

**MINUTES OF THE
SA STATE TAXES LIAISON GROUP MEETING
HELD ON WEDNESDAY 4 DECEMBER 2019 (4:00PM)
TRAINING ROOM, LEVEL 1, STATE ADMINISTRATION CENTRE**

1. ATTENDANCE / APOLOGIES

1.1. PRESENT FOR REVENUESA

Julie Holmes (Chair), Lisa Smith, Heather Watts, Janice O'Callaghan, Paul Maxwell, Tom Colmer, Mark Christmas, Kristy Ferguson and Lee Bartlett (minutes).

1.2. PRESENT FOR INDUSTRY GROUPS

Julie Van der Velde (CPA Australia), Paul Ingram (The Tax Institute), Will Fennell (Law Society of South Australia), John Tucker (Law Council of Australia), Daniel Marateo (Business SA) and Marc Romaldi (Property Council of Australia).

1.3. APOLOGIES

Phil Dorman (Institute of Public Accountants), Rebecca Hayes (Australian Institute of Conveyancers (SA Division) Inc.), Peter Slegers (Business SA), Kate Southcott (Real Estate Institute of South Australia), Jeff Stevens (Australian Institute of Conveyancers (SA Division) Inc.), Paul Tanti (Chartered Accountants Australia and New Zealand), Bernie Walrut (Law Council of Australia) and Alan Yates (CPA Australia)

2. BUSINESS ARISING

Julie Holmes asked if there were any issues arising from the previous minutes. No issues were raised.

2.1. UPDATE ON ACTION REGISTER (ATTACHMENT A OF THE AGENDA)

Completed Actions were noted.

Discussion was limited to Item 13 of the Action Register (Attachment A of the Agenda) with all other open items addressed as Agenda items:

Item 13 – Julie Holmes advised that the Valuer-General has notified that the Strategic Plan is not a public document.

Julie Holmes asked the Group if they would like the Valuer-General to attend one of next year's meetings. The Group agreed that attendance at one of next year's meetings would be good.

Action: Julies Holmes will invite the Valuer-General, Kate Bartolo, to a meeting next year to share any updates and enable STLG members to share their feedback in regard to Land Use Code objections and the review process (refer Action Item 21).

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

Julie Holmes advised that the revised draft Terms of Reference for both the State Taxes Liaison Group and the Rulings Sub-Committee have been recently re-circulated.

The Group agreed with the removal of the suggested content regarding 'Conflicts of Interest' from both Terms of Reference documents.

Paul Ingram and Marc Romaldi also suggested that the proposed amendments regarding "Confidentiality" were not required and content in this regard should remain as previously drafted.

RevenueSA to update both Terms of Reference documents and re-circulate as final drafts. The agreed Terms of Reference documents will be placed on the RevenueSA website.

Action: RevenueSA to update both Terms of Reference documents and re-circulate as final drafts. The agreed Terms of Reference documents will be placed on the RevenueSA website (refer Action Item 23).

2.3. UPDATE ON REVENUESA PUBLICATIONS AND RULINGS SUB-COMMITTEE (ATTACHMENT B OF THE AGENDA)

Paul Maxwell advised the following:

- In regard to Item 1.2, he was still waiting for Bernie Walrut to provide further comments on the content of the draft publication although ultimately this would form part of the Stamp Duties Rewrite (noted relates to Action Item 2);
- In regard to Item 1.3, guidance on unit trust issues and redemptions has been included in an updated version of the Landholder Guide to Legislation, which is currently being reviewed (refer Action Item 10).
- The remainder of the publications at point 1 of Attachment B will form part of the Stamp Duties Rewrite, and therefore are currently on hold, except Circular 156 – Access to documents held by solicitors and legal professional privilege – Guidelines, which will be considered subject to other priorities.

2.4. UPDATE ON STATE TAX APPEALS

Paul Maxwell advised that:

- the Full Court handed down their judgment in the matter of *South Australian Employers' Chamber of Commerce and Industry Incorporated v Commissioner of State Taxation* [2019] SASCFC 125 (Business SA). The Full Court unanimously dismissed the appeal. Business SA have now sought leave to appeal to the High Court.

- The Tribunal handed down its decision in the First Home Owner Grant review matter of *Qiaohui (Leena) Liu v Commissioner of State Taxation*. The Tribunal affirmed the decision under review.

The decision under review was whether the applicant satisfied the residence requirement. The decision of the Tribunal will be published on the RevenueSA website shortly.

- A number of other appeals are at varying stages.

2.5. THIRD PARTY REPORTING

Tom Colmer advised that there were no significant developments to report, with the system currently stable and working well. It was therefore agreed to remove this as a standing item on the Agenda with updates to be provided as required.

2.6. UPDATE ON STAMP DUTY REWRITE

Lisa Smith advised that the Treasurer has recently approved the release of a draft of the new *Duties Bill 2019* for consultation. The Bill will be released to the Group and other relevant industry bodies by the end of the week, with comments due by 31 January 2020. Parallel to this work has begun to update the website content in preparation for the new Duties Act.

