

## **GENERAL EXEMPTION 26**

### **BACKGROUND**

General Exemption 26 (“Exemption 26”) of the Second Schedule of the *Stamp Duties Act 1923* (the “Act”) exempts from stamp duty a transaction (or an instrument effecting or acknowledging, evidencing or recording a transaction) by a trustee of a regulated superannuation fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993* (Cwlth)) in the ordinary course of administering the fund:

- creating an interest in the fund in favour of a beneficiary of the superannuation scheme; or
- redeeming, cancelling or extinguishing such an interest.

Exemption 26 was inserted into the Act in December 2000 and was not intended to apply to the transfer of property into or out of a superannuation fund.

Based upon advice received, RevenueSA altered its assessing practices to apply Exemption 26 to instruments which transferred property into a superannuation fund on behalf of an existing member of the fund where the transferred property was set aside by the trustee of the fund for the benefit of a particular member of the fund.

### **DISCUSSION**

Based upon advice now received a more restricted interpretation will be applied by RevenueSA, namely that it does not operate to exempt contributions to a superannuation fund made by or on behalf of members of the superannuation fund.

RevenueSA will apply this interpretation to all instruments lodged with this Office on or after Friday 20 June 2008.

The *Stamp Duties (Trusts) Amendment Bill 2008* was passed by Parliament today and will come into operation on the day on which it is assented to, which is likely to be 26 June 2008. The Bill amends Exemption 26 to put it beyond doubt that the transfer of property into or out of a superannuation fund is not exempt from duty under this provision.

**FURTHER INFORMATION**

Further information regarding this change can be obtained from RevenueSA.

**Location**

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COMMISSIONER OF STATE TAXATION

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