

**MINUTES OF THE  
SA STATE TAXES LIAISON GROUP MEETING  
HELD ON WEDNESDAY 26 JUNE 2019 (9:30AM)  
FAHEY ROOM, LEVEL 4, STATE ADMINISTRATION CENTRE**

**1. ATTENDANCE / APOLOGIES**

**1.1. PRESENT FOR REVENUESA**

Julie Holmes (Chair), Lisa Smith, Heather Watts, Paul Maxwell, Tom Colmer, Mark Christmas, Kristy Ferguson and Lee Bartlett (Minutes).

**1.2. PRESENT FOR INDUSTRY GROUPS**

Rebecca Hayes (Australian Institute of Conveyancers (SA Division) Inc.), Marc Romaldi (Property Council of Australia), Julie Van der Velde (CPA Australia), Paul Ingram (The Tax Institute), Paul Tanti (Chartered Accountants Australia and New Zealand), Jeff Stevens (Australian Institute of Conveyancers (SA Division) Inc.), Joshua Pascale (Business SA), Will Fennell (Law Society of South Australia) and Bernie Walrut (Law Council of Australia).

**1.3. APOLOGIES**

Kate Southcott (Real Estate Institute of South Australia), Peter Slegers (Business SA), Alan Yates (CPA Australia) and Phil Dorman (Institute of Public Accountants).

Will Fennell was welcomed to the meeting as the new representative for the Law Society of South Australia (replacing Andrea Michaels).

The new Valuer-General, Katherine Bartolo, was also welcomed to the meeting.

**2. BUSINESS ARISING**

**2.1. UPDATE ON ACTION REGISTER (ATTACHMENT B)**

The following discussion took place in relation to the Action Register (Attachment B of the Agenda):

Item 1 – Julie Holmes advised that content in regard to stamp duty arising from changes in partnership interests was added to the RevenueSA website on 30 May 2019. It was agreed that RevenueSA would email the link to STLG representatives following today's meeting and additional links would be included on the website to increase the access/visibility of the new content;

Item 2 – it was noted that Bernie Walrut was still to provide further comments on the content of the publication relating to section 71(6) of the *Stamp Duties Act 1923*;

Item 3 – relates to the rulings referred to at 4.1 to 4.5 in Attachment A (RevenueSA Publications). It was agreed that because these rulings referred to at 4.1, 4.2, 4.4 and 4.5 relate to stamp duty, and will therefore be reviewed as part of the stamp duty rewrite, these items would be closed in the Action Register. It was further agreed that RevenueSA would continue to review the ruling referred to at Item 4.3 separately.

Item 4 – at the suggestion of STLG representatives, it was agreed that RevenueSA would review the Queensland legislation in relation to how they deal with stamp duty and the death of a joint tenant and provide draft website content to interested STLG representatives for comment.

Items 5 and 6 – were discussed in more detail at Agenda Item 3.2.

Item 7 – it was noted that this matter is complete.

Item 8 – Tom Colmer confirmed that he had sent an invite to the feedback group meetings in relation to third party reporting. This issue is now complete.

Item 9 – Julie Holmes advised that, due to other more pressing priorities, no action had occurred in relation to this matter.

Item 10 – it was noted that the new Valuer-General, Katherine Bartolo, was in attendance and therefore this action is complete.

## **2.2. DRAFT TERMS OF REFERENCE FOR THE STATE TAXES LIAISON GROUP AND THE RULINGS SUB-COMMITTEE**

Paul Maxwell advised that the revised draft Terms of Reference for the State Taxes Liaison Group and the Rulings Sub-Committee will be re-circulated to STLG representatives for consideration following this meeting.

There was discussion regarding conflicts of interest. A number of representatives highlighted that as representatives and professionals engaged in providing advice to taxpayers that were often engaged in matters involving issues with RevenueSA and that in some situations they could not disclose even that they were acting for a client (e.g. legal professional privilege). It was also questioned whether having regard to the nature of the role of the STLG and the Rulings Sub-Committee there was ever a true conflict of interest as known to the law. It was suggested that a possible way of addressing the issue raised, and that will require further discussion, is for the Terms of Reference to recognise a standing declaration that STLG representatives may have an interest in matters before the STLG and the Rulings Sub-Committee. The discussion regarding conflicts of interest was noted and will be included in the revised drafts to be re-circulated.

