



File: T&F19/0232  
A1247944

27 September 2019

Hon. Stephen Mullighan  
Member for Lee  
Level 1, 62 Semaphore Road  
SEMAPHORE SA 5019

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Dear Mr Mullighan

### **Freedom of Information Internal Review — Industry Associations**

I refer to your Freedom of Information application received by the Department of Treasury and Finance on 26 April 2019 and your Internal Review application received on 29 May 2019.

Your applications specifically requested:

*"All DTF advice to the Treasurer in relation to all industry associations - date range 04/06/2018 to 26/04/2019"*

### **Determination under review**

DTF did not make a determination on your initial application or your internal review application within the time period required by the Freedom of Information Act 1991 (the Act). Accordingly, DTF was deemed to have refused access in full to all documents relevant to your application. In accordance with section 19(2a) of the Act, an agency may continue to give access to documents after the period within which it is required to deal with an application.

### **Outcome of internal review**

Under section 29(3) of the Act, on an application for internal review, as principal officer I may, confirm, vary or reverse the determination under review. In doing so, I am required to give fresh consideration to the decision under the Act.

I have determined to **vary** the original deemed refusal.

A total of 35 documents were identified as answering the terms of your application and I have determined as follows:

- I grant you access in full to 19 documents, copies of which are enclosed
- I grant you access in part to 6 documents, copies of which are enclosed, and
- I refuse you access to 11 documents.

Please refer to the attached schedule that describes each document and sets out my determination and reasons in summary form.

## **Documents released in full**

Documents 2a, 2c, 4, 4a, 4b, 4c, 5, 5a, 6-9, 14, 15, 17 and 22-24.

## **Documents released in part**

Documents 2, 3 and 10

Clause 12(1) of Schedule 1 to the FOI Act states that a document is exempt from release if 'it contains matter the disclosure of which would constitute an offence against an Act'. These documents contain sections of information obtained in relation to the administration or enforcement of the *Taxation Administration Act 1996* (the TAA), the release of which would be an offence in accordance with Part 9, Division 3, Clause 80 of the TAA. I have therefore determined to claim exemption in part pursuant to clause 12(1) of Schedule 1 to the FOI Act.

Document 2, 3 and 4d

These documents contain information that detail expert tax advice sought in relation to tax treatment for payment of assistance packages to taxi licence holders. The advice provided, helped to form the government's decision. The Taxi and Chauffer Industry provides an essential service to the community, it employs around 4,200 drivers and generates \$242 million in revenue for the State<sup>1</sup>. The disclosure of this advice could have a substantial adverse effect on the State's economy, given both parties stake in the industry and the introduction of the new regulatory framework.

I acknowledge there is a public interest in the community being able to scrutinise the government's decision making processes. However, I have determined that this is outweighed by the public interest in ensuring that the government is able to best manage the State's economy and that on balance, it would be contrary to the public interest for this information to be released. I have therefore determined to claim exemption in part pursuant to clause 14(a) of Schedule 1 to the FOI Act.

Document 11

Under clause 5 of Schedule 1 to the FOI Act, information is exempt from disclosure if it contains matter the disclosure of which could reasonably be expected to cause damage to intergovernmental relations; or would divulge information from a confidential intergovernmental communication. A section of this document contains information that was discussed during confidential Council of Australian Governments (COAG) meetings. The GST Policy and Administration Subgroup (GPAS) is a sub-committee under COAG and as such there is an expectation that matters discussed during these meetings are treated as sensitive and confidential. COAG meetings rely on the ability of all jurisdictions to communicate freely and frankly. The release of this information could reasonably be expected to cause damage to intergovernmental relations and have an impact on the development and implementation of future Commonwealth-State reforms.

In assessing the public interest, I have considered the need for transparency of government policy and decision making, and enabling public participation in this process.

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<sup>1</sup> South Australian Taxi and chauffeur Vehicle Industry Review (February 2016)

However, I have also considered the public interest in ensuring discussions around sensitive matters between the Commonwealth and the States and Territories, remain confidential and that on balance, it would be contrary to the public interest for this information to be released. I have therefore determined to exempt this information pursuant to clause 5 of Schedule 1 to the FOI Act.

Document 10 and 25

Under clause 10(1) of Schedule 1 to the FOI Act, information is exempt from disclosure if it would be privileged from production on the ground of legal professional privilege. Both documents contain sections of information that detail legal advice which is subject to legal professional privilege. I have therefore determined to remove this section pursuant to clause 10(1).

### **Documents refused in full**

Document 1

This document is a briefing note prepared specifically for use in Parliament, the disclosure of which would infringe the privilege of Parliament. I have therefore determined to exempt the document in full pursuant to clause 17(c) of Schedule 1 to the FOI Act.

Documents 2b, 3a and 18-21

Clause 12(1) of Schedule 1 to the FOI Act states that a document is exempt from release if 'it contains matter the disclosure of which would constitute an offence against an Act'. These documents relate to matter obtained in relation to the administration or enforcement of the *Taxation Administration Act 1996* (the TAA), the release of which would be an offence in accordance with Part 9, Division 3, Clause 80 of the TAA. I have therefore determined to claim exemption in part pursuant to clause 12(1) of Schedule 1 to the FOI Act.

Documents 12, 13 and 16

These documents contain information which, if released, would disclose details concerning a deliberation or decision of Cabinet. I have therefore determined to exempt this information pursuant to clause 1(1)(e).

Document 26

Under clause 10(1) of Schedule 1 to the FOI Act, information is exempt from disclosure if it would be privileged from production on the ground of legal professional privilege. This document contains legal advice provided to the government by its legal advisor, the Crown Solicitor, information which is subject to legal professional privilege. I have therefore determined to exempt this document pursuant to clause 10(1).

### **Exemptions**

#### ***Clause 1 – Cabinet documents***

(1) *A document is an exempt document –*

...

- (e) if it contains matter the disclosure of which would disclose information concerning any deliberation or decision of Cabinet; ...

**Clause 5 – Documents affecting inter-governmental or local governmental relations**

- (1) A document is an exempt document if it contains matter—
- (a) the disclosure of which—
- (i) could reasonably be expected to cause damage to intergovernmental relations; or
- (ii) would divulge information from a confidential intergovernmental communication; and
- (b) the disclosure of which would, on balance, be contrary to the public interest.

**Clause 10 – Legal Professional Privilege**

- (1) A document is an exempt document if it contains matter that would be privileged from production in legal proceedings on the ground of legal professional privilege.

**Clause 12 – Secrecy Provisions**

- (1) A document is an exempt document if it contains matter the disclosure of which would constitute an offence against an Act.

**Clause 80 of TAA — Prohibition of disclosures by other persons**

A person other than a person who is or has been a tax officer must not disclose information that—

- (a) has been obtained (whether properly or improperly and whether directly or indirectly) from another person who is or has been a tax officer; and
- (b) the other person obtained under or in relation to a taxation law,
- unless—
- (c) the disclosure is of a kind that a tax officer would be permitted to make under this Part; or
- (d) if the person is the holder of an office or a body prescribed for the purposes of section 78(d)—the disclosure is made in connection with the performance of functions conferred or imposed on the person under a law of this jurisdiction or another Australian jurisdiction (including for the purposes of legal proceedings connected with the performance of such functions); or
- (e) the disclosure is made with the consent of the Commissioner.

Maximum penalty: \$10 000.

**Clause 14 – Documents affecting the economy of the State**

*A document is an exempt document if it contains matter the disclosure of which -*

*(a) could reasonably be expected -*

*(i) to have a substantial adverse effect on the ability of the Government or agency to manage the economy, or any aspect of the economy, of the State; ... and*

*(b) would, on balance, be contrary to the public interest.*

**Clause 17 – Documents subject to contempt etc**

*A document is an exempt document if it contains matter the public disclosure of which would, but for any immunity of the Crown—*

*...*

*(c) infringe the privilege of Parliament.*

Please note, in compliance with Premier and Cabinet Circular PC045 - *Disclosure Logs for Non-Personal Information Released through Freedom of Information* (PC045), DTF is now required to publish a log of all non-personal information released under the *Freedom of Information Act 1991*.

In accordance with this Circular, any non-personal information determined for release as part of this application, may be published on the DTF website. A copy of PC045 can be found at the following address: <http://dpc.sa.gov.au/what-we-do/services-for-government/premier-and-cabinet-circulars> Please visit the website for further information.

**External review**

If you remain dissatisfied with this determination, you have the right to apply to the Ombudsman for external review under section 39 of the FOI Act. You have 30 days from the date on which you receive this letter to apply for an external review. If you have any questions about an application to the Ombudsman, please contact the office on (08) 8226 8699.

Yours sincerely



David Reynolds  
PRINCIPAL OFFICER

The Hon Tom Koutsantonis MP  
Member for West Torrens



**Government  
of South Australia**

TRS17D0619

Mr Kon Fourtounis  
Chief Executive Officer  
Taxi Council SA  
71 Richmond Road  
MILE END SA 5031

Treasurer  
Minister for Finance  
Minister for State  
Development  
Minister for Mineral  
Resources and Energy  
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State Administration Centre  
200 Victoria Square  
Adelaide SA 5000  
GPO Box 2264  
Adelaide SA 5001  
DX 56203 Victoria Square  
Tel 08 8226 1866  
Fax 08 8226 1896  
minister.koutsantonis@sa.gov.au

Dear Mr Fourtounis

Thank you for your email dated 31 August 2017.

In response to your request, I have asked the Department of Treasury and Finance to seek a class ruling with the Australian Taxation Office.

The ruling will address the taxation treatment of payments made to Taxi Industry participants by the South Australian State Government to help offset any impacts of the new regulatory framework of the industry.

The Department of Treasury and Finance has commenced the process of seeking a ruling which is expected to take up to six months.

Please contact Mr Kym Della-Torre (Director, Fiscal Strategy and Commercial Advisory) on 08 8226 9575 if you have any questions in relation to this matter.

Yours sincerely

  
**Hon Tom Koutsantonis MP**  
Treasurer

22 December 2017

cc Hon Stephen Mullighan MP, Minister for Transport and Infrastructure



T&F19/0232 - Stephen Mullighan MP - " All DTF advice to the Treasurer in relation to all industry associations. [Date Range: 4/06/2018 to 26/04/2019] "

Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause
1	21/11/2018	Parliamentary Briefing Note	3	Refused in full	17(c) - Disclosure would infringe the privilege of Parliament
2	24/07/2018	Minute - Class Ruling Relating to the South Australian Taxi Industry Assistance Package	3	Released in part	12(1) - Disclosure would constitute an offence against an Act 14(a)(i) - Adverse effect on management of the economy or aspect of the economy of the State & contrary to public interest
2a	22/12/2017	Letter (attachment 1 to document 2)	1	Released in full	
2b		Class Ruling (attachment 2 to document 2)	13	Refused in full	12(1) - Disclosure would constitute an offence against an Act
2c		Fact Sheet for Western Australian <i>Taxi Transition Assistance Package Payments - tax implications</i>	2	Released in full	
3	11/12/2018	Minute - Government Payments to Taxi Licence and Lease Holders - Meeting with Taxi Council on 12 December 2018.	3	Released in part	10(1) - Subject to legal professional privilege 12(1) - Disclosure would constitute an offence against an Act 14(a)(i) - Adverse effect on management of the economy or aspect of the economy of the State & contrary to public interest

Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause
3a	9/04/2018	Class Ruling Application (attachment to document 3)	24	Refused in full	12(1) - Disclosure would constitute an offence against an Act
4	24/10/2018	Minute - South Australian Taxi Industry Package	2	Released in full	
4a	27/04/2017	Letter (attachment 1 to document 4)	2	Released in full	
4b	19/06/2017	Minute - RE: Taxi Industry Assistance Package	1	Released in full	
4c	11/08/2017	Minute - RE: Taxi Industry Assistance Package	1	Released in full	
4d	20/07/2017	Letter - Taxi and Chauffeur industry assistance packages: tax consequences	6	Released in part	14(a)(i) - Adverse effect on management of the economy or aspect of the economy of the State & contrary to public interest
5	11/12/2018	Minute - Government Payment to Taxi and Lease Holders - Response to Taxi Council SA Letter Dated 9 november 2018	2	Released in full	
5a	12/12/2018	Letter	1	Released in full	
6	4/06/2018	Minute - Meeting with Institue of Internal Auditors	3	Released in full	
7	7/11/2018	Minute - Correspondence From Master Builders South Australia	4	Released in full	
8	16/07/2018	Briefing - Meeting with Business SA - Payroll Tax	3	Released in full	
9	6/06/2018	Minute - Real Estate Institute of South Australia	5	Released in full	
10	25/09/2018	Minute - Meeting with Warren Barrinton - SA Bookmakers League	3	Released in part	12(1) - Disclosure would constitute an offence against an Act
11	27/06/2018	Minute - Ministerial Correspondence - GST on Accredited Exercise Physiologists	2	Released in part	5(1)(a)(i) - Damage to intergovernmental relations & contrary to public interest

Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause
12	18/04/2018 (should read 2019)	Minute - 2019-20 Budget - Racing Industry Funding Options for Cabinet	7	Refused in full	1(1)(e) - Contains information concerning deliberation or decision of Cabinet or Cabinet committee
13	11/04/2019	Minute - Briefing for Meeting with Responsible Wagering Australia (RWA)	6	Refused in full	1(1)(e) - Contains information concerning deliberation or decision of Cabinet or Cabinet committee
14	10/01/2019	Minute - Premier's Meeting ith Thoroughbred Racing SA	1	Released in full	
15	13/12/2018	Minute - Meeting with Racing SA	2	Released in full	
16	12/11/2018	Minute - SA Racing Requests for Government Funding	8	Refused in full	1(1)(e) - Contains information concerning deliberation or decision of Cabinet or Cabinet committee
17	10/12/2018	Minute - Ministerial Correspondence - Coalition of Major Professional and Participation Sports	3	Released in full	
18	11/04/2019	Minute - Payroll Tax Relief	4	Refused in full	12(1) - Disclosure would constitute an offence against an Act
19	18/04/2018	Minute - Payroll Tax (attachment to document 18)	3	Refused in full	12(1) - Disclosure would constitute an offence against an Act
20	27/09/2018	Minute - Payroll Tax - Ex Gratia relief (attachment to document 18)	4	Refused in full	12(1) - Disclosure would constitute an offence against an Act
21	8/08/2018	Minute - Payroll Tax - (attachment to document 18)	3	Refused in full	12(1) - Disclosure would constitute an offence against an Act

<b>Doc. No.</b>	<b>Date</b>	<b>Description of Document</b>	<b># of pages</b>	<b>Determination Recommendation</b>	<b>Exemption Clause</b>
22	6/03/2019	Minute - Chartered Accountants Meeting	6	Released in full	
23	26/11/2018	Minute - Coorong Water Security Advisory Group	1	Released in full	
24	17/02/2019	Minute - Ministerial Correspondence - Carers SA Pre-Budget Submission 2019-2020	2	Released in full	
25	27/03/2019	Minute - Master Code for Heavy Vehicles - Procurement Implications	2	Released in part	10(1) - Subject to legal professional privilege
26	6/03/2019	Crown Advice (attachment to document 25)	22	Refused in full	10(1) - Subject to legal professional privilege

## Western Australian *Taxi Transition Assistance Package*

### What are your tax obligations if you receive these payments?

This fact sheet explains the tax implications for Perth metropolitan taxi plate owners who received a Transition Assistance Package payment from the Western Australian State Government.

The Transition Assistance Package includes:

- Adjustment Assistance (to adjust to a new, more competitive environment), and
- Hardship Fund (to provide financial support for those that have suffered financial hardship).

### Does income tax apply?

Yes. The payments are assessable income because they are paid to assist taxi plate owners to adjust to changes in the taxi industry and to provide financial support. They were not made as part of a buy-back arrangement or for the cancellation of a taxi licence.<sup>1</sup>

You can claim a tax deduction for costs incurred for seeking legal or professional tax advice in relation to the taxation of the payment.

### Does goods and services tax apply?

No. To be subject to goods and services tax (GST) you have to supply or do something in return for the payment. As you only have to meet eligibility criteria, the amount you receive is not subject to GST.

### At which label do I show the income in my tax return?

For payments to individuals the payment should be included in the same label that you have previously used to declare your income from holding your taxi licence (for example, Item 15 *Net income or loss from business* or Item 24 *Label Y Other Income* on your tax return).

For payments to companies the payment should be

included in *Label 6 Q Assessable government industry payments*.

### Further explanation

A full explanation as to why these payments are considered to form part of your assessable income can be found in Taxation Ruling [TR 2006/3](#) *Income tax: government payments to industry to assist entities (including individuals) to continue, commence or cease business*.

Where a Government payment is made to an industry to assist businesses within that industry to continue operating, the payment is assessable income of the recipient.

On this basis:

- the Adjustment Assistant payment is ordinary income and not capital: the payment does not require plate owners to give up or sell their taxi plate or otherwise bring their business to an end.
- the Hardship Fund payment is in the nature of income substitution and for this reason is also ordinary income.

Where, however, a licence holder has permanently and completely exited the taxi industry, or has evidence that they have undertaken a process to permanently and completely exit the taxi industry, at the time of receiving the Adjustment Assistance or Hardship Fund payment, the payment may be included in the calculation of the capital gain or capital loss that is made by that holder on the surrender, sale or disposal of the taxi licence(s) of that holder.

### More information?

Taxation Ruling [TR 2006/3](#) *Income tax: government payments to industry to assist entities (including individuals) to continue, commence or cease business*

Class Ruling [CR 2017/15](#) *Income tax: assessability of payments from the Victorian Taxi Reform Hardship Fund*

Goods and Services Tax Ruling [GSTR 2012/2](#) *Goods and services tax: financial assistance payments*

If you are experiencing difficulties or hardship in meeting your tax debts, refer to [Help with paying](#) for assistance.

For a callback from an ATO officer, email [TaxAdvice@ato.gov.au](mailto:TaxAdvice@ato.gov.au)

If you wish to discuss your circumstances, call the ATO on 13 28 66.

<sup>1</sup> At the time of assembly of this factsheet (March 2018), the ATO is aware that the WA Government is proposing a voluntary buy-back scheme for metropolitan taxi licences. This scheme, however, will not impact the tax outcomes that arise in relation to the Adjustment Assistance and Hardship Fund payments described above even though the amount of the payment(s) may be taken into account in determining the buy-back consideration.

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**Our commitment to you**

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations. If you feel that this publication does not fully cover your circumstances, or you are unsure how it applies to you, you can seek further assistance from us.

This publication was current at 24 April 2018.

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**Australian Government**

**Australian Taxation Office**

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## MINUTE



## MINUTES forming ENCLOSURE

File A947182  
Doc No T&F17/0224

To The Treasurer

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## SOUTH AUSTRALIAN TAXI INDUSTRY ASSISTANCE PACKAGE

Timing: ROUTINE — For information only

**Recommendations/Issues:** It is recommended that you:

- Note the response to your questions relating to the taxi industry assistance package. This is in relation to Taxi Council SA' correspondence dated 3 August 2018 inquiring about the tax treatment of the payments (please refer to Appendix 4).

Noted

Hon Rob Lucas MLC  
Treasurer

/ /

**Key Points:**

- A response to your questions raised in the email dated 10 September 2018 is provided below.

## 1) When were the taxi assistance payments made?

The payments were made during the 2018 tax year, with the first payment made in July 2017 and the last payment made in June 2018.

## 2) Please provide a copy of decision taken by the Government and advice to the taxi industry at time.

The former Minister for Transport and Infrastructure advised the Taxi Council SA in a letter dated 27 April 2017 that it was his intention to request that the Treasurer classifies these payments as ex-gratia payments. This request was sent to the former Treasurer on 19 June 2017.

The former Treasurer responded on 11 August 2017 advising that Treasury and Finance sought an expert opinion from Ernst and Young (EY). EY has advised that declaring payments to the taxi licence holders as ex-gratia payments is unlikely to change the tax treatment already considered by the Australian Taxation Office (ie. payments subject to income tax). In addition, the Department of Planning, Transport and Infrastructure's proposed regulation establishing a fund and setting out the basis for making the payments means that the payments could not be considered ex-gratia payments under Treasurer's Instructions 14.

The former Treasurer also advised the Taxi Council SA that Treasury and Finance applied for a class ruling to confirm the tax treatment of the payments.

The above correspondence is included in Appendix 1.

It is also understood that there was further communication between the former Treasurer and the Taxi Council SA in relation to this matter. We do not, however, have any further details.

- 3) Is it correct that if paid as ex gratia payments then there is no tax payable?

Yes, if it was genuine ex-gratia payment. However, as advised by EY and per requirements of Treasurer's Instructions, it was not possible to classify these payments as ex-gratia payments.

- 4) Before decision taken, did the former Minister for Transport and Infrastructure request the former Treasurer to make payments as ex gratia?

Per the above, the former Minister for Transport and Infrastructure had requested the former Treasurer to make payments as ex-gratia on 19 June 2017. However, the former Treasurer advised that it was not possible in his response dated 11 August 2017.

- 5) Please provide a copy of the EY advice and a copy of the tax ruling application.

Please refer to Appendices 2 and 3.

Kevin Cantley  
EXECUTIVE DIRECTOR, PUBLIC FINANCE

24 October 2018

Contact Officer:	Kym Della-Torre
Telephone:	08 8226 9575
Email address:	kym.della-torre@sa.gov.au



Government  
of South Australia

The Hon Stephen Mullighan MP

17MTS/0273

Mr Jim Trilantafyllou  
General Manager  
Taxi Council of South Australia  
71 Richmond Road  
MILE END SOUTH SA 5031

Dear Mr *Jim* Trilantafyllou

I refer to our meeting of 24 April 2017, and your email dated 27 April 2017. I wish to provide the following information as confirmation of our discussion.

#### Levy commencement

As you are aware, the South Australian Government is introducing a \$1 Point to Point Transport Service Transaction Levy (the levy), as part of the taxi and chauffeur vehicle regulatory reforms.

Collection of the levy will commence on 1 May 2017. This means that from 12.01am Monday, 1 May 2017, an extra \$1 will need to be added through the taxi-meter for all journeys completed that commenced in the Adelaide metropolitan area. The levy must be added separate to the fare so as not to attract GST; this was communicated (along with other information regarding levy implementation) to all taxi-meter manufacturers, installers and industry stakeholders via email on 9 March and 31 March 2017.

As discussed, you are aware of the levy requirements and you have advised me that the industry and centralised booking services are prepared for the implementation and collection of the levy on 1 May 2017.

#### Levy collection

Regarding billing arrangements, the Department of Planning, Transport and Infrastructure (DPTI) will manage the collection of the levy through invoicing at the end of each assessment period. The initial assessment period will be 1 May 2017 to 30 June 2017. After this, each assessment period will occur quarterly aligning with financial years.

Each relevant provider is required to provide DPTI with the total number of point to point journeys completed within 14 days at the conclusion of each assessment period. This data will be used to determine the invoice amount, so it must also include evidence to justify instances where the levy could not be collected. The enclosed return form details what information must be returned to DPTI, as well as additional records that must be kept by the relevant provider. This form will be available electronically for submission via email.

Minister for Transport and Infrastructure  
Minister for Housing and Urban Development

12th Floor, 100 Victoria Road, Adelaide SA 5000 (12th Floor) Box 1234 Adelaide SA 5000  
Tel: 08 8234 1234 Fax: 08 8234 5678 Email: [info@transport.sa.gov.au](mailto:info@transport.sa.gov.au)



DPTI will prepare and send an invoice to each relevant provider, which must be paid within 60 days (for the first assessment period), and within 30 days for each subsequent assessment period. The payment methods are detailed on the invoice (EFT preferred), and follow standard government invoicing guidelines.

Penalties apply for non-lodgement of returns and non-payment of the levy. However, I appreciate that there may be minor issues to be considered in the first assessment period, and we will collaborate to resolve any such issues. DPTI would appreciate information on any minor issues as they arise.

#### **Industry Assistance Payments**

Applications for the \$30,000 industry assistance payments will be open from 20 May 2017, with detailed information to be provided to eligible taxi licence holders in the near future. Taxi licence lessees who held their lease agreement as at 12 April 2016, will also be eligible for assistance of \$50/week for up to 11 months. All payments will be one lump sum, and it is my intention to request that the Treasurer classify these as ex-gratia payments. Please note, however, that this may or may not influence the determination of the Australian Taxation Office with regard to the impact on taxable income, which operates under Federal law.

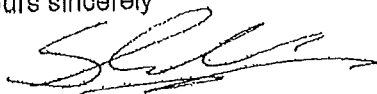
As discussed, the State Government has a strong desire to provide industry assistance payments as a matter of priority. As you are aware, these payments are reliant on the successful implementation of the levy from 1 May 2017, as such, we will seek assurances and evidence from relevant providers that the levy collection has been successfully implemented and is able to be passed on to government. I look forward to your advice and demonstration that the levy has been implemented, and evidence from your systems that the levy is being collected to facilitate prompt payment of the industry assistance packages.

#### **Compliance**

The DPTI compliance strategy will continue to focus on ensuring and improving the safety of passenger transport and general road users as a priority, but will also include enforcement of passenger transport legislative requirements.

