
RevenueSA signals retrospective changes to transfer duty

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RevenueSA has released a new Revenue Ruling confirming Cabinet approval to drafting of retrospective amendments targeting property transactions. These amendments will increase the dutiable value of sale contracts and facilitate a program for reassessments which increase duty on previous transactions.

RevenueSA released [Revenue Ruling SDA008](#) in December 2013 which confirmed that the SA Cabinet had approved drafting of retrospective amendments to SA transfer duty provisions to “resolve ambiguity or disagreement”.

The changes provide back dated legislative support for RevenueSA’s practice of assessing transfer duty on a property value as at the transfer instrument date and not on an earlier sale contract date.

RevenueSA appear to be concerned that its assessing practice of “over 20 years” may be contrary to existing High Court authority and open to challenge.

Who will be affected?

If legislated, the changes will impact a range of property transactions. These include developers selling off the plan and buyers of house and land packages. The changes will impact purchasers that make improvements to land after contract date and before settlement or where property values increase between contract date and title transfer date (e.g. because of development approvals and rezoning).

RevenueSA has stated that if the proposed changes are enacted reassessments will be issued for past RevNet self-stamped transfers found not to have been stamped in accordance with RevenueSA’s assessing practice.

It is unclear how far back RevenueSA will pursue taxpayers but there is a formal 5 year review period for over the counter assessments and potentially a more extended timeframe for self-stamped instruments under RevNet.

Will the changes take effect?

It is unclear if the proposed amendments will be enacted as announced. There are no sitting days to pass new laws left before the SA State election in March. Also, it is not known if the elected Government will support the changes. There could be a backlash from home buying voters fearful of being impacted by the retrospective changes.

What should I do?

Parties impacted by the proposed changes should seek advice on go forward opportunities and strategies for mitigating past risks.

Let's Talk

For a deeper discussion of how this issue might affect your business, please contact:

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