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**MINUTES OF THE
SA STATE TAXES LIAISON GROUP MEETING
HELD ON WEDNESDAY 2 DECEMBER 2020 (4:00PM)
TRAINING ROOM, LEVEL 1, STATE ADMINISTRATION CENTRE**

1. ATTENDANCE/APOLOGIES

PRESENT FOR REVENUESA

Julie Holmes (Chair), Lisa Smith, Kelly Tattersall, Paul Maxwell, Kristy Ferguson and Lee Bartlett (minutes).

PRESENT FOR INDUSTRY GROUPS

Will Fennell (Law Society of Australia), Paul Ingram (The Tax Institute), Carmel Noon (Australian Institute of Conveyancers (SA Division) Inc.), Marc Romaldi (Property Council of Australia), Peter Slegers (Business SA), Jeff Stevens (Australian Institute of Conveyancers (SA Division) Inc.), Paul Tanti (Chartered Accountants Australia and New Zealand), Julie Van der Velde (CPA Australia) and Bernie Walrut (Law Council of Australia).

APOLOGIES

Andrew Shields (Real Estate Institute of South Australia), Mark Christmas (RevenueSA) and Tom Colmer (RevenueSA).

Julie Holmes welcomed the new CEO of Australian Institute of Conveyancers (SA Division) Inc., Carmel Noon, to the meeting.

2. BUSINESS ARISING

2.1 UPDATE ON ACTION REGISTER

Bernie Walrut raised whether the review of Circular 265 – Stamp Duty – Sale of Retirement Villages could be progressed rather than being incorporated as part of the Stamp Duties Rewrite as currently planned, due to ongoing concerns on how issues around apportionment are being treated.

Action: Lisa Smith and Paul Maxwell to discuss out of session whether this Circular can be considered ahead of the Stamp Duty Rewrite. Refer existing Action Item 27.

There was also discussion around whether the Valuer-General's presentation slides from the last meeting had been circulated.

Action: Paul Maxwell to circulate the Valuer-General's presentation slides.

**2.2 UPDATE ON REVENUESA PUBLICATIONS AND RULINGS
SUB-COMMITTEE**

No discussion

2.3 COMMISSIONER'S UPDATE

2.3.1 Land Tax Reform Measures

Julie Holmes advised that land tax billing has commenced. Billing will continue until early next year with the majority of the billing likely to be complete by Christmas.

There was a general discussion around land tax billing of company groups.

2.3.2 2020-21 State Budget

It was noted that Paul Maxwell had circulated information in regard to the 2020-21 State Budget to the Group as part of the draft minutes from September's meeting.

2.4 Update on State Tax Appeals

Paul Maxwell advised that since the last meeting there has been one new First Home Owner Grant appeal lodged with the South Australian Civil and Administrative Tribunal. The issue in dispute in that matter is the residence requirement.

Paul Maxwell also reiterated that as reported in the Business Arising update included with the draft minutes from the September meeting that there have been two new stamp duty appeals lodged with the Supreme Court. The issue in dispute in both matters is whether land is qualifying land – one involving student accommodation and one involving supported residential facilities.

3. NEW BUSINESS

3.1 Stamp Duty Rewrite – Project Status Report – For Discussion

It was noted that the Stamp Duty Project Status Report had been distributed to STLG members for discussion.

Bernie Walrut expressed concern that there could be no meaningful discussion around the Stamp Duty Project Status Report without having the opportunity to see the latest version of the draft Duties Bill. Bernie Walrut also expressed concern that the tone of the commentary provided by the external consultant, as provided in the Stamp Duty Status Report, indicated the drafting had focused unduly on anti-avoidance concepts and provisions. Lisa Smith indicated that the commentary provided was only an extract. A request was then made for a copy of the full commentary. Bernie Walrut also reiterated his desire for a meeting with the external consultant as had been previously indicated would be held.

Julie Holmes agreed to raise the possibility of meeting with Richard Dennis again.

Action: Julie Holmes to speak to Richard Dennis regarding meeting with the STLG to discuss the Stamp Duty Rewrite.

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Lisa Smith confirmed that the draft Bill would not be released for a formal fourth round of consultation with policy papers already with the Treasurer's Office. However, individual debrief meetings with those who provided feedback/submissions during the various consultation phases would be arranged early in the new calendar year to discuss the status of those submissions.

Action: Debrief meetings to be arranged with all parties who provided submissions during the consultation process.

Terms of Reference – Annual Review

It was noted that the Terms of Reference are due for review. In the interests of time it was agreed that these will be discussed at the next meeting. Any feedback or suggestions in the interim were welcomed.

3.2 Preview of RevenueSA's New Website

Kristy Ferguson gave a brief presentation on RevenueSA's new website which will be launched late December 2020.