As discussed, DPTI representatives will be in further contact with you regarding the communication to Access Taxi drivers, and the lifting fee.

Yours sincerely



**HON STEPHEN MULLIGHAN MP**  
**MINISTER FOR TRANSPORT AND INFRASTRUCTURE**

27 April 2017

Eno

MINUTE

DATE	21/6/17
FILE NO.	2017/03818/01
PHYSICAL NO.	885500824

Government  
of South Australia

The Hon Stephen Mullighan MP

MINUTES forming ENCLOSURE

2017/03818/01

To: THE TREASURER

**RE: TAXI INDUSTRY ASSISTANCE PACKAGE**

On 12 April 2016, the South Australian Government announced a range of reforms to the taxi and chauffeur vehicle industry, including Industry Assistance Payments to taxi licence holders and lessees in recognition that the existing industry will face increased competition from other point-to-point services.

The industry assistance payments consist of a \$30,000 payment for eligible licence holders and \$50 per week for the remainder of their lease up to a maximum of 11 months for eligible lease holders. This industry assistance package follows the independent review and reforms to the Taxi and Chauffeured Industry in South Australia and serves to offset impacts of the new regulatory framework on taxi owners and lessees.

On 22 May 2017 the Government announced that applications for the Taxi Industry Assistance Package may be lodged by eligible taxi licence holders or lessees as at 12 April 2016.

The Australian Taxation Office has advised that the assistance provided to industry will be classified as assessable income. I am advised that this is due to the payments assisting licence holders to adjust to changes in the taxi industry and are not a buy-back arrangement or for the cancellation of a taxi licence.

To further assist the industry during the current reform, I request that the industry assistance package payments be considered as ex-gratia payments, as this assistance is provided to industry from the South Australian Government as a goodwill payment and in line with the Treasurer's Instruction 14.

**HON STEPHEN MULLIGHAN MP**  
MINISTER FOR TRANSPORT AND INFRASTRUCTURE

19 June 2017

Minister for Transport and Infrastructure  
Minister for Housing and Urban Development





**Government  
of South Australia**

Office of the  
Treasurer  
Minister for Finance  
Minister for State  
Development  
Minister for Mineral  
Resources and Energy  
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Adelaide SA 5001  
DX 56203 Victoria Square  
Tel 08 8226 1866  
Fax 08 8226 1896  
minister.koutsantonis@sa.gov.au

MINUTES *forming* ENCLOSURE to:

Physical ID: TRS17D0824

**TO: HON STEPHEN MULLIGHAN MP  
MINISTER FOR TRANSPORT AND INFRASTRUCTURE**

**RE: TAXI INDUSTRY ASSISTANCE PACKAGE**

I am writing in response to the minute requesting that the taxi industry assistance package payments be considered as ex gratia payments.

The Department of Treasury and Finance sought an expert opinion from Ernst and Young (EY). EY has advised that declaring payments to the taxi licence holders as ex gratia payments is unlikely to change the tax treatment already considered by the Australian Taxation Office (ie the payments would most likely be taxable in the year they are received).

In addition, the Department of Planning, Transport and Infrastructure's proposed regulation establishing a fund and setting out the basis for making the payments means that the payments could not be considered ex gratia under Treasurer's Instructions 14.

There is a possibility to argue that the \$30,000 payment relates to a loss in value of the taxi licence itself. This would not eliminate the tax liability, but would defer until the taxi licence is disposed.

The Taxi Council may wish to seek a class ruling from the Australian Taxation Office to seek confirmation of the tax treatment. This tax position would require specific action to demonstrate the loss in value. This includes public pronouncements as to what the payment is for, communication to the licence holders to that effect as well as obtaining an expert opinion on the loss in value of taxi licences as a result of regulatory changes.

  
**Hon Tom Koutsantonis MP**  
Treasurer

// August 2017



MINUTE

Government  
of South AustraliaDepartment of Treasury  
and Finance

MINUTES forming ENCLOSURE

File T&amp;F17/0224

Doc No A968633

To The Treasurer

# GOVERNMENT PAYMENT TO TAXI LICENCE AND LEASE HOLDERS - RESPONSE TO TAXI COUNCIL SA LETTER DATED 9 NOVEMBER 2018

Timing: ROUTINE — For information only

**Recommendations/Issues:** It is recommended that you:

- review and sign the attached letter to Taxi Council SA relating to the tax treatment of the taxi assistance package payments; and
- note that a further briefing for a meeting with the Taxi Council SA on 12 December 2018 is provided under separate cover (A977171).

Noted

Hon Rob Lucas MLC  
Treasurer

12/12/18

**Key Points:**

- As per your request (TRS18D2291), Treasury and Finance has prepared for your consideration, a draft letter to the Taxi Council SA advising the following:
  - Treasury and Finance sought expert tax advice and confirmed that declaring payments to the taxi licence holders as ex-gratia payments is unlikely to change the tax treatment already considered by the Australian Taxation Office (i.e. payments will be subject to income tax);
  - the Australian Taxation Office has already made class rulings on payments of this nature and confirmed them to be taxable on receipt. All taxi assistance payments made in other states were considered taxable by the Australian Taxation Office; and

- taxi assistance package payments were not considered compensation by the Australian Taxation Office or the tax expert Treasury and Finance engaged to confirm the tax treatment.
- This letter is in response to a letter sent to you by the Taxi Council SA on 9 November 2018.

Electronically approved by

Heather Watts  
A/EXECUTIVE DIRECTOR, ACCOUNTING SERVICES

11 December 2018

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The Hon Rob Lucas MLC



**Government  
of South Australia**

TRS18D2291

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Mr Steve Savas  
President  
Taxi Council South Australia Inc  
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*Steve*  
Dear Mr Savas

Thank you for your letter dated 9 November 2018 about Government payments to taxi licence and lease holders. I apologise for the delay in responding.

In 2017, the Department of Treasury and Finance (DTF) sought external expert tax advice on the assistance package scheme. The advice concluded that "it does not appear likely that the taxi industry assistance payments will be considered exempt income". This was later confirmed by the Australian Taxation Office (ATO), through the ATO Fact Sheet issued in October 2018.

Based on the external expert tax advice, DTF considered that declaring payments to the taxi licence holders as ex-gratia payments would be unlikely to change the tax treatment already considered by the ATO (i.e. payments subject to income tax).

The ATO has already made class rulings and issued tax fact sheets on payments of this nature and there is precedent in other States. No tax free treatment has been allowed in any of the other States offering these types of assistance payments. This includes payments made in New South Wales, Queensland, Western Australia and Victoria.

Please contact Kym Della-Torre (Director, Advisory and Professional Development) on 08 8226 9575 if you have any questions in relation to this matter.

Yours sincerely

**Hon Rob Lucas MLC**  
Treasurer

12 December 2018

## MINUTE



MINUTES forming ENCLOSURE

File T&amp;F17/0222

Doc No A856215

To The Treasurer

## MEETING WITH INSTITUTE OF INTERNAL AUDITORS

Timing: URGENT — For meeting on 6/06/2018

**Recommendations/Issues:** It is recommended that you:

- note the information in this brief for your meeting with Peter Jones, Chief Executive Officer, The Institute of Internal Auditors Australia.

Noted

Hon Rob Lucas MLC  
Treasurer

/ /

**Key Points:**

- On 6 June at 10 am, you are meeting with Peter Jones, Chief Executive Officer, Institute of Internal Auditors (Australia) to discuss issues around the use of internal audit, governance structures and departments following the appropriate internal audit standards. The Institute of Internal Auditors (IIA) is an international body representing internal auditors.
- It is likely that Mr Jones will advocate for:
  - internal auditors within the South Australian Government to be members of the IIA; and
  - a more formalised role for internal auditors in the Government's financial frameworks.
- Mr Jones was quoted in the Australian Financial Review on May 28th 2018 as criticising the lack of authority of internal auditors, stating that many internal audit reports were "diluted, suppressed and ignored." Mr Jones highlighted the example of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, where internal audit reports were currently being used to highlight

issues that were never followed through by senior management. Mr Jones stated that he wanted more internal auditors to be members of his professional body to ensure they abided by global standards around the role and said he expected the Royal Commission to eventually issue recommendations that strengthen the role of internal auditors at banks.

- Below is a snapshot of risk and audit frameworks across New South Wales (NSW), Victoria and South Australia.

#### NSW

- In 2013 the NSW Treasury commenced a reform program known as Financial Management Transformation, aimed at improving financial governance across the NSW public sector.
- The NSW Government has implemented the TPP 15-03 - Internal Audit and Risk Management Policy for the NSW Public Sector. This policy was prepared to assist agencies fulfil their legislative obligations under section 11 of the *Public Finance and Audit Act 1983 (NSW)*, which requires that departments and statutory bodies establish and maintain an effective internal audit function. Specifically, the Policy:
  - articulates clear principles and specific core requirements.
  - clarifies roles and responsibilities across risk management and internal audit
  - recognises the diversity of the NSW public sector providing flexibility for agencies to implement and manage their affairs, and
  - streamlines attestation requirements.
- IIA assisted in the development of this NSW policy.
- The NSW policy supports effective and efficient management by promoting the use of best practice standards and frameworks and tailoring those frameworks for agencies to implement, further develop and manage.
  - The core requirements concerning risk management have been largely modelled on Australian/New Zealand Standard (AS/NZS) ISO 31000: 2009 Risk management – Principles and guidelines.
  - The core requirements relating to an agency's internal audit function have been modelled on the IIA International Standards for the Professional Practice of Internal Auditing.

#### Victoria

- In Victoria, the Minister for Finance has issued Standing Directions under section 8 of the *Financial Management Act 1994* that specify public sector agency responsibilities to achieve a high standard of public financial management and accountability.
- One of the Standing Directions relates to establishing and maintaining an effective financial governance framework with appropriate oversight and assurance from an audit committee and internal audit (sourced internally or externally).
- The internal audit function must:
  - be independent of management;
  - have suitably experienced and qualified internal auditors;
  - have access to sufficient information, to enable it to perform its function; and
  - is subject to a protocol to manage conflicts of interest for internal auditors.

### *South Australia*

- Section 41 of the *Public Finance and Audit Act 1987* (the PFA Act) provides the Treasurer with the power to make instructions regulating matters related to the receipt, expenditure or investment of public money, the acquisition or disposal of property, or the incurring of liabilities, by the Treasurer and public authorities.
- Treasurer's Instruction 2 (TI2) provides instructions to the chief executive of a public authority on their overarching financial management responsibilities, including in relation to:
  - Documentation;
  - Risk management;
  - Resource management;
  - Income management;
  - Expenditure management; and
  - Asset and liability maintenance.
- Under TI 2.6, a Chief Executive is required to establish and maintain effective policies, procedures and systems for the identification, assessment, monitoring, management and annual review of financial and tax risks. The Risk Management Policy Statement issued by the Premier and the Treasurer in November 2009 and the Australian/New Zealand Standard AS/NZS ISO 31000:2009 Risk Management Principles and Guidelines provide guidance in establishing an appropriate financial and tax risk management regime.
- No additional guidance is provided to public authorities on the establishment of policies, to enable sufficient discretion when establishing a governance regime that is suitable for its business. For example, a governance regime for SA Water would look vastly different than a governance regime for the Dog Fence Board.
- In late 2017, the Department of Premier and Cabinet drafted the South Australian Public Sector Risk Management Framework designed to establish an effective and holistic approach to risk management across the South Australian Public Sector. This draft framework would mandate that broader drivers of risk, other than purely financial and tax, be considered by such a function, namely performance, people and culture. Each agency would be required to have, in place of an Audit and Risk Committee, a Risk and Performance Committee as a source of advice to the Chief Executive.



Kevin Cantley  
EXECUTIVE DIRECTOR, PUBLIC FINANCE

4 June 2018

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**MINUTES forming ENCLOSURE**

File T&amp;F18/0349

Doc No A956944

To The Treasurer

(Ref: TRS18D2030)

**CORRESPONDENCE FROM MASTER BUILDERS SOUTH AUSTRALIA**

Timing: ROUTINE — For information only

**Recommendations/Issues:** It is recommended that you:

1. Consider and sign the attached draft reply to correspondence from Mr Ian Markos, Chief Executive Officer of Master Builders South Australia.
2. Discuss with the Premier the potential for a future inquiry by the South Australian Productivity Commission into the cost of building regulations.

Approved / Not Approved

Hon Rob Lucas MLC  
Treasurer

/ /

**BACKGROUND**

On 15 October 2018 the Chief Executive Officer of Master Builders South Australia (MBSA) wrote to you expressing concern around declining building approvals for private sector houses.

