

Information Circular No: 48

Stamp Duties Act 1923

Stamp Duty on Off-the-Plan Apartments

Issued 28 June 2012

Background

As part of the 2012-13 Budget, the Government announced a stamp duty concession for purchases of off-the-plan apartments located within the area of **The Corporation of the City of Adelaide**.

The new concession will replace the Inner City Rebate.

The concession will provide a full stamp duty concession from 31 May 2012 to 30 June 2014 (capped at stamp duty payable on a \$500 000 apartment) and a partial concession from 1 July 2014 to 30 June 2016.

The legislative amendments to implement this measure are contained in the *Statutes Amendment and Repeal (Budget 2012) Bill 2012* (the "Bill") which was introduced into Parliament on 31 May 2012. On 27 June 2012, the Bill was amended to additionally include the following areas within the scope of the concession:

- ▶ any land within the area where the **Bowden Redevelopment** project (**Bowden Village**) is being undertaken; or
- ▶ any land located within the area known as **45 Park, Gilberton**.

The operation of this legislation measure is subject to the Bill coming into force as an Act.

Purchasers who wish to take advantage of this concession prior to the legislation being passed by Parliament should contact RevenueSA in the first instance.

After the legislation is passed, functionality will be available to process the concession by registered RevNet users. Alternatively, for non RevNet users, the transfer and relevant application must be submitted to RevenueSA for assessment.

The parties will need to complete an Application for a Concession on the Purchase of an Off-the-Plan Apartment which will be available from www.revenuesa.sa.gov.au.

Discussion

CONTRACTS ENTERED INTO BETWEEN 31 MAY 2012 AND 30 JUNE 2014

No stamp duty will be payable on the purchase of apartments bought through a qualifying off-the-plan contract entered into between 31 May 2012 to 30 June 2014 (both dates inclusive) where the apartment has a market value of \$500 000 or less.

Where an apartment purchased via a qualifying off-the-plan contract has a market value greater than \$500 000, the purchaser will be entitled to a stamp duty concession of \$21 330.

Example 1

| | |
|------------------------------------|----------|
| Apartment purchased for \$700 000. | |
| Normal duty | \$32 330 |
| Less concession | \$21 330 |
| Duty payable | \$11 000 |

CONTRACTS ENTERED INTO BETWEEN 1 JULY 2014 AND 30 JUNE 2016

A partial stamp duty concession will be available for off-the-plan apartments purchased pursuant to qualifying off-the-plan contracts entered into between 1 July 2014 to 30 June 2016 (both dates inclusive).

Market Value \$500 000 or less

For qualifying off-the-plan contracts with a market value of \$500 000 or less, stamp duty will be payable on the dutiable value as defined. The dutiable value will vary depending on the stage of completion of the residential development.

The deemed unimproved land value of an apartment will be set by the legislation at 35% of the market value of the apartment, with the value of construction to reflect the nature of works already performed.

In these cases the duty will be calculated under the following formula:

$$DV = (MV \times 0.35) + (MV \times 0.65 \times C)$$

Where

DV = The dutiable value

MV = The market value

C = The percentage that represents the stage at which the construction or refurbishment of the multi story residential development in which the relevant apartment is (or is to be) situated has reached at the relevant contract date, expressed as a percentage of completion of the work, those stages being:

| Stage 1 | Stage 2 | Stage 3 | Stage 4 | Stage 5 | Stage 6 |
|---------|---------|---------|---------|---------|---------|
| 0% | 20% | 40% | 60% | 80% | 100% |

Stage 1 is where no work in relation to the building has been commenced.

Stage 2,3,4 and 5 are construction stages determined by the Commissioner of State Taxation (the "Commissioner") from time to time and published in the gazette. The Commissioner will liaise with industry representatives in order to provide appropriate guidance in relation to what those stages of construction are represented by, prior to 1 July 2014.

Stage 6 is where the work has been substantially completed.

Example 2

Apartment purchased for \$450 000.

