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**MINUTES**

**SA STATE TAXES LIAISON GROUP MEETING**

**WEDNESDAY 8 DECEMBER 2021 (9.30AM)**

**TRAINING ROOM LEVEL 1 STATE ADMINISTRATION CENTRE**

**1. ATTENDANCE/APOLOGIES**

**PRESENT FOR REVENUESA**

Julie Holmes (Chair), Kelly Tattersall, Lisa Smith, Paul Maxwell, Mark Christmas, Shakhlo Rasulova 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), Jeff Stevens (Australian Institute of Conveyancers (SA Division)), Daniel Marateo (Business SA), Will Fennell (Law Society of South Australia) and Marc Romaldi (Property Council of Australia).

**APOLOGIES**

Alan Yates (CPA Australia) and Peter Slegers (Business SA)

Julie Holmes welcomed Shakhlo Rasulova to the meeting.

**2. BUSINESS ARISING**

**2.1 UPDATE ON ACTION REGISTER**

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

Item 27 - Circular 265 - Bernie Walrut has provided information on what changes should be implemented and these changes are currently being considered. An amended version of Circular No: 265 will be provided to the Rulings Sub-Committee once drafted.

Bernie Walrut advised that he has encountered further issues since the last meeting and it was agreed to arrange a further meeting to discuss these new issues.

**New Action – Paul Maxwell to arrange a further meeting between Lisa Smith, Mark Christmas, Bernie Walrut and himself to discuss these new issues.**

Item 29 – Circular No: 156 – Still waiting for John Tucker to provide his commentary on the matter. Bernie Walrut advised that there is a current High Court matter dealing with the concepts of legal professional privilege and it may be advisable to wait for the outcome of this High Court matter before progressing amendments to Circular No: 156 any further.

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Item 30 – Exemption 33 – Given continued industry uncertainty around Exemption 33, the Group asked whether RevenueSA would consider progressing a new Revenue Ruling on Exemption 33 ahead of the stamp duty rewrite. Paul Maxwell advised that the Treasurer is currently considering his position on Exemption 33. However, given the uncertainty around the progress of the stamp duty rewrite it was agreed that RevenueSA would seek guidance from the Treasurer about the policy on Exemption 33.

In the meantime, Mark Christmas advised that any Exemption 33 matters of concern or requiring clarification can be submitted directly to him.

### **New Action - RevenueSA to discuss with the Treasurer for guidance about the policy on Exemption 33.**

Item 2020-3 – Information Circular No.1 - On hold pending the Queensland SRO's review of its public rulings system which will include a comparison of other jurisdictions. SA has agreed to be part of this review.

Item 2020-19 – Stamp duty rewrite debrief meetings – Debrief teleconferences/meetings held with all parties who provided submissions in October 2021. This matter is now closed.

Item 2020-23 – Taxpayer Charter - Bernie Walrut provided his submissions on 6 December 2021 and these will be reviewed by RevenueSA. It was however noted that only the ATO and the Tasmanian SRO had a formal Taxpayer Charter whilst the remaining SRO's were largely similar to RevenueSA in that their Charters are included on their respective websites.

### **New Action - RevenueSA to review the submissions made by Bernie Walrut.**

Item 2021-105 – Historical Circulars – Historical Circular page published on the website for public view in September 2021 (this page includes a listing of those still under review).

Bernie Walrut requested a numbered list of all circulars and that all existing publications be included on one page.

### **New Action – RevenueSA to provide a numbered list of all circulars and put all existing publications on one page.**

Item 2021-106 – Land Tax Guides to Legislation. This matter is complete.

Item 2021-107 - Objection timeframe of 60 days – A general discussion took place about the difficulty of the 60-day objection timeframe given the complexity of certain land tax matters meaning they go unresolved for long periods of time.

It was acknowledged that any change to the timeframe requires a legislative amendment however in the meantime it was suggested that the process could be streamlined by RevenueSA having discussions with representatives prior to the issuing of assessments or representatives making direct contact with RevenueSA prior to any objection. This matter is complete.

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Item 2021-108 – Read-only access to the Land Tax Portal - Kelly Tattersall advised that the Land Tax Portal is unable to be reactivated to provide read-only access however the RevenueSA Online Portal (which can be found on the RevenueSA website on the home page on the top right hand corner) is still available to look at historical lodgements, with access gained by using existing credentials.

Kelly Tattersall advised this is not to be used to update information and it is recommended that any new beneficiary nomination notices be lodged by email or post, rather than by the Online Portal. This matter is complete.

Bernie Walrut requested that a link to the RevenueSA Online Portal be provided on the land tax pages on RevenueSA's webpage.

**New Action – RevenueSA to add the link to the RevenueSA Online Portal on the land tax pages on RevenueSA's webpage.**

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

No meeting of the Rulings 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 and 2021-22 financial years is continuing. Subject to the current system limitations being resolved, the aim is for all the Land Tax Assessments for individuals to be issued before the end of the calendar year, except some complex ownerships which are tied up with complex aggregation sets (i.e. deceased estates, jointly held with complex corporate groups). Discretionary Trust Land Tax Assessments are currently a priority for RevenueSA with the beneficiary nomination deadline of 31 December 2021 approaching.

