

# DISCUSSION PAPER

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## REWRITE OF THE *STAMP DUTIES ACT 1923*

### HAVE YOUR SAY

The vision of RevenueSA is “Working together to deliver contemporary and innovative revenue and grant services for the benefit of South Australia.”

The success of the Rewrite requires consultation and collaboration with key stakeholders so that we can understand what our stakeholders expect from us and provide the opportunity to express their feedback on the current Act.

The main focus of the Rewrite is to achieve:

- ▶ reduced compliance costs for taxpayers
- ▶ facilitate the efficient administration of the legislation
- ▶ introduce an improved structure and a contemporary drafting style that is easy to understand to provide certainty to taxpayers in relation to their duty obligations
- ▶ consolidate and simplify the Act post the abolition of various stamp duties over recent years
- ▶ remove archaic language and Latin references by adopting a plain English drafting style
- ▶ convert “stamp duty” from an instrument-based tax to a transactional- based “duties” tax, similar to other Australian jurisdictions; and
- ▶ take the opportunity to clarify existing complex provisions (without altering the existing underlying policy).

This discussion paper forms a key part of the review. We encourage you to read through the discussion paper and provide feedback. The discussion questions should help guide you and provide some ideas on the kinds of feedback themes we are seeking.

As a first step, please take the time to review the ‘[Items for consideration](#)’ list which outlines feedback that has already been received and issues arisen by industry experts, practitioners, and taxpayers when administering the Act.

If you wish to view the *Stamp Duties Act 1923* and Regulations in full, it can be found here:

- ▶ <https://www.legislation.sa.gov.au/LZ/C/A/STAMP%20DUTIES%20ACT%201923.aspx>
- ▶ <https://www.legislation.sa.gov.au/LZ/C/R/Stamp%20Duties%20Regulations%202013.aspx>

The *Stamp Duties Act 1923* should be read together with the *Taxation Administration Act 1996* which makes provision for the administration and enforcement of the Act and other taxation laws.

A link to the *Taxation Administration Act 1996* can be found here:

- <https://www.legislation.sa.gov.au/LZ/C/A/TAXATION%20ADMINISTRATION%20ACT%201996/CURRENT/1996.80.AUTH.PDF>

Feedback and submissions can be provided to [SDRConsultation@sa.gov.au](mailto:SDRConsultation@sa.gov.au)

Further information can be found on YourSAy: [www.yoursay.sa.gov.au](http://www.yoursay.sa.gov.au)



## Important

*Deadline for submissions and feedback for Round 1 Consultation*

**26 July 2019**

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### STAMP DUTY REWRITE PROJECT

In accordance with our Service Commitment, RevenueSA is seeking your views on the Rewrite of the *Stamp Duties Act 1923* (the “Act”) through an open and transparent consultation process.

The purpose of this Paper is to initiate discussion and elicit feedback about RevenueSA’s plan to rewrite the Act so that we can identify ways of updating the Act and improve the overall effectiveness of the engagement process for all taxpayers in accordance with our service commitment to you.

Importantly, the Rewrite is not an opportunity to alter existing Government policy which underpins the current revenue base arising from stamp duty. In other words, the Rewrite is intended to be revenue neutral, with the aim only to reduce complexity and facilitate improved compliance with the Act.

#### **About RevenueSA**

The services administered by RevenueSA are important to all South Australians. RevenueSA, through the Commissioner of State Taxation, is responsible for the overall management of the:

- collection and enforcement of South Australia’s taxation revenue;
- various grant schemes;
- collection of the fixed property component of the Emergency Services Levy (ESL); and
- government rebate incentive schemes.

Revenue collected (apart from ESL which specifically funds the provision of emergency services), is used by the State Government to fund the provision of essential services including public health and safety, education and law and order for South Australian citizens.

## **Why the Re-write?**

In the 2017/2018 Federal Budget, the Commonwealth Government committed to working with State and Territory governments to reduce the burden of government regulation on small businesses and the broader economy. It established the Small Business Regulatory Reform Agreement (SBRRA) to focus on:

- ▶ regulatory reform that reduces the costs of compliance;
- ▶ delivering programs that align with current policy and administrative practices; and
- ▶ identifying known deficiencies, administration concerns and improvements to the online user experience.

As a result, the Department of Treasury and Finance submitted four reforms to the Commonwealth that met this criteria, including a rewrite of the Act and Regulations.

The appetite for this change has been driven by:

- ▶ small businesses, lawyers, conveyancers and industry associations seeking reform;
- ▶ identifying that some provisions are outdated; and
- ▶ acknowledging expert advice required to interpret the Act, even for a simple property transaction, can lead to a higher end-user cost.

