

# OFFICIAL

## MINUTES

### SA STATE TAXES LIAISON GROUP MEETING

WEDNESDAY 22 SEPTEMBER 2021 (9.30 AM)

TRAINING ROOM LEVEL 1 STATE ADMINISTRATION CENTRE

#### 1. ATTENDANCE/APOLOGIES

##### PRESENT FOR REVENUESA

Julie Holmes (Chair), Kelly Tattersall, Paul Maxwell, Kristy Ferguson, Mark Christmas and Russell Fairley (Minutes)

##### PRESENT FOR INDUSTRY GROUPS

Paul Ingram (The Tax Institute), Julie Van der Velde (CPA Australia), Bernie Walrut (Law Council of Australia), Peter Slegers (Business SA) and Jeff Stevens (Australian Institute of Conveyancers (SA Division))

##### APOLOGIES

Lisa Smith (RevenueSA), Carmel Noon (Australian Institute of Conveyancers SA Division), Barry Money (Real Estate Institute of South Australia), Paul Tanti (Chartered Accountants Australia and New Zealand), Will Fennell (Law Society of South Australia), Marc Romaldi (Property Council of Australia) and Alan Yates (CPA Australia)

#### 2. BUSINESS ARISING

##### 2.1 UPDATE ON ACTION REGISTER

In regard to Item 27, Paul Maxwell confirmed that Bernie Walrut had provided his feedback in regard to Circular No 265 and he is currently in the process of re-drafting this publication. Bernie Walrut suggested that until Circular No 265 has been updated that the current version should still be available on RevenueSA's website along with other historical publications and those still under review.

**New Action – Kristy Ferguson to add link to website to historical Circulars page and links to Circulars still under review from that page.**

In regard to Item 2020-3, Kristy Ferguson to follow up with Queensland SRO on the progress of their publications review.

In regard to Item 2020-10, Julie Holmes advised that the Valuer-General was unable to attend today's meeting. It was also noted that a Select Committee of the Legislative Council has been established to inquire into and report on the scope of operations of the Office of the Valuer-General. It was agreed to wait for the outcome of this investigation before inviting the Valuer-General to an STLG meeting.

## OFFICIAL

In regard to Item 2020-19, Julie Holmes advised that Ian Grimshaw will be shortly arranging individual meetings/teleconferences with those who have made submissions on the latest version (i.e. Version 33) of the *Duties Bill 2021*.

In regard to Item 2020-23, Bernie Walrut advised that he will provide his written submissions, noting that the best Taxpayer Charters were those prepared by the Australian Taxation Office and the Tasmanian State Revenue Office.

In regard to Items LTAR – 2 and LTAR – 3, it was noted that both matters were complete, however, it was requested that the Land Tax Guide to Legislation be re-circulated with relevant changes specifically highlighted, in addition to previous versions of the Land Tax Guides to Legislation remaining available on the RevenueSA website for comparison purposes.

**New Action – Paul Maxwell to re-circulate the Land Tax Guide to Legislation with relevant changes highlighted and make previous versions of the Land Tax Guides to Legislation available on the RevenueSA website for comparison purposes.**

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

No meeting of the sub-committee has been held.

### 2.3 COMMISSIONER'S UPDATE

#### 2.3.1 Land Tax Reform Measures

Julie Holmes advised that land tax billing for the 2020-21 financial year is continuing. However, due to the volume of returns by landowners declaring that land was held on trust, or queries relating to how a company group was established that need to be reviewed and processed, and the complexity of system development, there are a number of ownerships that have not yet received Notices. Currently, there are approx. 6,500 Land Tax Assessments remaining to be issued.

It is expected that Land Tax Assessments will continue to be issued during 2021-22 until the usual land tax mass billing period, which is planned to occur in late October 2021, with regular billing runs continuing afterwards per usual practice. This may result in landowners receiving two Land Tax Assessments within months of each other.

A landowner who receives two land tax assessments within a short space of time and has difficulty making the payment due dates, as set out in their assessments, can contact RevenueSA and request an extended instalment arrangement. RevenueSA will work with individual taxpayers to put in place a payment plan that suits their individual financial circumstances.

