

MINUTES
SA STATE TAXES LIAISON GROUP
WEDNESDAY 7 SEPTEMBER 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, Di Barry, Joshua Giorgio and Russell Fairley (Minutes).

PRESENT FOR INDUSTRY GROUPS

Bernie Walrut (Law Council of Australia), Jeff Stevens (Australian Institute of Conveyances (SA Division)), Daniel Marateo (Business SA), Julie Van der Velde (CPA Australia), Paul Ingram (The Tax Institute) and (via Teams) Mark Romaldi (Property Council of Australia).

[Paul Tanti (Chartered Accountants Australia and New Zealand) attempted to join the meeting via Teams but experienced technical difficulties.]

APOLOGIES

Peter Slegers (Business SA), Mark Christmas (RevenueSA), Paul Maxwell (RevenueSA) and Kristy Ferguson (RevenueSA).

2. BUSINESS ARISING

Bernie Walrut requested an update on the Stamp Duty Rewrite progress.

Julie Holmes advised that there are no further updates since the last meeting - the incoming Treasurer wanted to consider the rewrite after the state budget and we are still awaiting further direction.

2.1. Update on Action Register (see Attachment A)

- Action Item 27: Circular 265 – Stamp Duty – Sale of Retirement Villages – Noted Bernie Walrut has provided further written submissions which are currently being considered by RevenueSA. Preliminary clarifying discussions between Bernie Walrut and RevenueSA are expected, following which a Rulings Sub-Committee will be convened.
- Action Item 29 Circular 156 – Access to documents held by solicitors and legal professional privilege – Guidelines – Review ongoing.
- Action Item 30 - Revenue Ruling in regard to Exemption 33 – Meeting was arranged for mid-August but was deferred to allow for further consideration of comprehensive submissions received. Meeting to be reschedule with suggestion of an hour to an hour and a half to be allowed.

Action: RevenueSA to arrange for Sub-Committee meeting to discuss.

- Action Item 2020-3 – Information Circular No: 1 ‘RevenueSA Publication Process’ - Still awaiting Queensland review.
- Action Item 2021-107 – Lisa Smith confirmed all reasonable requests for an extension of the 60 day objection timeframe are being considered. Bernie Walrut suggested that the 60 day time frame is insufficient and it should be extended. Paul Ingram queried what the genuine reasoning would be for an extension. Julie Homes advised that it will be on a case-by-case basis and reviewed on its merits. Paul Ingram further queried if there could be a publication highlighting the potential extension, noting current website content only referenced the 60 day requirement. Bernie Walrut supported and further suggested that it should not only be on the RevenueSA website, that it should be on all publications issued by RevenueSA. Julie Holmes wasn’t of the view that all publications should be updated but agreed to review the appropriateness of referencing the potential for extension per the *Taxation Administration Act 1996* in the appropriate place/s (e.g. on the website).

Action: existing action to remain open – Paul Maxwell to update Bernie on discussion at previous STLG meeting (8 June 2022).

Action: RevenueSA to review website content regarding objection rights to consider adding details regarding after the 60 days that objections can, on application to the Treasurer, still be made after 60 days but within 12 months and there acceptance will be assessed on merit considering the reason/s for delay in lodging the objection.

- Action Item 2021-109 – Julie Holmes advised system changes to facilitate the self determination of specific LUC codes relating to hotels and motels are still ongoing, noting that such system changes are complex and require appropriate consideration, development and testing. Once implemented the RevenueSA website will be updated and communicated. Paul Ingram suggested that he would like the same self-assessment functionality for mining tenements. Julie Holmes agreed to consider this in the future,

Action: RevenueSA to review and consider the appropriateness of self-determining mining tenement acquisitions and the associated necessary system changes. (Action Item 2022-4)

- Action Item 2021-110 – form of assessment – RevenueSA to investigate the logistics of changing the form of assessments where qualifying land is involved – ongoing. Notice of Assessment being reviewed to improve the way qualifying land transactions are displayed to make it clearer that stamp duty is not payable on such transactions. Julie Holmes advised it is anticipated these changes will be implemented by the next meeting.

There was general discussion of how and who gets advised of such changes, including changes to guide notes etc.