2.7 UPDATE ON NEW LAND TAX AGGREGATION AND TRUST SURCHARGE PROVISIONS

Julie Holmes reported that the *Land Tax (Miscellaneous) Amendment Bill 2019* was passed by Parliament last week. Julie passed on the Treasurer's appreciation for their contributions and feedback on the Bill and thanked the Group for their valuable input, acknowledging their time and effort. The hard work of RevenueSA staff was also acknowledged. The Bill will take effect from 1 July 2020.

A communication strategy is currently being devised. Initially, this will include the release of an overview paper, with worked examples on the RevenueSA website together with a calculator, followed by more specific website information in the New Year. In the New Year, RevenueSA will also write to affected taxpayers (planned for March 2020) with additional information and to collect relevant information for assessing purposes.

Julie Van der Velde asked whether the Commissioner will use her discretion to deal with issues raised as part of the consultation process but not included in the Bill. The Group were advised that each issue raised was worked through with the Treasurer's Office and amendments to the Bill made accordingly. No further work is planned to revisit the issues raised.

2.8 EARLY ENGAGEMENT AND DISPUTE RESOLUTION PUBLICATION

Paul Maxwell advised that due to work on the *Land Tax (Miscellaneous) Amendment Bill 2019* there is no update on this Agenda Item. Paul will provide an update prior to the next meeting. [Action Item 6 remains open.]

2.9 STAMP DUTY – EXEMPTION 33 (CHARITABLE OR RELIGIOUS PURPOSES)

Paul Maxwell advised that RevenueSA has recently received legal advice in relation to Exemption 33 which now provides greater clarity around the circumstances of when Exemption 33 will apply.

Notwithstanding the receipt of this advice, RevenueSA plans to release a Revenue Ruling to provide clarity for industry and is also considering an amendment to the new *Duties Bill 2019*.

Action: RevenueSA to draft a new Revenue Ruling in regard to Exemption 33.

2.10 ITEMS FROM MINUTES THAT APPEAR TO HAVE OUTSTANDING ASPECTS

Lisa Smith advised that she has reviewed all the Minutes of the Group since 2016 against the list of outstanding items prepared by Bernie Walrut. Broadly speaking, most matters have either been completed or are current action items. Some additional Action Items will be added to the Action list for historical completeness.

Action: RevenueSA to update action list for outstanding items that remain open and to ensure publications being considered or on hold are also noted as Action Items for completeness.

Julie Holmes advised that RevenueSA will go back to Bernie Walrut to see if the list he prepared can be released to the whole group and what the outstanding actions are.

Action: RevenueSA to discuss with Bernie Walrut whether his list of outstanding actions can be released to the whole group together with current status.

2.11 CHANGES OF REVENUESA PRACTICES AND DUE NOTIFICATIONS TO PUBLIC AND ADVISERS BY REVENUESA

Paul Maxwell advised that RevenueSA acknowledges that through its experience with Exemption 33 it needs to be better in the future with notifying industry and the general public when there are changes in RevenueSA practices. This will be incorporated as part of BAU activity.
Open Action Item

3 NEW BUSINESS

3.1 LAND USE CODE 4100

Paul Ingram raised the possibility of being able to self-assess conveyances of qualifying vacant land (i.e. those with a land use code of 4100) rather than having to submit them for opinion assessment.

RevenueSA agreed to further investigate the possibility of self-assessing conveyances of qualifying vacant land, noting that there may be current system limitations that prevent a simple solution

Action: RevenueSA agreed to further investigate the possibility of self-assessing conveyances of qualifying vacant land. [Refer Action Item 22]

3.2 THANK YOU

Julie Holmes thanked the group for their time and input over the year.

3 NEXT MEETING

11 March 2019

ATTACHMENT A – ACTION REGISTER

Item	Date of Meeting	Action	Who	Status	Due Date
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. On hold Agenda Item 2.3	To be incorporated as part of the Stamp Duties rewrite
4.	06/03/2019 04/09/2019	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	Closed Replaced by Action Item 23	1/12/2019
6.	06/03/2019 04/09/2019	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 Agenda Item 2.8	04/12/2019
9.	27/06/2019 04/09/2019	Katherine Bartolo to forward a link to the Valuer-General's Office Strategic Direction to RevenueSA. 04/09/2019: Julie Holmes to follow up.	K Bartolo / Julie Holmes	Completed	04/12/2019
10.	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 Agenda Item 2.3	04/09/2019
11.	27/06/2019 04/09/2019	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.	L Smith	Completed Replaced by Action Item 31	4/12/2019
13.	04/09/2019	Julie Holmes to share STLG feedback regarding the Land Use Code objection/review process with the Valuer General.	J Holmes	Closed Replaced by Action Item 21	04/12/2019
16.	04/09/2019	RevenueSA to advise on the approach for Exemption 33 pending the implementation of the Stamp Duties Rewrite	P Maxwell	Closed Replaced by Action Item 30	04/12/2019
17.	04/09/2019	RevenueSA to consider the publication of a circular concerning Exemption 33 once final position established.	P Maxwell	Closed Replaced by Action Item 30	11/03/2020
18.	04/09/2019	Payroll Tax groups – updating Revenue Ruling PTA031 and Information Circular No 4. Paul Maxwell to raise this issue with the State and Territories Interjurisdictional Tax Law Committee (TLC).	P Maxwell	Closed [Matter raised with the TLC - no immediate action to be taken by the TLC at this stage]	04/12/2019
19.	04/09/2019	Payroll Tax – excluded contractors – publication of information circular. Bernie Walrut to discuss with Paul Maxwell out of session.	B Walrut / P Maxwell	Pending discussion with B Walrut Agenda Item 3.5	11/03/2020

