RevenueSA
DEPARTMENT OF TREASURY AND FINANCE

Information Circular No: 76

Stamp Duties Act 1923

2015-16 State Budget Stamp Duty Measures

Issued 18 June 2015

As part of the 2015-16 State Budget, the Government today announced the following stamp duty measures:

- abolition of duty on non-quoted marketable securities;
- abolition of duty on transfers of non-real property;
- phased abolition of duty on transfers of non-residential, non-primary production real property;
- abolition of duty on transfers of units in unit trusts; and
- removal of the $1 million landholder threshold.

The legislative amendments to implement these measures are contained in the *Statutes Amendment and Repeal (Budget 2015) Bill 2015* (the "Bill"), which was introduced into Parliament today. The operation of these legislative measures are subject to the Bill coming into force as an Act.

Abolition of duty on non-quoted marketable securities

Stamp duty on transfers of non-quoted marketable securities (also known as share duty) will be abolished from 18 June 2015.

For any share transfer entered into pursuant to a share sale agreement dated between 18 June 2015 and the date on which the Bill is assented to by the Governor, the stamp duty will be paid by the Government on behalf of the taxpayer by way of *ex gratia* relief.

Abolition of duty on transfers of non-real property

Stamp duty on transfers of non-real property will be abolished from 18 June 2015.

Non-real property comprises property that is not land and buildings. Examples include:

- plant and equipment that are not fixed to land;
- goodwill;
- intellectual property;
- receivables;
- transfers of statutory leases and licences, such as:
  - fishing licences;
  - taxi licences; and
  - gaming machine licences and entitlements.

Until duty on transfers of non-residential, non-primary production real property is abolished on 1 July 2018, duty will continue to apply to transfers of:

- an estate or interest in land (including land covered by water);
- an estate or interest in any of the following:
  - a mining tenement (although a concessional rate of duty may apply);
  - a pipeline constructed under the authority of a pipeline licence under the *Petroleum and Geothermal Energy Act 2000*; and
  - an interest conferred by a forestry property (vegetation) agreement, within the meaning of the *Forest Property Act 2000*;
- an option to acquire land;
- a right to acquire an estate or interest in land;
- any other right or interest prescribed by the regulations;
- anything fixed to land; and
- goods that have a significant connection with the transferred land (except those goods specifically excluded).

From 1 July 2018, duty will only be payable on the above interests in relation to residential and primary production land.

In the event that a taxpayer enters into a non-real property transaction between 18 June 2015 and the date on which the Bill is assented to by the Governor, the stamp duty will be paid by the Government on behalf of the taxpayer by way of *ex gratia* relief.

Phased abolition of duty on transfers of non-residential, non-primary production real property

Stamp duty on transfers of non-residential, non-primary production real property (non-residential conveyance duty) will be phased out over a three-year period commencing 1 July 2016.

Duty rates will be reduced by one-third from 1 July 2016, a further third from 1 July 2017, before the duty is abolished from 1 July 2018.

Stamp duty on transfers of residential and primary production land will remain unchanged. A stamp duty exemption may be available to certain transfers of residential or primary production land (e.g. when primary production land is used to carry on a business and is transferred between family members).

Land will be taken to be used for residential purposes where the Commissioner, after taking into account information provided by the Valuer-General, determines that:

- it is being predominantly used for that purpose;
- although the land is not being used for any particular purpose at the relevant time the land should be taken to be used for residential purposes due to improvements that are residential in character having been made to the land; or
- that the land is vacant, or vacant with only minor improvements, that the land is within a zone established by a Development Plan under the *Development Act 1993* that envisages the use, or potential use, of the land as residential, and that the land should be taken to be used for residential purposes due to that zoning (subject to the qualification that if the zoning of the land indicates that the land could, in a manner consistent with the Development Plan, be used for some other purpose (other than for primary production) then the vacant land will not be taken to be used for residential purposes).

The Commissioner will generally rely on land use codes to determine whether he considers land to be residential or primary production land.

In some cases the zoning of the land will be relevant where the land is unimproved or there are only minor improvements.

A further exception is in relation to land which although coded as residential by the Valuer-General will nevertheless be considered by the Commissioner to be commercial in nature.

This treatment will be consistent with the Local Government zoning of the land. Examples of land that falls into this category include Hotels, Motels, Serviced Apartments and short term unit accommodation.

If purchasers of land are in any doubt they should contact RevenueSA before stamping the land transfer on RevNet.

Land will be taken to be used for primary production purposes where the Commissioner, after taking into account information provided by the Valuer-General, determines that:

- it is being predominantly used for primary production purposes; or
- although the land is not being used at the relevant time the land should be taken to be used for primary production purposes due to a classification that has been assigned to the land by the Valuer-General.

Anti-avoidance provisions

As the rates of stamp duty on transfers of non-residential real property are phasing out over three years, a robust anti-avoidance provision has been included in the Bill to provide significant deterrence to persons who may attempt to artificially structure transactions in order to take advantage of a lower rate of duty in the future.

Abolition of duty on transfers of units in unit trusts

Stamp duty on the issue, redemption and transfer of units in unit trusts under Section 71 of the *Stamp Duties Act 1923* will be abolished from 1 July 2018.

From 18 June 2015 duty will only be payable where unit trusts hold land.

Removal of the $1 million landholder threshold

The $1 million landholder threshold will be removed from 1 July 2018.

This change coincides with the full abolition of stamp duty on transfers of non-residential, non-primary production real property and will therefore only apply where control of an entity holding South Australian residential and primary production land changes.

Mike Walker
COMMISSIONER OF STATE TAXATION

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Further Information

Further information in relation to any of the above taxation measures can be obtained from RevenueSA.

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