

OFFICIAL

MINUTES

SA STATE TAXES LIAISON GROUP MEETING

WEDNESDAY 8 JUNE 2022 (9.30AM)

**FAHEY ROOMS 1 AND 2, LEVEL 4, STATE ADMINISTRATION
CENTRE**

1. ATTENDANCE/APOLOGIES

PRESENT FOR REVENUESA

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

PRESENT FOR INDUSTRY GROUPS

Julie Van der Velde (CPA Australia), Briony Hutchens (Law Council of Australia), Will Fennell (Law Society of South Australia) and Marc Romaldi (Property Council of Australia).

APOLOGIES

Peter Slegers (Business SA), Paul Ingram (The Tax Institute), Bernie Walrut (Law Council of Australia) and Paul Tanti (Chartered Accountants Australia and New Zealand).

2. BUSINESS ARISING

2.1. UPDATE ON ACTION REGISTER

Action Items 2, 24, 25, 26, 28, 33, 35 and 36 remain on hold as they are to be considered as part of the stamp duties rewrite.

Action Item 27 – Circular 265 – Bernie Walrut is still working on his submission.

Action Item 29 – Circular 156 – Remains on hold pending the outcome of a current High Court matter which involves legal professional privilege.

Action Item 30 – Exemption 33 – Paul Maxwell advised that a draft Revenue Ruling is close to being finalised after which it will be circulated for consultation with the Group and the Rulings Sub-Committee. It is anticipated that this will occur by the end of July 2022.

Action Item 2020-3 – Information Circular No: 1 - No further update.

Action Item 2020-23 – Taxpayer Charter – Kristy Ferguson advised that RevenueSA has reviewed Bernie Walrut's suggestions and agrees that some suggestions will be adopted. Kristy Ferguson showed everyone on screen where the information can be found on RevenueSA's website with Russell Fairley or Paul Maxwell to provide the website link prior to the next meeting. Action Complete.

Action Item 2021-105 - Historical Circulars - The link is now available on the RevenueSA website with Kristy Ferguson showing this on screen. Action Complete.

OFFICIAL

OFFICIAL

Action Item 2021-107 – 60-day Objection Timeframe – Paul Maxwell is in discussions with Crown Solicitor however it has been noted that recent advices on this issue have adopted a softer approach around the 60-day timeframe (i.e. provided there are genuine reasons it is now more likely that the Treasurer will be advised to exercise his discretion). Action remains open until confirmation with Bernie Walrut that this outcome is satisfactory.

Action Item 2021-108 – Land Tax Portal – Read-Only Access – Julie Holmes advised that read-only access is now available in RevenueSA Online, with the link available on the RevenueSA website. Kristy Ferguson showed the Group where to find the link on the RevenueSA website. Action complete.

Briony Hutchens advised that the historical land declarations have no active link and also that the “create new” button is potentially still active thus allowing further submissions.

New Action: RevenueSA to review the link to historical land declarations and ensure the link is active and that it is read-only.

Action Item 2021-109 - Stamp Duty – Qualifying Land with Residential Land Use Codes - Mark Christmas advised that system changes are still being considered and a further update will be provided at the next STLG meeting.

Action Item 2021-110 - Qualifying Land – form of assessment - Mark Christmas advised that 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.

Action Item 2021-111 – I-Apply Forms - Kristy Ferguson advised that the Department of Premier of Cabinet privacy information cannot be removed from the I-Apply forms because it the privacy statement of the DPC platform, however, additional information has been added for RevenueSA, specifically a link which takes users to the privacy statements on RevenueSA’s website. Action complete.

Action Item 2021-112 – Perception Paper – No further update.

2.2. UPDATE ON REVENUESA PUBLICATIONS AND RULINGS SUB-COMMITTEE (SEE ATTACHMENT B FOR CURRENT STATUS)

Paul Maxwell advised that RevenueSA’s website includes the latest information in regard to the 2022-23 State Budget and the 2022-23 land tax rates and thresholds. Further, that the Rulings Sub-Committee will shortly be involved in reviewing the new Revenue Ruling in relation to Exemption 33.

2.3. COMMISSIONER’S UPDATE

2.3.1. LAND TAX REFORM MEASURES

Julie Holmes advised that work continues to finalise the remaining outstanding Land Tax Assessments yet to be billed for both 2020-21 and 2021-22, including billing occurring every week.

