

MINUTES
SA STATE TAXES LIAISON GROUP
WEDNESDAY 19 APRIL 2023 (9.30AM)
MEETING ROOM 1, LEVEL 1, STATE ADMINISTRATION CENTRE

1. ATTENDANCE/APOLOGIES

PRESENT FOR REVENUESA

Julie Holmes, Kelly Tattersall, Paul Maxwell, Mark Christmas, Joshua Giorgio, Kristy Ferguson and Kathryn Hillier (Minutes)

PRESENT FOR INDUSTRY GROUPS

John Tucker (Law Council of Australia), Julie Van der Velde (CPA Australia), Paul Ingram (The Tax Institute), Paul Tanti (Chartered Accountants Australia and New Zealand), Marc Romaldi (Property Council of Australia), Peter Slegers (Business SA) and Jeff Stevens (Australian Institute of Conveyances (SA Division))

APOLOGIES

Bernie Walrut (Law Council of Australia), Andrea Heading (Real Estate Institute of South Australia) and Will Fennell (Law Society of South Australia)

2. BUSINESS ARISING

2.1. Update on Action Register (see Attachment A)

- Action Items under review on how they progress now that the stamp duty rewrite is not progressing – Action Items 2, 24-26, 28, 33 and 35-36.

A general discussion took place in regard to the progression of those Action Items that were pending the stamp duties rewrite and it was agreed that RevenueSA would review Action Items 2, 24-26, 28, 33 and 35-36 and provide a status update for each matter and circulate to the Group to allow consideration of the priority that should be given to each.

Peter Slegers asked that guidance on section 71A of the *Stamp Duties Act 1923* (the “SDA”) be considered given that the amendment proposed in the stamp duties rewrite is no longer proceeding. It was agreed to include this issue in the list of priorities.

New Action: RevenueSA to review Action Items 2, 24-26, 28, 33 and 35-36 and provide a status update for each matter and circulate to the Group to allow consideration of the priority that should be given to each, including section 71A of the SDA.

- Action Item 27

Paul Maxwell reported that Bernie Walrut is still working on re-drafting aspects of Circular No: 265, as a result of a meeting between himself and Bernie Walrut held on 4 November 2022.

New Action: Paul Maxwell to follow-up the progress of this matter with Bernie Walrut.

- Action Item 29

Paul Maxwell reported that the review of Circular No: 156 remains on hold pending the outcome of a current High Court matter.

- Action Item 30

Paul Maxwell reported that a draft Revenue Ruling in regard to Exemption 33 of the *Stamp Duties Act 1923* was previously circulated for consultation by the Group and that comments had been received and have now considered.

It is now proposed to convene a meeting of the Rulings Sub-Committee to further discuss the comments received and progress the Revenue Ruling.

On 19 April 2023, an email was sent to Group members seeking expressions of interest by COB Wednesday 26 April 2022 to attend Sub-Committee meetings (and preferred dates and times) for this publication, following which RevenueSA will arrange a meeting.

New Action: RevenueSA will arrange a meeting to progress the Revenue Ruling.

- Action Item 2020-3

Kristy Ferguson advised that we are still awaiting information from Queensland. Given the passage of time it was agreed to close this Action Item and keep a watching brief on the issue.

- Actions Item 2021-109 and 2022-5

- Kristy Ferguson reported that the review of the communication process when advising the STLG of changes, including contacting other jurisdictions to identify how and what website and other changes are disseminated to industry and public generally, had been completed. Actions Item 2021-109 and 2022-5 are now complete.

- Action Item 2022-4

No further update. This Action Item is pending as RevenueSA reviews and considers prioritisation. The Action Item continues to be on the forward work program.

- Action Item 2022-8

Paul Maxwell reported that an email was sent to Group members on 19 April 2023 containing RevenueSA's advice in relation to a number of concerns raised at the September 2022 meeting of the STLG in regard to the new land tax reform measures.

A general discussion followed on these issues and land tax more broadly and it was agreed, given the proximity of the email to this morning's meeting, that Group members would be given time to properly consider RevenueSA's advice following which a separate meeting would be arranged to further discuss land tax matters.

New Action: RevenueSA will arrange a separate meeting to further discuss land tax matters.

- Action Item 2022-12

Paul Maxwell reported that it was RevenueSA's view that under the *Payroll Tax Act 2009* (the "PTA") it was within the Commissioner of State Taxation's (the "Commissioner") power to group self-managed super funds and it follows that any tax (including interest and/or penalty tax) payable under the PTA and/or *Taxation Administration Act 1996* by a member, or members of a group, is a debt due jointly and severally by every group member (employer or not) including the self-managed super fund.

