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**MINUTES OF THE  
SA STATE TAXES LIAISON GROUP MEETING  
HELD ON WEDNESDAY 24 JUNE 2020 (9:30AM)  
TRAINING ROOM, LEVEL 1, STATE ADMINISTRATION CENTRE**

**1. ATTENDANCE / APOLOGIES**

**1.1. PRESENT FOR REVENUESA**

Julie Holmes (Chair), Lisa Smith, Kelly Tattersall, Paul Maxwell, Tom Colmer and Lee Bartlett (minutes).

**1.2. PRESENT FOR INDUSTRY GROUPS**

Rebecca Hayes (Australian Institute of Conveyancers (SA Division) Inc.), Paul Ingram (The Tax Institute), Peter Slegers (Business SA), Paul Tanti (Chartered Accountants Australia and New Zealand), Jeff Stevens (Australian Institute of Conveyancers (SA Division) Inc.), Julie Van der Velde (CPA Australia), Marc Romaldi (Property Council of Australia), Andrew Shields (Real Estate Institute of South Australia) and Bernie Walrut (Law Council of Australia).

**1.3. APOLOGIES**

Alan Yates (CPA Australia), Will Fennell (Law Society of Australia), Mark Christmas (RevenueSA) and Kristy Ferguson (RevenueSA).

**2. BUSINESS ARISING**

**2.1. UPDATE ON ACTION REGISTER (ATTACHMENT A OF THE AGENDA)**

Completed Actions and Actions currently on hold were noted.

Action Item 19 – It was noted that discussions took place between Bernie Walrut and Paul Maxwell on the 4 June 2020. Further consideration of Bernie's submissions to be undertaken by RevenueSA

Action Item 2020-1 – The meeting with Katherine Bartolo (the Valuer-General) to discuss Land Use Codes has been put on hold due to COVID-19. It was raised that this could be done as a Teams Meeting.

**2.2. UPDATE ON REVENUESA PUBLICATIONS AND RULINGS  
SUB-COMMITTEE (ATTACHMENT B OF THE AGENDA)**

Lisa Smith advised that most of the RevenueSA publications are on hold due to the Stamp Duty Rewrite.

Circular 156: Access to documents held by solicitors and legal professional privilege – Guidelines - is subject to prioritisation, with no immediate action.

### **2.3. UPDATE ON STATE TAX APPEALS**

Paul Maxwell advised that:

- There are nine appeals currently on foot, with eight of these appeals in relation to either stamp duty, land tax or payroll tax (TAA appeals) and one in relation to the First Home Owner Grant.
- In relation to the eight TAA appeals, one land tax appeal has been heard and is awaiting the handing down of the judgment whilst one stamp duty appeal is set down to be heard in August 2020. The remaining six TAA appeals are either at varying stages of discovery or the subject of negotiations, including one payroll tax appeal which went to mediation, though the parties were unable to resolve the matter.
- In relation to the FHOG appeal, SACAT handed down their decision yesterday and the decision went in the favour of the applicant. A summary of that decision will be included on RevenueSA's website shortly.
- Since the last meeting, the High Court of Australia dismissed the application made by the South Australian Employers' Chamber of Commerce and Industry Incorporated for special leave to appeal to The High Court of Australia.

Bernie Walrut asked for an update on when the transfer of review jurisdiction of TAA matters to the SACAT was likely to occur. RevenueSA has still not been advised when this will occur.

### **2.4. UPDATE ON STAMP DUTY REWRITE**

Lisa Smith advised that:

- A third round of external consultation involving the release of the draft *Duties Bill 2020* was undertaken with industry representatives from the State Taxes Liaison Group. The consultation period began on 18 May 2020 and closed on 18 June 2020.
- Two submissions (from the Tax Institute of Australia and the Law Council of Australia) were received and those submissions will be considered by RevenueSA. It was further advised that a third submission had been received from the Financial Services Council).
- A meeting with RevenueSA's external consultant, Mr Richard Dennis, and those who have made submissions, is still being planned.

Peter Slegers raised the question of whether the review was still intended to be a 'no policy change' review. Lisa Smith confirmed that the objective for a no policy review remained broadly unchanged. However, where specific matters have been raised through the consultation process these have been subject to further consideration. Julie Holmes reiterated that clarifications to the wording of the proposed Act to reflect established RevenueSA practices / position as expressed in Rulings and Publications, and amendments to reflect deficiencies in existing wording to ensure the

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Act operates as per the initial policy intent, are not considered to be policy changes.

It was further noted to achieve the objectives of the Rewrite, which includes consolidating, clarifying and simplifying the Act and removal of Latin words, some wording changes are required. It was also confirmed that the new Act would not have retrospective application, and that the current Act would continue to apply until the new Act came into force (on a date yet to be determined).

### 2.5 UPDATE ON NEW LAND TAX AGGREGATION AND TRUST SURCHARGE PROVISIONS

Julie Holmes confirmed that the new land tax legislation will take effect from midnight on 30 June 2020. Further comments and updates were discussed under the relevant items under 'New Business'.