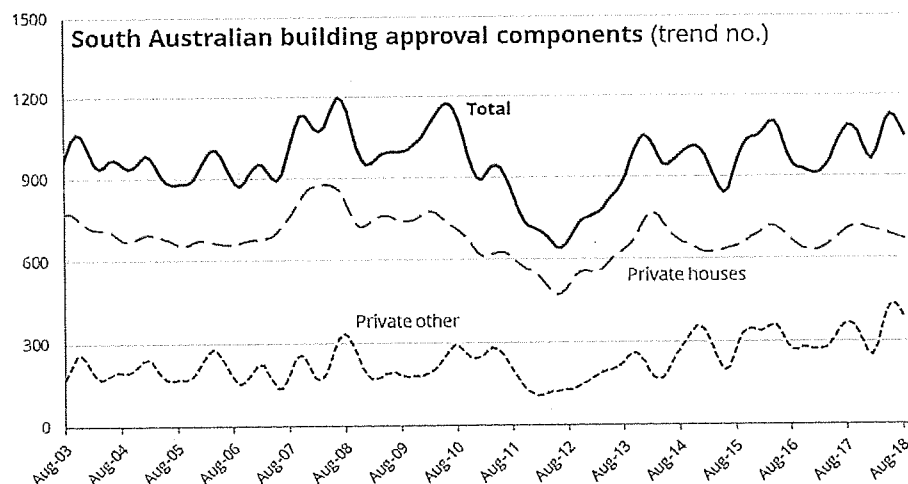
MBSA also made representations about the economic impact of the residential construction industry, population growth and interstate migration, housing affordability and labour market conditions.

**Current level of building activity in South Australia**

MBSA points to South Australia's 10 consecutive months of declining building approvals for private sector houses as an area of concern.

Building approvals for private detached houses in South Australia have been falling over the past year, with the trend figure in September (651) being 6.9% below the 10 year average – but total private dwelling approvals (including semi-detached, town houses,

units and apartments) were 9.0% above the 10 year average. These 'other' dwelling types are gradually increasing as a share of total approvals, in South Australia and nationally.



Deloitte Access Economics commented in its recent Business Outlook (23 October) that in South Australia *"housing construction is rising at a time when it's falling elsewhere"*.

### **MBSA's proposals**

MBSA presents a *"five point plan to rejuvenate housing and help get more first homebuyers into the market"*. Advice on these proposals has been developed in consultation with DPTI.

#### **Proposal 1: Stamp duty exemption for first homebuyers (on new builds)**

Your government has articulated clear priorities in relation to tax reform, within the context of sustainable and prudent management of the State Budget.

Stamp duty on property transfers is perceived by the community to be a negative influence on housing affordability. However, if stamp duty on first homebuyer purchases were to be reduced or even abolished, there is a significant probability that there would not be a material impact on affordability because property prices would be bid higher. Any benefit is likely to be captured by developers and vendors, rather than flowing through to first homebuyers.

To the extent that stamp duty imposes costs on homebuyers, the impact of this is already lower on new builds than on established houses, because in the case of a new build, it is only the land that attracts stamp duty (not the construction costs).

While the proposed stamp duty relief may incentivise some first home purchasers to switch their preference from an established property to a new build, the extent of this impact is unclear, supported by the view that the markets for established and new homes are relatively distinct. To the extent that there is a switching impact, the overall level of first home purchasing activity would remain unchanged.

It is also expected that any stamp duty relief would benefit those who would have purchased a new property anyway. Also, it is likely that any additional new first home purchases in the short term would reflect a pull forward of purchase activity from future years (on the assumption that any relief scheme would be time limited).

It is estimated that a full stamp duty exemption for first home property purchases up to the Adelaide median property value, with a concessional phase out rate of duty (e.g. over a

\$100,000 band), would cost in the order of \$40 million per annum and represent a substantial erosion to the State's budget capacity particularly in the context of current fiscal pressures.

Stamp duty is typically considered an inefficient tax which impedes the best use of our housing stock, and has a disproportionate impact on people wishing to move (for example, due to employment reasons or changes in their life circumstances). Nevertheless, stamp duty on property transfers is a progressive tax (rates of duty are higher for more highly valued properties) and any replacement revenue stream would need to be carefully structured so as not to produce inequitable outcomes.

First homebuyers in South Australia who purchase a newly constructed home are currently eligible for a grant of up to \$15,000. Prior to 2012, a grant of up to \$7000 was available to all first homebuyers (of both new and established dwelling). If any further assistance to first homebuyers was considered to be warranted, it would be preferable to do so by reviewing the grant criteria or grant size, rather than via a stamp duty concession.

### **Proposal 2: Removing the requirement to have a rainwater tank**

In South Australia, new houses (and some extensions) are required to have additional water supply to supplement mains water. This requirement was introduced in 2006 as a sustainability measure, during a period where prolonged drought was posing a real threat to Adelaide's urban water supply. The requirement is contained in a South Australian addition to the *Building Code of Australia*. In addition, some local council Development Plans also include a requirement to have an additional water supply.

Most commonly the requirement is met by installing a rainwater tank. DPTI has advised that the cost of supplying and installing a 1000 litre minimum size rainwater tank is in the order of \$2,000 (with additional cost of pre-plumbing by the builder, in the order of \$500).

Removal of the requirement for a tank could save the installation cost, as well as ongoing costs associated with rainwater tanks, such as tank cleaning and maintenance, maintenance and eventual replacement of the pump and auto change device, or replacement of filters (which are necessary if rainwater is to be used for drinking). If the requirement for pre-plumbing was retained, this would make it easier for homebuyers to install a tank at some later stage, if they wish to do so, without incurring significantly higher costs for internal plumbing to be reworked.

Removing the state-level supplementary water requirement would only be effective if local councils also followed suit in removing similar requirements from their Development Plans.

### **Proposal 3: A South Australian Productivity Commission investigation**

MBSA has proposed an inquiry into building costs by the South Australian Productivity Commission, including taxes. The scope of any Productivity Commission inquiry should be limited to regulatory costs, not extended to taxes. An inquiry would provide an opportunity for a rigorous evaluation of the benefits and costs of a range of building regulations, including the requirement for rainwater tanks (which is a requirement specific to South Australia).

### **Proposal 4: First homeowner grant for the regions**

Various data sources indicate that housing in regional areas is significantly more affordable than in capital cities, in South Australia as well as nationally. While many regional areas struggle to attract and retain population, in particular younger people, this issue is not likely to be resolved by a regional-specific housing initiative if there are not sufficient job opportunities in regions to attract young people.

The impact of such a measure would be questionable, and as indicated above, any benefit would likely be captured by vendors and developers rather than first homebuyers.

**Proposal 5: Planning reforms to promote economic growth, not threaten housing affordability**

The primary purpose of the planning system is to allocate land use in a way that promotes development outcomes that align to community expectations. There are many factors that affect housing affordability, including income levels, lending rates, the supply of housing, and a range of federal and state policy settings around tax and incentives.

There have been various reforms to South Australia's planning system in recent years. The Australian Productivity Commission noted in 2011 that planning systems across Australia suffer from increasing 'objective overload' – including unresolved competing objectives – where rolling reforms are not fully implemented or evaluated before being replaced with further reforms.<sup>1</sup>



David Reynolds  
CHIEF EXECUTIVE

71/11/2018

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<sup>1</sup> Productivity Commission (2011), *Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments*, Research Report, Canberra (p. xxii)

## BRIEFING



Government  
of South Australia  
Department of Treasury  
and Finance

## MEETING WITH BUSINESS SA – PAYROLL TAX

File T&amp;F16/0659

Doc No A881833

Existing payroll tax arrangements

- Payroll tax is currently levied at the rate of 4.95 per cent on taxable wages above an annual tax-free threshold of \$600,000.
- In addition, the former government introduced an ex-gratia relief scheme which reduces the payroll tax rate for businesses with taxable payrolls up to \$1.5 million from 1 July 2017. Employers with taxable payrolls up to \$1.0 million pay an effective rate of 2.5 per cent instead of the legislated 4.95 per cent. The payroll tax rate payable then incrementally increases to the general rate of 4.95 per cent for businesses with Australian payrolls above \$1.5 million.

Proposed changes – Exempting small businesses from payroll tax

- Consistent the election commitment to scrap payroll tax for small business, those businesses with national payrolls below \$1.5 million will be exempted from payroll tax from 1 January 2019.
- In addition to exempting business with annual taxable wages below \$1.5 million from payroll tax, the return to standard payroll tax rates is phased in for businesses with annual taxable payrolls between \$1.5 million and \$1.7 million.
- It is estimated that around 3,200 businesses with payrolls under \$1.5 million will be fully exempt from payroll tax, with a further 400 businesses with payrolls between \$1.5 million and \$1.7 million receiving a reduction in their payroll tax liability.
- In total, around 39% of existing payroll tax payers will be exempted or receive a lower rate of payroll tax as a result of this change.
- The small business tax rate of 2.5% for business with taxable wages up to \$1 million per annum and progressively increasing to 4.95% for businesses with taxable wages above \$1.5 million will continue to be applied administratively until 31 December 2019.
- Revenue SA will issue appropriate guidelines and instructions for businesses.

Issues raised by Business SA

- As part of the introduction of the proposed legislation, RevenueSA undertook consultation with their State Taxes Liaison Group, which includes Business SA.
- Business SA (see Attachment A) raised a number of policy related issues as part of the consultation process, including concerns about high effective marginal tax rates for businesses which have taxable wages around \$1.5 million and the start date being half way through a financial year.



cost of increasing the tax-free threshold to \$1.5 million for comparison. The table provides a full year cost in 2019-20 - this impact would continue in future years (indexed).

Tax-free threshold		Tax rate phase in		Budget impact 2019-20 \$m	Businesses paying less no.
		From	To		
Current	\$600,000	\$1,500,000	\$1,700,000	0.0	0
	\$600,000	\$1,500,000	\$2,000,000	-9.9	800
	\$600,000	\$1,500,000	\$3,000,000	-37.6	1,600
	\$600,000	\$1,500,000	\$5,000,000	-81.3	2,700
	\$1,500,000	n.a.	n.a.	-94.1	5,900

### Start date

- Consistent with the election commitment these changes will commence from 1 January 2019.
- Assuming the current ex-gratia arrangements were continued if the start date was delayed, the estimated budget benefit from the start until 1 July 2019 months is \$17.7m (5/12 impact), while the cost of bringing forward 6 months to 1 July 2018 is \$21.2m.

### Interstate comparison

- A comparison of interstate payroll tax rates and thresholds is shown in the table below:

	SA (current)	SA (1 Jan 2019)	NSW <sup>(a)</sup>	VIC	VIC (Regional)	QLD <sup>(b)</sup>	WA <sup>(c)</sup>	TAS	NT <sup>(d)</sup>	ACT
Basic Rate	4.95%	4.95%	5.45%	4.85%	3.65% (current) 2.425% (1 July 2018)	4.75%	5.50%	6.10%	5.50%	6.85%
Small business rate	2.50% (\$600k to \$1.0m)	0.00%	n.a.	n.a.	n.a.	n.a.	n.a.	n.a. (current) 4.00% (\$1.25m to \$2.0m) (1 July 2018)	n.a.	n.a.
Tax-free Threshold (\$)	600,000	600,000	750,000 (current) 850,000 (1 July 2018)	625,000 (current) 650,000 (1 July 2018)	625,000 (current) 650,000 (1 July 2018)	1,100,000	850,000	1,250,000	1,500,000	2,000,000
Rate phase in			n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
-From	1,000,000	1,500,000								
-To	1,500,000	1,700,000								
Deduction phase out	n.a.	n.a.	n.a.	n.a.	n.a.			n.a.		n.a.
-From						1,100,000	850,000		1,500,000	
-To						5,500,000	7,500,000		7,500,000	

(a) NSW is progressively increasing their tax-free threshold: \$850,000 in 2018-19; \$900,000 in 2019-20; \$950,000 in 2020-21; \$1,000,000 in 2021-22.

(b) For payrolls \$1.1m to \$5.5m, deduction of \$1.1m reducing by \$1 for every \$4 payroll exceeds \$1m. No deduction for payrolls over \$5.5m.

(c) For payrolls \$850,000 to \$7.5m, deduction of \$850,000 reducing by \$17 for every \$133 that the payroll exceeds \$850,000. No deduction for payrolls over \$7.5m.

(d) For payrolls \$1.5m to \$7.5m, deduction of \$1.5m reducing by \$1 for every \$4 payroll exceeds \$1.5m. No deduction for payrolls over \$7.5m.

### Other payroll tax issues previously raised by Business SA

- Business SA have suggested a range of payroll tax reform options as part of their Charter 2018 –Taxation Focus Paper. The estimated impacts of the payroll tax reform options contained in the paper are outlined below.

be given to more tightly defining eligible contracts of training or other compliance measures.

