

## SOUTH AUSTRALIA



### STATE TAXATION OFFICE

**Stamp Duties**

**Circular No. 11**

**STAMP DUTIES ACT AMENDMENT ACT (NO. 4), 1990 (NO. 47 OF 1990)**

**AMENDMENTS TO THE ANNUAL LICENCE PROVISIONS**

**THIS CIRCULAR REPLACES CIRCULAR NO. 10 (issued on 28/9/1990)**

Your attention is drawn to the above Act which was assented to on 1 November, 1990 and came into operation on 1 July, 1990. 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.

#### **PURPOSE OF THE AMENDMENTS**

The main focus of the annual licence amendments is to introduce monthly returns in respect of premiums relating to general insurance business.

#### **IMPACT ON THE STAMP DUTIES ACT**

As a consequence of the passing of the Stamp Duties Act Amendment Act (No. 4) 1990, Sections 33 to 42 inclusive have been repealed.

New Sections 33 to 42 have been introduced to accommodate the necessary changes in order for general insurance business to operate on a monthly return basis.

#### **SPECIFIC CHANGES**

"General insurance business" has been defined as any assurance or insurance business not relating to life insurance policies. General insurance business includes policies relating to personal accident and policies complying with Part IV of the Motor Vehicles Act, 1959.

As from 1 July, 1990 a company, person or firm of persons which carries on general insurance business in South Australia is required to lodge a monthly return with the Commissioner of Stamps. The return will need to contain particulars of premiums received or charged in respect of general insurance business conducted in the previous month.

Returns together with the appropriate duty, are required to be lodged not later than the fifteenth day of the month following each month in which general insurance business is conducted.

All returns include a statutory declaration which must be completed prior to lodgement.

The premium details and subsequent payment advice in respect of insurance conducted for the months of July to October, 1990 are required to be lodged on separate monthly returns.

## **COMMISSIONS & DISCOUNTS**

Commissions and discounts will no longer be deductible for general insurance business.

## **RECORD KEEPING**

Sufficient records must be kept in South Australia in accordance with Section 39 to enable all premiums and amounts to be calculated for duty purposes on annual licences and monthly returns. These records must be kept available for inspection for 5 years from the year or month to which the return or record relates.

## **DEFAULT ASSESSMENTS**

The Commissioner may make an assessment of the amount of duty that is payable where he has reason to believe or suspect that a company, person or firm of persons:

- has failed to lodge an application for an annual licence or a monthly return, or
- has failed to pay any duty, or has paid insufficient duty, on an annual licence or a monthly return.

Such assessment may be on the basis of estimates of duty that the Commissioner determines may be payable. Such assessment must be served on the company, person or firm to which the assessment relates. Further duty, by way of penalty, of an amount up to or equal to the assessed duty, may also be payable.

## **OFFENCE PROVISIONS**

Penalty duty may be assessed in the following circumstances:

- for failure to make application for annual licence where required, and to complete and verify the details therein in the correct manner,
- for failure to lodge the appropriate returns by the due date.
- where sufficient books and records are not maintained,
- where late payment of duty is made.

Equally, where duty has been overpaid, a refund may be made.

## **RATES**

The rate of duty payable on general insurance business is \$8 per \$100 (or part thereof) of **gross** premium received.

## **RETURN FORMS**

Return forms will be supplied to all companies licensed to conduct insurance business by the first day of each month for completion and lodgement by the fifteenth day of the month. To assist the transition to the monthly return cycle in respect of returns for the months of July to October, 1990 no penalties will be imposed if the returns are received by 29 November, 1990.

For the purposes of the Stamp Duties Act a life insurance policy is defined, inter alia, not to include a policy covering personal accident. The procedure, rates of duty and payment in respect of premiums for life insurance policies remain unchanged. Where a policy of life insurance has also separate components of general insurance business as defined, the premiums which relate to general insurance must be included in monthly returns.

## **ANNUAL LICENCE ARRANGEMENTS FOR 1991**

A company, person or firm of persons that conduct insurance business will still be required to apply for an annual licence.

A company, person or firm of persons which conducts general insurance business exclusively will have been paying duty by way of monthly return and therefore no further payment of duty should be required for the issue of an Annual Licence.

A company, person or firm of persons that conduct life insurance business as defined will continue to provide details of annual premiums etc upon which an assessment of the licence fee payable will be made. That is, no change from previous year licence application procedures.

For companies, persons or firms of persons who received or in any manner charged in account premiums relating to general insurance business and also life insurance policies (as those terms are defined) then they will be required to both pay on a monthly return in respect of general insurance business and also on an annual licence in respect of life insurance policies.

The application for an annual licence will be forwarded in December. 1990.

6 November, 1990

COMMISSIONER OF STAMPS