In this regard, RevenueSA has sent approx. 1,800 emails to trustees of discretionary trusts to inform them that they must nominate a designated beneficiary for land held as at 16 October 2019, before 31 December 2021 and, that nominations will not be accepted after this date. STLG members were advised that these emails would be sent in a separate email from Paul Maxwell to them dated 15 November 2021. It is noted that the emails sent to trustees have elicited a strong response.

Paul Maxwell noted that a special meeting of the STLG was held on 23 November 2021 in regard to land tax and specifically the designation of a beneficiary of a discretionary trust. Paul Ingram, Peter Slegers, Jeff Stevens attended whilst Julie Van der Velde provided written submissions. Broadly, the issues raised were land tax certificates and the designation of a beneficiary of a discretionary trust.

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In regard to the designation of a beneficiary of a discretionary trust, it was agreed that genuine attempts to nominate a designated beneficiary in certain circumstances (such as where people including advisors have wrongly completed registrations, have failed to fill in the 'standard' statutory declarations forms correctly or have failed to have forms properly witnessed and so have not provided a designation in accordance with the legislation in the form required) will be allowed to be corrected on a case-by-case basis, taking into consideration such things as whether or not an assessment has been issued, what correspondence has been had with RevenueSA and the genuineness of the attempt.

In regard to certificates, concerns were raised specifically where the certificate may not include updated or relevant information (for example, due to delays in trust notifications and/or designations of beneficiaries). As a result, additional concerns were raised about the length that certificates are valid for and whether the no cost for the validity period of 3 months could be extended in light of the above problems.

These concerns were reiterated in today's meeting. Kelly Tattersall advised that the certificates are not incorrect, as they reflect the circumstances that exist when the certificate is requested. Although Marc Romaldi suggested this is not always correct and has had circumstances where what shows on the certificate differs to what information RevenueSA has at that time.

In the first instance, contact should be made with RevenueSA directly if there are concerns about the certificate containing up to date or relevant information. RevenueSA expects this to cease to be an issue when it finishes processing the backlog of land holder declarations, and other various notices, received.

### **2.3.2 Stamp Duty Re-write**

Julie Holmes advised that since the last meeting there has been no further progress, with the matter still being considered by the Treasurer

## **2.4 UPDATE ON STATE TAX APPEALS**

Paul Maxwell advised that:

- RevenueSA is still awaiting Judgment in two stamp duty matters involving Edge Developments Pty Ltd and Others (a landholder matter) and Perpetual Corporate Trust Ltd as trustee for the Scape Australia (Waymouth) Trust (a qualifying land matter where the property is being used as student accommodation); and

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- Two Emergency Services Levy matters (one with Land Use Code (“LUC”) and valuation issues in dispute and the other with only LUC issues in dispute) are still ongoing.

### 3. NEW BUSINESS

#### 3.1 Stamp Duty – Qualifying Land with Residential Land Use Codes (i.e. hotels, motels etc.) – Need to submit for assessment [Bernie Walrut]

Bernie Walrut raised the need to submit qualifying land matters with residential LUCs such as hotels and motels for assessment and advised that he had begun discussions with Mark Christmas about this requirement, highlighting the efficiencies for all parties of removing such requirement.

Mark Christmas advised that he saw some merit in the suggestion.

It was agreed that Bernie Walrut and Jeff Stevens would review these and other residential LUCs that may not need to be submitted for assessment and provide that information to Mark Christmas shortly.

**New Action - Mark Christmas to review and consider whether any system changes are required to facilitate this suggestion.**

#### 3.2 Stamp Duty – Qualifying Land – form of assessment [Bernie Walrut]

Bernie Walrut raised concerns with the form of assessments where qualifying land is involved, suggesting that attempts should be made to make these assessments less confusing.

**New Action - Mark Christmas to investigate the logistics of changing the form of assessments where qualifying land is involved.**

#### 3.3 Land tax – required trust notifications – need for online facility as part of online land transaction process [Bernie Walrut]

Bernie Walrut raised the possibility of the online land transaction process allowing trust notifications to be made at the disposal or purchase of a property through PEXA.

Jeff Stevens also raised the possibility of being able to pay the Emergency Services Levy through PEXA and suggested payments be through one system only without having to draw cheques.

Julie Holmes acknowledged these suggestions and agreed there were benefits from the users’ perspective and are being considered as part of the longer term planning, however, acknowledged the process to get these changes is not a simple one and would be a timely exercise requiring collaboration with PEXA and other jurisdictions. With current commitments, this is not something that RevenueSA would look to explore in the near to medium future.