PhD STEM graduates payroll tax exemption

- The estimated cost of exempting the wages of STEM PhD graduates from payroll tax from July 2019 is outlined in the table below. The costing assumes the exemption is available for the first year of employment after graduation only.

**Payroll tax exemption for STEM PhD graduate from July 2019**

	2017-18	2018-19	2019-20	2020-21	2021-22
	\$m	\$m	\$m	\$m	\$m
NOB	—	—	-0.5	-0.5	-0.6
NL	—	—	-0.5	-0.5	-0.6
Net Debt	—	—	-0.5	-1.0	-1.6

- The costing has been based on Australian Department of Education and Training Award course completion data (scaled for South Australia) and a broad estimate of average wages for eligible graduates.

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## MINUTE



Government  
of South Australia  
Department of Treasury  
and Finance

## MINUTES forming ENCLOSURE

File T&amp;F16/0660

Doc No A871969

To The Treasurer

## REAL ESTATE INSTITUTE OF SOUTH AUSTRALIA

Timing: ROUTINE — For meeting on 8/06/2018

**Recommendations/Issues:** It is recommended that you:

- note that Mr Greg Troughton, Chief Executive Officer, Real Estate Institute of South Australia (REISA) has written to you, enclosing a copy of REISA's 2018 Election Submission;
- note that Mr Troughton has requested a meeting with you to discuss REISA's 2018 Election Submission and it is understood that this meeting is scheduled for 8 June 2018;
- note that REISA's 2018 Election Submission contains a number of proposals relating to state taxation, training of real estate practitioners and the South Australian Civil and Administrative Tribunal (SACAT); and
- note the following summary on the proposals outlined in REISA's 2018 Election Submission.

Noted

Hon Rob Lucas MLC  
Treasurer

/ /

Proposal 1 - No increase in property taxes and removal of Foreign Owner Surcharge

- The Government has not announced any increases to property taxes.
- As part of the 2018 Election, the Government committed to providing relief from specific property taxes. This includes:
  - ESL - the reinstatement of \$90 million of fixed property remissions on ESL bills from 2018-19. This measure is estimated to benefit around 650,000 properties across the

State, and will result in a saving of around \$165 in 2018-19 for a median valued metropolitan residential house.

- Land tax - the Government announced changes to land tax from 2020-21. This includes increasing the tax free-threshold to \$450,000 as well as the introduction of a new 2.9% marginal tax rate for land tax ownerships between the current top tax threshold and \$5 million. It is estimated that this measure will benefit over 50,000 ownerships (including around 8,000 that will no longer have a liability).
- Payroll tax - from 1 January 2019, businesses with national taxable wages of up to \$1.5 million will be exempt from payroll tax. In addition, business with payrolls between \$1.5 million and \$1.7 million will receive a reduction in their payroll tax liabilities. It is estimated that around 3,200 businesses will become exempt from payroll tax, with a further 400 businesses benefiting from a lower rate of payroll tax. This measure is expected to cost around \$45 million per annum indexed (\$18 million in 2018-19 due to 1 January 2019 commencement date). The draft bill for these changes is currently being considered by industry and stakeholders as part of a confidential consultation process.
- The Foreign Owner Surcharge was introduced by the previous Government at a rate of 7% on the purchase of residential property by foreign buyers and temporary residents from 1 January 2018. New South Wales, Victoria, Queensland and Western Australia have introduced/announced similar surcharges. The current budget for the Foreign Owner Surcharge is below.

Current Budget Profile

	2017-18	2018-19	2019-20	2020-21	2021-22
	\$m	\$m	\$m	\$m	\$m
2017-18 MYBR - 7% surcharge	10.9	23.3	24.8	26.4	28.2

- Your office is currently considering the approval of an ex-gratia scheme, which would exclude significant residential developers/projects from being liable for the surcharge. The proposed scheme excludes developments of more than 20 lots or developments that make a significant contribution to a regional area.

Proposal 2 - First home buyers: stamp duty concession (new and established) up to metropolitan median property value

- The First Home Owner Grant (FHOG) Scheme currently provides a \$15,000 grant for first home buyers who build or purchase a new home up to the value of \$575,000.
- The FHOG has been targeted at new homes only to encourage increases in housing stock and therefore help maintain housing affordability. This policy is consistent for FHOGs across other jurisdictions, although other States also provide stamp concessions for first home buyers that are available to both new and existing properties.
- There were around 2,500 recipients of the FHOG in South Australia in 2016-17 with a total cost of around \$36 million.
- Based on FHOG data prior to the retargeting of the scheme to new homes only, around 35% of first home purchasers bought new property and around 65% purchased established properties. As such, the majority of stamp duty relief under this proposal would benefit purchasers of existing properties and have a significant cost.
- It is estimated that the introduction of a stamp duty exemption for all first homebuyers up to the median property value, with the level of relief phasing out over a \$100,000 band

above the median property value (i.e. \$470,000 to \$570,000), would cost over \$100 million per annum.

- To the extent that the stamp duty relief incentivises additional activity for existing properties, this could put upwards pressure on prices and limit any improvement in affordability for first homebuyers (particularly for lower valued properties in the value range normally purchased by first home buyers). Numerous reviews, including the Grattan Institute's recently released *Housing Affordability: Re-imagining the Australian Dream* report have questioned the benefit of all forms of first homebuyer concessions.

### Proposal 3 - Abolish land tax aggregation, indexation of thresholds to minimise bracket creep and exemption of pensioners

- Land tax is generally considered to be one of the most efficient taxes levied by state governments. Inefficiency in taxes arises from economic behaviour changing as a result of a tax. To some extent, land tax will be built into the price of land, which limits the impact on investment and business activity which makes use of land.
- A progressive land tax scale reflects the concept that those with greater capacity to pay should contribute more in taxes. Land tax aggregation is applied to ensure taxes apply to those with similar financial circumstances in the same way.
- Land tax is applied on the basis of the total land holdings of the person or business that owns land, rather than each individual property. Aggregating land holdings ensures that land holders are treated equitably where they have total land holdings of equal value. For example, a landowner with one property valued at \$800,000 would pay the same amount of land tax as a landholder who owns two properties valued at \$400,000 each.
- Abolishing aggregation would cost around \$130 million per annum indexed.
- Since 2011-12, land tax thresholds have been increased in line with average increases in site values as determined each year by the Valuer-General. This indexation policy helps to minimise the impact of 'bracket creep' experienced by taxpayers and ensures land tax revenue growth is more in line with land value growth.
- Land is considered to be one of the most efficient and sustainable tax bases on which to raise revenue due to its broad base and immovable nature. For greatest efficiency, it is desirable to have few or no exemptions with no tax-free threshold.
- Land tax is a known cost of holding land and in principle is no different to the costs associated with holding other types of investments or income producing assets. If a pensioner/part pensioner is able to acquire investment land from which income is or can be generated, this is indicative of a degree of financial capacity when considering that they would have benefitted from a tax-free threshold of \$353,000 in 2017-18.
- If it is assumed that a pensioner held a property in 2017-18 with a site value equal to the tax-free threshold and the site value represented 50% of the underlying capital value (land and improvements), the property would be valued at around \$700,000. This would indicate that a pensioner could hold and generate income from property valued at 50% higher than the metropolitan residential median value of around \$470,000 and still not have a land tax liability.
- It is considered that individuals who can hold this value of investments has the capacity to pay some land tax.

#### Proposal 4 - Stamp duty exemption for residential property 'right sizing' purchases by seniors

- The previous Government provided an \$8,500 Seniors Housing Grant (SHG) for people over 60 years of age on the purchase of a new 'right-size' principal place of residence. The grant was available for eligible new homes valued up to \$400,000, and phased out for eligible homes valued up to \$450,000. The grant could only be claimed once per household and was available for eligible new home contracts that were entered into between 1 July 2014 and 30 June 2016.
- SHG payments are still being made to eligible recipients in 2017-18, reflecting settlement/completion dates of new properties. To date, around 780 grants have been paid with a cost of \$6.4 million.
- The introduction of a stamp duty concession scheme targeted at the same cohort of individuals for the purchase or construction of new homes with a full exemption up to \$400,000, phasing out to \$450,000 and the same 2 year eligibility timeframe would likely have a similar cost and number of beneficiaries.
- The relatively low uptake of the former SHG is likely due to it being limited to new properties only. Extending the concession to existing properties would significantly increase the cost and could also have potential inflationary impacts on property prices, limiting the benefits from the concession.

#### Proposal 5 – Mandatory ongoing training for real estate practitioners

- Consumer and Business Services (CBS) has advised that New South Wales is the only jurisdiction requiring mandated continuing professional development.
- However, New South Wales has lower entry requirements for registration as a real estate agent. In South Australia, there are significant training and qualifications required to meet registration requirements. CBS is of the view that the higher entry standards are sufficient and mandatory professional development should not be a regulatory requirement.
- There is a significant review of real estate training across Australia due to commence shortly. Any consideration of mandatory professional development should be considered as part of that review.

#### Proposal 6 – SACAT recovery of application fees and abolition of Housing SA bond guarantees

- SACAT hears disputes between landlords and tenants where there is disagreement on residential tenancy bond returns. This includes where landlords make claims against the bond for unpaid rent or damage and the tenant disagrees, or the tenant cannot be located (silent tenant).
- SACAT charges an application fee to hear matters (currently \$71.50). As SACAT is intended to be a low cost jurisdiction, all parties bear their own costs – i.e. costs are not recoverable by the "winner".
- For residential bonds that are covered by a Housing SA guarantee, where there is a dispute, Housing SA is notified and SACAT includes Housing SA as third party in the resolution of matters referred to it.
- Housing SA chooses whether to be involved in the dispute resolution, depending on the individual circumstances of the dispute. The bond funds are owned by Housing SA and are used to help people access affordable private sector rental options.

- SACAT has advised that the involvement of a third party in the dispute resolution process can delay the process and can result in a more complex process as agreement for all parties is sought.
- Consumer and Business Services has been working with the industry to make improvements to the process for bond disputes (prior to their referral to SACAT). This includes introduction of an on line process to streamline the bond refund process.



Tammie Pribanic  
EXECUTIVE DIRECTOR  
BUDGET, ANALYSIS AND PERFORMANCE

6 June 2018

Contact Officer:	Greg Raymond
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## MINUTE



Government  
of South Australia

Department of Treasury  
and Finance

MINUTES forming ENCLOSURE

File T&F16/0663

Doc No A992334

To The Treasurer

**PREMIER'S MEETING WITH THOROUGHBRED RACING SA**

Timing: ROUTINE — For meeting on 11 January 2019

**Recommendations/Issues:** It is recommended that you:

- note that the Premier is meeting with Thoroughbred Racing SA on Friday 11 January 2019 to discuss the impact of the betting operations tax on the racing industry and reimbursement of the industry's losses;
- note that you previously met with Racing SA on 17 December 2018 to discuss this matter. The Premier's Office has requested a copy of the briefing notes of this meeting as background information; and
- sign the attached minute to the Premier.

Noted

Hon Rob Lucas MLC  
Treasurer

10 / 11 / 19

Tammie Pribanic  
EXECUTIVE DIRECTOR  
BUDGET AND PERFORMANCE

10 January 2019

Contact Officer:	Greg Raymond
Telephone:	8429 3193

## MINUTE



Government  
of South Australia  
Department of Treasury  
and Finance

## MINUTES forming ENCLOSURE

Doc No A981356

To The Treasurer

## MEETING WITH RACING SA

Timing: ROUTINE — For your meeting on 17/12/2018

**Recommendations/Issues:** It is recommended that you:

- Note the attached information for your meeting with Racing SA on 17 December 2018.

Noted

Hon Rob Lucas MLC  
Treasurer

/ /

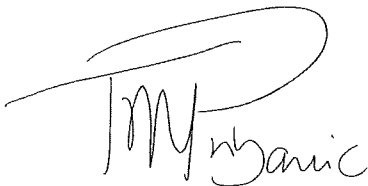
**Key Points:**

- It is understood that you are meeting with Ms Frances Nelson QC, Chair of Racing SA on 17 December 2018.
- Correspondence received from Racing SA indicates that it is seeking to discuss the impact of the betting operations tax (BOT) on the racing industry and to seek additional ongoing government funding. In particular, it is seeking:
  - All revenue received from the BOT on racing to be provided to the racing industry.
  - A reduction in the rate of the BOT.
  - Additional funding of \$1 million per annum relating to revenue received by the Government as part of exclusivity arrangements with UBet SA.
- These are not new requests and DTF's advice on these items was provided following the receipt of earlier correspondence (TRS12D2192). A copy of this advice is attached.

