

Outcomes from the State Revenue Office's 2007-08 Audit Program

July 2008

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Preamble

The purpose of this section is to provide an overview of the results from the State Revenue Office's (SRO's) Audit Program for 2007-08 and to highlight the key compliance findings arising from audits of Taxpayer's and their representatives.

Duties

The outcomes from major elements of the Duties stream of the 2007-08 Audit Program are described below.

Tasmanian Revenue Online (TRO) Agent Program

The primary purpose of this program is to educate TRO registrants whilst maximising compliance with the *Duties Act 2001*. This is an "active" compliance program focussed on promoting compliance as opposed to detecting potential instances of non-compliance. The SRO examines the quality and validity of information entered on TRO and that agents are maintaining appropriate records of transactions.

In 2007-08, the SRO conducted 3 441 compliance checks relating to transactions lodged via TRO. Of these checks the SRO detected 106 instances, or 3.1 per cent of total checks, where the correct amount of duty was not paid.

The key findings from this program in 2007-08 included:

- most TRO agents demonstrated a good level of competence in regard to the stamping of documents;
- most errors are administrative in nature. For example, inadequate record keeping or incomplete stamp details;
- common errors include: stamping of incorrect documents (transfer instead of contract); incorrect execution dates entered; and duty being calculated on incorrect value (where consideration is lower than the unencumbered value); and
- the number of errors detected are currently decreasing which suggests that the skills and knowledge of agents is improving.

Referral Program

The Duties Referral Program is a generic description of a range of activities including:

- lodgement enforcement where lodging parties do not provide sufficient information to enable assessment matters to be completed;
- investigations where information provided to the SRO is inconsistent or indicative of possible non-compliance with the *Duties Act 2001*; and
- acting upon intelligence received from government departments and agencies (Commonwealth, State or local), external organisations or the public that relate to the administration of the Act.

Dutiable Property (Sale of Business) Project

The dutiable property project was undertaken to identify and assess transfers of business assets which had not complied with the requirements of the Duties Act.

The objective of the Sale of Business project is to improve the knowledge of (and compliance with) the duty requirements in regard to the transfer of dutiable business assets by:

- the general business community;
- franchise businesses;
- professional bodies; and
- statutory licence holders.

Audit results suggest that:

- there is a low level of awareness among taxpayers regarding the duty implications of the transfer of business assets;
- there appears to be some confusion in regard to the apportionment of value between classes of assets, particularly goodwill;
- the value of registered motor vehicles, which should be excluded, is commonly included in the dutiable value of a business transfer (motor vehicles are separately dutiable when the registration is transferred); and
- there remains confusion regarding the transfer of assets between separate legal entities and the resulting change in beneficial ownership (eg from an individual to a company owned/run by the individual).

In 2007-08, the SRO conducted 503 investigations. Of these investigations, 178 or 35.4 per cent resulted in the issue of an assessment. The total value of revenue detected from these investigations was \$458 855.

As at 1 July 2008 duty on certain business assets has been abolished, however the Sale of Business project will continue in 2008-09, with a focus on education in regard to the legislative changes effecting the abolition of non-real business assets.

The Refund Project

The objective of the Refund project was to ensure that where refunds have been issued to a taxpayer's representative, that the taxpayer received the refunded amount within 90 days of it being issued.

This project was undertaken to confirm compliance with Section 32 of the *Taxation Administration Act 1997* (the TAA). This Section of the TAA requires a person who applies for a refund of tax (the Agent) on behalf of the person who is entitled to the refund to advise the Commissioner (within 90 days of having received the refund) that the refunded amount has been reimbursed to the entitled person.

As a scoping audit (to determine the risk associated with this issue) 167 refunds paid during the 2006-07 financial years were investigated and the relevant agents were required to provide evidence that the refunded monies had been reimbursed to the entitled persons.

Of the refunds investigated, only 1 minor case of administrative non-compliance was identified, suggesting a high level of compliance by taxpayer representatives with the legislative requirements.

Motor Vehicle Duty Program

The Motor Vehicle Program aims to detect transfers of ownership of motor vehicles where the appropriate level of duty has not been paid. The SRO uses reports from Motor Registry data to detect potentially non-compliant transfers.

In 2007-08, the SRO conducted 269 investigations. Of these investigations, 256 or 95.2 per cent resulted in the issue of an assessment.

The major issues detected during this program included:

- the level of consideration disclosed did not constitute a reasonable valuation on which the calculation of duty was based; and
- failure to register the transfer of ownership.

Payroll Tax

The outcomes from major elements of Payroll Tax stream of the 2007-08 Audit Program are described below.

Payroll Tax Registered Program

The Payroll Tax Registered Program aims to detect employers who have not paid the correct level of Payroll Tax. The SRO employs a range of data matching techniques using data sets and returns from a range of State and Commonwealth sources to identify employers who may not be paying the correct level of payroll tax.

In 2007-08 the SRO conducted 67 investigations under this program. Of these investigations 39 or 58 per cent resulted in the SRO detecting employers who had not provided the correct level of Payroll Tax in a preceding year.