Action: RevenueSA to circulate the process regarding to who and when notification is provided regarding system and guide note changes. (Action Item 2022- 5)

- Action Item 2021-112 – Bernie Walrut has provided his submissions regarding Service Charters. RevenueSA has considered the submission where appropriate has incorporated changes into the RevenueSA charter published on the website. Discussion around if any further feedback. A track changes copy of the updated Service Charter to be distributed to members who can provide any further feedback they may have.

Action: Circulate track changes version of RevenueSA's updated Service Charter.

- Action Item 2022-1 – RevenueSA to review the link to historical land declarations to ensure the link is active and that it is read only. Kelly Tattersall advised the matter is now fixed and that you can log into RevenueSA Online and review Land Holder Declarations which have been submitted. Bernie Walrut advised that the while reference is made to the TAA (for purposes of privacy) the underlying form doesn't and instead refers to the Privacy Act. Kelly Tattersall advised the reasoning behind this was that the IApply form system is hosted by the Department of Premier and Cabinet. Paul Ingram queried if RevenueSA can get DPC to update the template. Kelly Tattersall noted that she had explored this and has been advised that this is not possible. Following general discussion it was raised 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 advised she will investigate the issue further with Kristy Ferguson.

Action: 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). (Action Item 2022-6)

- Action Item 2022-2 – RevenueSA to give further consideration as to whether the inclusion of 'arrears' constitutes a valid assessment for the arrears year. Julie Holmes discussed the matter and advised RevenueSA has sought further advice. Based on the advice received RevenueSA's view remains that the assessments are valid. Bernie Walrut expressed his disagreement and it was noted that ultimately, the position (on a case by case basis) could be objected to and appealed.

Lengthy discussion developed about land tax issues. Key issues raised were:

- Julie Van der Velde advised the Land Tax Assessment on its own does not provide sufficient information regarding the arrears;
- Bernie Walrut raised the previous judicial matter (Liapis) where a breakdown of the arrears was provided, including spreadsheet information about site values, taxable amounts for each property over the relevant years, and thinks this should be standard. Julie Holmes advised that such a break down stems mainly from compliance investigations or reviews and the issuing of such a break down is not standard when billing.

- Bernie Walrut believes the taxpayer should be provided with a full background of what they are being assessed for. Julie Holmes advised that key information is included on the Land Tax Assessments and if this is not sufficient queries, on a case by case basis, can be sent to RevenueSA to investigate and supply more detailed information where required and appropriate.
- Jeff Stevens advised that the Land Tax Assessment does not provide sufficient information to determine if a beneficiary nomination has been applied.
- Paul Ingram advised when they have sent an issue in for review, they just receive a Land Tax Assessment once the matter has been finalised, i.e. there is no discussion or correspondence accompanying the assessment to explain the actions which have taken which causes further confusion and leaves advisers with no choice but to contact RevenueSA for an explanation.
- Ultimately, the group felt there was insufficient information on a current Land Tax Assessment where arrears were present and suggested changed. Julie Holmes advised that, in part due to system limitations, the implementation of the requested changes would be difficult, but is always happy to receive feedback and suggestions.
- Bernie Walrut also advised there are similar issues with Land Tax Certificates.

It was noted that a number of these issues have been considered and will be covered by Kelly Tattersall under agenda item 2.3.

- Action Item 2022-3 – Not discussed.

2.2. Update on State Tax Appeals – Not discussed.

2.3. Land Tax Reform Measures

Kelly Tattersall presented onscreen information surrounding the Land Tax Reform Measures and known issues. These included:

- Difficulty obtaining accurate Land Tax Certificates where there is aggregation of land. Namely the Certificate showing the single holding amount but not always showing the multiple holding amount. Members noted this results in changes in the Land Tax liability associated with the Certificate. It was further noted that while such liability changes have occurred in the past, the issue is more prevalent post the Land Tax reform.
- Multiple year assessments where prior years liability is included in 'amounts from prior years (formerly known 'arrears' only).

Julie Holmes noted the two flyers which are sent with the Assessments “Understanding your Assessment” flyer and “Payment Assistance Options” flyer and discussed that arrears would normally be showing as being required to be paid in the first instalment. Feedback from the group was clients don’t share these flyers with them and were generally unaware of their content. Hard copies of prior year Flyers and current year drafts were distributed to the group and feedback was requested by the due date of 16 September 2022.