OFFICIAL

OFFICIAL

The ownerships not yet invoiced relate to complex land holding arrangements, including where land may be partially owned by a deceased estate. The complexity of system changes needed to implement the package of reform measures has led to a delay in finalising the 2020-21 and 2021-22 land tax bills for a small cohort of complex ownerships.

A general discussion took place about specific concerns/issues being encountered (for example, exemptions being removed and properties becoming taxable). Julie Holmes advised that any concerns or queries in this regard (including where an incorrect Land Tax Assessment has been received and the taxpayer and/or their representative has written to RevenueSA but not received a response yet) should be sent directly to RevenueSA, with Group members able to forward their concerns or queries to Paul Maxwell in the first instance.

A general discussion followed in regard to Land Tax Assessments and the inclusion of arrears on Assessments for 2021-22. Julie Holmes explained that as a result of delays in the billing of some complex land tax ownerships for the 2020-21 financial year, and to enable RevenueSA to undertake 2021-22 land tax billing as scheduled, taxpayers who have an amount payable from prior years will see this amount in the first instalment of their 2021-22 Land Tax Assessment.

In light of the above, Land Tax Assessments for the 2021-22 financial year have been issued with up to two flyers. All 2021-22 Land Tax Assessments are accompanied by the flyer titled "Understanding your Land Tax Assessment", which provides a detailed overview of the assessment and where specific information can be sought on the assessments.

In addition, those taxpayers issued with a 2021-22 Land Tax Assessment with an amount payable from prior years are also receiving the self-explanatory flyer titled "Payment Assistance Options".

The practitioners present at the meeting were all in agreement that they did not consider the inclusion of the 'arrears' to be a valid assessment for the arrears year, particularly in light of the lack of detail that was provided in respect of the arrears (e.g. it does not say what year the arrears applies to, or the site value assessed, etc.). RevenueSA advised that it was treating this amount (i.e. the 'arrears') as if it were an assessment for all practical purposes but undertook to give this issue further consideration as to whether the inclusion of 'arrears' constitutes a valid assessment for the arrears year.

RevenueSA's treatment of 'arrears' led to the issue of procedural fairness being raised.

New Action: RevenueSA to give further consideration as to whether the inclusion of 'arrears' constitutes a valid assessment for the arrears year.

OFFICIAL

OFFICIAL

Discussions continued about how site value information can be obtained should a taxpayer want to object to the site value. Julie Holmes confirmed that the site values will not be shown on the Land Tax Assessments for previous years where arrears is outstanding, however, that the information can be obtained from other sources including RevenueSA.

Julie Van der Velde highlighted system limitations with only allowing one user to complete the Land Holder Declaration once the process has begun. More specifically, in circumstances where a taxpayer begins the process of completing their Land Holder Declaration, realises that it was too difficult and then engages a representative to complete the Land Holder Declaration for them. Julie Holmes advised this limitation was noted and feedback would be provided to RevenueSA systems development team for future reference.

2.3.2. STAMP DUTIES REWRITE

Julie Holmes advised that RevenueSA has briefed the new Treasurer about the stamp duties rewrite and at this stage he has indicated a preference for the matter to be considered following the State Budget.

Briony Hutchens questioned whether there will be any further opportunities for consultation on the rewrite.

Julie Holmes advised that the Treasurer has not given any indication about further consultation yet, however, consultation opportunities will present if and when the new Duties Bill proceeds through Parliament.

2.3.3. STATE BUDGET UPDATE

Julie Holmes advised that the 2022-23 State Budget was handed down on 2 June 2022 and there were no new taxes, levies or duties, or any increases to existing taxes, levies or duties administered by RevenueSA announced.

State tax measures announced in the 2021-22 State Budget (which were included in the *Statutes Amendment (Budget Measures) Bill 2021* that did not get passed) including the abolition of the payroll tax feature film exemption and the land tax reduction for eligible build-to-rent projects are no longer proceeding. RevenueSA's website will be updated accordingly.

2.4. UPDATE ON STATE TAX APPEALS

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

1. Her Honour (the Hon. Auxiliary Judge Bochnar) handed down her decision on 25 January 2022 in the matter involving Perpetual Corporate Trust Ltd ATF the Scape Australia (Waymouth) Trust (a stamp duty qualifying land in regard to student accommodation). The appeal was allowed.