## 3 NEW BUSINESS

### 3.1 UPDATE ON THE COVID-19 TAX RELIEF MEASURES

Julie Holmes advised of the various tax relief measures that have been put in place due to the COVID-19 pandemic. These measures include:

#### Payroll Tax

- An exemption from payroll tax for JobKeeper support payments;
- A six month payroll tax waiver for businesses with Australian grouped wages up to \$4 million; and
- A six month payroll tax deferral for businesses with Australian grouped wages over \$4 million.

#### Land Tax

- 25% land tax relief for landlords;
- A land tax deferral – 2019-20 third and fourth instalments; and
- An expansion of the originally announced land tax reform transition fund.

#### Commonwealth HomeBuilder Grant

- The Federal Treasurer and Minister for Housing have announced the HomeBuilder program, which will give eligible owner-occupiers, including first home buyers, a grant of \$25,000 to build a new home or substantially renovate an existing home; and
- The HomeBuilder program is to be implemented by RevenueSA, with details on when and how to apply to be made available on RevenueSA's website in due course.

### **3.2 REVISION OF LAND TAX GUIDE**

Bernie Walrut raised concerns about errors or a change of position in the Land Tax Guide to Legislation (the “Guide”) and the progressive amendment of the Guide to correct or effect these without any signalling of this being done or the time when it was done.

Julie Holmes advised that any further changes made to the Guide will result in the publication being noted as a subsequent version and will include a brief explanation of the changes made.

Paul Maxwell advised that a further version of the Guide is due to be released shortly to reflect suggestions made in recent submissions by the Law Council of Australia and the Tax Institute.

### **3.3 LAND TAX GUIDE VS LAND TAX OVERVIEW**

Bernie Walrut raised concerns about the removal and subsequent replacement of the Land Tax Overview document with the Guide and in particular the fact that Example 9 in the Overview was incorrect.

Julie Holmes advised that the publication of the Overview was an interim measure to provide a high level overview of the land tax reform changes.

The subsequent Guide addresses in more detail the land tax changes regarding joint owners, land held on trust and related corporations which were summarised in the Overview. As such, the majority of the Overview was superseded by the Guide and the Overview was consequently removed from the RevenueSA website.

It was however acknowledged that reference could have been made somewhere in connection with the Overview to the relevant part of the Guide that explains the current position in relation to Example 9. This feedback has been taken on board.

### **3.4 REVENUESA ONLINE**

Bernie Walrut raised concerns about RevenueSA Online. Julie Holmes acknowledged that there have been some significant teething problems with RevenueSA Online and the intermittent performance issues in relation to the Land Tax portal.

Julie Holmes further advised that the problems were a result of the website being overloaded, forcing it to close down until it then opened up again. Over the corresponding weekend, relevant IT staff attended and resolved those issues experienced and in the process, expanded the capacity of RevenueSA’s website. In addition to the expanded capacity of RevenueSA’s website, more staff have been added to answer incoming calls.

Julie Holmes also advised that RevenueSA Online will be down from 30 June 2020 to 6 July 2020. The Payroll Tax Annual Reconciliation is not opening until 13 July 2020 and will close on 14 August 2020.

There was discussion around the Land Tax Reform letters and the requirement for trustee information to be provided again even though it has already been provided. Julie Holmes advised that RevenueSA would follow this issue up.

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**Action:** RevenueSA to confirm the requirement for trustee information to be provided again, even in circumstances where it has already been provided.

Peter Slegers asked whether all the letters had now gone to land owners. Julie Holmes advised that there were still some letters to be sent and also that if land owners have not received a letter by 30 June 2020 and they believe they should have, there are now a number of contact options, including via RevenueSA's REVCom team at [revsupport@sa.gov.au](mailto:revsupport@sa.gov.au) or (08) 8226 3750 (select option 3) during business hours (Monday to Friday, 8:30am to 5:00pm). Alternatively, by email at [landtaxreform@sa.gov.au](mailto:landtaxreform@sa.gov.au).

Bernie Walrut raised concerns about the meaning of "true beneficiary" in the Nomination and Acceptance as Beneficiary for a Discretionary Trust Statutory Declaration Form that designated beneficiaries must complete. Julie Holmes advised that RevenueSA would review the form and update as applicable.

**Action:** RevenueSA to review the Nomination and Acceptance as Beneficiary for a Discretionary Trust Statutory Declaration Form and update as applicable.

### 3.5 LAND TAX LAND HOLDING DECLARATIONS

Bernie Walrut provided attendees with a print-off of RevenueSA's news release in regard to land tax land holding declarations and sought clarity around some words included in the news release.

RevenueSA agreed to review the news release.

**Action:** RevenueSA to review their news release.

It was also noted that the deadline to register and complete land holding declarations has been extended to 31 July 2020 and that this is not a mandatory under the TAA.

### 3.6 LAND TAX AMENDMENTS

Bernie Walrut raised the possibility of future amendments to the *Land Tax Act 1936*. Julie Holmes advised that it is highly unlikely that there will be amendments in the immediate future.

### 3.7 LAND TAX – DISCRETIONARY TRUSTS – PRE-EXISTING LAND (SUBDIVISIONS)

Berne Walrut raised some issues about the status of pre-17 October 2019 land affected by either a subsequent subdivision or amalgamation of the relevant title.