The major issues identified during this program include:

- not including all relevant components of wages and employee benefits. The most common errors are the exclusion of fringe benefits, employer superannuation contributions and salary sacrifice arrangements;
- including workers compensation payments made by the employer in the calculation of Payroll Tax, resulting in an overpayment of tax; and
- including the income tax exempt component of Eligible Termination Payments in the calculation of Payroll Tax.

Payroll Tax Unregistered Program

The Payroll Tax Unregistered Program aims to detect employers who have not registered and paid Payroll Tax. The SRO employs a range of data matching techniques using data sets and returns from a range of State and Commonwealth sources to identify employers who may be liable for Payroll Tax.

In 2007-08 the SRO conducted 131 investigations under this program. Of these investigations 62 or 47 per cent resulted in the SRO detecting employers who were required to register for Payroll Tax.

The major reasons why employers liable for Payroll Tax fail to register include:

- a lack of awareness of the various elements that are taken into account in determining a Payroll Tax liability. For example, contractor costs, FBT and superannuation; and
- the rapid expansion of some small businesses means that their employee costs exceed the Payroll Tax threshold (\$1.01 million) before they have become aware of their obligations.

Payroll Tax Referral Program

The Referral Program is a generic description of audit and compliance activities undertaken as a result of specific information being provided to the SRO. This information may be provided via various intelligence activities undertaken within the SRO or matters referred to the SRO arising from intelligence or audit activities in other jurisdictions.

In 2007-08 the SRO conducted 310 investigations under this program. Of these investigations 18 or 6 per cent resulted in the SRO issuing assessments. Of the investigations resulting in an assessment, the average level of Payroll Tax required to be paid was \$47 684.

The most common issue arising from these investigations relates to the incorrect grouping of related companies.

Land Tax

The outcomes from major elements of the Land Tax stream of the 2007-08 Audit Program are described below.

Land Tax Referral Program

The Referral Program is a generic description of audit and compliance activities undertaken as a result of specific information being provided to the SRO. This information may be provided via various intelligence activities undertaken within the SRO or matters referred to the SRO from the wider Tasmanian community.

In 2007-08 the SRO conducted 50 investigations under this program. Of these investigations 38 or 76 per cent resulted in the SRO issuing new assessments.

The major issues identified during investigations were:

- changes in the use of properties. For example, a property owner previously occupying a property as his or her Principal Place of Residence elects to lease the property; and
- failure to disclose the full range of properties owned by companies.

Land Tax Principal Place of Residence (PPR) Program

The PPR Program aims to detect properties which are not subject to Land Tax and are not classified as the owner's Principal Place of Residence. The SRO selects properties for investigation based on a range of data matching activities.

In 2007-08 the SRO conducted 191 investigations under this program. Of these investigations 121 or 63.4 per cent resulted in the SRO issuing new assessments.

Land Tax Grouping Program

The Grouping Program aims to detect properties which should be linked to a single taxpayer for the purposes of determining the taxpayer's Land Tax liability. The SRO selects properties for investigation based on a range of data matching activities.

In 2007-08 the SRO conducted 13 investigations under this program. Of these investigations 8 or 61.5 per cent resulted in the SRO issuing new assessments.

First Home Owner's Grant (FHOG)

The FHOG stream of the 2007-08 Audit Program focussed on three areas: Eligibility, Residency and FHOG Agents.

FHOG Eligibility Program

The purpose of this program is to detect applicants who do not meet the eligibility requirements for the grant in respect of the suitability of the property, Australian citizenship and prior ownership of a home by the applicant or his/her spouse. The majority of investigations relate to prior ownership.

The SRO conducts checks on 100 per cent of all Tasmanian applications.

In 2007-08 the SRO conducted 174 eligibility investigations arising from the initial checking process. Of these investigations, 38 or 21.8 per cent resulted in the rejection of the application.

The major issues identified during this program include:

- applicants do not declare the existence of a spouse who previously or currently held an interest in property; and
- the property intended for purchase is not intended to be the principal place of residence of the applicant.

FHOG Residency Program

Under the FHOG legislation recipients are required to live in the property for six continuous months commencing within 12 months of receipt of the grant. This program aims to verify that all recipients of the grant meet this requirement.

In 2007-08 the SRO conducted 394 residency investigations. Of these investigations, 57 or 14.5 per cent resulted in a re-call of the grant.

The major issues identified during this program include:

- applicants fail to advise the SRO of a change in circumstances which prevented them from satisfying the residency requirement. For example, an applicant relocates to another city or town to take up an offer of employment prior to satisfying the residency requirement; and
- the subject property is used as a holiday home or rental property which was not disclosed at the time of application.

FHOG Agent Program

The FHOG Agent program is an active program aimed primarily at promoting the understanding and requirements of the FHOG Deed of Arrangement between the SRO and the Agent.

This program aims to assist agents with ensuring that appropriate information regarding the eligibility requirements for the Scheme is provided to applicants. The Agents are generally financial institutions offering home loan products to the community. The SRO conducted six visits to Agents in 2007-08. The program does not involve conducting investigations per se, as they are conducted under the Residency and Eligibility Program. The success of this program would be determined through an improved level of compliance for applications received through Agents.

The primary issue identified during these visits concerns applications received by financial institutions through broker introduced business. Based on the SRO's examination of ineligible applicants, it would appear that the advice provided by brokers requires a level of improvement.

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