Construction of the multi-storey apartment is 40% complete.

$$\begin{aligned} DV &= (\$450\,000 \times 0.35) + (\$450\,000 \times 0.65 \times 0.4) \\ &= (\$157\,500) + (\$117\,000) \\ &= \$274\,500 \end{aligned}$$

Stamp duty applicable is \$10 118.75

Market Value Over \$500 000

Where the market value of the apartment exceeds \$500 000, the duty chargeable will be the duty payable under **Schedule 2** at the date of sale, reduced by an amount determined according to the stage at which the construction or refurbishment of the multi-storey residential development in which the relevant apartment is (or is to be) situated has reached at the relevant contract date.

The amounts by which duty will be reduced at each stage are as follows:

| Stage 1 | Stage 2 | Stage 3 | Stage 4 | Stage 5 | Stage 6 |
|----------|----------|---------|---------|---------|---------|
| \$15 500 | \$12 800 | \$9 750 | \$6 500 | \$3 250 | \$0 |

Example 3

Apartment purchased for \$600 000.

Construction of the multi-storey apartment is 20% complete.

| | | |
|---------------------------------|---|----------|
| Stamp duty on \$600 000 | = | \$26 830 |
| less duty reduction for stage 2 | = | \$12 800 |
| Stamp duty payable | = | \$14 030 |

DATE OF SALE

For the purposes of the concession, the legislation deems the date of sale of the property that will apply under **Section 60A** to be the date on which the relevant qualifying off-the-plan contract was entered into.

The market value of an apartment for the purposes of this concession is therefore the consideration set out in the relevant contract, unless the Commissioner is of the view that the consideration is less than the market value of the apartment.

In these cases the Commissioner may seek an independent valuation to determine the market value of the apartment as of the date of the contract.

TWO (2) OR MORE PURCHASERS

Only one application may be made in relation to a qualifying apartment and therefore, in relation to an apartment being purchased by two or more purchasers, any benefit arising under the concession should be shared jointly.

DEFINITIONS

apartment means a self-contained residence that is, or is to be, situated in a multi-storey residential development, but does not include a townhouse;

multi-storey residential development means a building of two or more storeys containing two or more independent residential premises;

qualifying apartment means an apartment that is (or is to be) situated:

- ▶ within the area of **The Corporation of the City of Adelaide**;
- ▶ on any land within the area where the **Bowden Redevelopment** project is being undertaken (**Bowden Village**) and identified by the Treasurer by notice in the Gazette; or
- ▶ on any land located within the area known as **45 Park, Gilberton**, and comprised within Certificate of Title Register Book Volume 5144 Folio 927 or Volume 5144 Folio 955.

qualifying off-the-plan contract means a contract for the purchase of an apartment entered into between 31 May 2012 and 30 June 2016 (both dates inclusive) where, at the time that the contract is entered into, the building in which the apartment is (or is to be) situated:

- (a) is a new building that is yet to be constructed;
- (b) is a new building for which construction has commenced and where the Commissioner is satisfied that the work has not been substantially completed; or
- (c) is an existing building where the Commissioner is satisfied that the building is to be substantially refurbished and that refurbishment:
 - (i) is yet to be commenced; or
 - (ii) has commenced but the Commissioner is satisfied that the work has not been substantially completed;

relevant contract date means the date on which the qualifying off-the-plan contract that is relevant to the application of this section was entered into;

townhouse means a dwelling consisting of two or more storeys where the building (which may be a building joined to another building or buildings) constituting the dwelling occupies a site that is held exclusively with that building.

INNER CITY REBATE

The Inner City Rebate ceases on 31 May 2012. Contracts entered into on or after 31 May 2012 may be eligible for the new stamp duty concession.

Mike Walker
COMMISSIONER OF STATE TAXATION

28 June 2012

Further Information

Further information can be obtained from RevenueSA.

| | |
|-----------|--|
| Location | RevenueSA State Administration Centre 200 Victoria Square East ADELAIDE SA 5000 |
| Postal | Commissioner of State Taxation RevenueSA GPO Box 1353 ADELAIDE SA 5001 |
| Telephone | (08) 8226 3750 |
| Facsimile | (08) 8226 3737 |
| Email | stamps@sa.gov.au |
| Website | www.revenuesa.sa.gov.au |