

STAMP DUTIES (TAX REFORM) AMENDMENT ACT 2009

BACKGROUND

The *Stamp Duties (Tax Reform) Amendment Act 2009* (the "Act") was assented to by His Excellency the Governor on 4 June 2009.

The Act includes transitional provisions dealing with the abolition of mortgage duty and rental duty from 1 July 2009 and also extends the stamp duty concessional treatment for exploration licences provided pursuant to Section 71D of the *Stamp Duties Act 1923* to include geo-thermal exploration licences.

DISCUSSION

Mortgage Duty

Under the Act the following provisions apply in relation to mortgage duty.

No stamp duty will be payable on a mortgage executed on or after 1 July 2009.

Where a mortgage is executed prior to 1 July 2009, stamp duty will only be payable where:

1. An advance is made under the mortgage prior to 1 July 2009, or
2. The mortgage first affects property in South Australia prior to 1 July 2009.

Mortgages that are dutiable will be chargeable at the rate in force, as at the date that the advance is made or the date that the mortgage first affects property in South Australia.

Unstamped non dutiable mortgages will be accepted for registration at the Lands Titles Office. A new document type for non dutiable mortgages is included in RevNet from 1 July 2009 to enable Lands Titles Office fees to be remitted via RevNet.

Discharges

The Act also operates to repeal Sections 79(6) and 79(7) so that from 1 July 2009, any mortgage that is discharged (including a mortgage executed prior to 1 July 2009) does not have to be endorsed with a certificate by the mortgagee stating the highest amount that was secured during the currency of the mortgage and that the mortgage had been duly stamped.

Rental Duty

Under the Act no rental duty will be payable on rental income (whether new or existing contracts) received on or after 1 July 2009.

Pursuant to the *Statutes Amendment (Budget 2005) Amendment Act 2005* the phase out of stamp duty on rental business was restricted to new rental contracts so as to avoid the administrative burden of adjusting existing rental contracts each time stamp duty rates were reduced and then abolished.

Following further consultation with industry, the amendments contained in the Act ensure that no rental duty is payable on rental contracts on or after 1 July 2009, irrespective of when the rental contract was entered into.

Exploration Licences

The *Stamp Duties Act 1923* provides for concessional stamp duty treatment for the transfer of exploration licences. However, the current concession does not extend to transfers of geothermal exploration licences under the *Petroleum Act 2000*.

The opportunity has therefore been taken to extend the coverage of exploration licences eligible for concessional stamp duty arrangements under the *Stamp Duties Act 1923* to include all exploration licences under the *Petroleum Act 2000*.

FURTHER INFORMATION

Further information regarding these changes can be obtained from RevenueSA.

Location

RevenueSA
State Administration Centre
200 Victoria Square East
ADELAIDE SA 5000

Postal

Commissioner of State Taxation
RevenueSA
GPO Box 1353
ADELAIDE SA 5001

Telephone

(08) 8226 3750

Facsimile

(08) 8226 3737

Website

www.revenuesa.sa.gov.au

E-mail

stampduty@saugov.sa.gov.au