Action: Electronic copies of draft Land Tax flyers that accompany land Tax Assessments to be distributed to members for feedback/comment. (Action 2022-7)

Julie Van der Velde questioned when the Land Tax Assessments for the 2022-23 financial year will be issued and if not all ownerships have been assessed, how many are awaiting bills for previous years (i.e. 2020-21 and/or 2021-22).

Julie Holmes advised that:

- it is anticipated that, consistent with prior years, the Land Tax Assessments for 2022-23 will start being issued from (late) October as normal.
- Regarding prior year outstanding bills, there is no recording/system flag to specifically identify and track these and therefore it was not possible to provide exact numbers. However, there are not many ownerships left that have not received a Land Tax Assessment for the previous years.
- Site values that are no longer in force (i.e. site values attributed to previous financial years). RevenueSA has been in discussions with the Valuer-General in working out an administrative way where taxpayers can request a review of the site value of a previous financial year, for which they have not received an Assessment. New process will shortly be published on RevenueSA’s website.

When a site value is adopted by RevenueSA under the proposed administrative process, Jeff Stevens and Bernie Walrut both queried if this decision can be appealed.

Due to the administrative nature of the process, Julie Holmes indicated that she would not expect that the historical site value could be appealed. However, it was agreed that RevenueSA would consider the matter further. It was further noted that the current Treasurer had indicated the Government would not be making amendments relating to the land tax reform.

- Beneficiary nominations not being accurately reflected on Land Tax Assessments. Kelly further discussed the process for when further information is requested and supplied or when required information is not provided to RevenueSA.

Julie Van der Velde queried in circumstances where the trustee's do not receive a Land Tax Assessment for the trust, can it be assumed that the beneficiary nomination has been accepted and is below the taxable threshold? Kelly Tattersall advised that it depends on the trustee and trust's circumstances and site values.

Bernie Walrut questioned why a Land Tax Assessment is not issued to the trustee showing a zero liability, giving the trustee the option to object to the site value. Julie Holmes advised it was RevenueSA's policy that we do not issue Land Tax Assessments where there is no liability.

Bernie Walrut raised the issue that while a beneficiary may be issued a Land Tax Assessment, they are not considered an owner under the Valuation of Land Act making them unable to object to the site value.

- Land Tax Reform project has received additional resources which should result in reduced reply times to queries sent in. If there are any specific issues encountered by stakeholders, they are encouraged to get in contact with RevenueSA, preferable in writing due to the complex nature of most of the queries. Any time sensitive queries can be email directly to Kelly who will be able to prioritise them appropriately.

Bernie Walrut raised issues regarding:

- Delays in addressing queries/matters could result in taxpayers losing all objection rights (noted the 12 month time limit); and
- Objection rights to a reassessment of Land Tax Assessment as opposed to an assessment, noting under the TAA one can only object to a reassessment to the extent that the tax liabilities are greater than the original assessment.

Based on the above discussion, the following actions were taken by RevenueSA:

Action (2022-8):

- 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 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)?
- 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.
- e) Consider whether receipt of notice of an objection can be delegated by the Treasurer (e.g. to the Commissioner of State Taxation);
- 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?

- g) Once progress has been made on the above matters, arrange for a land tax specific meeting with the group.

3. NEW BUSINESS

- 3.1. Information Circular No. 103 'Stamp Duty on conveyance or transfers of non-residential, non-primary production real property (qualifying land)' – Bernie Walrut raised the relevant date for determining whether land is qualifying or not is the date of conveyance, however, the circular has misleading/confusing information.

Action: RevenueSA to Review Circular 103 to consider accuracy with regard to the date for determining qualifying land.

- 3.2. Professional Organisations and consultations with the Commissioner [Bernie Walrut] – Not discussed.