**3.4 RevenueSA Website – Online forms – Premier Cabinet Connection v Taxation Administration Act 1996 impact [Bernie Walrut]**

Bernie Walrut highlighted the fact that, at the bottom of I-Apply forms, it mentions that it is governed by the Department of Premier of Cabinet and not the *Taxation Administration Act 1996*. Bernie Walrut also queried whether the information provided in the I-Apply forms is going to external agencies.

Julie Holmes agreed that this change should be made and confirmed that no information collected is going to external agencies.

**New Action: RevenueSA to amend I-Apply forms to remove references to being governed by the Department of Premier of Cabinet and replace it with a reference to the *Taxation Administration Act 1996*.**

**3.5 STLG Terms of Reference – Self-Assessment Review [All]**

No concerns were raised apart from Bernie Walrut suggesting that the list of outstanding action items is continually too long.

**4. Any Other Business**

**4.1 Taxation Administration Act 1996 – Online Assessments [Bernie Walrut] [Carried over from the previous meeting]**

Bernie Walrut advised that this was an ongoing matter with his main concern being that RevenueSA do not always accept all information online and whether an online assessment constitutes an assessment for the purposes of the *Taxation Administration Act 1996*.

**4.2 Model Litigant Obligations [Bernie Walrut] [Carried over from the previous meeting]**

Broadly, Bernie Walrut suggested that the 60-day objection timeframe and earlier alternative dispute resolution are areas where RevenueSA could improve on their model litigant obligations. Due to time limitations, it was agreed to carry this agenda item over to the next meeting with Bernie Walrut to provide a paper on his perceptions of RevenueSA's performance.

**New Action - Bernie Walrut to provide RevenueSA with a paper on his perceptions of RevenueSA's performance.**

**5. Next Meeting**

9 March 2022

**ATTACHMENT A – ACTION REGISTER**

Item	Date of Meeting	Action	Who	Status as at 7 December 2021	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 No: 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 No: 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 No: 265 – Stamp Duty – Sale of Retirement Villages	RevenueSA	RevenueSA to consider whether Circular No: 265 can be progressed ahead of the Stamp Duty Re-write.  Meeting between Dr Bernie Walrut and Paul Maxwell held and Bernie Walrut provided feedback on what changes should be implemented.  Paul Maxwell to arrange a further meeting between Lisa Smith, Mark Christmas, Bernie Walrut and himself to discuss these new issues.	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

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29	04/12/2019 [Historical Action Item] 08/12/2021	Publication under consideration by RevenueSA: Circular No: 156 – Access to documents held by solicitors and legal professional privilege – Guidelines.	RevenueSA	John Tucker to provide some commentary on this issue.  On hold. Bernie Walrut advised that there is a current High Court matter dealing with the concepts of legal professional privilege and it may be advisable to wait for the outcome of the High Court before progressing amendments to Circular No: 156 any further.	To be considered once the outcome of a current High Court matter is known
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	RevenueSA to speak to the Treasurer for guidance about the policy on Exemption 33.	To be incorporated as part of the Stamp Duties 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>	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 the usefulness of the various publication types with other jurisdictions. SA plans to be part of this review.  It was suggested one consistent naming convention for publications should be considered.	On-going

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				Paul Maxwell confirmed work on this is continuing.	
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	Bernie Walrut provided his submissions to RevenueSA on 6 December 2021.  To be reviewed by RevenueSA.	March 2022
2021-105	18/09/2021	Kristy Ferguson to add a link to website to historical Circulars page and include links to Circulars still under review from that page.  NEW ACTION: RevenueSA to provide a numbered list of all circulars and put all existing publications on one page.	Kristy Ferguson	Complete  Pending	8/12/2021  March 2022
2021-107	18/09/2021	RevenueSA to seek advice from the Crown Solicitor in regard to the 60-day objection timeframe.	Paul Maxwell	Pending  Preliminary discussions held with the Crown Solicitor's Office but no formal advice received yet.	Due date to be considered.
2021-108	18/09/2021  08/12/2021	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.  NEW ACTION – RevenueSA to add the link to the RevenueSA Online Portal to the land tax pages on the RevenueSA webpage.	Kelly Tattersall	Pending  Pending	Due date to be considered.  End of January 2022
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	Pending	March 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	Pending	March 2022

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2021-111	08/12/2021	RevenueSA to amend I-Apply forms to remove references to being governed by the Department of Premier of Cabinet and replace it with a reference to the <i>Taxation Administration Act 1996</i> .	Shakhlo Rasulova	Pending	End of January 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.

**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 No: 61 – Section 71E of the *Stamp Duties Act 1923*. Obligation of a person to lodge a statement with the Commissioner
  - 1.5. Circular No: 109 – Stamp Duties (Concessions) Amendment Act 1994 – Family Farm Transfers
  - 1.6. Circular No: 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 No: 265 – Stamp Duty – Sale of Retirement Villages
  - 4.2. Circular No: 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. Betting Operations Tax – publication released 25 October 2021
  - 5.2. Land Tax – Discretionary Trusts – closing date to nominate a designated beneficiary for discretionary trusts