

SOUTH AUSTRALIA



STATE TAXATION OFFICE

Stamp Duties

Circular No. 151

**STAMP DUTY PENALTY AMNESTY
2 JUNE 1997 TO 1 AUGUST 1997**

Overview

A Stamp Duty Penalty Amnesty will operate for a range of stamp duty conveyances, mortgages and other documents. The penalty amnesty operates for all documents executed prior to 31 May 1997. The penalty amnesty will help all taxpayers who are liable to pay stamp duty to meet their obligations.

The Stamp Duty Penalty Amnesty will apply from Monday 2 June 1997 to Friday 1 August 1997.

Penalties will be waived on a range of conveyance, mortgage and other documents. These documents have been targeted because they often relate to transactions that are not conducted on a regular basis between the same parties. Additionally, parties to these transactions may not have ongoing or regular contact with the State Taxation Office (STO). The Stamp Duty Penalty Amnesty will not apply to stamp duties payable under the following areas of the *Stamp Duties Act 1923*:

- Rental Business
- Insurance
- Motor Vehicles
- Cheques
- Shares

Documents which may be eligible for the Stamp Duty Penalty Amnesty must be lodged with the STO by the close of business on 1 August 1997. The Stamp Duty Penalty Amnesty will also apply to documents currently within the STO.

Comprehensive details of the scope and administration of the Stamp Duty Penalty Amnesty are set out within this Circular.

Scope

The penalty amnesty will apply to documents or transactions in the *Stamp Duties Act 1923* (SDA) often referred to as 'non-return' taxheads.

Examples eligible for the penalty amnesty include:

- Documents that transfer or convey an interest in a property or business that have not been lodged for assessment of tax;
- Documents that have been lodged and assessed but the payment(s) remains outstanding;
- Sale or transfer of a business or part of a business that was not followed by transfer or conveyance documents;
- Conveyance of property or a business from a sole trader, a partnership or a company;
- Changes in partnership interests;
- Transfer of shares and units in trusts;
- Variation of the terms of a trust that includes a change to the beneficiaries, potential beneficiaries, etc;
- Mortgage over property;
- Deeds, and variation to deeds, that have not been lodged for assessment; and
- Leases, and agreements to lease, that have not been lodged for assessment.

Where there is no agreement or document created acknowledging any of the above examples, the transaction may still be subject to stamp duty pursuant to section 71E of the SDA. If this is the case, contact should be made with the STO to obtain copies of appropriate statement forms to be lodged in lieu of documentation.

The stamp duty penalty amnesty **will not apply** to stamp duties payable under the following provisions of the SDA:

- Rental Business (Sections 31B to 31N)
- Annual Licence or Monthly Return (Sections 32 to 42AB)
- Application to Register a Motor Vehicle or Application to Transfer the Registration of a Motor Vehicle (Sections 42A to 42E)
- Bills of Exchange, Promissory Notes, Coupons and Interest Warrants (Sections 46 to 52)
- Part 3A -
 - division 2 - Duty on Sales and Purchases by Brokers (Sections 90B to 90G)
 - division 3 - Duty on certain SCH-regulated Transfers of Marketable Securities (Sections 90H to 90O)
 - division 4 - The Securities Clearing House (Sections 90P to 90V)

Administration of the amnesty

The stamp duty penalty amnesty will be administered along the following guidelines;

- the penalty amnesty will take place from 2 June 1997 to 1 August 1997;
- the penalty amnesty applies to the remission of penalty tax only;
- there will be no remission of tax;

- documents which are not already lodged, must be lodged at STO for opinion assessment during the period 2 June 1997 to 1 August 1997;
- it does not apply to documents processed through TIMBER or IBR;
- any document which has been assessed prior to the penalty amnesty will be stamped and any applicable penalty will be remitted in full only where outstanding tax is paid in full prior to close of business 1 August 1997;
- where documents lodged require further information etc to be submitted, the amnesty will still apply if that information etc is forwarded promptly;
- anyone with an approved instalment plan for the payment of stamp duty may finalise all obligations by the payment of outstanding tax in full before 1 August and be eligible for the penalty amnesty;
- any matter subject to recovery action where the outstanding tax, court fees and legal costs are fully paid during the penalty amnesty period will have the outstanding penalty written off;
- the penalty amnesty will apply to investigations finalised (and assessed) prior to 31 May 1997;
- there will be no refund or remission of penalty for any penalty tax paid immediately preceding, or following the penalty amnesty period; and,
- taxpayers who do not meet the conditions of the amnesty will be charged penalty in accordance with normal policy.

The Stamp Duty Penalty Amnesty will not apply to transactions that do not comply with the above guidelines or fall outside the scope or time period specified for the amnesty.

Payment

All payments of **tax must be made in full** and received by the end of the penalty amnesty period, close of business - 1 August 1997, or the due date of the assessment, whichever is the latter, for the remission of a penalty to apply.

The interest and penalty provisions of the *Tax Administration Act 1996* will be applied to all outstanding amounts after 1 August 1997.

Compliance Activity

The penalty amnesty will be followed by an extensive compliance program. All parties to transactions will be pursued for the recovery of outstanding tax and penalty tax following the penalty amnesty.

Liabilities under other State Taxation Legislation

The payment of tax and penalty tax under all other legislation administered by the STO will operate in accordance with existing policy and procedures, both during and following the Stamp Duty Penalty Amnesty Program.

In this regard, taxpayers are reminded that the *Taxation Administration Act 1996* which has applied to both the *Debits Tax Act 1994* and the *Financial Institutions Duty Act 1983* from 1 January 1997, will also apply to the *Land Tax Act 1936*, the *Pay-roll Tax Act 1971*, and the *Stamp Duties Act 1923* as from 1 July 1997.

Further Information

Enquiries relating to the Stamp Duty Penalty Amnesty should be directed to:

Location:

State Taxation Office
Taxpayer Services
Ground Floor,
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 Enquiries:

(08) 8226 3750

Facsimile Enquiries:

(08) 8226 3734

22 May 1997

COMMISSIONER OF STATE TAXATION

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