**Action:** RevenueSA to update the draft Terms of Reference for the State Taxes Liaison Group and the Rulings Sub-Committee and re-circulate to STLG representatives for comment.

## **2.3. UPDATE ON REVENUESA PUBLICATIONS AND RULINGS SUB-COMMITTEE (SEE ATTACHMENT A)**

The following discussion took place in relation to the Revenue Publications set out in Attachment A of the Agenda:

Item 1.1 – Stamp Duty – Residential land used for long term accommodation and discretionary trusts that are foreign trusts

Julie Holmes advised that this will be updated as part of the stamp duty rewrite.

Item 1.2 - completed

Item 1.3 – Section 71(6) of the *Stamp Duties Act 1923*

Julie Holmes noted that Bernie Walrut is to provide comments on relation to this matter.

Item 2.1 – Stamp Duty – Unit Trust: Issues and Redemptions

Julie Holmes advised that this will be added to the issues register for the stamp duty rewrite. It was agreed that the Land Holder Guide to Legislation would be updated in the interim to address this issue and consideration given to an earlier release of the Guide.

Item 3.1 – Section 13(4) of the *Land Tax Act 1936*

Julie Holmes advised that this matter will be removed from the list as this will be dealt with separately as part of the new land tax measures announced in the State Budget.

Item 4.1 – Circular 61 – Section 71E of the *Stamp Duties Act 1923* - Obligation of a person to lodge a statement with the Commissioner

Item 4.2 – Circular 109 – Stamp Duties (Concessions) Amendment Act 1994 – Family Farm Transfers

Item 4.3 - Circular 156 – Access to documents held by solicitors and legal professional privilege – Guidelines

Item 4.4 – Circular 265 – Stamp Duty – Sale of Retirement Villages

Item 4.5 – Circular 282 – Domestic Partners

Julie Holmes advised that Items 4.1, 4.2, 4.4 and 4.5 will be looked at as part of the stamp duty rewrite whilst Item 4.3 will be reviewed and an updated draft will be provided to STLG representatives prior to the September 2019 meeting.

## **2.4. UPDATE ON STATE TAX APPEALS**

Paul Maxwell advised that:

- SACAT had handed down judgments in the following two matters:
  - Marinis – a First Home Owner Grant relating to whether or not the residence requirement had been satisfied (decided in favour of RevenueSA); and
  - Wells – a Seniors Housing Grant matter relating to the eligibility of Mr and Mrs Wells (decided in the favour of the applicant).

Summaries of both decisions are contained on RevenueSA's website.

- RevenueSA is still waiting for judgments to be handed down in the following two matters:

- the Full Court of the Supreme Court's judgment in relation to a payroll tax charitable purposes exemption appeal (Business SA); and
- the Supreme Court's judgment in relation to a land tax primary production appeal (Takhar).
- There are two other matters still ongoing:
  - one in relation to payroll tax and the health services exemption; and
  - another in relation to stamp duty and valuations.

## 2.5. THIRD PARTY REPORTING

Tom Colmer advised that:

- additional data for the purchaser and vendor will be required to be provided from 1 July 2019; and
- consultation with external users provided valuable feedback that will be incorporated into the functionality that will be released prior to 1 July 2019, in particular, functionality to lock the vendor out from creating new transactions if they have overdue data to provide.

Some STLG representatives questioned what would be the outcome if a vendor refused to comply. Tom Colmer replied that these would be looked at on a case-by-case basis, with RevenueSA having the capability to override the mandatory data requirement allowing a purchaser's representative to proceed to settlement. Some representatives requested that there be a clear indication on the RevenueSA website as to how such overriding could be sought particularly in urgent and litigious matters.

Tom Colmer was made available to address any concerns post-meeting.