## OFFICIAL

Provided that taxpayers keep up with their payment plans, they will not incur interest and/or penalty tax. Taxpayers who are experiencing difficulty meeting a payment plan should contact RevenueSA as soon as possible to discuss their circumstances to avoid interest and/or penalty tax.

A communication plan is currently being prepared.

It was noted that changes made to a taxpayer's ownership would be applied prior to the Land Tax Assessment being issued.

Jeff Stevens raised concerns about Certificate searches in the situation where a property which have been sold and a Certificate is taken out showing general rates of land tax is later assessed at trust rates.

Bernie Walrut raised concerns around objections, specifically the difference between assessments/reassessments. Concerns were also raised about whether a hold is placed on the 60-day objection timeframe in circumstances where a taxpayer is awaiting a review of their circumstances by RevenueSA. RevenueSA agreed to seek advice from CSO in regard to both these matters.

The Group also questioned what RevenueSA's approach is where a land tax exemption has inadvertently been removed from an ownership due to the land tax reform process, specifically, whether an objection should be lodged. Julie Holmes advised that no objection is required and it is preferable that a taxpayer and/or their representative write to RevenueSA describing the issue in the first instance and it will be reviewed.

Bernie Walrut questioned whether the nomination period for discretionary trusts will be extended where Land Tax Assessments are not issued by 31 December 2021. Julie Holmes advised that discussions are ongoing with the Treasurer in respect to the options available to him.

**New Action: RevenueSA to seek advice from the Crown Solicitor in regard to the differences between assessments/reassessments and the 60-day objection timeframe.**

### 2.3.2 Stamp Duty Re-write

Julie Holmes advised that the *Duties Bill 2021* (version 33) is still being considered by the Treasurer.

## 2.4 UPDATE ON STATE TAX APPEALS

Paul Maxwell advised that since the last meeting the following had occurred:

- The following two stamp duty matters have been heard and are awaiting Judgment:

## OFFICIAL

- a stamp duty landholder matter involving Edge Developments Pty Ltd and others; and
- a stamp duty matter (whether student accommodation is qualifying land) involving Perpetual Corporate Trust Ltd as trustee for the Scape Australia (Waymouth) Trust;
- The stamp duty appeal in regard to whether supported residential facilities are qualifying land went to mediation and has now been settled;
- One new appeal (a First Home Owner Grant residence requirement matter) has been lodged with the South Australian Civil and Administrative Tribunal; and
- The two Emergency Services Levy land use code matters are ongoing.

### 3. NEW BUSINESS

#### 3.1 Land Tax – Portal [Bernie Walrut]

Bernie Walrut questioned why the land tax portal had closed. Julie Holmes advised that the land tax portal was only ever for initial data collection and was never intended to be an ongoing option.

Further, that I-Apply forms have substituted the portal and, at this stage, the portal is not able to be integrated as an ongoing system due to other system and assessing priorities.

It was requested that read-only access to the land tax portal be made available so that taxpayers and/or their representatives can access previously provided information. RevenueSA agreed to consider this option.

Alternatively, representatives can email RevenueSA to request the information provided in the portal, subject to authorisation/consent of the taxpayer themselves.

**New Action: RevenueSA to consider whether read-only access can be made available to the land tax portal so that taxpayers and/or their representatives can access previously provided information.**

#### 3.2 Land Tax - Trust Nominees Principal Place of Residence Exemption [Bernie Walrut]

Bernie Walrut advised that, despite the land tax portal allowing a designated beneficiary, beneficiary(ies) or unitholder(s) to declare that they reside at the property for the purposes of the principal place of residence (“PPR”) exemption, there had been some recent cases where the PPR has not been applied and the taxpayer and/or their representative have had to contact RevenueSA to get this amended. It was agreed this was a processing error on RevenueSA’s behalf.

## **OFFICIAL**

### **3.3 Land Tax – Commissioner’s approach where deficiencies in nominations of beneficiaries including designated beneficiaries [Bernie Walrut]**

Bernie Walrut questioned how RevenueSA would deal with corrections, for example, if a taxpayer has attempted to nominate a beneficiary and the necessary information was provided after the due date.