Further, that because of the joint and several liability provisions RevenueSA may seek to recover outstanding payroll tax owed by the operating entity from the self-managed super fund. However, it was noted that this course of recovery action would only be contemplated as a last resort and on a case-by-case basis with the behaviour of the parties in question a significant factor.

A general discussion followed with concerns raised over whether the grouping provisions apply in relation to self-managed super funds, and more broadly, RevenueSA's potential treatment of these matters.

2.2. Update on State Tax Appeals

Joshua Giorgio advised that the following had occurred since the last STLG meeting:

- The hearing in the payroll tax matter involving Trinity College Gawler Inc. has been completed. The matter was heard from 20 to 28 June 2022 and from 6 to 9 March 2023;
- The Full Court hearing in the stamp duty (landholder) matter involving Edge Developments Pty Ltd occurred on 15 March 2023 and we are awaiting judgement;
- The South Australian Civil and Administrative Tribunal ("SACAT") handed down its decision in a HomeBuilder Grant ("HBG") (citizenship) matter on 5 April 2023 and the Commissioner's decision under review was affirmed; and
- Three (3) new HBG matters and one (1) new Emergency Services Levy land use code matter have been lodged with SACAT.

2.3. Update on Land Tax including Action Item 2022-8 and Corporate Groups

Land tax including Action Item 2022-8 was discussed in depth under Agenda Item 2.1 - Update on Action Register (see Attachment A).

In addition, Julie Holmes reported that:

- Corporate Groups have received Land Tax Notices of Assessment for the 2022-23 financial year; and
- A small proportion of ownerships have not received their Land Tax Notices of Assessment for the 2021-22 financial year and RevenueSA is still working through complex ownerships.

2.4. Payroll Tax Grouping (Self-Managed Superfunds)

Discussed in depth under Agenda Item 2.1 - Update on Action Register (see Attachment A) (refer Action Item 2022-12).

3. New Business

3.1. Customer Satisfaction Survey [RevenueSA]

Deferred to the next meeting

4. Any Other Business

No other business noted

5. Next Meeting

TBC – likely to be middle July 2023

ATTACHMENT A – ACTION REGISTER

Item	Date of Meeting	Action	Who	Status as at 18 May 2023	Due Date
2	05/09/2018	Section 71(6) of the <i>Stamp Duties Act 1923</i> (the “SDA”) – content of the draft publication to be instead added to website	B Walrut	Completed	April 2023
24	04/12/2019 [Historical Action Item]	Publication: Stamp Duty – Residential land used for long term accommodation and discretionary trusts that are foreign trusts. To include consideration of the scope of the meaning of “a person who takes capital of the trust property in default”	RevenueSA	Completed	April 2023
25	04/12/2019 [Historical Action Item]	Publication: Circular 61 – Section 71E of the SDA. Obligation of a person to lodge a statement with the Commissioner	RevenueSA	Completed	April 2023
26	04/12/2019 [Historical Action Item]	Publication: Circular 109 – <i>Stamp Duties (Concessions) Amendment Act 1994</i> – Family Farm Transfers	RevenueSA	Completed	April 2023
27	04/12/2019 [Historical Action Item]	Publication: Circular 265 – Stamp Duty – Sale of Retirement Villages	RevenueSA	Bernie Walrut is currently working on re-drafting aspects of the Circular as a result of this meeting. Paul Maxwell to follow-up the progress of this matter with Bernie Walrut	On-going May 2023
28	04/12/2019 [Historical Action Item]	Publication: Circular 282 – Domestic Partners	RevenueSA	Completed	April 2023
29	04/12/2019 [Historical Action Item]	Publication under consideration by RevenueSA: Circular 156 – Access to documents held by solicitors and legal professional privilege – Guidelines.	RevenueSA	On hold. To be considered once the outcome of a current High Court matter is known and considered by the Federal Government.	On-going
30		RevenueSA to draft a new Revenue Ruling in regard to Exemption 33 for consideration by the Rulings Sub-Committee.	RevenueSA	Pending. RevenueSA will arrange a meeting to progress the Revenue Ruling.	May 2023
33	04/12/2019 [Historical Action	Guidance to be provided in respect of Part 4 of the	RevenueSA	Completed	April 2023