## 2.6. UPDATE ON STAMP DUTY REWRITE

Julie Holmes advised that since the last meeting of the STLG, there was a Stamp Duty Rewrite Consultation workshop held on Friday 10 May. The issues matrix has been completed. The YourSAy survey engagement will be launched on 1 July 2019 for a period of five weeks. The draft Duties Bill will be released for consultation for four weeks. It was noted that this is a tight timeframe and RevenueSA will have a look at this timeframe. Bernie Walrut suggested that four weeks may prove to be too short having regard to the likely size of the Bill and the need to obtain feedback from member organisations.

**Action:** Julie Holmes indicated RevenueSA would endeavour to address such requests as they arose. RevenueSA would also review the proposed timeframe for consultation on the draft Duties Bill and consider if additional time can be provided

## 2.7. EARLY ENGAGEMENT AND DISPUTE RESOLUTION PUBLICATION

Julie Holmes advised that this is in relation to Action 9 (on the Action Register). This matter is still pending and Paul Maxwell will recirculate the draft publication to STLG representatives for consideration.

### **3. NEW BUSINESS**

#### **3.1. 2019-20 STATE BUDGET**

Julie Holmes advised that the State Budget was handed down on 18 June 2019, and contained the following taxation measures:

- Amendments to the *Land Tax Act 1936* to:
  - introduce improved land tax aggregation provisions and a surcharge on certain trusts; and
  - reduce the top marginal land tax rate.

The Government has announced that the changes will apply from the 2020-21 financial year (land tax calculated on 30 June 2020). The final details of the arrangements are subject to consultation prior to implementation, and the approval of legislative amendments by Parliament.

- In addition to the above land tax measures, the Government is providing additional funding for RevenueSA to undertake additional payroll tax compliance work.

RevenueSA will expand existing and develop additional compliance programs focusing on businesses who have failed to register for payroll tax, the grouping of businesses, the use of contractors and other high risk areas.

#### **3.2. MEETING WITH THE NEW VALUER-GENERAL**

Julie Holmes introduced the new Valuer-General, Katherine Bartolo, who provided an overview of the work she has been focusing on since starting in the role and also the Strategic Direction of the Valuer-General's Office.

A general discussion took place in regard to the mechanisms available for challenging valuation/land use code decisions and Julie Holmes advised that we can invite Katherine Bartolo back to another meeting to have further discussions on this issue.

**Action:** Katherine Bartolo to forward a link to the Strategic Direction of the Valuer-General's Office to RevenueSA to in turn provide to STLG representatives.

#### **3.3. STAMP DUTY – EXEMPTION 33 (CHARITABLE OR RELIGIOUS PURPOSES)**

It was agreed that Paul Maxwell and Paul Ingram will discuss this issue further out of session.

**Action:** Paul Maxwell and Paul Ingram to explore the issue of Stamp Duty Exemption 33 (Charitable or Religious Purposes) and report back to STLG representatives.

#### **3.4. ITEMS FROM MINUTES THAT APPEAR TO HAVE OUTSTANDING ASPECTS**

Julie Holmes thanked Bernie Walrut for compiling the list of items from past Minutes of the STLG that appear to have outstanding aspects and advised that RevenueSA will review this list. Julie Holmes advised that RevenueSA would provide a response back to Bernie Walrut in describing the status of the matters in RevenueSA's view

**Action:** RevenueSA to review the list of items from past Minutes that appear to have outstanding aspects and provide a response back to STLG representatives describing the status of the matters in RevenueSA's view.

#### **4. ANY OTHER BUSINESS**

Nil

#### **5. NEXT MEETING**

Wednesday 4 September 2019, 9:30am

Training Room, Level 1, State Administration Centre

## ATTACHMENT A – REVENUESA PUBLICATIONS

1. Draft publications for the Rulings Sub-Committee
  - 1.1. Stamp Duty – Residential land used for long term accommodation and discretionary trusts that are foreign trusts
  - 1.2. Stamp Duty – Duty arising from changes in partnership interests
  - 1.3. Section 71(6) of the *Stamp Duties Act 1923*
2. New potential publications for consideration
  - 2.1. Stamp Duty – Unit Trust: Issues And Redemptions
3. Draft publications on hold
  - 3.1. Section 13(4) of the *Land Tax Act 1936*
4. Other existing publications under consideration by RevenueSA
  - 4.1. Circular 61 – Section 71E of the *Stamp Duties Act 1923*. Obligation of a person to lodge a statement with the Commissioner
  - 4.2. Circular 109 – Stamp Duties (Concessions) Amendment Act 1994 – Family Farm Transfers
  - 4.3. Circular 156 – Access to documents held by solicitors and legal professional privilege – Guidelines
  - 4.4. Circular 265 – Stamp Duty – Sale of Retirement Villages
  - 4.5. Circular 282 – Domestic Partners – the updated draft will be revised and discussed at the September meeting