A link to the relevant media release can be found here:

<https://ministers.jobs.gov.au/frydenberg/cutting-red-tape-south-australian-small-businesses>

RevenueSA is committed to deliver the following, as part of this rewrite:

- ▶ consolidating the Act;
- ▶ removing archaic language and Latin references by adopting a plain English drafting style;
- ▶ converting “stamp duty” from an instrument-based tax to a transactional-based “duties” tax, based on adopting the format, structure, flow and transaction-based philosophy of the NSW *Duties Act 1997* (for example consolidating exemptions into one section); and
- ▶ clarifying existing complex provisions.

## **What are the benefits?**

In order to meet the key objectives set by the Commonwealth Treasury and South Australia’s ongoing participation in the SBRRA program, the rewrite of the Act needs to demonstrate that it will deliver the following benefits to South Australians:

- ▶ Improve the ability for taxpayers to clearly understand their stamp duty obligations and require fewer resources on compliance and reduce professional costs.
- ▶ Better align the Act with efficient business practices, endorsed by an industry reference group and taxpayers.
- ▶ Reduce the need for RevenueSA to provide advice.

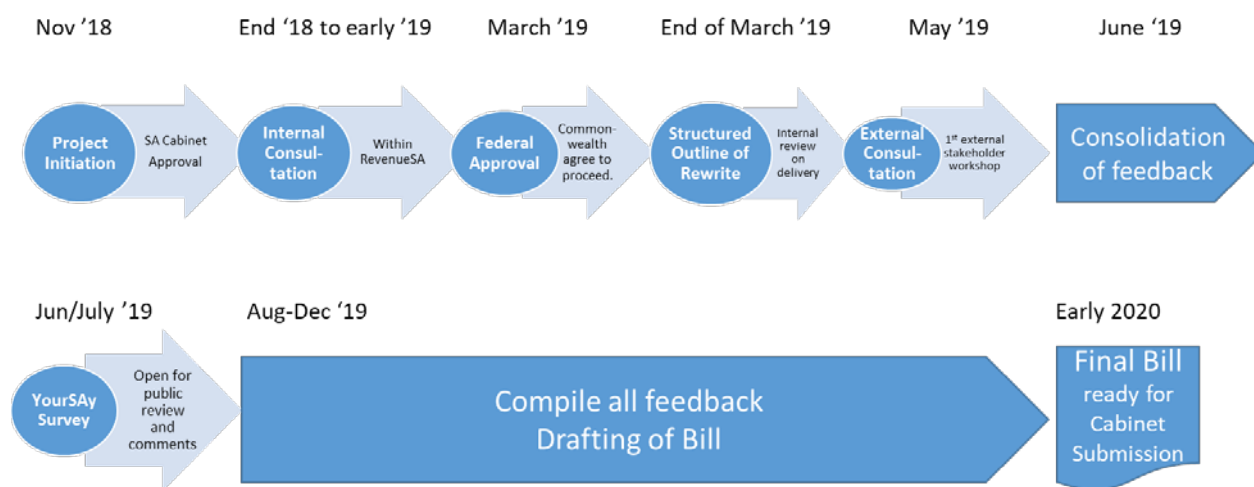
## How do I get involved?

We invite all stakeholders to take this opportunity to provide suggestions so that we can develop a legislative framework that meets community and industry needs and expectations. As a first step, please take the time to review the '[Items for consideration](#)' list.

The purpose of this list is to capture provisions of the Act where feedback has been already received and issues raised by industry experts, practitioners, and taxpayers when complying with the Act. This list aims to support the intention of the rewrite, which is to address current areas of complexity or ambiguity that may be clarified without making changes to the underlying policy.

This table contains items raised for consideration only and for the purpose of further consultation and input into the rewrite of the *Stamp Duties Act 1923*. Each item will be given careful consideration and assessed on its merits in line with the overall intention of the rewrite. Inclusion in the attached list does not guarantee that changes will be incorporated into the rewritten Act.

## What are the next steps?



## **Conclusion**

You can provide input on any matters relating to the rewrite. In the interests of transparency, all submissions will be published online as part of the Review process. However, if you wish for your submission to remain confidential, please make that request and include your reasons in your submission.

It is suggested that your submission not include information that identifies a taxpayer / instrument / transaction.

A link to the current *Stamp Duties Act 1923* and Regulations can be accessed via the following link:

- ▶ <https://www.legislation.sa.gov.au/LZ/C/A/STAMP%20DUTIES%20ACT%201923.aspx>
- ▶ <https://www.legislation.sa.gov.au/LZ/C/R/Stamp%20Duties%20Regulations%202013.aspx>

If you have any questions about the rewrite process, these can be directed to the RevenueSA Stamp Duty Rewrite team at any time at [SDRConsultation@sa.gov.au](mailto:SDRConsultation@sa.gov.au).