



FINANCIAL
SERVICES
COUNCIL

South Australian stamp duty rewrite

Submission on discussion paper

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1. About the Financial Services Council

The FSC is a leading peak body which sets mandatory Standards and develops policy for more than 100 member companies in Australia's largest industry sector, financial services.

Our Full Members represent Australia's retail and wholesale funds management businesses, superannuation funds, life insurers, financial advisory networks and licensed trustee companies. Our Supporting Members represent the professional services firms such as ICT, consulting, accounting, legal, recruitment, actuarial and research houses.

The financial services industry is responsible for investing almost \$3 trillion on behalf of more than 14.8 million Australians. The pool of funds under management is larger than Australia's GDP and the capitalisation of the Australian Securities Exchange, and is the fourth largest pool of managed funds in the world.

2. Submission

2.1. Transaction basis

The South Australian (**SA**) Government has a stated intent for the rewrite ‘to move away from the ‘instrument’ basis for stamp duty and are attracted to the NSW ‘transaction’ based duty regime’.

In respect of the stamp duty treatment of the insurance products / premiums of the FSC’s members, the FSC observes that Part 3 Division 3 of the current SA Stamp Duties Act imposes duty on premiums paid to the insurer – both general insurance and life insurance. So the current regime it is already ‘transaction’ based.

FSC Recommendation:

No change to current transaction-based methodology for stamp duty collection on insurance premiums.

2.2. Definition and reference to ‘insurance riders’

The SA Government is considering whether a definition and reference to ‘insurance riders’ should be included.

The FSC notes that the SA Stamp Duties Act was amended in 2011 to clarify that “life insurance riders” were subject to stamp duty at the General Insurance Rate.

The amendment defined “Life Insurance” as not including “personal accident insurance” and it defined “personal accident insurance” as meaning 3 categories of general insurance including “insurance in respect of trauma or a disabling or incapacitating injury, sickness, condition or disease”.

This current description personal accident insurance clearly includes accidental death but a reader has to drill down to get to appreciate that it also refers to disability and trauma type risks including sickness.

FSC observes that the description ‘personal accident insurance’ may not immediately and obviously alert a taxpayer to its application to life insurance Riders.

The model adopted in the Duties Act of each of WA, Victoria and NT defines life insurance riders as ‘additional insurance’.

Features of the legislation include:

- That the ‘General Insurance’ definition includes a note to the effect that general insurance includes life insurance policy riders;
- A specific definition of ‘life insurance policy rider’:
 - “If a policy of life insurance, in addition to providing life insurance, also provides for the payment of a benefit on the occurrence of a contingency or event that does not relate to or depend on a life or lives (the additional

insurance), the additional insurance provided under or in accordance with the policy is taken to be general insurance. ...

- whether or not the life insurance and the additional insurance are separate or distinct matters; and
- whether or not payment of a benefit under the additional insurance component of the policy—
 - will or may reduce the benefit payable under the life insurance component of the policy; or
 - will or may terminate the policy.”

FSC Recommendation:

The SA rewrite should consider adopting the model for identifying the Riders to life insurance policy as ‘General Insurance’ which exists in the Duties Acts of Victoria, Western Australia and Northern Territory.

2.3. General insurance statement due dates

The SA Government is considering whether to review the general insurance statement due dates.

FSC notes that for South Australia, the due date is the 15th of the month, whereas all other jurisdictions use the 21st.

FSC agrees that this may make compliance easier for insurance companies operating across all jurisdictions.

FSC Recommendation:

Adopt the 21st of the month as the due date.

2.4. Lodgement cycle for life insurance statements

The SA Government is considering whether lodgement cycle for life insurance statements should be changed from annual to monthly

The FSC notes that depending on the type of life insurance business of the FSC member, the Life insurance return in South Australia may have some complexities (additional workarounds involving accounting and actuarial support) which would increase administrative costs for those members (perhaps 12 fold) in the event that the annual return cycle were to move to a monthly return cycle.

The potential additional cost aspects relate to both:

- actuarial calculations of insurance commission deductions and
- actuarial calculations to apportion between ‘risk’ and ‘investment’ life insurance premiums in unbundled conventional life insurance policies.

These calculations are required for that part of the largely legacy book of some FSC members’ life insurance business.

Those FSC members whose product administrative systems are completely automated and / or do not include a legacy book of conventional bundled products can easily move to a monthly return cycle without additional cost.

FSC Recommendation:

- To permit life insurance companies to 'opt-into' a monthly return cycle for life insurance returns or retain the annual return obligation at their discretion
- Permit individual life insurance companies to adopt BOTH a monthly return cycle AND an annual return cycle for different categories of life insurance product, as suits each company's individual product administration requirements.