## ATTACHMENT B – ACTION REGISTER

	Date of Meeting	Action	Who	Status	Due Date
1.	05/09/2018 and 26/06/2019	"Stamp Duty – Duty arising from changes in partnership interests" – content of draft publication to be instead added to website (and also addressed in rewrite of the <i>Stamp Duties Act 1923</i> )	P Maxwell	Complete - RevenueSA to email the website link to STLG representatives and include additional links to increase the access/visibility of the new content.	
2.	05/09/2018	"Section 71(6) of the <i>Stamp Duties Act 1923</i> " – content of the draft publication to be instead added to website (and also addressed in the rewrite of the <i>Stamp Duties Act 1923</i> )	B Walrut	Pending – Bernie Walrut to provide further comments on the content of the draft publication.	04/09/2019
3.	05/12/2018	Review rulings currently marked as 'under review' to determine whether their content should be published as current	P Maxwell	Complete	
4.	05/12/2018	Information regarding stamp duty and the death of a joint tenant to be added to the RevenueSA website	P Maxwell	Pending – RevenueSA to draft website content and circulate to STLG representatives for comment.	10/07/2019
5.	06/03/2019	RevenueSA to update the draft Terms of Reference and re-circulate to the State Taxes Liaison Group for consideration and indications of interest in discussing at a meeting of a sub-group	P Maxwell	Pending – RevenueSA to update the draft Terms of Reference and re-circulate to STLG representatives.	10/07/2019
6.	06/03/2019	RevenueSA to further consider the suggestions made at the Rulings Sub-Committee meeting, make amendments where necessary and re-circulate the two draft rulings to the Sub-Committee	P Maxwell	Pending – RevenueSA to update the draft Terms of Reference and re-circulate to STLG representatives.	10/07/2019
7.	06/03/2019	RevenueSA to consider whether a general 'disclaimer statement' regarding the status of guidance matter could be displayed on the RevenueSA website, with any draft statement to be circulated to the State Taxes Liaison Group for comment/consideration	K Ferguson	Complete	
8.	06/03/2019	RevenueSA to provide an invite to the feedback group meetings relating to third party reporting.	T Colmer	Complete	
9.	06/03/2019	RevenueSA to update the draft Early Engagement and Dispute Resolution publication and re-circulate to the State Taxes Liaison Group for consideration and indications of interest in discussing at a meeting of a sub-group	P Maxwell	Pending	04/09/2019
10.	06/03/2019	Re-invite the new Valuer-General to a meeting with RevenueSA and interested STLG representatives.	J Holmes	Complete	
11.	27/06/2019	Paul Maxwell and Paul Ingram to explore Stamp Duty Exemption 33 (charitable or religious purposes) and report back to STLG representatives.	P Maxwell/P Ingram	Pending	04/09/2019

12.	27/06/2019	RevenueSA to review the proposed timeframe for consultation on the draft Duties Bill and consider if additional time can be provided.	L Smith	Pending	02/08/2019
13.	27/06/2019	Katherine Bartolo to forward a link to the Valuer-General's Office Strategic Direction to RevenueSA.	K Bartolo	Pending	04/09/2019
14.	27/06/2019	RevenueSA to update the Land Holder Guide to Legislation to address concerns about the stamp duty consequences for issues and redemptions in unit trusts.	P Maxwell	Pending	04/09/2019
15.	27/06/2019	RevenueSA to review the list of items from past Minutes that appear to have outstanding aspects and provide a response back to STLG representatives describing the status of the matters in RevenueSA's view.	P Maxwell	Pending	04/09/2019