The link to the test website will be circulated to STLG members who are welcome to forward to relevant personnel in their organisation to have a look at the proposed website and provide any comments or feedback.

Action: Kristy Ferguson to email link to the new RevenueSA test website to STLG members to forward to relevant personnel in their organisation to have a look at the proposed website and provide any comments or feedback.

3.3 Agenda Items submitted by Law Council of Australia [Bernie Walrut]

Julie Holmes advised that each of the agenda items submitted by the Law Council of Australia have been considered and a response to each would be provided after this meeting.

Julie Holmes also advised that RevenueSA had collated issues raised regarding parts or sections of the *Land Tax Act 1936* that may potentially need further clarification and is making the necessary amendments either in the Guide to Legislation or on the website or both.

Paul Ingram asked whether RevenueSA has reviewed its position on the issue of the status of pre-17 October 2019 land affected by either a subsequent subdivision or amalgamation of the relevant title. Paul Maxwell advised that RevenueSA position in this regard was included in the draft minutes of the last meeting (16 September 2020).

There was a general discussion around the practical implications and disagreement with the current position of RevenueSA. Bernie Walrut indicated that in a recent presentation he had highlighted at least seven different situations where this view gave rise to anomalous outcomes (e.g. where say a portion of a tile was compulsorily acquired). He undertook to provide the list to the Commissioner. RevenueSA noted

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the concerns raised and agreed to review and reconsider its final position.

Action: Paul Maxwell to circulate the response to each of the agenda items submitted by the Law Council of Australia.

Action: RevenueSA to review and reconsider its position on the issue of the status of pre-17 October 2019 land affected by either a subsequent subdivision or amalgamation of the relevant title.

3.4 The introduction of a Taxpayer Charter [Bernie Walrut]

Bernie Walrut raised the possibility of RevenueSA adopting a Taxpayer's Charter in lieu of or addition to RevenueSA's existing Charter of Service.

Action: Bernie Walrut to email to RevenueSA his ideas regarding the elements of a Taxpayer Charter that are not currently reflected in RevenueSA's existing Charter of Service (or other guidance).

3.5 The introduction of a taxpayer's representative point(s) of contact in RevenueSA [Bernie Walrut]

Bernie Walrut raised whether RevenueSA would consider introducing a taxpayer's representative point(s) of contact for those industry professionals that did not have the same level of access to RevenueSA as STLG members had. Julie Holmes advised that this issue had been raised and considered previously by RevenueSA, and that RevenueSA remains of the view that the current contact arrangements were sufficient. As part of its commitment to continual customer service improvements RevenueSA would continue to monitor customer service needs.

Peter Slegers and Marc Romaldi both agreed that the current contact arrangements were sufficient and that the level of customer service received under these arrangements was acceptable.

4. ANY OTHER BUSINESS

N/A

5. NEXT MEETING

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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	To be incorporated as part of the Stamp Duties rewrite
6.	06/03/2019 04/09/2019 11/3/2020	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. Given the passage of time it was agreed that the publication / content for the website would be recirculated. On 20 August 2020, Paul Maxwell emailed the STLG the publication for its consideration and comments.	P Maxwell	Early Engagement and Dispute Resolution publication will be published on the RevenueSA website shortly. Publication was emailed to the STLG on 20 August 2020, Paul Maxwell will arrange for it to be published on the RevenueSA website.	31/12/2020
19.	04/09/2019 11/3/2020	Payroll Tax – excluded contractors – publication of information circular. Bernie Walrut to discuss with Paul Maxwell out of session. Noted action remains outstanding	B Walrut / P Maxwell	RevenueSA to give further consideration to this matter, though notes that any publication would likely need the agreement and involvement of other States and Territories.	Ongoing
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

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27	04/12/2019 [Historical Action Item]	Publication: Circular 265 – Stamp Duty – Sale of Retirement Villages	RevenueSA	On hold	Consideration to be given to finalising the review of this circular in advance 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 11/3/2020	RevenueSA to draft a new Revenue Ruling in regard to Exemption 33 for consideration by the Rulings Sub-Committee.	RevenueSA	On hold	To be incorporated as part of the Stamp Duties rewrite
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
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
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	Pending	To be prioritised