Julie Holmes advised that each matter would be investigated and a decision based on the individual facts and circumstances of the matter will be made.

### **3.4 Taxation Administration Act 1996 – Online Assessments [Bernie Walrut]**

To be discussed at the next meeting.

### **3.5 Model Litigant Obligations [Bernie Walrut]**

To be discussed at the next meeting.

## **4. ANY OTHER BUSINESS**

## **5. NEXT MEETING**

Wednesday 8 December 2021 4.00pm

**OFFICIAL**

**ATTACHMENT A – ACTION REGISTER**

<b>Item</b>	<b>Date of Meeting</b>	<b>Action</b>	<b>Who</b>	<b>Status as at 7 July 2021</b>	<b>Due Date</b>
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	On hold	To be considered as part of the Stamp Duty rewrite
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 considered as part of the Stamp Duty 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 considered as part of the Stamp Duty 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 considered as part of the Stamp Duty rewrite
27	04/12/2019 [Historical Action Item]	Publication: Circular 265 – Stamp Duty – Sale of Retirement Villages	RevenueSA	RevenueSA to consider whether Circular 265 can be progressed ahead of the Stamp Duty rewrite.  Meeting between Dr Bernie Walrut and Paul Maxwell scheduled for 30 June 2021.  Bernie Walrut provided feedback on what changes should be implemented.	On-going
28	04/12/2019 [Historical Action Item]	Publication: Circular 282 – Domestic Partners	RevenueSA	On hold	To be incorporated as part of the Stamp Duty 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	John Tucker to provide commentary on this issue.	On-going

**OFFICIAL**

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.	RevenueS A	On hold	To be incorporated as part of the Stamp Duty 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"> <li>the manner of calculation of stamp duty, principally the order in which duty is calculated; and</li> <li>grouping.</li> </ul>	RevenueS A	On hold	To be incorporated as part of the Stamp Duty 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.	RevenueS A	On hold	To be incorporated as part of the Stamp Duty 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.	RevenueS A	On hold	To be incorporated as part of the Stamp Duty 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.	RevenueS A	Pending  Queensland is currently reviewing its public rulings system and as part of this process is comparing and reviewing the usefulness of the various publication types with other jurisdictions. SA agreed to be part of this review.  It was suggested one consistent naming convention for publications should be considered.  Paul Maxwell confirmed work on this is ongoing.	On-going
2020-19	02/12/2020	Stamp Duty Project debrief meetings to be arranged with all parties who provided submissions during the consultation process.	RevenueS A	Pending  Debrief meetings to be arranged once the Treasurer has considered policy papers and Version 33.  RevenueSA to schedule individual meetings with those representatives who have made submissions.	31/12/2020  31/10/2021

**OFFICIAL**

2020-23	02/12/2020	Bernie Walrut to email his ideas to RevenueSA regarding the elements of a Taxpayer Charter that are not currently reflected in RevenueSA's existing Charter of Service (or other guidance).	Bernie Walrut	Pending Bernie Walrut to email his ideas to RevenueSA.	29/01/2021
2021-105	18/09/2021	Kristy Ferguson to add link to website to historical Circulars page and included links to Circulars still under review from that page.	Kristy Ferguson	Pending	8/12/2021
2021-106	18/09/2021	RevenueSA to re-circulate the Land Tax Guide to Legislation with relevant changes highlighted and make previous versions of the Land Tax Guides to Legislation available on the RevenueSA website for comparison purposes.	Kristy Ferguson / Paul Maxwell	Pending	8/12/2021
2021-107	18/09/2021	RevenueSA to seek advice from the Crown Solicitor in regard to the differences between assessments/reassessments and the 60-day objection timeframe.	Paul Maxwell	Pending	Due date to be considered
2021-108	18/09/2021	RevenueSA to consider whether read-only access can be made available to the land tax portal so that taxpayers and/or their representatives can access previously provided information.	Kelly Tattersall	Pending	Due date to be considered

## OFFICIAL

### 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 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
5. Recent Updates
  - 5.1. 2021-22 Land Tax Thresholds – published 10 June 2021