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# Update Summary

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**UPDATE 80**

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## **STAMP DUTIES SOUTH AUSTRALIA**

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## UPDATED COMMENTARY

### New case law

*Edge Developments (SA) Pty Ltd v Treasurer of the State of South Australia* [2022] SASC 55 – redemption of units in unit trust considered a dutiable transaction. See [1.1106];

*Barisic v Chief Commissioner of State Revenue (NSW)* [2022] NSWCATAD 253 – concessional rate of duty not applicable to transfer of property of deceased's estate when transfer was completed by executor in their personal capacity. See [1.1107];

*Shah v Chief Commissioner of State Revenue (NSW)* [2022] NSWCATAD 311 – surcharge purchaser duty may still be payable despite being a resident for tax purposes if presence in Australia is subject to a limitation in time imposed by law. See [1.1108];

*Meridian Energy Pty Ltd v Chief Commissioner of State Revenue* [2022] NSWSC 1074 – source of property rights needs to be considered when determining if an interest is “an interest in land” or “goods” for landholder duty purposes. See [1.1109]; and

*Commissioner of State Taxation v Perpetual Corporate Trust Limited* [2022] SASCA 117 – South Australian Supreme Court of Appeal upholds decision that student accommodation is not being used for “residential purposes” and is therefore exempt from stamp duty: see [1.1110].

### State Budget

Developments in the 2021-22 and 2022-23 State Budgets are discussed at [1.2512] and [1.2513] respectively.

### *Stamp Duties Act 1923*

The following annotations to the *Stamp Duties Act 1923* have been updated.

Highlights include:

**Section 2:** A new annotation, “Interpretation: s 2(2)”, has been added. See [2.10];

Commentary on s 2 has also been updated with regard to case law. See [2.190];

**Section 3E:** Stamp duty certificates: see [3E.10];

**Section 22:** Federal jurisdiction. See [22.140];

**Section 36:** Exemption: premium received or charged in respect of multi-peril crop insurance: see [36.20];

**Section 60B:** The commentary for s 60B has been updated with reference to *Beach Energy Ltd v Commissioner of State Revenue (Qld)* [2018] QCAT 270. See [60B.10];

**Section 67:** Operation: see [67.20];

**Section 71:** Operation: see [71.20];

**Section 71:** The commentary for s 71 has been updated with reference to case law. See [71.50];

**Section 71CC:** Statutes Amendment and Repeal (Budget Measures) Act 2018 (SA): see [71CC.15];

**Section 71DB:** Concessional duty on purchases of off-the-plan apartments: see [71DB.10];

**Section 71DC:** Concessional duty on designated real property transfers: see [71DC.10];

**Section 72:** Stamp Duties (Foreign Ownership Surcharge) Amendment Act 2017: see [72.10];

**Section 92:** In *Edge Developments (SA) Pty Ltd v Treasurer of the State of South Australia* [2022] SASC 55, it was held that while an individual may hold a charge for the purposes of s 92(1), that person may also hold more than one interest in the land. See [92.10];

**Section 98:** Land holding entity: see [98.10];

**Section 102F:** Exempt transactions and related matters. See [102F.10]; and

**Schedule 2:** General exemptions. Commentary has been added on General Exemption 33. See [380.10].

### ***Taxation Administration Act 1996***

The following annotations to the *Taxation Administration Act 1996* have been updated. Highlights include:

**Section 30:** The commentary to s 30 has been updated with case law. See [TAA.30.10]; and

**Section 93:** Appeal prohibited until duty paid: see [TAA.93.10].

