

SOUTH AUSTRALIA



STATE TAXATION OFFICE

Stamp Duties

Circular No. 13

**TRANSFER OF REALTY (LAND RICH ENTITIES)
AGGREGATION PROVISIONS**

Stamp Duties Circular No. 8 covering the acquisitions of interests in land rich entities was issued by this Office in December, 1990. This circular was issued to provide an overview of the legislative provisions of Part IV of the Stamp Duties Act.

CLARIFICATION OF AGGREGATION PROVISIONS

Section 94(i)(a)(ii) of the Stamp Duties Act provides that a person is required to lodge a statement under this Part if that person acquires an interest which, together with any other interest acquired during the preceding period of two years, results in the person having a majority interest in a private company or scheme.

At Section 93(3) the Act provides that Part IV (that is the provisions that apply to land rich entities) will not apply to:--

(a) any acquisition that occurred before the commencement of Part IV, that is 24 May, 1990,

or

(b) any acquisition that arises out of an agreement that was entered into before the commencement of Part IV.

This Office's interpretation of those provisions is as follows:

1. Interests in a private company or scheme acquired before 24 May, 1990 shall not be aggregated with interests acquired on or after 24 May, 1990 for the purposes of Section 94(1)(a) of the Act, although the above stated acquisitions had occurred within a two year period.
2. Non-aggregation also applies to interests acquired on or after 24 May, 1990 which arose out of an agreement entered into between the parties before 24 May, 1990. A number of enquiries have been made to us to categorise the range of evidence the Commissioner may require to satisfy the assertion by the lodging parties that an agreement has preceded an acquisition.

The range of evidence that the Commissioner requires to be produced is completely dependent upon the circumstances of the prior acquisition and the facts are exclusively within the knowledge of the parties. For these reasons it is not possible for this Office to set out guidelines as to the type of evidence that will be required.

DATE OF OPERATION

These administrative arrangements apply from the date of operation of Part IV of the Stamp Duties Act (viz., 24 May, 1990).

15 May, 1991

COMMISSIONER OF STAMPS