

**SOUTH AUSTRALIA**



**RevenueSA**

**General**

**Circular No. 216**

**STATUTES AMENDMENT (TAXATION MEASURES) BILL 2001**

**BACKGROUND**

Your attention is drawn to the *Statutes Amendment (Taxation Measures) Bill 2001*, which was introduced into Parliament today. The Bill makes various amendments to give effect to certain 2001/2002 State Budget announcements.

**PAY-ROLL TAX**

The following changes will be made to the *Pay-roll Tax Act 1971*.

As from 1 July 2001:

- the rate of pay-roll tax will be reduced from 6% to 5.75%.

As from 1 July 2002:

- the pay-roll tax rate will be further reduced from 5.75% to 5.67%;
- the pay-roll tax threshold will be increased from \$456,000 to \$504,000;
- the pay-roll tax base will be broadened to include:-
  - **eligible termination payments** (as defined for income tax purposes); and
  - the **grossed up value** of fringe benefits for the purposes of the *Fringe Benefits Tax Assessment Act 1986 (Cth)*.

**Eligible termination payment** (ETP) has the meaning given by Subdivision AA of Division 2 of Part III of the *Income Tax Assessment Act 1936 (Cth)*. This means ETPs currently subject to the Commonwealth income tax regime, either when paid on termination or deferred by rollover, will attract pay-roll tax.

The changes to the treatment of fringe benefits and ETPs do not impose any additional administrative burden on business, as it is an existing Federal income tax requirement for certain businesses to report their fringe benefits and ETPs in this manner.

Additionally, the inclusion of grossed-up fringe benefits in the pay-roll tax base will align RevenueSA's basis for the reporting of fringe benefits with that of the Australian Taxation Office.

## LAND TAX

Provisions will be inserted into the *Land Tax Act 1936* to deliver land tax relief where the particular circumstances relating to people who are moving house or constructing a new house gives rise to a land tax liability on the principal place of residence.

Relief will be provided in the following circumstances:-

1. where at 30 June a person owns land on which a house is either to be constructed or is in the process of being constructed for owner occupation in the following financial year; in the absence of relief, a land tax liability would arise because at 30 June the land was not being used as the principal place of residence;
2. where a person is in the process of selling a home and as a result owns two properties at 30 June, one of which is the current principal place of residence (and eligible for exemption) and the other is the intended but not yet occupied principal place of residence (and liable for land tax); land tax relief will be made available on both properties provided **no rental income** is received from either property during the period that the homes are owned concurrently;
3. where a person purchases as the principal place of residence a property which was taxable in the ownership of the vendor and in accordance with standard contractual arrangements the land tax payable on the property is apportioned between the purchaser and the vendor; the proposed legislative amendments will enable the purchaser to be refunded the lesser of the amount paid to the vendor in respect of land tax or an amount equal to the apportionment of the land tax payable on that land as a single holding.

The Bill sets out the various criteria which must be met by taxpayers before land tax relief is available.

To ensure that only those taxpayers who are eligible for relief obtain the benefit, a refund of land tax will only be payable once **all the relevant criteria have been satisfied**. For example, where a person is in the process of selling one principal place of residence and buying another, the applicant must have moved into the new home, and sold the original home in the financial year in respect of which land tax relief is claimed, before applying for a refund.

Applications must be made on or before 30 September following the end of the financial year in respect of which the relief is sought.

In relation to the third scenario outlined above, it will be necessary for each applicant for a refund to provide RevenueSA with evidence of the amount paid to the vendor on settlement as a land tax adjustment. In the Bill, such a payment is referred to as an **“amount representing land tax”**.

RevenueSA will require that the applicant provide a copy of the settlement statement with full details of the calculation made and the amount paid by the new owner at settlement as an amount representing land tax.

RevenueSA will independently calculate the proportion of land tax paid that relates to the period from the date of purchase until the end of the financial year on a single holding basis, and will issue a payment of this amount to the applicant or of the actual amount representing land tax paid by the applicant, whichever is lesser, when the Commissioner is satisfied that all the relevant criteria have been met.

The payment of an amount representing land tax by RevenueSA will not affect the land tax payable by the vendor. The vendor's land tax liability will still be calculated as if the property was owned for the full financial year.

### **Interest**

No interest will be paid in situations where land tax has already been paid by an applicant and is refunded at a later date by RevenueSA when the applicant has satisfied the relevant criteria.

Application forms will be available from RevenueSA.

### **STAMP DUTY**

**From 1 January 2002**, an exemption from lease duty payable under the *Stamp Duties Act 1923*, will be applicable in cases where the rent reserved, averaged over the term of the lease, proposed lease, tenancy or occupancy, does not exceed \$50,000.

### **NON-BUDGET AMENDMENTS**

Some minor amendments to the *Stamp Duties Act 1923* have also been included in the Bill to provide certainty to taxpayers that various acquisitions are not subject to *ad valorem* stamp duty under the land rich provisions (Part IV) or the land use entitlement provisions (section 62) of that Act. This uncertainty has arisen as a result of the operation of the *Stamp Duties (Land Rich Entities and Redemption) Amendment Act 2000*.

In addition, given that as at 1 July 2001, stamp duty on quoted marketable securities is to be abolished, RevenueSA undertook a final review to ensure that the legislation in this area achieves its purpose.

From this review, it emerged that the amendments made by the *National Tax Reform (State Provisions) Act 2000*, may not technically remove the liability to duty on the "sale and purchase" of quoted marketable securities.

It was therefore considered prudent for a minor amendment to be made, to put this issue beyond doubt and allay any industry concern that might arise.

**FURTHER INFORMATION**

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COMMISSIONER OF STATE TAXATION

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