21.	04/12/2019	J Holmes will invite the Valuer-General, Kate Bartolo to a meeting next year to share any updates and enable STLG members to share their feedback in regard to Land Use Code objections and review process.	J Holmes	Pending	11/03/2020
22.	04/12/2019	RevenueSA agreed to further investigate the possibility of self-assessing conveyances of qualifying vacant land.	RevenueSA	Pending Agenda Item 3.1	11/03/2020
23	04/12/2019	RevenueSA to update both Terms of Reference documents and re-circulate as final drafts in parallel with being placed on the RevenueSA website for general comment.	RevenueSA	Pending	11/03/2020
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	On hold	To be incorporated as part of the Stamp Duties rewrite
25	04/12/2019 [Historical Action Item]	Publication: Circular 61 – Section 71E of the <i>Stamp Duties Act 1923</i> . Obligation of a person to lodge a statement with the Commissioner	RevenueSA	On hold	To be incorporated as part of the Stamp Duties rewrite
26	04/12/2019 [Historical Action Item]	Publication: Circular 109 – Stamp Duties (Concessions) Amendment Act 1994 – Family Farm Transfers	RevenueSA	On hold	To be incorporated as part of the Stamp Duties rewrite
27	04/12/2019 [Historical Action Item]	Publication: Circular 265 – Stamp Duty – Sale of Retirement Villages	RevenueSA	On hold	To be incorporated as part of the Stamp Duties rewrite
28	04/12/2019 [Historical Action Item]	Publication: Circular 282 – Domestic Partners	RevenueSA	On hold	To be incorporated as part of the Stamp Duties rewrite
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 prioritised
30	4/12/2019	RevenueSA to draft a new Revenue Ruling in regard to Exemption 33 for consideration by the Rulings Sub-Committee.	RevenueSA	Pending	11/03/2020
31	4/12/2019	RevenueSA to update action list for outstanding items that remain open and to ensure publications being considered or on hold are also noted as Action Items for completeness.	RevenueSA	Completed	31/12/2019

32	4/12/2019	RevenueSA to discuss with Bernie Walrut whether his list of outstanding actions can be released to the whole group together with current status.	RevenueSA	Pending	11/03/2020
33	04/12/2019 [Historical Action Item]	Guidance to be provided in respect of Part 4 of the <i>Stamp Duties Act 1923</i> regarding: <ul style="list-style-type: none"> the manner of calculation of stamp duty, principally the order in which duty is calculated; and grouping. 	RevenueSA	On hold	To be incorporated as part of the Stamp Duties rewrite
34	04/12/2019 [Historical Action Item]	Consideration of expanding objection/appeal rights under the <i>First Home and Housing Construction Grants Act 2000</i> to reflect those of the <i>Taxation Administration Act 1996</i> . [Noted requires legislative change. Approval had been given by the Government to explore legislative change]	RevenueSA	Pending	23/6/2020
35	04/12/2019 [Historical Action Item]	Clarification regarding section 60(2) of the <i>Stamp Duties Act 1923</i> as raised by Bernie Walrut.	RevenueSA	On hold	To be incorporated as part of the Stamp Duties rewrite
36	04/12/2019 [Historical Action Item]	Section 71E of the <i>Stamp Duties Act 1923</i> – to consider whether a threshold amount could be introduced which would need to be exceeded before a Statement is required.	RevenueSA	On hold	To be incorporated as part of the Stamp Duties rewrite

ATTACHMENT B – REVENUESA PUBLICATIONS

1. Publications to form part of the Stamp Duties Rewrite
 - 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 *Stamp Duties Act 1923*
 - 1.3. Stamp Duty – Unit Trust: Issues And Redemptions
 - 1.4. Circular 61 – Section 71E of the *Stamp Duties Act 1923*. 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 265 – Stamp Duty – Sale of Retirement Villages
 - 1.7. 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 156 – Access to documents held by solicitors and legal professional privilege – Guidelines