- Racing SA has advised that if it does not receive additional funding, it will need to cut expenditure, including on infrastructure, maintenance and prize money across the state.
- For background information, the table below shows the total revenue generated by Thoroughbred Racing SA (the largest of three codes) over the last five years (as published in their annual reports). It shows that including government grants, total revenue has grown by an average of 10.4 per cent per annum over that period. If Government grants are excluded, total revenue has grown by an average of 7.4 per cent per annum over that period.

Thoroughbred Racing SA	2013-14	2014-15	2015-16	2016-17	2017-18
TAB Product Fees	27,697,491	28,089,605	27,359,360	28,708,998	30,202,289
Wagering Tax Relief	5,559,222	5,534,112	5,366,273	5,225,939	3,125,883
Net Betting Operations	10,273,412	16,352,710	19,417,699	22,945,127	21,473,906
Interest	357,236	434,631	429,200	363,631	321,727
SA Government Grants					
- prize money				3,000,000	3,000,000
- compensation for BOT impact					4,054,344
Other	2,223,192	2,333,195	2,374,420	2,887,860	6,314,701
<b>TOTAL Revenue</b>	<b>46,110,553</b>	<b>52,744,253</b>	<b>54,946,952</b>	<b>63,131,555</b>	<b>68,492,850</b>
		14.4%	4.2%	14.9%	8.5%
<b>TOTAL excluding govt grants</b>	<b>46,110,553</b>	<b>52,744,253</b>	<b>54,946,952</b>	<b>60,131,555</b>	<b>61,438,506</b>
		14.4%	4.2%	9.4%	2.2%

Source: Thoroughbred Racing SA annual reports



Tammie Pribanic  
EXECUTIVE DIRECTOR  
BUDGET AND PERFORMANCE

13 December 2018

Contact Officer:	Greg Raymond
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MINUTE



Government  
of South Australia  
Department of Treasury  
and Finance

MINUTES forming ENCLOSURE

File T&amp;F16/0663

Doc No TRS18D1877

To The Treasurer

# MINISTERIAL CORRESPONDENCE - COALITION OF MAJOR PROFESSIONAL AND PARTICIPATION SPORTS

Timing: ROUTINE

## Recommendations/Issues: It is recommended that you:

- note Mr Malcolm Speed, Executive Director of the Coalition of Major Professional and Participation Sports (COMPPS) has written to you regarding concerns over the betting operations tax and its potential impact on future product fee revenue earned by the sporting industry;
- note that Mr Speed has also encouraged South Australia to amend its legislation to require a betting operator to enter into an integrity and product fee agreement with the relevant sports controlling body in order to offer a wager on the sport; and
- sign the attached draft letter to Mr Speed (Attached).

Noted

Hon Rob Lucas MLC  
Treasurer

12/12/18

## Background:

- Mr Malcolm Speed wrote to you on 28 September 2018 on behalf of COMPPS to express concern about the point of consumption wagering tax (known as the betting operations tax (BOT)).
- The Coalition of Major Professional & Participation Sports Inc. (COMPPS) consists of the seven major professional sports organisations in Australia:
  - Australian Football League;
  - Cricket Australia;

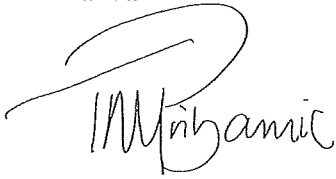


- o Football Federation Australia;
  - o National Rugby League;
  - o Netball Australia;
  - o Rugby Australia, and
  - o Tennis Australia.
- The role of COMPPS is to provide a collective response on behalf of its member sports where their interests are aligned.
- Sports betting accounts for around a quarter of total wagering expenditure in Australia, with Racing (thoroughbred, harness and greyhound racing) accounting for the remaining expenditure.
- While it accounts for a lower proportion of expenditure, sports betting has experienced significant growth in recent years. According to the Australian Gambling Statistics, \$1.1 billion was lost by gamblers on sports betting in Australia in 2016-17, a 15.3 per cent increase compared to 2015-16.

#### **Discussion:**

- COMPPS argue that the introduction of the BOT will limit their ability to increase revenue they generate through product fees received from betting operators. They have sought a 'fair distribution' of revenue generated through the tax to the industry and the introduction of a no worse off guarantee. They have stated that similar arrangements were introduced for the racing industry.
- COMPPS have also requested that the Government implement legislative changes to require wagering providers to enter into integrity and product fee arrangements with the relevant sports controlling body before betting can be undertaken on a sporting event.
- The introduction of the BOT does not directly impact on the ability of sporting bodies to negotiate product fees from wagering providers. Gambling can cause harm to some people and taxing wagering through the BOT provides a contribution to these costs incurred by government.
- The South Australian Government already provides significant funding to sporting bodies, including through the Office of Recreation and Sports grants. Treasury and Finance does not consider that there is a need to directly hypothecate revenue from the BOT to sports or their controlling bodies.
- The 'no worse off' arrangements referred to with the racing industry in the correspondence relate to a change in revenue the racing industry previously received from UBet SA. There was not a similar impact on sporting bodies.
- In relation to the introduction of integrity and product fee agreements in legislation, this issue was considered as part of the *Review of Australia's Sports Integrity Arrangements* undertaken by the Hon James Wood AO QC for the Federal Government. The final report of this review was released on 1 August 2018.

- Treasury and Finance has been advised that South Australia is participating in discussions with the Commonwealth and other states on the next steps following the release of the report. It is considered that this is the appropriate forum to hold those discussions and consider the implications of any proposed changes at this time.



Tammie Pribanic  
EXECUTIVE DIRECTOR  
BUDGET AND PERFORMANCE

10 December 2018

Contact Officer:	Greg Raymond
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**Attached**

Draft response to Mr Malcolm Speed

## MINUTE



Government  
of South Australia  
Department of Treasury  
and Finance

## MINUTES forming ENCLOSURE

File T&amp;F16/0659

Doc No A1062282

To The Treasurer

## CHARTED ACCOUNTANTS MEETING

Timing: ROUTINE — For meeting on 7/03/2019

**Recommendations/Issues:** It is recommended that you:

- Note the attached briefing points on items to be discussed at a Chartered Accountants (CA) event you are scheduled to attend on 7 March 2019.

Noted

Hon Rob Lucas MLC  
Treasurer

/ /

**Key Points:**

- A draft briefing note outlining the potential discussion points that will be raised with you at the event has been provided by CA.
- Information on the items that will may be raised are provided below.

**Discussion topic – Budget strategy**

*Question: could you talk us through what this means [the GST write down] in terms of how you plan to deliver on the savings and revenue measures announced in the 2018-19 State Budget in September last year?*

*What corrective action do you propose to take if these estimates are confirmed in the 2019 Federal Budget in April?*

Response:

- The Commonwealth Grants Commission (CGC) has released its 2019 Relativity update which estimates that SA will get \$6,946 million in GST funding next year, compared with the estimate of \$7,275 million included in SA's Mid-Year Budget Review. This is an estimated reduction of \$329 million in 2019-20.
- These Relativity updates are issued every year and the CGC has amended our relativity factor from 1.477 to 1.465 which, together with a smaller total GST pool contained in the Commonwealth Mid-Year Economic and Fiscal Outlook has led to the significant reduction in GST funding to SA.
- The estimated cut in GST funding for 2018-19 is much smaller at about \$72 million reflecting changes in the estimated size of the national GST pool.
- The final GST impacts will not be known until the Commonwealth Government releases its budget in April this year.
- The State Government remains committed to delivering a surplus budget.
- There is no question that the forecast significant cut in GST funding next year will make the task of budget repair even more challenging.
- It is imperative that all departments deliver on the important savings task which were outlined in last year's budget.
- The Government is considering its future strategy as part of the Budget process which is currently underway.

**Discussion topic – State taxes**

**2.0 State taxes**

***Payroll tax***

*Question: Many people would like to see payroll tax eliminated completely, but it is a significant revenue item in the State budget. How can revenue streams from payroll tax be replaced?*

Response:

- As noted in the introduction, the Government has introduced significant payroll tax relief since coming to office. As a result of these changes, it is estimated that around 35% (3200) of previous payroll tax payers will no longer be required to pay payroll tax.
- Although the Government would have liked to have provided payroll tax relief to all businesses, there is a limit to the level of relief that could be provided given the budget situation.
- Payroll tax is the largest individual source of state tax revenue, raising over \$1.2 billion per annum.
- While the Government will continue to assess options for further reforms, any changes need to be undertaken in a fiscally responsible manner to ensure that we can continue the essential services provided by the Government such as health, education, law enforcement, public transport and infrastructure.

- When payroll tax was considered as part of Australia's Future Taxation System Review led by Ken Henry it was suggested that payroll taxes across Australia should be replaced by a cash-flow tax. This would be a significant reform that would need to be considered at the national level. It would also have a range of incidence impacts on businesses.

## **2.1 Payroll tax harmonisation**

*Question: Could greater harmonisation be achieved by consolidating how information is obtained from business registration and annual compliance activities? Are there other areas of payroll tax that could benefit from harmonisation?*

### Response:

- Along with other jurisdictions, South Australia implemented legislative changes towards payroll tax harmonisation in 2007.
- Payroll tax harmonisation is a standing item for consideration on the Tax Law Committee which is a national consultation group. This includes a rulings sub-committee tasked with ensuring that harmonised rulings stay harmonised.
- Recently, the NSW Government conducted a Review of Payroll Tax Administration, the outcome of which was released in November 2018. In the Review, NSW proposed that some of the recommendations could be harmonised across jurisdictions. This included items such as contractor provisions, standardisation of lodgement forms and consideration of annual lodgement deadlines.
- This will be subject to further consideration by the Board of Treasurers in 2019. South Australia is chairing and providing the secretariat function for the Board in 2019. This presents an opportunity to consider possible further payroll tax harmonisation measures in the future.

## **2.2 National Business Simplification Initiative**

*Question: Are we likely to see the NBSI's Business Registration Service applied in South Australia to assist businesses by consolidating registration points?*

### Background:

- The National Business Simplification Initiative (NBSI) is a Commonwealth agreement between the Australian, state and territory governments that focusses on helping businesses grow by cutting red tape and improving services.
- Part of this initiative included simplifying business registration through the online Business Registration Service, where a business can apply for key business and tax registrations in one place. This has also been linked to the Service NSW initiative, reducing the number of places NSW businesses need to register.

### Response:

- I am advised that SA's [business.sa.gov.au](http://business.sa.gov.au) site links South Australians looking to start a new business to the Commonwealth's Business Registration Service, to register for an ABN, business name, tax registrations etc.
- The South Australian Government is currently exploring opportunities to further integrate and consolidate South Australian business-related registration processes.

*Question: Has or will the SA Government talk to the Federal government about extending single touch payroll to gather payroll tax data?*

Background:

- Single touch payroll (STP) was designed by the Australian Taxation Office (ATO) to be used with an employer's payroll or accounting software so that each time an employer runs their payroll, the software sends their employees' tax and superannuation information to the ATO.
- STP reporting began from 1 July 2018 for businesses with 20 or more employees, and is therefore still in its early stages. It is intended that businesses with 19 or less employees will start reporting through STP from 1 July 2019.

Response:

- I understand that revenue offices across jurisdictions have been in discussions with the ATO in relation to potential opportunities to align with STP. This has the potential to improve accuracy of data used by the States and further reduce the compliance burden on firms by pre-populating forms.
- I am informed that there are a number of barriers which currently limit the ability of STP in its current form to be used for payroll tax purposes that will need to be worked through.
- As STP was designed by the ATO to collect salary and superannuation data for its own purposes, the data collected is not currently suitable for payroll tax purposes. For example, STP is not currently able to consider various payroll exemptions available in different jurisdictions for payroll purposes (eg parental leave) or differentiate between wages paid in multiple jurisdictions by an employer. This would reduce the effectiveness of any steps to pre-populate STP data for payroll tax purposes.
- Jurisdictions will continue to work together on how any barriers to the effectiveness of STP for payroll tax purposes can be overcome.

*Question: What more can be done to reduce payroll tax compliance costs?*

Response:

- The reforms to payroll tax implemented by the Government provided significant compliance cost savings for small businesses with annual payrolls below \$1.5 million by exempting them from payroll tax.
- As a result of these reforms around 3,200 businesses, around 35% of previous payroll tax payers, will no longer be required to pay payroll tax. In addition to reduction in tax, this will remove a compliance burden for small businesses, who may be less equipped to deal with the taxation system.
- The Government will continue to look at options that can reduce compliance costs for businesses when they are interacting with the tax system. This is not just limited to payroll tax, but the full range of taxes levied by the State.