	Item]	SDA regarding: <ul style="list-style-type: none"> the manner of calculation of stamp duty, principally the order in which duty is calculated; and grouping. 			
35	04/12/2019 [Historical Action Item]	Clarification regarding section 60(2) of the SDA as raised by Bernie Walrut.	RevenueSA	Completed	April 2023
36	04/12/2019 [Historical Action Item]	Section 71E of the SDA – to consider whether a threshold amount could be introduced before a Statement is required.	RevenueSA	Completed	April 2023
2020-3	11/03/2020	Information Circular No: 1 'RevenueSA Publication Process' to be added to the list of publications under review and RevenueSA to consider what other Revenue Offices do in this regard.	RevenueSA	Closed	Watching brief
2022-4	7/9/2022	RevenueSA to review and consider the appropriateness of self-determining mining tenement acquisitions and the associated necessary system changes	RevenueSA	Pending. RevenueSA to review and consider prioritisation. Continues to be on the forward work program.	April 2023
2022-8	7/9/2022	<p>a) Consider whether a trust has been validly assessed when below the taxable threshold and no notice of assessment is physically issued (Consider section 14 of the <i>Taxation Administration Act 1996</i>).</p> <p>b) Confirm RevenueSA's administration and assessment practices accord with the <i>Land Tax Act 1936</i>?</p> <p>c) Can the nominated beneficiary object to the site value on a Land Tax Notice of Assessment? In the alternative, can then the trustee object to the site value in circumstances where a notice of assessment is issued to the beneficiary only (and not the trust)?</p> <p>d) Consider taxpayers right to object to a</p>	RevenueSA	Completed. An email was sent to Group members on 19 April 2023 containing RevenueSA's advice in relation to a number of concerns raised at the September 2022 meeting of the STLG in relation to the new land tax reform measures.	April 2023

		<p>reassessment in circumstances where a taxpayer has not objected to the assessment due to being in discussions with RevenueSA.</p> <p>e) Consider whether receipt of notice of an objection can be delegated by the Treasurer (e.g. to the Commissioner of State Taxation);</p> <p>f) Consider whether the new administrative practice regarding review of historical site values allows that site value to be objected to (when it is otherwise out of time)? i.e. Does it 'enliven' the value, therefore enlivening the objection rights?</p> <p>g) Once progress has been made on the above matters, arrange for a land tax specific meeting with the group.</p>			
2022-12	07/12/2022	<p>Lisa Smith to clarify RevenueSA's position in relation to the payroll tax grouping provisions, and the consequential joint and several liability responsibilities, as it relates to self-managed super funds.</p>	Lisa Smith	<p>Completed. RevenueSA's view that under the <i>Payroll Tax Act 2009</i> (the "PTA") it was within the Commissioner's power to group self-managed super funds and it follows that any tax (including interest and/or penalty tax) payable under the PTA and/or <i>Taxation Administration Act 1996</i> by a member, or members of a group, is a debt due jointly and severally by every group member (employer or not) including the self-managed super fund.</p> <p>Further, that because of the joint and several liability provisions RevenueSA may seek to recover outstanding payroll tax owed by the operating entity from the self-managed super fund. However, it was noted that this course of recovery action would only be contemplated as a last resort and on a case-by-case basis with the behaviour of the parties in question a significant factor.</p>	April 2023
2023-1	19/4/2023	<p>RevenueSA to review Action Items 2, 24-26, 28,</p>	Paul Maxwell	Pending	July 2023

		33 and 35-36 and provide a status update for each matter and circulate to the Group to allow consideration of the priority that should be given to each, including section 71A of the SDA.			
2023-2	19/4/2023	RevenueSA will arrange a separate meeting to further discuss land tax matters.	Paul Maxwell	Pending	June 2023

ATTACHMENT B – REVENUESA PUBLICATIONS AND UPDATES

1. Publications to reviewed now that the stamp duty rewrite is not progressing
 - 1.1. Stamp Duty – Residential land used for long term accommodation and discretionary trusts that are foreign trusts
 - 1.2. Section 71(6) of the SDA
 - 1.3. Stamp Duty – Unit Trust: Issues And Redemptions
 - 1.4. Circular 61 – Section 71E of the SDA. Obligation of a person to lodge a statement with the Commissioner
 - 1.5. Circular 109 – *Stamp Duties (Concessions) Amendment Act 1994* – Family Farm Transfers
 - 1.6. Circular 282 – Domestic Partners
2. New potential publications for consideration
3. Draft publications on hold
4. Other existing publications under consideration by RevenueSA
 - 4.1. Circular 265 – Stamp Duty – Sale of Retirement Villages
 - 4.2. Circular 156 – Access to documents held by solicitors and legal professional privilege – Guidelines
 - 4.3. Review of Information Circular 1 – RSA Publication Process
 - 4.4. DRAFT Revenue Ruling – Exemption from Duty – Charitable and Religious Bodies
5. Recent Updates
 - 5.1. Flood tax Relief
 - 5.2. Land Tax Reform – Corporate Groups
 - 5.3. Lodging a First Home Owner Grant application to RevenueSA