4. ANY OTHER BUSINESS

5. NEXT MEETING

7 December 2022

ATTACHMENT A – ACTION REGISTER

Item	Date of Meeting	Action	Who	Status as at 28 September 2022	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	To be considered as part of the Stamp Duties 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 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 considered 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 considered as part of the Stamp Duties rewrite
27	04/12/2019 [Historical Action Item] 08/12/2021	Publication: Circular 265 – Stamp Duty – Sale of Retirement Villages NEW ACTION: Paul Maxwell to arrange a further meeting between Lisa Smith, Mark Christmas, Bernie Walrut and himself to discuss these new issues.	RevenueSA	RevenueSA to consider whether Circular 265 can be progressed ahead of the Stamp Duty Re-write. Meeting between Lisa Smith, Paul Maxwell Mark Christmas and Bernie Walrut held on 22 February 2022 to discuss new issues and the way forward in this matter. Bernie Walrut has provided further written submissions which are currently being considered following which a meeting of the Rulings Sub-Committee will be convened.	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 Duties rewrite

29	04/12/2019 [Historical Action Item] 08/12/2021	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.	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 with 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.	30 September 2022
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 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.	On-going

				<p>Paul Maxwell confirmed work on this is continual.</p> <p>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.</p> <p>It was suggested one consistent naming convention for publications should be considered.</p>	
2021-107	18/09/2021 7/9/2022	<p>RevenueSA to seek advice from the Crown Solicitor in regard to the 60-day objection timeframe.</p> <p>New Action: RevenueSA to review website content regarding objection rights and consider adding reference to the discretion to extend up to 12 months.</p>	Paul Maxwell	<p>Completed subject to confirmation that Bernie Walrut is comfortable with the discussion on this topic at the last STLG meeting.</p>	September 2022
2021-109	08/12/2021	<p>Stamp Duty – Qualifying Land with Residential Land Use Codes - RevenueSA to review and consider whether any system changes are required to facilitate this suggestion.</p>	Mark Christmas	<p>In progress. System changes are still being considered and a further update will be provided at the next STLG meeting.</p>	September 2022
2021-110	08/12/2021	<p>Qualifying Land – form of assessment – RevenueSA to investigate the logistics of changing the form of assessments where qualifying land is involved.</p>	Mark Christmas	<p>In progress. An additional row regarding qualifying land is being considered for the Notice of Assessments and a further update will be provided at the next STLG meeting.</p>	September 2022
2021-112	08/12/2021 7/9/2022	<p>Bernie Walrut to provide RevenueSA with a paper on his perceptions of RevenueSA's performance.</p> <p>New Action: A track changes copy of RevenueSA's updated Service Charter to be distributed to members</p>	<p>Bernie Walrut</p> <p>RevenueSA</p>	Pending	Due date to be considered
2022-1	08/06/2022	<p>RevenueSA to review the link to historical land declarations to ensure the link is active and that it is read only.</p>	Kelly Tattersall	Completed	August 2022
2022-2	08/06/2022	<p>RevenueSA to give further consideration as to whether the inclusion of 'arrears' constitutes a valid assessment for the arrears year.</p>	Paul Maxwell	<p>Completed. RevenueSA's view (which is supported by legal advice) is that where a notice of an assessment of land tax for a previous financial year is issued as an arrears (or an amount payable from prior years as it is now known) figure only, the notice of that assessment is <u>valid</u> and that it conforms with any statutory</p>	August 2022

				obligation imposed upon either RevenueSA or the Commissioner in relation to the issuing of notices of land tax assessments.	
2022-3	08/06/2022	RevenueSA to include commentary on the new practice in the 2022-23 Payroll Tax Guide to Legislation.	Paul Maxwell	Completed – 2022-23 Payroll Tax Guide to Legislation released on 20 July 2022 with commentary included.	20 July 2022
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		
2022-5	7/9/2022	RevenueSA to circulate the process regarding to who and when notification is provided regarding system and guide note changes.	RevenueSA		
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		
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		
2022-8	7/9/2022	<p>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).</p> <p>b) Confirm RevenueSA's administration and assessment practices accord with the LTA?</p> <p>c) Can the nominated beneficiary object to the site value on a Land Tax Notice of Assessment? In the alternative, can then the trustee object to the site value in circumstances where a notice of assessment is issued to</p>	RevenueSA		

		<p>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>			
2022-8	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>	RevenueSA		

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
 - 3.1. Stamp Duty – Exemption 33 of the *Stamp Duties Act 1923*
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