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| <b>REVENUE CIRCULAR GEN007</b>                                       |
| <i>Allders International Pty Ltd v Commissioner of State Revenue</i> |
| Issue Date: 30 June 2008   |
| Status: Current – Effective 17 September 1997                        |
| Previous Circular: No 60   |

## **Preamble**

1. This circular is to advise clients of the ACT Revenue Office of the impact of the High Court decision in *Allders International Pty Limited v. Commissioner of State Revenue* (*Allders' case*) in respect of their liability for ACT taxes.

## **Circular**

2. *Allders' case* dealt with the validity of the *Stamps Act 1958* (Vic) (the Act).
3. The lease of a shop was assessed for stamp duties by the Victorian Stamp Duty Commissioner. The shop was in Tullamarine Airport which is situated on land acquired by the Commonwealth for public purposes. The Airport is, therefore, a Commonwealth place. The taxpayer disputed the validity of the Act which was stated to authorise the assessment.
4. The dispute went to the High Court which held the Act invalid to the extent that it conflicted with the provisions of Section 52 of the Constitution. That section excludes State revenue laws from application to activities within Commonwealth places.

## **Advice to taxpayers**

5. Clients are advised that the High Court has also determined that in referring to the exclusive power of the Commonwealth to make laws for the peace, order and good government of Commonwealth places, section 52 (i) speaks of legislative power which is exclusive of the legislative power of the States (*Svikart v. Stewart* (1994) 125 ALR 554).
6. Section 52 of the Constitution, therefore, excludes only the States from power to enact tax laws effecting activities in Commonwealth places.
7. Legal advice from the ACT Government Solicitor and the Commonwealth Attorney-General's Department confirms that the High Court decision in *Allders Case* does not have any implications with regard to the ability of the Australian Capital Territory to legislate with respect to Commonwealth places.
8. Taxpayers who were, prior to *Allders' case*, liable to ACT taxes with respect to their operations in, or transactions on, Commonwealth places will continue to be liable.
9. Taxpayers are also reminded that penalties exist for non-payment of ACT taxes and charges and they should ensure that all moneys due to the Territory are paid in accordance with current legislation.

SIGNED

Graeme Dowell  
Commissioner for ACT Revenue  
30 June 2008