

MINUTES
SA STATE TAXES LIAISON GROUP
WEDNESDAY 7 DECEMBER 2022 (9.30AM)
FAHEY ROOMS 1 AND 2, LEVEL 4, STATE ADMINISTRATION CENTRE

1. ATTENDANCE/APOLOGIES

PRESENT FOR REVENUESA

Julie Holmes (Chair), Kelly Tattersall, Lisa Smith, Kristy Ferguson, Paul Maxwell and Paula Kemp (Minutes)

PRESENT FOR INDUSTRY GROUPS

Bernie Walrut (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) and Will Fennell (Law Society of South Australia)

APOLOGIES

Peter Slegers (Business SA) and Mark Christmas (RevenueSA)

2. BUSINESS ARISING

2.1. Update on Action Register (see Attachment A)

- Action Item 27: Circular 265 – Stamp Duty – Sale of Retirement Villages

Paul Maxwell advised that a further meeting between himself and Bernie Walrut took place on 4 November 2022. Bernie agreed to re-draft aspects of the Circular, specifically around the formula to be used to determine the offset to be allowed against a landholder assessment, as a result of this meeting. Following this a meeting of the Rulings Sub-Committee will be convened.

- Action Item 29: Circular 156 – Access to documents held by solicitors and legal professional privilege – Guidelines

No substantial change with the matter to be considered in more detail once the outcome of a current High Court matter has been reviewed by the Federal Government.

- Action Item 30 – New Revenue Ruling - Exemption 33

Paul Maxwell advised that submissions had been received from Bernie Walrut and Paul Ingram and thanked them for those submissions. Those submissions remain under review and will likely lead to amendments to the original draft of the Revenue Ruling. A revised Revenue Ruling will be provided to the Rulings Sub-Committee in the New Year.

- Action Item 2021-107 – 60-day objection timeframe

Action completed – Updates were added to the Objections and Appeals page on RevenueSA’s website on 7 October 2022 to make it clear that objections can, on application to the Treasurer, still be made after 60 days but within 12 months and their acceptance will be assessed on merit considering the reason/s for the delay in lodging the objection.

- Action Item 2021-109 – Stamp Duty – Qualifying Land with Residential Land Use Codes

Action completed – Changes took effect from 21 November 2022. Subsequent discussion took place in regard to the communication of these changes as some members were not aware that the changes had been made.

A communication campaign was sent to STLG members and RevenueSA subscribers on 7 November 2022 informing them that the conveyance of real property that has a Land Use Code of 1810, 1820 and 1831 ascribed to it can be self-determined on RevenueSA Online as qualifying land and will not be required to be lodged with the Commissioner for Opinion.

New Action: Kristy Ferguson to review 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.

- Action Item 2021-110 – Qualifying Land – Form of Assessment

Action completed – Changes took effect from 21 November 2022.

- Action Item 2021-112

Action completed. Tracked changes copy of RevenueSA’s updated Service Charter was sent to STLG members on 28 November 2022.

- Action Item 2022-4 – Self-determining Mining Tenement Acquisitions

Pending. RevenueSA currently reviewing and considering, subject to other priorities on its forward work program.

- Action Item 2022-5 – Process for Notifying about System and Guide Note Changes

Action completed – RevenueSA confirmed that there is no formal process for notifying about system and guide note changes. RevenueSA utilises communication channels including the RevenueSA website, email updates, social media, other professional and industry associations to advise of system and guide note changes. Notifications are sent to subscribers informing of new updates and additions.

New Action – P Maxwell to send STLG members the link to the subscription.

Bernie Walrut questioned how it is determined what is and is not sent to the STLG and other industry groups. A suggestion was put forward to potentially include all updated information in a newsletter.

New Action – Refer to Action Item 2021-109 above.

- Action Item 2022-6 – iApply Forms

Action completed – RevenueSA confirmed that all its iApply forms have a statement confirming that we are collecting the information for the purposes of the *Taxation Administration Act 1996* (“TAA”) and the secrecy provisions apply.

- Action Item 2022-7 – Land Tax Flyers

Action completed – Electronic copies of the draft Land Tax flyers were emailed to STLG members 9 September 2022. No comments were received.

- Action Item 2022-8 – Land Tax

It was confirmed that RevenueSA is still awaiting Crown Solicitor’s advice. An update will be provided at the next STLG meeting.

- Action Item 2022-9 – Information Circular No: 103 ‘Stamp Duty on conveyance or transfer of non-residential, non-primary production real property (qualifying land)’

Action completed – Information Circular No: 103 updated and released on 21 November 2022. Updates made to reflect the changes made at Action Item 2021-109 and to rectify an incorrect reference around the date for determining whether the relevant land is qualifying land or not.

New Action – RevenueSA to circulate Information Circular No. 103 to the broader group highlighting the changes made.

2.2. Update on State Tax Appeals

Paul Maxwell advised that the Full Court had handed down their decision in the matter involving Perpetual Corporate Trust Ltd as trustee for the Scape Australia (Waymouth) Trust (a stamp duty qualifying land matter in regard to student accommodation). The appeal by the Commissioner was dismissed and the decision is summarised on RevenueSA’s website. The Treasurer is currently considering whether to make amendments to the *Stamp Duties Act 1923* (the “SDA”).