A Full Court appeal was subsequently lodged on 16 February 2022 and the matter is being heard on 15 June 2022;

OFFICIAL

OFFICIAL

2. His Honour (Judge Dart) handed down his judgment on 3 June 2022 in the matter involving Edge Developments Pty Ltd and Others (a stamp duty landholder matter). The appeal was dismissed;
3. The hearing in the payroll tax matter involving Trinity College Gawler Inc. (Starplex) (a health services exemption matter) begins on 20 June 2022;
4. Two new payroll tax appeals have been received. The first matter involves the employment agency provisions whilst the second matter involves the de-grouping provisions;
5. In regard to the HomeBuilder Grant, one matter was lodged and subsequently withdrawn whilst another is ongoing; and
6. In regard to the Emergency Services Levy, two matters were finalised.

3. NEW BUSINESS

3.1. PAYROLL TAX – ACCEPTED VALUATION METHODS FOR EMPLOYEE SHARE SCHEMES

Paul Maxwell advised that one of the big four accountant firms has recently sought RevenueSA's advice in regard to payroll tax and employee share schemes. More specifically, in respect of employers whose interests qualify for the Income Tax Assessment Act concessions for start-ups, in particular options granted with an exercise price equal to the market value (market value being determined under either of 2 methods detailed in a legislative instrument). The advice sought was whether an employer should be seeking a full market valuation, or would RevenueSA follow the practice in Victoria.

Paul Maxwell advised that RevenueSA will be adopting the practice in Victoria, as set out [here](#).

New Action: RevenueSA to include commentary on the new practice in the 2022-23 Payroll Tax Guide to Legislation.

3.2. REVIEW OF INFORMATION CIRCULAR NO: 87 – STAMP DUTY ON MOTOR VEHICLES – REGISTRATIONS OF MOTOR VEHICLES – DUTIABLE VALUE AND DEALER EXEMPTIONS

Julie Holmes advised that, at the request of the Motor Trade Association ("MTA"), RevenueSA has committed to a review of Information Circular No: 87 with a particular focus on service demonstrator vehicles.

The revised Information Circular will be circulated to the STLG (and the MTA) once the review is complete.

4. ANY OTHER BUSINESS

No new business

5. NEXT MEETING

7 September 2022

OFFICIAL

OFFICIAL

ATTACHMENT A – ACTION REGISTER

Item	Date of Meeting	Action	Who	Status as at 7 July 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 is currently preparing further written submissions.	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

OFFICIAL

Item	Date of Meeting	Action	Who	Status as at 7 July 2022	Due Date
30	4/12/2019 11/3/2020 08/12/2021	RevenueSA to draft a new Revenue Ruling in regard to Exemption 33 for consideration by the Rulings Sub-Committee.	RevenueSA	A draft Revenue Ruling is close to being finalised after which it will be circulated for consultation with the Group and the Rulings Sub-Committee.	29 July 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. 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.	On-going
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	Bernie Walrut	Bernie Walrut provided his submissions to RevenueSA on 6 December 2021. Kristy Ferguson advised that RevenueSA has reviewed Bernie Walrut's suggestions and agrees that some	8 June 2022

OFFICIAL

Item	Date of Meeting	Action	Who	Status as at 7 July 2022	Due Date
		guidance).		suggestions will be adopted. Complete	
2021-107	18/09/2021	RevenueSA to seek advice from the Crown Solicitor in regard to the 60-day objection timeframe.	Paul Maxwell	Pending	Due date to be considered
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.	Mark Christmas	In progress. System changes are still being considered and a further update will be provided at the next STLG meeting.	September 2022
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	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.	September 2022
2021-112	08/12/2021	Bernie Walrut to provide RevenueSA with a paper on his perceptions of RevenueSA's performance.	Bernie Walrut	Pending	Due date to be considered
2022-1	08/06/2022	RevenueSA to review the link to historical land declarations to ensure the link is active and that it is read only.	Kelly Tattersall	RevenueSA has logged the issue with the relevant area to address the fact that the link is missing.	September 2022
2022-2	08/06/2022	RevenueSA to give further consideration as to whether the inclusion of 'arrears' constitutes a valid assessment for the arrears year.	Paul Maxwell	Pending	September 2022
2022-3	08/06/2022	RevenueSA to include commentary on the new practice in the 2022-23 Payroll Tax Guide to Legislation.	Paul Maxwell	Pending	29 July 2022

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. 2022-23 State Budget
 - 5.2. 2022-23 Land tax rates and thresholds

OFFICIAL