

## **SOUTH AUSTRALIA**



### **STATE TAXATION OFFICE**

**Stamp Duties**

**Circular No. 116**

**STAMP DUTIES (SECURITIES CLEARING HOUSE)  
AMENDMENT ACT, 1994  
DATE OF OPERATION  
NEXUS PROVISIONS**

The above mentioned Act was assented to on 12 May, 1994.

The Act provides the regulatory framework to facilitate the Clearing House Electronic Subregister System (CHES) of the Australian Stock Exchange (ASX). As part of a uniform approach by all interstate jurisdictions and in conjunction with the ASX the South Australian legislation required to enable the system to operate has been proclaimed into operation as from 1 September, 1994.

#### **THE SITUATION BEFORE CHES**

Brokers assess their own stamp duty liability in respect of on-market transactions - and pay duty by way of periodic returns. They use a broker's stamp on an on-market transfer form to signify that stamp duty, if payable, has been or will be paid. Off-market transfers are required to be lodged with the Stamp Duties Office, where they are assessed and stamped when duty is paid. There are time limits for lodgement of documents and payment of the stamp duty (refer to Circular No. 72).

For on-market transactions, brokers pay duty to the State or Territory in which the order for sale or purchase is placed. Off-market transactions are primarily liable in the jurisdiction where the share register on which the shares are held is located. In both cases a stamped document must be produced before the share register can be updated to reflect the change in ownership.

## **CHESS**

CHESS is a system that has been developed by ASX. It will introduce electronic messages to replace traditional transfer documents. CHESS will be administered by the Securities Clearing House (SCH), a body that has been established pursuant to the Corporations Law. ASX Settlement and Transfer Corporation Pty Ltd (ASTC), a wholly owned subsidiary of ASX, is the corporation that has been approved as the SCH.

Amendments to stamp duty legislation are required to recognise an electronic transfer, and to remove the requirement of stamping transfer forms for CHESS transactions. ASX member brokers, domestic trustees, custodians and financial institutions will be able to participate in CHESS. These entities are referred to as participants. Each State and Territory is introducing legislation that has been prepared in consultation with the other jurisdictions, with the objective of reaching some uniformity in CHESS provisions.

## **NEXUS PROVISIONS**

The nexus provisions (provisions that determine which jurisdiction receives duty) for off-market transfers will change following the introduction of CHESS. These changes are to commence from 1 September, 1994. Currently duty is payable primarily to the jurisdiction in which the share register is located. This is inappropriate for shares transferred through CHESS. Therefore a new framework has been created to equitably distribute duty between jurisdictions.

Transfers of shares in Australian incorporated companies will be liable for duty in the State or Territory in which the company is incorporated. In the case of foreign incorporated companies, duty will be payable to the jurisdiction where the registered office is located. In the case of unit trusts, duty will be payable to the jurisdiction where the principal register is located.

The nexus for on-market transactions will remain the location of the broker with whom the buy or sell order is placed.

Persons requiring further information should contact the Stamp Duties Office telephone 226 3701.

23 August, 1994

COMMISSIONER OF STATE TAXATION