Paul Maxwell also confirmed that no new Court or Tribunal matters had been received since the last meeting and provided a brief overview of the progress of current matters on hand.

2.3. Land Tax Reform Measures

Julie Holmes provided the following update:

- Land tax is now largely business as usual with 60-70% ownerships having been issued with their 2022-23 Land Tax Assessments;

- Land Tax Assessments for corporate groups are scheduled to be billed in early 2023.
- There is a large amount of correspondence being received, both in writing and via telephone calls, and this is impacting response times; and
- Stamp duty landholder investigations are uncovering a larger than expected number of land tax trust notifications that have not been made.

Bernie Walrut sought information on the handling of objections to land valuations with the Valuer-General and also noted land parcels moved into trust ownerships have had the exemptions removed and sought possible reasons. Kelly Tattersall asked that Bernie Walrut provide information in respect of any specific matters to her so these matters can be dealt with directly.

2.4 Stamp Duty Rewrite

Julie Holmes confirmed that the Treasurer does not intend to proceed with the stamp duty rewrite. RevenueSA is currently in discussions with the Treasurer's Office about still making amendments to the SDA from what came out of the extensive consultation process.

Julie Holmes advised that RevenueSA will also be reviewing how it progresses a number of outstanding publications which were placed on hold pending the stamp duty rewrite.

2.5 State Taxes Liaison Group Terms of Reference – Self-Assessment Review

Bernie Walrut briefly explained that historically STLG Committee meetings were split into three separate industry groups (including the banking industry) and suggested that a move back to two separate groups may be a worthwhile option to alleviating increasing non-attendance.

RevenueSA will consider this suggestion.

3. NEW BUSINESS

3.1 Professional Organisations and consultations with the Commissioner (Bernie Walrut)

Discussed at Agenda Item 2.5

4. ANY OTHER BUSINESS

4.1 Commissioner's Update

Flood Relief

Julie Holmes provided an overview of some of the flood relief initiatives that RevenueSA is assisting with, including working with the Office of Data Analytics to identify properties which are at risk of flooding to enable emergency services to contact/warn them.

Online Forms

Julie Holmes advised that RevenueSA has released online forms to allow RevenueSA Online users to apply and request changes. Communication in regard to these forms will be published in due course.

Paul Ingram suggested that the change administrator form be updated to include adding new users.

New Action: Kristy Ferguson to ensure that the website reflects that the iApply form is to add new users on RevenueSA Online, rather than changing administrators.

Bernie Walrut queried whether the online stamp duty refund request form had been approved. Kelly Tattersall confirmed that all external facing forms are approved prior to being published and also confirmed that refund requests are accepted via email or via the refund forms.

Webinar

Julie Holmes advised that the recent Land Tax Webinar, held in conjunction with the Small Business Commissioner attracted 160 participants and was well received. Requests for future webinars to include trusts and beneficiaries and how they work in relation to land tax have been received. Most participants were accountants and practitioners.

It was noted that the recorded webinars are provided to taxpayers on request. The Committee requested that the link to the webinar be made available to the Committee.

New Action: Kristy Ferguson to circulate the link to the land tax webinar.

4.2 Payroll Tax Grouping (Self-Managed Superfunds)

Paul Tanti raised the possibility of RevenueSA providing clarification on its position with regard to the application of the payroll tax grouping provisions, and the consequential joint and several liability responsibilities, as it relates to self-managed super funds.

New Action: 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.

5. NEXT MEETING

15 March 2023

ATTACHMENT A – ACTION REGISTER

Item	Date of Meeting	Action	Who	Status as at 3 January 2023	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	On hold	RevenueSA to review how it progresses this Action Item now that the stamp duty rewrite is not progressing
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	RevenueSA to review how it progresses this Action Item now that the stamp duty rewrite is not progressing
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	RevenueSA to review how it progresses this Action Item now that the stamp duty rewrite is not progressing
26	04/12/2019 [Historical Action Item]	Publication: Circular 109 – <i>Stamp Duties (Concessions) Amendment Act 1994</i> – Family Farm Transfers	RevenueSA	On hold	RevenueSA to review how it progresses this Action Item now that the stamp duty rewrite is not progressing
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. Further meeting between Paul Maxwell and Bernie Walrut held on 4 November 2022. Bernie agreed to and is currently working on re-drafting aspects of the Circular as a result of this meeting.	On-going
28	04/12/2019 [Historical Action Item]	Publication: Circular 282 – Domestic Partners	RevenueSA	On hold	RevenueSA to review how it progresses this Action Item now that the stamp duty rewrite is not progressing

