SOUTH AUSTRALIA

STATE TAXATION OFFICE

**Stamp Duties** **Circular No. 157**

# STAMP DUTY - SALE OF RETIREMENT VILLAGES



In response to industry requests, this Circular is issued to clarify the practice of the Stamp Duties Office in respect of the assessment of stamp duty on the sale of retirement villages.

## BACKGROUND

Instruments lodged to effect the sale of a retirement village are liable to stamp duty as a result of the conveyance. Duty is calculated on the greater amount of either the market value of the property conveyed or the consideration paid. (Consideration includes the assumption by the purchaser of the liabilities of the vendor.)

In a standard arrangement between residents and owners of retirement villages, incoming residents are required to make a lump sum payment to the retirement village representing the market value of a licence to occupy a unit. A part of the lump sum paid is a loan to the owner of the retirement village. On departure, the outgoing resident's loan is repaid with a predetermined percentage of the amount paid by the new incoming resident. The repayment of the outgoing resident's loan is contingent upon the payment of a lump sum by the incoming resident.

There is some concern amongst industry that "vendors' liabilities" will be included for the purpose of determining the stamp duty payable on the sale of retirement villages. The inclusion of the assumption of vendors' liabilities to future outgoing residents as part of the consideration has the effect of increasing the consideration, resulting in an increase in the stamp duty payable.

***NOTE:***

> *In this Circular, the term "vendors' liabilities" means the amount payable at any instance by the owner to the current residents on account of the lump sum paid by them on their taking up residency. It* ***does not*** *include any other debts owing by the owner to any other person.*

## RULING

Section 60A of the *Stamp Duties Act 1923* provides that the value of property conveyed under a conveyance on sale is the unencumbered market value as at the date of transfer. Pursuant to

Section 60A(2), the Commissioner may treat the consideration payable for the sale as representing the unencumbered value of the property conveyed, unless it appears that the consideration is less than the value determined.

Accordingly, where the parties involved in the sale of a retirement village as a going concern, that includes both the sale of land and the business of carrying on a retirement village, are unrelated bona-fide purchasers and sellers, the consideration expressed for the sale will be accepted as the full market value of the retirement village for stamp duty purposes.

Given the unique method of reimbursing outgoing residents of retirement villages and the contingent nature of these liabilities assumed, the Commissioner will disregard the vendors' liabilities to residents as forming part of the consideration payable on the purchase of retirement villages.

This ruling has application only to the above described vendors' liabilities being assumed on the sale of retirement villages.

Any enquiries relating to this ruling should be directed to Mr Ray Barnes on (08) 8226 3716.

**FURTHER INFORMATION?**

***Location***
State Taxation Office
State Administration Centre
200 Victoria Square East
ADELAIDE SA 5000

***Postal***
Commissioner of State Taxation
State Taxation Office
Box 1353 GPO
ADELAIDE SA 5001

***Telephone***
(08) 8226 3750

***Facsimile***
(08) 8226 3737

***Website***
http://www.treasury.sa.gov.au/tax.html



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