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**MINUTES OF THE
SA STATE TAXES LIAISON GROUP MEETING
HELD ON WEDNESDAY 16 SEPTEMBER 2020 (2:00PM)
TRAINING ROOM, LEVEL 1, STATE ADMINISTRATION CENTRE**

1. ATTENDANCE/APOLOGIES

PRESENT FOR REVENUESA

Julie Holmes (Chair), Lisa Smith, Kelly Tattersall, Matthew Fraser, Mark Christmas and Lee Bartlett (minutes).

PRESENT FOR INDUSTRY GROUPS

Katherine Bartolo (Valuer-General), Paul Ingram (The Tax Institute), Andrew McKenna (Business SA), 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), Will Fennell (Law Society of Australia), Paul Maxwell (RevenueSA), Tom Colmer (RevenueSA) and Kristy Ferguson (RevenueSA)

VALUER-GENERAL PRESENTATION AND QUESTIONS

The Valuer-General attended the meeting and gave a presentation, addressed issues the group had raised and gave a general overview and discussed various questions the group had. Ongoing communication between RevenueSA and the Office of the Valuer-General was an area of interest.

Action: RevenueSA and the Office of Valuer-General to meet to discuss communication between STLG member organisations, RevenueSA and the Office of the Valuer-General and to explore opportunities for potential future enhancements.

Action: RevenueSA to include the Valuer-General's presentation slides with the minutes of the meeting.

2. BUSINESS ARISING

Due to time constraints, an update on the Business Arising agenda items was agreed to be sent out of session.

Action: RevenueSA to provide an update on agenda items out of session.

2.6. UPDATE ON STAMP DUTY REWRITE

Peter Slegers sought clarification of previous minutes and confirmation the rewrite of the *Stamp Duties Act 1923* was not meant to include any policy changes. Lisa Smith confirmed that the intent of the rewrite was a no policy changes rewrite, although a number of policy matters were

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raised by industry during the consultation process and these were being assessed. It was further noted that where certain provisions were either unclear or did not reflect the original intent of such provision, as understood by RevenueSA, it was the intent of the rewrite to clarify/update the provision to ensure that the application of such provisions reflected RevenueSA's understanding of the original intent. Such amendments were not considered to be policy changes by RevenueSA. Lisa Smith confirmed that the new draft Duties Bill does not contain any provision that would apply retrospectively. Peter Slegers requested a meeting to further discuss the rewrite in general relating to certain provisions and a specific client matter.

Bernie Walrut asked when the next version of the Bill would be released. Lisa Smith advised the Bill is currently being worked on and that whilst the next version of the Bill is quite close, it is not proposed to have a fourth round of formal consultation. Lisa Smith advised that the prospect of STLG members meeting with the external consultant has been raised with the external consultant, who has advised that the most appropriate feedback mechanism is via written submissions through RevenueSA. Lisa Smith further advised that the latest version of the Bill and all the external submissions received to date have been provided to the external consultant. RevenueSA is endeavouring to finalise the draft Bill before the end of this calendar year.

3. NEW BUSINESS

Nil discussed.

4. ANY OTHER BUSINESS

The issue of when the 2020-21 land tax assessments will be sent was raised. It was advised that whilst assessments have historically started being sent during the first week of October, this year the first billing run will likely be the second week of October.

Bernie Walrut advised that on the forms page on the RevenueSA internet there is still the old section 13 of the *Land Tax Act 1936* form and it is hard to find the new form. He asked if we could move the new form onto the forms page.

Action: RevenueSA to move the new land tax form for notification of trusts to the forms page.

Bernie Walrut asked whether a separate principal place of residence exemption form needs to be completed where a separate form has already been made which advises that a designated beneficiary, beneficiary(ies) or unitholder(s) reside at the property for the purposes of the exemption. Matthew Fraser advised that a principal place of residence exemption form does not need to be submitted.

Members raised the issue of the Land Tax Guide to Legislation 2020-21 and clarification was sought in relation to a number of specific provisions.

Action: RevenueSA to collate issues raised regarding parts or sections of the *Land Tax Act 1936* that may potentially need further clarification in the Guide or on the website.

5. NEXT MEETING

Wednesday 2 December 2020

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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.	2/12/2020
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	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 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
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.	L Smith	Complete Current status of items circulated to STLG with September agenda pack	9/9/2020
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
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
2020-1	11/03/2020	Julies Holmes to advise the Valuer-General, Katherine Bartolo, that the STLG members would like a separate meeting to discuss issues relating to Land Use Codes.	Julie Holmes	Complete Valuer-General attended the STLG meeting on 16/09/2020.	09/09/2020