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	4/12/2019 11/3/2020 08/12/2021 7/9/2022	RevenueSA to draft a new Revenue Ruling in regard to Exemption 33 for consideration by the Rulings Sub-Committee. New Action – RevenueSA to set up a rescheduled Ruling Sub-Committee meeting	RevenueSA	A draft Revenue Ruling has been circulated for consultation by the Group and the Rulings Sub-Committee. Comments have been received and are currently being considered following which a meeting of the Rulings Sub-Committee will be convened.	Extended March 2023
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	RevenueSA to review how it progresses this Action Item now that the stamp duty rewrite is not progressing
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	RevenueSA to review how it progresses this Action Item now that the stamp duty rewrite is not progressing
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 before a Statement is required.	RevenueSA	On hold	RevenueSA to review how it progresses this Action Item now that the stamp duty rewrite is not progressing
2020-3	11/03/2020	Information Circular No: 1 'RevenueSA Publication	RevenueSA	Pending	On-going

		Process' to be added to the list of publications under review and RevenueSA to consider what other Revenue Offices do in this regard.		Queensland is currently reviewing it's the public rulings system and as part of this process is reviewing usefulness of the various publication types with other jurisdictions. SA plans to be part of this review. Paul Maxwell confirmed work on this is continual. Qld stated review public ruling system and review usefulness of various publications and compare with other jurisdictions. SA agreed to be part of this review. It was suggested one consistent naming convention for publications should be considered.	
2021-107	18/09/2021 7/9/2022	RevenueSA to seek advice from the Crown Solicitor in regard to the 60-day objection timeframe. RevenueSA to review website content regarding objection rights and consider adding reference to the discretion to extend up to 12 months.	Paul Maxwell	Completed. Updates were added to the Objections and Appeals page on 7 October 2022.	Completed
2021-109	08/12/2021	Stamp Duty – Qualifying Land with Residential Land Use Codes - RevenueSA to review and consider whether any system changes are required to facilitate this suggestion. Action: Kristy Ferguson to review 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.	Mark Christmas	Completed. Changes took effect from 21 November 2022.	March 2023
2021-110	08/12/2021	Qualifying Land – form of assessment – RevenueSA to investigate the logistics of changing the form of assessments where qualifying land is involved.	Mark Christmas	Completed. Changes took effect from 21 November 2022.	Completed
2021-112	08/12/2021	Bernie Walrut to provide RevenueSA with a paper on his perceptions of RevenueSA's performance. A track changes copy of RevenueSA's updated	Bernie Walrut RevenueSA	Completed Completed. Tracked changes	Completed

	7/9/2022	Service Charter to be distributed to members		copy of RevenueSA's updated Service Charter sent on 28 November 2022.	Completed
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.	Extended March 2023
2022-5	7/9/2022	RevenueSA to circulate the process regarding to who and when notification is provided regarding system and guide note changes. New Action – Paul Maxwell to send STLG members the link to the subscription. New Action – Refer to Action Item 2021-109 above.	RevenueSA	Completed. There is no formal process however RevenueSA depending on the circumstances, uses communication channels such the website, email updates, social media and client groups to advise of system and guide note changes.	Extended March 2023
2022-6	7/9/2022	RevenueSA to review iApply forms to consider whether an additional sentence could be included on the form to provide greater clarity over which Act is applicable (i.e. the TAA)	Kelly Tattersall	Completed. All of RevenueSA's iApply forms have a statement confirming that we are collecting the information for the purposes of the TAA and the secrecy provisions apply.	Completed
2022-7	7/9/2022	Electronic copies of draft Land Tax flyers that accompany land Tax Assessments to be distributed to members for feedback/comment.	RevenueSA	Completed. Electronic copies of draft Land Tax flyers were circulated on 9 September 2022.	Completed
2022-8	7/9/2022	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 TAA). b) Confirm RevenueSA's administration and assessment practices accord with the LTA? c) Can the nominated beneficiary object to the site value on a Land Tax Notice of Assessment? In	RevenueSA	Pending. RevenueSA is awaiting advice from the Crown Solicitor's Office in relation to a number of the issues raised here.	Extended March 2023

		<p>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 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>			
2022-9	7/9/2022	<p>Information Circular No. 103 'Stamp Duty on conveyance or transfers of non-residential, non-primary production real property (qualifying land)' - RevenueSA to consider accuracy with regard to the date for determining qualifying land.</p> <p>New Action – RevenueSA to circulate Information Circular No. 103 to the broader group highlighting the changes made.</p>	RevenueSA	Completed. Information Circular No. 103 updated and released on 21 November 2022.	Completed March 2023
2022-10	07/12/2022	Kristy Ferguson to ensure that the website reflects that the iApply form is to add new users on RevenueSA Online, rather	Kristy Ferguson	Pending	March 2023

		than changing administrators.			
2022-11	07/12/2022	Kristy Ferguson circulate the link to the land tax webinar.	Kristy Ferguson	Pending	March 2023
2022-12	07/12/2022	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.	Lisa Smith	Pending	March 2023

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
 - 4.4. DRAFT Revenue Ruling – Exemption from Duty – Charitable and Religious Bodies
5. Recent Updates
 - 5.1. Stamp Duty – Change to Land Use Codes
 - 5.2. River Murray Flooding