## **Discussion topic – Regulatory reform**

*Question: Is South Australia implementing a similar regime or looking to be part of future developments in the Modernising Business Registers program?*

### **Modern business register program**

#### **Background:**

- The Modernising Business Registers program is a Federal Government initiative which is currently looking into the consolidation a number of Federal business registers.
- Some of the objectives of this initiative are to increase the reliability of business registry services, improve service delivery and reduce complexity, increase access to data to facilitate greater use, reduce the long-term costs to government of business registry services, and to foster economic activity and mitigate economic loss to businesses by minimising instances of fraud.
- This is a long term project that is in its early stages. The modernised registers will be administered by the Australian Business Registrar within the Australian Taxation Office (ATO). It is understood that a business case with options for streamlining registry functions and upgrading technology systems is being developed for consideration by the Commonwealth government in 2019.

#### **Response:**

- The Modernising Business Registers initiative is still in its early stages, and is a substantial project that is likely to take a number of years to complete.
- I am supportive of measures which seek to reduce red tape and compliance burdens faced by businesses. The Government will continue to monitor these reforms to see what benefits could be applied to State functions.
- The Government ICT strategy is focused on opportunities for integration and collaboration to deliver shared outcomes, providing an enriched digital experience for South Australians. This includes aligning and working in partnership with the Australian Government, where relevant, to deliver the best outcomes for South Australians.

### **Regulatory reform - general**

*Question: Has or will South Australia develop any similar initiatives?*

#### **Response:**

- The Government is open to considering options that reduce red tape on businesses.
- Consistent with our election commitment, the Government has established the South Australian Productivity Commission to examine and make recommendations to government that facilitate productivity growth, unlock economic opportunities and remove existing regulatory barriers.
- The Commission is currently undertaking its first enquiry into Government procurement. The draft report for this enquiry is due to be released in mid-March, with a final report in May 2019.

- The South Australian Government is also currently in negotiations with the Commonwealth Government on reforms that could be progressed under the Small Business Regulatory Reform Agreement.
- The Small Business Regulatory Reform Agreement has been established to deliver projects that reduce the regulatory burden on small business. Subject to these negotiations I will be in a position to announce some of the initiative that will be progressed in South Australia with assistance from the Commonwealth under this agreement.



Tammie Pribanic  
EXECUTIVE DIRECTOR  
BUDGET AND PERFORMANCE

6 / 3 / 2019

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## MINUTE



Government  
of South Australia  
Department of Treasury  
and Finance

## MINUTES forming ENCLOSURE

File TRS18D2350

Doc No A967486

To The Treasurer

## COORONG WATER SECURITY ADVISORY GROUP

Timing: ROUTINE – Ministerial correspondence

**Recommendations/Issues:** It is recommended that you:

- note that Mr Jason Schulz has written to the Minister for Primary Industries and Regional Development about livestock water security;
- note that the correspondence was forwarded to you by the Minister's office to address two questions on the current Inquiry into Water Pricing in South Australia that falls within your responsibilities as the Treasurer; and
- sign the attached draft letter to Mr Schulz.

Approved/ Not Approved

Hon Rob Lucas MLC  
*Treasurer*

/ /

Tammie Pribanic  
EXECUTIVE DIRECTOR  
BUDGET AND PERFORMANCE

26 November 2018

Contact Officer:	Peter Fitzpatrick
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## MINUTE



Government  
of South Australia  
Department of Treasury  
and Finance

MINUTES forming ENCLOSURE

File T&F18/0515

Doc No A1002171

To The Treasurer

**MINISTERIAL CORRESPONDENCE - CARERS SA PRE-BUDGET SUBMISSION  
2019-2020**

Timing: ROUTINE

**Recommendations/Issues:** It is recommended that you:

- Note that Mr David Militz, CEO, Carer's SA has submitted the attached *Carers SA's State Pre-Budget Submission 2019-2020* and the *Carers SA Transport and Care Survey 2018 – Summary Report*.
- Sign the attached response to Mr David Militz.

Noted

Hon Rob Lucas MLC  
Treasurer

/ /

**Key Points:**

- Mr Militz has written to you submitting a 2019-2020 State Pre-Budget Submission and a summary report of their 2018 Transport and Care Survey. He has also invited you to meet with him to discuss the issues.
- Carers SA is a non-profit, incorporated, community organisation. It is South Australia's largest provider of support services to carers. This includes the state-wide advisory and counselling telephone hotline for carers to obtain advice, information and referrals.
- Carers SA received funding from both the Commonwealth and state governments. The state government component (which is administered by the Department of Human Services) covers approximately one-third of Carers SA's overall funding.



- The current state funding agreement provides around \$670,000 per annum to Carers SA. This agreement is due to expire on 30 June 2020 reflecting the implementation of the NDIS.
- Carers SA is concerned that there will be a reduction in funding available under the NDIS and is seeking an extension of state funding to June 2021, in order to allow for an informed assessment of potential funding gaps.
- Carers SA has also provided the submission to the Minister for Human Services and sought a meeting with her.
- Attached is a draft response to David Miltz for your consideration and signature.



Tammie Pribanic  
EXECUTIVE DIRECTOR  
BUDGET AND PERFORMANCE BRANCH

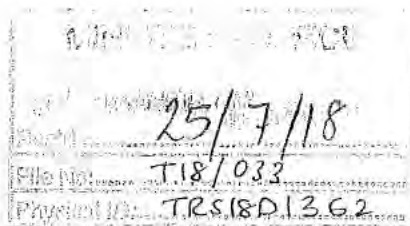
17 February 2019

**Attachments:**

1. *Carers SA State Pre-Budget Submission 2019-2020 and Carers SA Transport and Care Survey 2018 – Summary Report*
2. Draft Letter to Mr David Miltz, Chief Executive Officer Carers SA

Contact Officer:	Liesel Kraus
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MINUTE



MINUTES forming ENCLOSURE

File T&amp;F17/0224

Doc No A895213

To: The Treasurer

# CLASS RULING RELATING TO THE SOUTH AUSTRALIAN TAXI INDUSTRY ASSISTANCE PACKAGE

Timing: ROUTINE

**Recommendations/Issues:** It is recommended that you:

- approve that the Australian Taxation Office (ATO) issues a fact sheet (rather than a class ruling) summarising the income tax consequences of the taxi industry assistance payments.
- approve Treasury and Finance formally advising the Taxi Council SA that the ATO has rejected EY's arguments for the most favourable taxation treatment.

Approved/Not-Approved

Hon Rob Lucas MLC  
Treasurer

28/7/18

## Key Points:

- Following the review and reforms to the Taxi and Chauffeur Industry in South Australia, the South Australian Government has delivered assistance packages to taxi licence holders to help offset any impacts of the new regulatory framework.
- The assistance package was paid in the 2017-18 financial year and consisted of a lump sum payment of \$30,000 (per licence) to taxi licence holders and \$50 weekly payments to eligible lessees for the remainder of their lease for a maximum of 11 months.
- In August 2017, Taxi Council SA requested the then Treasurer to seek a class ruling from the Australian Taxation Office (ATO).

12(1) Offence against another Act

# 12(1) Offence against another Act



## 12(1) Offence against another Act

- A copy of a letter from the former Treasurer to the Taxi Council SA dated 22 December 2017 is attached for your information. (AH1)
- Treasury and Finance obtained advice from Ernst and Young (EY) in relation to the tax treatment of the payments and whether they could be considered as ex-gratia or capital related payments. EY concluded the following:
  - the payments in question are highly unlikely to be treated as ex-gratia payments.

## 14(a)(i) Adverse effect on economy

- the argument that the lump sum payment was from the licence holder's perspective a capital receipt is not strong and it is unlikely that the payments would be treated as such.

## 14(a)(i) Adverse effect on economy

## 12(1) Offence against another Act

- During the last few months, the ATO has also issued several fact sheets outlining the tax treatment of the taxi industry payments made in other states. The fact sheets are short and briefly summarise the tax treatment of the payments (Appendix 2 – Western (AH2) (AH3))

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<sup>1</sup> Taxation Ruling TR 2006/3 *Income tax: government payments to industry to assist entities (including individuals) to continue, commence or cease business*

Australia example). In the majority of cases, the same ATO conclusion applies to other states.

- **14(a)(i) Adverse effect on economy**

- 

- 



Kevin Cantley  
EXECUTIVE DIRECTOR, ACCOUNTING SERVICES

24 July 2018

Att 1 : Letter from the former Treasurer to the Taxi Council SA dated 22 December 2017

Att 2: **12(1) Offence against another Act**

Att 3: ATO fact sheet discussing WA taxi industry assistance payments

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## MINUTE



Government  
of South Australia

Department of Treasury  
and Finance

## MINUTES forming ENCLOSURE

File T&F17/0224

Doc No A977171

To The Treasurer

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**GOVERNMENT PAYMENTS TO TAXI LICENCE AND LEASE HOLDERS – MEEETING  
WITH TAXI COUNCIL SA ON 12 DECEMBER 2018**

Timing: ROUTINE — For information only

**Recommendations/Issues:** It is recommended that you:

- review the following in preparation for a meeting with Taxi Council SA on 12 December 2018 relating to the tax treatment of the taxi assistance package payments; and
- note that a suggested response to latter from the Taxi Council SA is provided under separate cover (TRS18D2291).

Noted

Hon Rob Lucas MLC  
Treasurer

/ /

**Key Points:**

**Background**

- Following the review and reforms to the Taxi and Chauffeur Industry in South Australia, the previous South Australia Government delivered assistance packages to taxi licence holders and lessees.
- Under the assistance package, the following was paid in the 2017-18 financial year (the first payment was made in July 2017):
  - a lump sum payment of \$30,000 (per licence) to taxi licence holders; and
  - weekly payments of \$50 to eligible lessees for the remainder of their lease for a maximum of 11 months.

### ***Request***

- The Taxi Council SA requested that the previous Government declare the lump sum payments as ex-gratia (which they believe may have resulted in a tax free treatment).

## **10 Legal professional privilege**

- The former Minister for Transport and Infrastructure advised the Taxi Council SA in a letter dated 27 April 2017 that it was his intention to request that the Treasurer classifies these payments as ex-gratia payments. This request was sent to the former Treasurer on 19 June 2017.

### ***Tax expert advice***

## **14(a)(i) Adverse effect on economy**

- The former Treasurer responded to the former Minister for Transport and Infrastructure on 11 August 2017 advising of the above.

# 12(1) Offence against another Act

## ***Future considerations***

- Due to the nature and structure of the assistance package, any future payments will most likely be considered taxable on receipt.

Electronically approved by

Heather Watts  
A/EXECUTIVE DIRECTOR, ACCOUNTING SERVICES

11 December 2018

Attachment 1: Class ruling application

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Mr Kym Della-Torre  
Director – Public Finance  
Department of Treasury and Finance

20 July 2017

## Taxi and Chauffeur industry assistance packages: tax consequences

Dear Kym

The Department of Treasury and Finance ("DTF") has requested tax advice on the tax treatment of the Taxi Industry Assistance Packages available for owners of metropolitan taxi licences and taxi licence lessees in South Australia as at 12 April 2016.

This advice has been prepared for the benefit of the DTF as part of the South Australian State Government and should not be relied upon by any other party. We expressly disclaim any liability that may arise from any other party relying on this advice.

### Background Facts

Our advice is based on the facts outlined below. Please advise us if our understanding is incorrect as this may impact upon our advice.

In 2015, the State Government of South Australia initiated an independent review of the taxi and chauffeur vehicle industry. The review panel recommended changes including several regulatory reforms.

As a result of the regulatory reforms, the State Government of South Australia decided to deliver assistance packages to the industry. The assistance packages were outlined in a fact sheet on the South Australian ("SA") Department of Planning, Transport and Infrastructure (DPTI) website and were stated to "help offset any impacts of the new regulatory framework of the industry".

The assistance packages are as follows:

- ▶ Owners of taxi licences on 12 April 2016 are eligible for a one off \$30,000 lump sum payment
- ▶ Lessees of taxi licences on 12 April 2016 are eligible for \$50 a week assistance payments for the remainder of their lease (at a maximum of 11 months) as a lump sum payment
- ▶ Owners of access, country or standby taxi plates are not eligible to apply
- ▶ Applications are open from 22 May 2017 to 30 November 2017
- ▶ Payment will be authorised at the completion of the assessment of each application by the Department of Planning, Transport and Infrastructure

There are several fact sheets that have been published on the DPTI website ([www.dpti.sa.gov.au/TaxiHireCarReview](http://www.dpti.sa.gov.au/TaxiHireCarReview)) outlining the need for regulatory reform which has been driven by innovative technologies and new business models including 'rideshare'.