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		While currently on hold due to COVID-19 restrictions consideration of alternative means (such as via Microsoft Teams) to be raise with the VG.			
2020-2	11/3/2020	RevenueSA to publish the Terms of Reference as final onto the website and to circulate a link to group members	RevenueSA	Complete	24/6/2020
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
2020-4	11/03/2020	RevenueSA to share further information regarding the administrative arrangements relating to the land tax <i>ex gratia</i> schemes with the group out of session when it is available.	RevenueSA	Complete On 20 August 2020, Paul Maxwell emailed the group information regarding the Affordable Community Housing Land Tax Pilot and the Land Tax Transition Fund. On 15 September 2020, Matthew Fraser emailed the group information regarding the Affordable Housing Land Tax Concession.	09/09/2020
2020-5	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	Complete – Transferred to Land Tax technical issues list	10/07/2020
2020-6	24/06/2020	RevenueSA to review the Nomination and Acceptance as Beneficiary for a Discretionary Trust Statutory Declaration Form, and update as applicable.	RevenueSA	Complete Error corrected	24/06/2020
2020-7	24/06/2020	RevenueSA to review their news release in regard to land tax land holding declarations.	RevenueSA	Complete Reviewed and updated	24/06/2020
2020-8	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	Complete – Transferred to Land Tax Action Register	31/07/2020

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2020-9	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	Complete – Transferred to Land Tax Action Register	2/12/2020
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
2020-11	16/9/2020	RevenueSA to include Valuer-General's presentation slides to members with the minutes of the meeting.	RevenueSA	Complete, slides emailed to the members.	2/12/2020
2020-12	16/9/2020	RevenueSA to provide an update on agenda items out of session.	RevenueSA	Complete, see separate update provided below.	2/12/2020
2020-13	16/9/2020	RevenueSA to move the new Land Tax form for notification of Trusts to the forms page.	RevenueSA	RevenueSA to release updated forms on the relevant pages.	2/12/2020
2020-14	16/09/2020	RevenueSA to collate issues raised regarding parts or sections of the Land Tax Act that may potentially need further clarification in the Guide or on the website		Complete – See below the new Land Tax Action Register	2/12/2020

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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> <p>Accordingly, land subdivided or amalgamated from 17 October 2019 constitutes</p>	31/07/2020

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				<p>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](#)

BUSINESS ARISING UPDATE

2. Business Arising

2.1. Update on Action Register (see Attachment A)

See updates inserted into Action Register in blue.

2.2. Update on RevenueSA Publications and Rulings Sub-Committee (see Attachment B for current status)

2.3. Commissioner's Update:

2.3.1. Land Tax Reform Measures

Work is progressing on the land tax measures and the Land Tax Transition Fund, with the first tranche of assessments having been issued and more to follow in due course.

Information regarding the Fund is available at <https://www.revenuesa.sa.gov.au/taxes-and-duties/land-tax/transition-fund>

2.3.2. COVID-19 Tax Relief Measures:

- HomeBuilder Grant

The Commonwealth's HomeBuilder Grant is available in accordance with the *First Home and Housing Construction Grants (Miscellaneous) Amendment Act 2020*.

Information regarding the grant is available at <http://www.revenuesa.sa.gov.au/grants-and-concessions/homebuilder-grant>

- Land Tax Landlord Relief

Land tax relief is available for eligible non-residential and residential landlords and eligible commercial owner-occupiers in response to COVID-19.

Information regarding the relief and its further extension is available at <http://www.revenuesa.sa.gov.au/grants-and-concessions/covid19-relief#landtax>

- Payroll Tax and Land Tax Deferrals

Businesses and business groups with Australian (annualised grouped) wages of up to \$4 million will receive a payroll tax waiver. Eligible employers will not be required to pay any payroll tax for the months of April to December 2020 (for the return periods of March 2020 to November 2020).

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Businesses and business groups with Australian (annualised grouped) wages above \$4 million that can demonstrate they are adversely impacted by COVID-19 will be able to request a deferral.

Information regarding the relief and its further extension is available at <http://www.revenuesa.sa.gov.au/grants-and-concessions/covid19-relief#payrolltax>

Businesses and individuals paying land tax quarterly in 2019-20 will be able to defer payment of their third and fourth quarter instalments for up to six months.

Information regarding the relief and its further extension is available at <http://www.revenuesa.sa.gov.au/taxes-and-duties/land-tax/covid-19-relief#Instalment>.

2.4. Update on E-Conveyancing

eConveyancing has been mandated in South Australia since 3 August 2020. Sympli, as the second Electronic Network Lodgement Operator, has been approved for transfers in South Australia however they are yet to complete their first transfer transaction.

RevenueSA is involved with eConveyancing at a national level to consider such topics as Interoperability and is working with the Office of the Registrar General and Land Services South Australia as they work through residual documents, with the goal of enabling eConveyancing on broader registration document types.

2.5. Update on State Tax Appeals

Since the last meeting, the following has occurred:

- the Supreme Court handed down its decision in the land tax primary production matter of Takhar. The appeal was allowed primarily in the Appellants' favour, however, an appeal has been lodged against this judgment to the Full Court of the Supreme Court;
- the stamp duty matter involving Consolidated Mining & Civil Pty Ltd was heard on 11 August 2020;
- there have been two new stamp duty appeals lodged. Both appeals challenge the definition of qualifying land; and
- RevenueSA has settled two matters (one stamp duty valuation matter and one payroll tax contractor matter).

2.6. Update on Stamp Duty Rewrite

Discussed in the meeting, see meeting minutes.