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2020-10	16/9/2020	RevenueSA and Office of the VG to meet to discuss communication between STLG member organisations, RevenueSA and the Valuer-General's Office, and to explore opportunities for potential future enhancements	RevenueSA	New	To be prioritised
2020-16	02/12/2020	RevenueSA to circulate the Valuer-General's presentation slides.	RevenueSA	New	31/12/2020
2020-18	02/12/2020	Julie Holmes to speak to Richard Dennis regarding meeting with the STLG to discuss the Stamp Duty Rewrite.	RevenueSA	New	31/12/2020
2020-19	02/12/2020	Stamp Duty Project debrief meetings to be arranged with all parties who provided submissions during the consultation process.	RevenueSA	New	31/12/2020
2020-20	02/12/2020	RevenueSA to email link to the new RevenueSA test website to STLG members to have a look at and provide any comments and feedback.	RevenueSA	New	31/12/2020
2020-21	02/12/2020	RevenueSA to circulate responses to agenda items raised by the Law Council of Australia.	RevenueSA	New	31/12/2020
2020-22	02/12/2020	RevenueSA to review its position on the issue of the status of pre-17 October 2019 land affected by either a subsequent subdivision or amalgamation of the relevant title.	RevenueSA	New	31/12/2020
2020-23	02/12/2020	Bernie Walrut to email to RevenueSA his ideas regarding the elements of a Taxpayer Charter that are not currently reflected in RevenueSA's existing Charter of Service (or other guidance).	Bernie Walrut	New	29/01/2021

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Land Tax Action Register

Item	Date of Meeting	Action	Who	Status	Due Date
	24/06/2020	RevenueSA to consider the requirement for trustee information to be provided again even in circumstances where it has already been provided.	RevenueSA	<p>Complete</p> <p>The trusts information RevenueSA has historically put in its systems does not include all the information relevant to the new land tax changes, particularly the different trust types (e.g. excluded trusts, trusts liable to the surcharge) and current details of the beneficiaries/unitholders.</p> <p>To ensure they are assessed correctly, it is advisable that trustees that have not already done so, provide the information via the RevenueSA Online Land Tax Portal.</p>	10/07/2020
	24/6/2020	RevenueSA to review its position on the issue of the status of pre-17 October 2019 land affected by either a subsequent subdivision or amalgamation of the relevant title.	RevenueSA	<p>Complete</p> <p>Where land is subdivided or amalgamated, a new certificate of title is issued for each new parcel of land. The new certificate describes the land therein and gives certainty concerning the identity of the land the subject of the land tax. As such, subdivided or amalgamated land constitutes new land under both the <i>Real Property Act 1886</i>, and the <i>Land Tax Act 1936</i> for land tax purposes.</p> <p>It is also the case that each new parcel has a new site value ascribed to it, rather than merely reflecting a proportionate amount of the pre-subdivided land's site value, which when aggregated together would exceed the pre-subdivided land's site value.</p> <p>Land tax is then imposed on each new parcel of land (other than where exempt from land tax).</p> <p>The above is supported by the recent Supreme Court of South Australia decision in <i>Takhar v Commissioner of State Taxation</i> [2020] SASC 119, particularly paragraphs 274 to 288 under the heading "One parcel or three parcels?"</p>	31/07/2020

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				<p>Accordingly, land subdivided or amalgamated from 17 October 2019 constitutes subsequent trust land for the purposes of section 13A of the <i>Land Tax Act 1936</i> (i.e. land that becomes subject to a discretionary trust after midnight 16 October 2019) and is liable to the trust rates.</p> <p>For completeness, Schedule 2, Part 2, General Exemption 16(2) of the <i>Stamp Duties Act 1923</i> exempts from stamp duty certificates of title issued from the Land Titles Office to the land owners (as opposed to transfers of certificates of title which may be dutiable).</p>	
	24/6/2020	RevenueSA to consider the inclusion of further commentary in the Guide about eligibility for a principal place of residence land tax exemption where life interests are involved.	RevenueSA	<p>Page 10 of the Guide, under the heading "Eligibility for a full principal place of residence exemption", sets out the criteria for the principal place of residence, including that the land be owned by a natural person and be their principal place of residence. It further provides that "<u><i>the term owner can also include ... the holder of a life interest</i></u>". It is considered that this is sufficient for the purposes of the general Guide.</p>	20/11/2020

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ATTACHMENT B – REVENUESA PUBLICATIONS AND UPDATES

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
 - 4.2. Review of Information Circular 1 – RSA Publication Process
5. Recent Updates
 - 5.1. 2020-21 Emergency services Levy Rates and Certificate Fees – published June 2020
 - 5.2. 2020-21 Land Tax Thresholds – published June 2020
 - 5.3. 2020-21 Guide to Legislation: Land Tax – published July 2020
 - 5.4. Guide to Legislation: Land Tax changes for joint owners, land held on trust & related corporations – Version 2 - published July 2020
 - 5.5. 2020-21 Guide to Legislation: Payroll Tax – published July 2020
 - 5.6. [Land Tax Transition Fund – published September 2020](#)
 - 5.7. [Affordable Housing Land Tax Concession \(ex gratia\) Guidelines and Application form – published September 2020](#)
 - 5.8. [Affordable Community Housing Land Tax Exemption Pilot \(ex gratia\) – published September 2020](#)