

# Revenue Ruling

*Stamp Duties Act 1923*

SDA008[V3]

## 2015-16 STATE BUDGET AMENDMENTS TO SECTION 60A(1) AND OTHER SECTIONS

### Preamble

As part of the 2015-16 State Budget, the Government today confirmed that retrospective amendments are to be made to Section 60A(1) of the *Stamp Duties Act 1923* (the “Act”), to confirm an interpretation of this section that has been applied by RevenueSA for over 20 years.

The legislative amendments to implement this measure 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.

### Background

Section 60A of the Act, entitled ‘Value of property conveyed or transferred’, outlines how the value of property transferred is to be determined for the purposes of calculating the amount of stamp duty payable.

Sections 60A(1)(a) and 60A(2) of the Act provide that in the case of a conveyance on sale (i.e. a transfer of property for consideration), the value of the property transferred is the greater of the consideration for the sale or the market value of the property as at the ‘date of the sale’.

Section 60A(1)(b) of the Act provides that in any other case the market value of the relevant property is the ‘date of the conveyance’.

RevenueSA has always interpreted the ‘date of the sale’ to mean the date the property in question is conveyed or transferred.

In the context of real property (land), this has meant that the ‘date of the sale’ is the date the Memorandum of Transfer is executed.

Therefore, whether in the case of a conveyance on sale or in any other case, the ‘date of the conveyance’ has been the only date used by RevenueSA when determining the market value of property.

### Ruling

#### Date of sale amendments

To resolve any potential ambiguity regarding the application of Section 60A(1) of the Act, the Bill seeks to retrospectively amend this section (including consequential amendments to Sections 65 and 71DB of the Act), to confirm RevenueSA’s long-standing interpretation of this section.

#### Complementary amendments

The Bill also seeks to make certain complementary amendments.

Section 31 of the Act will be retrospectively amended to make it clear that all instruments that convey or transfer property are chargeable with stamp duty on the greater of the consideration for the property or the market value of the property as at the ‘date of the conveyance’, unless the Act states otherwise.

Given the Act requires stamp duty on the transfer of non-real property (e.g. stock-in-trade) to be paid before the ‘date of the conveyance’ in certain circumstances, the Act will be retrospectively amended to allow for a stamp duty adjustment (either up or down) to be made at the ‘date of the conveyance’, if necessary, to ensure that stamp duty is paid on the appropriate value. This reflects how RevenueSA has always administered these provisions.

Section 31A of the Act will be repealed (including consequential amendments to Section 67(2)(b) of the Act), with the essential elements of this section forming a new exception in Section 31 of the Act.

If the above amendments are passed into law, instruments subsequently found to have been processed via RevNet using alternative interpretations of the relevant sections will be assessed appropriately, with interest and penalty tax only applying to any such instruments processed via RevNet on or after 18 June 2015.

## 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 7373

**Email** [stamps@sa.gov.au](mailto:stamps@sa.gov.au)

**Website** [www.revenuesa.sa.gov.au](http://www.revenuesa.sa.gov.au)

## History

Revenue Ruling SDA008 is effective from 17 December 2013 and was updated on 18 June 2015 to replace:

Document	Issue Date
<u>SDA008[V2]</u>	19 December 2013
<u>SDA008[V1]</u>	17 December 2013

Mike Walker  
COMMISSIONER OF STATE TAXATION

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