

**SUMMARY OF CHANGES FOR  
EMERGENCY SERVICES FUNDING ACT 1998  
(Fixed Property Component)**

The *Emergency Services Funding Act 1998* (the “ESL Act”) provides for the collection of funds for the provision of emergency services in South Australia.

On 23 October 2008, the *Statutes Amendment and Repeal (Taxation Administration) Act 2008* (the “Amendment Act”), was assented to by His Excellency the Governor in Executive Council.

Part 2 of the Amendment Act comes into operation on 1 July 2009.

Part 2 aligns administrative processes under the ESL Act with those contained in the *Taxation Administration Act 1996* (the “TAA”) in the areas of:

- administrative responsibility for the legislation;
- secrecy provisions;
- mechanisms for setting interest rates;
- penalty provisions;
- mechanisms for providing refunds; and
- debt recovery and investigation provisions.

A summary of the changes made by the Amendment Act is set out below.

**Administrative Arrangements**

Prior to the amendments RevenueSA has been responsible for the collection of the fixed property component of the Emergency Services Levy (ESL), under delegation from the Treasurer, with TransportSA being responsible as the levy collector for the mobile property component. The changes in the Amendment Act relate only to the fixed property component of the ESL.

The amendments to the ESL Act place legislative responsibility for the administration of the ESL Act with the Commissioner of State Taxation (the "Commissioner"), instead of the Minister. This provides the same administrative structure for ESL and for the other State's taxation legislation.

Some powers will however remain with the Minister, for example, the power to set the fee for inspection of the register book pursuant to Section 14 of the ESL Act.

### **Secrecy Provisions**

The ESL Act currently does not include secrecy provisions for the protection of information obtained under or in relation to the administration of that Act

The addition of secrecy provisions provides protection of confidential information relating to levy payers and provides further consistency with the management of information obtained in the administration of other legislation for which the Commissioner is responsible.

### **Interest Rates**

The amendments also align the method for setting the market rate of interest under the ESL Act to the method applying under the *Taxation Administration Act 1996* (the "TAA").

The interest rate under the ESL Act is currently prescribed in the ESL Regulations.

Section 26 of the TAA sets the market rate of interest as the average rate of the 90-day bank accepted bill rate prescribed by the Reserve Bank of Australia for the month of May preceding each financial year.

### **Penalty Provisions**

The current ESL Act does not provide for the charging of a penalty in relation to unpaid levy. The addition of penalty provisions by the Amendment Act enables consistency with other State taxation legislation.

A penalty levy may be payable where there is a failure by a person to pay the whole or part of a levy that the person is liable to pay.

If the Commissioner is satisfied that the default was not a deliberate default and did not result, wholly or partly, from a failure by the person to take reasonable care to comply with the requirements of the ESL Act, a penalty levy is not payable.

If the amount of a penalty levy payable is less than \$20, no penalty levy is payable.

The Commissioner may also remit a penalty levy by any amount.

### **Refunds**

General refund provisions have been added to the ESL Act, which will give a legislative basis to existing administrative practice in this area and provides for equitable and consistent treatment of levy payers.

A levy payer may apply for a refund of any ESL amount overpaid not more than five years after the payment was made to the Commissioner.

**Debt Recovery and Investigation Provisions**

The existing ESL Act does not contain specific provisions setting out how the Commissioner is to recover debts and undertake investigations under the Act.

The Amendment Act contains specific provisions, consistent with the TAA, which provide clarity for levy payers in this area.

**FURTHER INFORMATION**

Further information regarding these amendments may be obtained from RevenueSA.

***Location***

RevenueSA  
State Administration Centre  
200 Victoria Square East  
ADELAIDE SA 5000

***Postal***

Commissioner of State Taxation  
RevenueSA  
GPO Box 1647  
ADELAIDE SA 5001

***Telephone***

1300 366 150

***Facsimile***

(08) 8207 2100

***Website***

[www.revenuesa.sa.gov.au](http://www.revenuesa.sa.gov.au)

***E-mail***

[revsaesl@saugov.sa.gov.au](mailto:revsaesl@saugov.sa.gov.au)

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COMMISSIONER OF STATE TAXATION

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