience with the land tax reform measures introduced in 2019-20. It was noted that all face to face industry meetings (facilitated by Deloitte) had been completed but that the YourSAy website remains open for public consultation until Friday 8 December 2023.

The final report (to be drafted by Deloitte) is required to be provided to the Treasurer by the end of the calendar year and will be filed in Parliament after the Christmas break.

### **3.3. Review of Circular No: 87 [RevenueSA]**

Julie reported that, upon the request of the Motor Trade Association (the "MTA"), RevenueSA had reviewed Circular No: 87 with a particular focus on the exemptions relating to (1) service demonstrator vehicles, (2) vehicles with temporary company logos and (3) including an example highlighting when the 12 month period begins for the demonstrator exemption.

As a result, Circular No: 87 has now been updated and forwarded to the MTA for their consideration and comments.

STLG members advised that they would like to review the revised Circular also.

**New Action: Paul Maxwell to circulate the revised draft Circular No: 87 to STLG members for their consideration and any comments.**

### 3.4. Banking Transition [RevenueSA]

Julie Holmes reported that, as part of a whole of government change, from Monday 11 December 2023 RevenueSA will be banking with the ANZ Bank instead of the Commonwealth Bank. Communications have been sent.

There was a general discussion around what this meant for the payment of land tax certificates and RevenueSA agreed to review its communications in this regard and provide further clarity if necessary.

**New Action: RevenueSA to review and provide further clarity about the effect of the banking change on payments for land tax certificates.**

### 3.5. Stamp Duty – Qualifying Land [Paul Tanti]

Paul Tanti sought an explanation into what the process is and how decisions are made when assessing vacant land under the qualifying land provisions.

Mark Christmas reported that if the land use code of a property was vacant land that it was not necessary for RevenueSA to engage the Office of the Valuer-General (“OVG”). If the land use code specified that the predominant use of the property was for residential or primary production purposes and the lodging party was disputing this code, we would engage the OVG to provide an opinion of the land use code. Mark Christmas emphasised that this would only be undertaken when a matter was lodged via the portal.

Mark Christmas asked Paul Tanti to provide the details of the particular matter in question so that he could review and discuss further directly with Paul Tanti if required.

Julie Holmes advised that the Treasurer has verbally advised that he was open to amendments to the qualifying land provisions of the *Stamp Duties Act 1923* as they relate to student accommodation and that the opportunities for amendments to the provisions as they relate to vacant land could be considered as part of those deliberations. Accordingly, if STLG members had any submissions in regard to vacant land, they should make them directly to the Treasurer.

### 3.6. Stamp Duty – Opinions of Unexecuted Documents [Paul Tanti]

Paul Tanti reported that he had been advised that RevenueSA will no longer give opinions on unexecuted documents, even in circumstances where the documents are presented in final form and a transaction is imminent. Accordingly, he asked whether this is this correct and, if so, why and when did RevenueSA change its long standing practice of providing guidance and opinions.

Mark Christmas reported that it is preferred that if you are seeking an opinion that all documentation is lodged via RevenueSA Online and all information can be considered and an assessment undertaken as per the normal process. If it is found that RevenueSA assesses a document different to your proposed outcome, this matter can be cancelled out of RevenueSA Online and no further action is required.

By doing this through the RevenueSA Online, an appropriate trail of the correspondence remains rather than submitting to an assessor's personal email address.

Mark Christmas understood there are times where an advanced ruling is appropriate, more so around what we may require for an assessment and not providing an opinion of the duty implications.

#### **4. Any Other Business**

##### **4.1. Section 71CC of the Stamp Duties Act 1923 [Bernie Walrut]**

Bernie Walrut raised a question about the operation of section 71CC where the recipient company is owned by a discretionary trust that satisfies section 71CC. However, for the time being that discussion will continue with Mark Christmas. If any further issues arise out of that discussion in respect of the operation of section 71CC in that context, Bernie Walrut will raise it at a further meeting.

##### **4.2. 2023-24 State Budget [RevenueSA]**

Paul Maxwell reported that the *Statutes Amendment (Budget Measures) Bill 2023* passed the Upper House on 30 November 2023. There was no debate in either of the Houses. NOTE: The Bill was assented to on 7 December 2023.

##### **4.3. PEXA [RevenueSA]**

Julie Holmes reported her and Mark Christmas attended the PEXA SA Division Council meeting. PEXA undertake consultation with members on points relating to electronic conveyancing including operational issues such as payment via Bpay on Certificates, clearing void transactions in RevenueSA Online by a conveyancer and the more strategic issues like payment of duty via PEXA (single system).

#### **5. Next Meeting**

13 March 2024

## ATTACHMENT A – ACTION REGISTER

Item	Date of Meeting	Action	Who	Status as at 13 December 2023	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.  RevenueSA is continuing to work through submissions made by Bernie Walrut.	March 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.  <b>New Action: Bernie Walrut to review the latest developments on the issue and report back to RevenueSA.</b>	On-going  March 2024
30		RevenueSA to draft a new Revenue Ruling in regard to Exemption 33 for consideration by the Rulings Sub-Committee.	RevenueSA	<b>New Action: Paul Maxwell to circulate the revised draft Revenue Ruling by 15 December 2023.</b>	15 December 2023
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	Pending. RevenueSA to review and consider prioritisation. Continues to be on the forward work program.	March 2024
2023-1	19/4/2023	RevenueSA to review Action Items 2, 24-26, 28, 33 and 35-36 and provide a status update for each matter and circulate to the Group to allow consideration of the priority that should be given to each, including section 71A of the SDA.	RevenueSA	<b>New Action: Paul Maxwell to re-circulate the email and allow STLG members one final opportunity for comments and also the opportunity to include any new stamp duty issues that they consider require clarification by 15 December 2023.</b>	Completed
2023-5	12/7/2023	RevenueSA will review the issue of transactions lodged via RevenueSA Online being deemed to be non-assessments and report back to the STLG.	RevenueSA/ Bernie Walrut	Advice is being sought from the Crown Solicitor's Office in regard to this issue.  <b>New Action: Bernie Walrut to send a copy of his paper, What is An Assessment in the Digital Age.</b>	Completed
2023-6	12/7/2023	RevenueSA to review why the Emergency Services Levy is not administered under the TAA.	RevenueSA	<b>New Action: Bernie Walrut to prepare submissions for the Treasurer seeking a review into this issue.</b>	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	<b>New Action: Paul Maxwell to seek advice from the Crown Solicitor's Office in regard to whether the Orders can be released.</b>	January 2024
2023-8	6/12/2023	Bernie Walrut to prepare submissions to go directly to the Treasurer about the legality of the payroll tax amnesty for medical practices.	Bernie Walrut	<b>New Action: Bernie Walrut to prepare submissions to go directly to the Treasurer about the legality of the amnesty.</b>	Pending
2023-9	6/12/2023	Paul Maxwell to circulate the revised draft Circular No: 87 to STLG members for their consideration and any comments.	RevenueSA	<b>New Action: Paul Maxwell to circulate the revised draft Circular No: 87 to STLG members for their consideration and any comments.</b>	15 December 2023
2023-10	6/12/2023	RevenueSA to provide clarity about the effect of the banking change on payments for land tax certificates.	RevenueSA	<b>New Action: RevenueSA to review and provide further clarity about the effect of the banking change on payments for land tax certificates.</b>	15 December 2023



## **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. Land Tax publications released
  - 5.2. Stamp duty relief for eligible first home buyers applications can now be lodged for assessment in RevenueSA Online