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scoop

entertaining the law

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Abolition of stamp duty on business transfers in 2012… forget it!

In **Scoop 4** earlier this month, we predicted the deferral of the abolition of stamp duty on transfers of goodwill/ business assets scheduled for 1 July 2012.

Unfortunately we were right!

As part of the Mid-Year Budget Review released today, the Government announced it will delay the abolition of stamp duty on non-real non-residential conveyances by one year to 1 July 2013.

Do you feel a sense of déjà vu?

This abolition was first announced in the 2005 Budget and was planned to take effect from 1 July 2010. Then, in December 2008, the Treasurer announced that the abolition would be deferred. In the 2011 Budget it was confirmed that this abolition would occur with effect from 1 July 2011.

The goalposts for South Australian businesses have been moved again.

South Australia is one of 2 remaining States in Australia to retain this duty. In terms of tax competition, South Australia is at the back of the field.

The Budget papers state that the abolition will save the Government $36m. They also note recent weaker collections from conveyance duty, a softer outlook for the property market and a softer employment outlook in 2011-2012.

The Treasurer, Mr Snelling, provided the following comments in his statement today:

"*South Australian families are dealing with cost-of-living pressures and it is with that in mind that the 2011-12 Mid-Year Budget Review involves no new taxes*"

"*Instead of making significant service cuts and increasing the cost of living pressures by raising taxes, we are making the choice to protect jobs now and for future generations of South Australians*"

"*Importantly, the savings measures have been designed to have minimal impact on the South Australian public as well as jobs*"

Our business broker contacts tell us that it has never been more difficult to buy or sell a business in South Australia. That the GFC, bank reluctance to lend to buyers and uncompetitive State taxes in South Australia are to blame. Business confidence, stable taxation, employment, future generations – join the dots.

The only certainty as regards States taxes – there is no certainty!

If you require any advice, or have any issues or complications as regards State taxes or wish to discuss how this deferral might affect your clients, please let us know.

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Have your clients taken out life/ TPD insurance cover for buy/sell and business succession planning purposes without entering into a Business Succession Agreement, Option Agreement or similar? If so, upon the death of a principal, there is no obligation for that principal's equity owner to transfer its equity to the continuing owner – which results in a windfall for the principal's beneficiaries – they retain ownership of the equity and get the insurance proceeds – and a disaster for the continuing owner. And a problem for you! Handshakes and understandings with a deceased person carry little or no evidentiary weight. Let us know if you need to discuss Business Succession Agreements.

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