

## TERRITORY REVENUE OFFICE

### REVENUE CIRCULAR

#### RC-SD-005

## 2015-16 Budget Measures – Life Insurance Duty (Transitional Matters)

### Purpose

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1. This Circular provides information on transitional matters relating to amendments to the *Stamp Duty Act* which abolish stamp duty on life insurance policies as part of the 2015-16 Budget revenue measures announced by the Treasurer on 28 April 2015. The amendments are contained in the *Revenue and Other Legislation Amendment Bill 2015* (“the Bill”).

### Transitional arrangements relating to the abolition of stamp duty on life insurance and clarifying that life insurance riders are taxed as general insurance

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2. From 1 July 2015, the Bill provides for the abolition of stamp duty on policies of life insurance. For clarity, the abolition of stamp duty on life insurance policies includes temporary and term life insurance policies.
3. The Bill also provides that, from 1 July 2015, life insurance riders will, in all cases, be subject to general insurance duty at the rate of 10 per cent of the amount of the premium in relation to the rider. For further information on what is, and is not, a life insurance rider under the new provisions, please refer to Revenue Circular [RC-SD-004 2015-16 Budget Measures – Life Insurance Duty \(Abolition\)](#).
4. The Bill contains transitional provisions which provide that the new arrangements apply to a life policy and life insurance riders issued on or after 1 July 2015.
5. Group life insurance policies issued prior to 1 July 2015 will also be subject to the amended provisions to the extent that the policy relates to a person who becomes insured on or after 1 July 2015 (i.e. premiums in respect of life insurance riders relating to each person who joins the group policy on or after 1 July 2015 will be subject to the amended provisions).
6. The critical factor in determining whether a policy will be affected by the amendments contained in the Bill is the date the policy was issued. The date of issue of a given insurance policy will turn on the particular facts including the proper construction of the actual terms of the insurance policy. As insurance policies vary from policy to policy, it is only possible to provide a general overview of the transitional provisions contained in the Bill. For specific queries relating to a given insurance policy, please contact the Territory Revenue Office directly.
7. Where an insurance policy issued prior to 1 July 2015 is renewed after 1 July 2015, this will generally constitute the issue of a new policy<sup>1</sup>, and will be subject to the amended provisions from the date of renewal. That is, any life insurance rider in the policy will be subject to duty at the rate of 10 per cent of the amount of the premium in respect of that rider.
8. Similar considerations arise for additions to or ‘top-ups’ of a life insurance policy issued prior to 1 July 2015, such as an increase in cover as a result of indexation based on CPI or an agreed percentage at a predetermined time or purchased increases in cover requested by an insured person because of a change in insurance needs.
9. Prior to the amendments inserted by the Bill, the treatment of a life insurance rider was based on the common law, such as the decision in *National Mutual Life Association of Australasia Ltd v Commissioner of State Taxation (WA)* 96 ATC 4615<sup>2</sup>. That is, a rider was either taxed as life insurance where it was not a distinct matter from the life insurance policy, or taxed as general insurance where it was a separate and distinct matter, based on factors set out in that decision.

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<sup>1</sup> *CE Heath Underwriting & Insurance (Australia) Pty Ltd v Edwards Dunlop & Co Ltd* [1993] HCA 21.

<sup>2</sup> The National Mutual case. Other relevant Court decisions include *National Mutual Life Association v Commissioner of State Taxation (SA)* 2011 ATC 20-287 and *AMP Life Limited v Commissioner of State Revenue (Vic)* 2003 ATC 4526.

10. Where a life insurance rider contained in a policy issued prior to 1 July 2015 meets the factors set out in the National Mutual case such that it was taxable as life insurance, then an addition to or top-up of that rider component will be considered part of the life insurance and not subject to duty, provided that the addition or top-up does not constitute a renewal or re-issue of the policy.
11. Conversely, where the life insurance rider contained in a policy issued prior to 1 July 2015 was taxable as general insurance under the principles of the National Mutual case, or the addition or top-up constitutes a renewal or re-issue of the policy, then the addition to or top-up of the rider will be subject to duty at the rate of 10 per cent of the amount of the premium for the rider.
12. As these amendments and considerations are technical, and depend on the facts of each matter, any insurers with queries about the stamp duty treatment of a specific policy should contact TRO directly.

**Further Information**

13. Please refer to Revenue Circular RC-SD-004 2015-16 Budget Measures – Life Insurance Duty (Abolition), the Revenue and Other Legislation Amendment Bill 2015 and explanatory statement for precise details of the amendments.

**Revenue Circulars**

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14. Commissioner's Guideline [CG-GEN-001: Revenue Circulars, Commissioner's Guidelines and Payroll Tax Rulings: explanation and status](#), which sets out information on the revenue publication system, is incorporated into and is to be read as one with this Circular. All Circulars and Guidelines are available from TRO's website.



**Grant Parsons**

COMMISSIONER OF TERRITORY REVENUE

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For further information, contact the Territory Revenue Office

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