The new regulatory regime includes the preservation of taxis' exclusive rights to rank and hail work and exclusive access to subsidy payments on fares through the South Australian Transport Subsidy Scheme and there is to be no release of taxi licences for at least five years. There were also a number of other changes to regulatory costs, pricing issues, safety and driver training.

In considering our advice we had reference to the following documents:

- ▶ Documents on the [www.dpti.sa.gov.au/TaxiHireCarReview](http://www.dpti.sa.gov.au/TaxiHireCarReview) website including the Taxi Industry Assistance Package fact sheet and various other fact sheets contained on this website
- ▶ South Australian Taxi and Chauffeur Vehicle Industry Review February 2016.
- ▶ DPTI Transitional Assistance Payments Application
- ▶ Draft minute to Treasurer Doc No A674714
- ▶ Taxation Ruling TR2006/3 Income tax: government payments to industry to assist entities (including individuals) to continue, commence or cease business
- ▶ Fact sheet for NSW Taxi Industry *Transitional Assistance Payments* - Tax Implications current at 8 May 2017
- ▶ Class Ruling 2017/15 Income tax: accessibility of payments from the Victorian Taxi Reform Hardship fund

#### **Taxation treatment of industry assistance payments**

The exact taxation treatment of any payment will depend on its characterisation for income tax purposes. The characterisation of a payment will depend on the facts and circumstances surrounding the payment. In considering the characterisation of the taxi industry assistance packages in South Australia we will consider the legislation, ATO guidance and the relevance of other situations where industry assistance has been provided.

In beginning our analysis we note that the most favourable treatment of an assistance package would occur where the associated payment could be characterised as exempt income. There have been occasions where one off assistance payments from a government body have been characterised as exempt income, for example some Australian Government Disaster Recovery Payments and at times some Disaster Recovery Allowances. The Australian Government Disaster Recovery Payments are exempt income because they relate to hardship and generally do not have the characteristics of income according to ordinary concepts. The Disaster Recovery Allowance is only exempt income where the Federal Government declares that it is exempt income. The same treatment applies for any ex gratia payments that a government body may make. An ex gratia payment is an amount of money paid where there is no obligation or liability to make such a payment.

The analysis above suggests that there are only limited circumstances where a payment from government, particularly as an assistance package, will be characterised as exempt income. Situations where such payments have been characterised as exempt income mainly relate to disaster relief. The facts outlined above are clearly able to be differentiated from disaster related payments.

We now need to further consider what the taxi industry assistance payments are for in order to determine their tax treatment.

## **14(a)(i) Adverse effect on economy**

Section 6-5 of the ITAA 97 states that "assessable income includes income according to ordinary concepts, which is called ordinary income."

The characteristics of ordinary income include income from property and income from carrying on a business which is relevant in determining the assessability of the transitional assistance payments.

Additional guidance is contained in TR2006/3 which provides the Commissioner of Taxation's views of the taxation of recipients of government payments to industry to assist the recipient to continue, commence or cease business.

At paragraph 14 the ruling it states that:

"A Government Payment to Industry for loss of profits because of government policy or industry restructure is assessable under section 6-5 in the income year in which it is derived. This includes where loss of profit is calculated with regard to factors that are not readily identifiable with the reason for the payment".

This paragraph suggests that the Commissioner is likely to take the view that such a government payment is assessable income unless it can be conclusively shown that the payment is not for a loss of income. The only published explanation of the reason for the industry assistance payment is, as outlined in the facts above, to help offset any impacts of the new regulatory framework. We are not aware of how the \$30,000 transitional assistance amount was determined. As such it is difficult to conclude that the payment is definitely not for a loss of income.

The next issue to consider is whether any of the payments are capital in nature. The South Australian \$30,000 industry assistance payment to the owners of the taxi licences is a once-off payment. The fact that the payment is a lump sum, while tending to indicate a payment may be of a capital nature, is not necessarily a determinative factor.

We note that similar issues have been considered where other states have made taxi industry assistance payments. The Taxi industry in NSW and Victoria have received industry assistance from their state governments in recent times.

At paragraph 25 of CR 2017/15 (which deals with the Victorian industry assistance) the Commissioner of Taxation states the payment received by the Victorian recipients had the character of income as the ownership interest in the taxi licence served as part of the eligibility criteria creating a nexus between the payment and an income generating asset. In addition it is worth noting that the taxi licence was unaffected by the scheme. The licence existed in the same state before and after the payment.

At paragraph 26 of CR 2017/15 it goes on to state that "it is not necessary that there be a direct correspondence between the once-off lump sum payments made and the actual reduction in licence income suffered. Payments from the Fund are clearly stamped with the characteristic of income".

## 14(a)(i) Adverse effect on economy

## 14(a)(i) Adverse effect on economy

The taxi licence is considered a statutory licence and is a Capital Gains Tax ("CGT") Asset. Based on the publicly available information the lump sum payment is not made for the cancellation or variation of rights of the taxi licence.

## 14(a)(i) Adverse effect on economy

# 14(a)(i) Adverse effect on economy

If you have any questions in respect of the above please do not hesitate to contact me on 8417 1770.

Yours sincerely



Craig Whiteman  
Partner

## MINUTE



Government  
of South Australia  
Department of Treasury  
and Finance

## MINUTES forming ENCLOSURE

Doc No A

To The Treasurer

## MEETING WITH WARREN BARRINGTON - SA BOOKMAKERS LEAGUE

Timing: ROUTINE — For meeting on 27/09/2018

**Recommendations/Issues:** It is recommended that you:

- Note that your office has advised that you are meeting with Mr Warren Barrington on 27 September 2018 regarding the Betting Operations Tax and the impact on on-course bookmakers.
- Note the attached background information.

Noted

Hon Rob Lucas MLC  
Treasurer

/ /

**Key Points:**

- Mr Warren Barrington is the Chairman of the South Australian Bookmakers League. Mr Barrington also holds an on-course bookmakers licence.
- It is understood that Mr Barrington wishes to discuss the impact of the Betting Operations Tax (BOT) on on-course bookmakers.
- The BOT commenced operation on 1 July 2017. All wagering operators are liable to pay a tax of 15 per cent on net state wagering revenue (player loss) received from persons located in South Australia. A tax-free threshold of \$150,000 net state wagering revenue applies for all operators.
- The tax, including the threshold applies equally to all wagering providers – online, in-person and bookmakers. This is in line with legal advice received as part of the development of the BOT which indicated that it needed to apply equally across all wagering providers.

- The tax-free threshold of \$150,000 for the BOT was set having regard to a number of factors, including administration costs relative to tax collections for both wagering providers and Revenue SA.
- There are only a limited number of on-course bookmakers licensed in South Australia. The majority have relatively low turnover levels and fall below the tax-free threshold.
- On-course bookmakers are required to register for the BOT if their expected net state wagering revenue will exceed \$150,000 per annum. Once registered, oncourse bookmakers are required to lodge returns (even if nil tax is payable) and make any payments on an annual basis. This varies to other wagering providers who are required to make monthly payments.

## 12(1) Offence against another Act

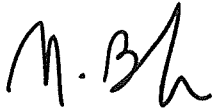
### Interstate arrangements

- All jurisdictions apart from Tasmania and the Northern Territory have announced an intention to introduce similar taxation arrangements. The proposed arrangements in other jurisdictions are outlined in the table below.

Jurisdiction	SA	ACT	NSW	QLD	VIC	WA
<b>Commencement</b>	1 Jul 2017	1 Jan 2019	1 Jan 2019	1 Oct 2018	1 Jan 2019	1 Jan 2019
<b>Rate</b>	15%	15%	10%	15%	8%	15%
<b>Threshold</b>	\$150,000	Not announced	\$1 million	\$300,000	\$1 million	Not announced

- It is noted that New South Wales, Queensland and Victoria have proposed tax-free thresholds higher than that applicable in South Australia. It is understood that Western Australia and the Australian Capital Territory are yet to announce a threshold, but have indicated that they intend to adopt similar arrangements to South Australia.

- It is estimated that increasing the tax-free threshold in South Australia from \$150,000 to \$1 million per operator (the Victorian and New South Wales level) would reduce collections by around \$1.5 million per annum.



Mark Beveridge  
A/EXECUTIVE DIRECTOR  
BUDGET AND PERFORMANCE

25 September 2018

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MINUTE

Government  
of South AustraliaDepartment of Treasury  
and Finance

MINUTES forming ENCLOSURE

File T&amp;F16/0667

Doc No TRS18D0978

To The Treasurer

MINISTERIAL CORRESPONDENCE — GST ON ACCREDITED EXERCISE  
PHYSIOLOGISTS

Timing: ROUTINE — Ministerial correspondence

**Recommendations/Issues:** It is recommended that you:

- note Mr David Beard, President WA Chapter, Exercise and Sports Science Australia (ESSA), has written to you regarding the application of GST to services provided by accredited exercise physiologists and is seeking the government's support to exempt these services from GST;
- note this would constitute a change to the GST base and requires the unanimous approval of the States and Territories, and endorsement of the Commonwealth Government; and
- note a draft response to Mr Beard is attached for your consideration. The response states that the matter is currently being considered by State and Commonwealth governments and the Government will formally consider its position when the issue is referred to the Council on Federal Financial Relations.

Noted

Hon Rob Lucas MLC  
Treasurer

8/7/18

- Under the Intergovernmental Agreement on Federal Financial Relations and the GST Act, changes to the GST base require the unanimous agreement of the States and Territories and the endorsement of Commonwealth Government (although there is no legal impediment to the Commonwealth Parliament unilaterally changing the GST base by amending the GST Act).

- Requests for exemptions are generally considered by the GST Policy and Administration Sub-group (GPAS), and then the GST Administration Sub-Committee (GSTAS), before being presented to the Council on Federal Financial Relations (CFFR).
- Mr Beard states he raised this issue with the Commonwealth Treasurer who advised the issue would be put onto the agenda for discussion at the next GPAS meeting.

## 5(1)(a)(i) Damage intergovernmental relations

- It is recognised that there is some inconsistency in the items that are currently exempted from GST, largely due to changes made as part of the negotiations when the tax was introduced. However, in general, the Department of Treasury and Finance does not support exempting additional goods or services from GST due to potential precedence effects. There are many requests for exemptions of similar merit and this could lead to erosion of the GST base over time.

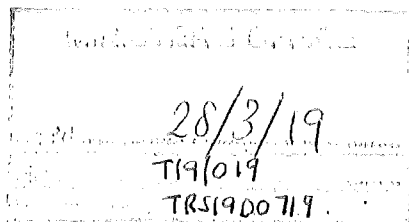


Tammie Pribanic  
EXECUTIVE DIRECTOR  
BUDGET, ANALYSIS AND PERFORMANCE

27/6/2018

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MINUTE



Government  
of South Australia  
Department of Treasury  
and Finance

MINUTES forming ENCLOSURE

File DPC17/0068

Doc No B297627

To The Treasurer

**MASTER CODE FOR HEAVY VEHICLES – PROCUREMENT IMPLICATIONS**

Timing: ROUTINE — for information only

**Recommendations/Issues:** It is recommended that you:

- Note the advice provided by the Crown Solicitor's Office regarding the Master Code for Heavy Vehicles; and
- Note the proposed education and assurance activities that will be undertaken by Government Services to mitigate risks to the State arising from this code.

Noted

Hon Rob Lucas MLC  
Treasurer

4/4/2019

**Key Points:**

- In November 2018, the Master Code for Heavy Vehicles (the Code) was endorsed by the National Heavy Vehicle Regulator and applies to all transport vehicles greater than 4.5 gross tonnes. The Code seeks to improve road safety by reducing the risk of fatalities and injuries caused by driver fatigue, speeding, vehicle overloading and inadequate vehicle maintenance.
- In seeking to minimise these risks, the Code establishes obligations and responsibilities on all parties involved in the supply chain, covering not only the driver and vehicle owner, but also the consignor (seller) and consignee (buyer) of any goods transported by a Heavy Vehicle.
- Following your meeting with the Australian Logistics Council (ALC) on 24 January 2019, regarding the Code, advice was sought from the Crown Solicitor's Office on the:
  - Obligations and risks placed on the consignee of goods (including the State's Officers); and
  - The impact of the Code in relation to existing and future contracts for the supply of goods.

# 10 Legal professional privilege



Mark Carey  
A/EXECUTIVE DIRECTOR  
GOVERNMENT SERVICES

27 March 2019

Contact Officer:	Justin Sara
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Attachments:

1. Advice from Crown Solicitor's Office regarding the Master Code for Heavy Vehicles

For Official Use Only- I2: A2

<p><b>Supported / Not Supported</b></p> <p><i>David Reynolds</i></p> <p><b>David Reynolds</b> <b>CHIEF EXECUTIVE</b> Department of Treasury and Finance Date <u>28/3/19</u></p>
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