Paul Maxwell advised that RevenueSA's position in this regard had been articulated in separate responses to the Law Council of Australia and the Tax Institute.

However, given the level of concern regarding the issue it was agreed that RevenueSA would review its position on this issue.

**Action:** RevenueSA would review its position on this issue.

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## 4 ANY OTHER BUSINESS

### 4.1 LIFE INTERESTS

Julie Van der Velde raised the possibility of including commentary in the Guide about the eligibility for a principal place of residence land tax exemption where life interests are involved. RevenueSA agreed to consider the inclusion of further commentary in the Guide on this issue.

**Action:** RevenueSA to consider the inclusion of further commentary in the Guide on this issue.

### 4.2 REQUIREMENTS IN REGARD TO PRODUCING TRUST DEEDS

There was discussion in relation to trust deeds and taxpayers that are unable to effectively nominate a beneficiary because the original trust deed could not be located (e.g. due to age of trust).

Julie Holmes confirmed that RevenueSA requires sufficient evidence to be satisfied that the relevant land in question is held on trust for the nominated beneficiary (who is not necessarily the only beneficiary or potential beneficiary). The onus is on the taxpayer to provide such evidence and there is no discretion to waive this requirement.

## 5 NEXT MEETING

9 September 2020

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**ATTACHMENT A – ACTION REGISTER**

Item	Date of Meeting	Action	Who	Status	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	Pending – Bernie Walrut to provide further comments on the content of the draft publication.  On hold	To be incorporated as part of the Stamp Duties rewrite
6.	06/03/2019 04/09/2019  11/3/2020	RevenueSA to update the draft Early Engagement and Dispute Resolution publication and re-circulate to the State Taxes Liaison Group for consideration and indications of interest in discussing at a meeting of a sub-group.  Given the passage of time it was agreed that the publication / content for the website would be recirculated.	P Maxwell	Pending	10/07/2020
19.	04/09/2019  11/3/2020	Payroll Tax – excluded contractors – publication of information circular. Bernie Walrut to discuss with Paul Maxwell out of session.  Noted action remains outstanding	B Walrut / P Maxwell	Ongoing – Discussions took place between B Walrut and P Maxwell 4 June 2020. Further consideration of B Walrut’s submissions to be undertaken by RevenueSA	09/09/2020
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 incorporated 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 incorporated 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 incorporated as part of the Stamp Duties rewrite
27	04/12/2019 [Historical Action Item]	Publication: Circular 265 – Stamp Duty – Sale of Retirement Villages	RevenueSA	On hold	To be incorporated as part of the Stamp Duties rewrite
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]	Publication under consideration by RevenueSA: Circular 156 – Access to documents held by solicitors and legal professional privilege – Guidelines.	RevenueSA	On hold	To be prioritised
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.	RevenueSA	On hold	To be incorporated as part of the Stamp Duties rewrite
32	4/12/2019	RevenueSA to discuss with Bernie Walrut whether his list of outstanding actions can be released to the whole group together with current status.	L Smith	Pending Confirmed the list, updated for the current status of items will be circulated to STLG	10/07/2020
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
2020-1	11/03/2020	Julies Holmes to advise the Valuer-General, Katherine Bartolo, that the STLG members would like a separate meeting to discuss issues relating to Land Use Codes.  While currently on hold due to COVID-19 restrictions consideration of alternative means (such as via Microsoft Teams) to be raise with the VG.	Julie Holmes	On Hold	09/09/2020
2020-2	11/3/2020	RevenueSA to publish the Terms of Reference as final onto the website and to circulate a link to group members	RevenueSA	Complete	24/6/2020
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	09/09/2020



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2020-4	11/03/2020	RevenueSA to share further information regarding the administrative arrangements relating to the land tax <i>ex gratia</i> schemes with the group out of session when it is available	RevenueSA	Pending	09/09/2020
2020-5	24/06/2020	RevenueSA to consider the requirement for trustee information to be provided again even in circumstances where it has already been provided.	RevenueSA	Pending	10/07/2020
2020-6	24/06/2020	RevenueSA to review the Nomination and Acceptance as Beneficiary for a Discretionary Trust Statutory Declaration Form, and update as applicable.	RevenueSA	Completed Error corrected	24/06/2020
2020-7	24/06/2020	RevenueSA to review their news release in regard to land tax land holding declarations.	RevenueSA	Completed Reviewed and updated	24/06/2020
2020-8	24/6/2020	RevenueSA would review its position on the issue of the status of pre-17 October 2019 land affected by either a subsequent subdivision or amalgamation of the relevant title.	RevenueSA	Pending	31/07/2020
2020-9	24/6/2020	RevenueSA to consider the inclusion of further commentary in the Guide about eligibility for a principal place of residence land tax exemption where life interests are involved.	RevenueSA	Pending	31/07/2020

**ATTACHMENT B – REVENUESA PUBLICATIONS**

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 265 – Stamp Duty – Sale of Retirement Villages
  - 1.7. 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 156 – Access to documents held by solicitors and legal professional privilege – Guidelines