

# TAX BULLETIN

AN UPDATE PUBLICATION  
FOR OUR CLIENTS

## THE GROWTH AREAS INFRASTRUCTURE CONTRIBUTION IS NOW IN FORCE

7 July 2010

The Growth Areas Infrastructure Contribution ("GAIC") came into force on 1 July 2010. It has commenced despite the fact that the legislation to expand Melbourne's Urban Growth Boundary ("UGB") is still being considered by Parliament.

The additional land that the Government proposes bringing within the UGB will not become subject to the GAIC until such time as the UGB amendment is ratified by Parliament and the boundary is actually changed. However, assuming that does occur, the GAIC will have retrospective effect to transfers of that land which have already occurred between the relevant date (2 December 2008 for most land) and the GAIC commencement date.

### **Now that the GAIC has commenced, affected land owners and their advisors need to take action in order to avoid incurring unexpected costs.**

For type A land (land that was brought within the UGB in 2005/06), if the transfer of the land occurred between 2 December 2008 and 30 June 2010, the purchaser's GAIC liability crystallized on 1 July 2010, which means that they must either -

- (a) make an election to defer their GAIC liability (100% can be deferred where the transfer occurred before 1 July 2010); or
- (b) pay the GAIC liability to the State Revenue Office by 30 September 2010.

Where the purchaser wishes to defer their GAIC liability, the relevant election must be made on or before the due date for payment of the liability (i.e. on or before 30 September 2010 in relation to the Type A land referred to above). If the election is not made by the due date, the full liability becomes payable with effect from the due date.

For Type B land (land that will be brought within the UGB if the UGB expansion is ratified by Parliament), where the transfer of the land occurred between the relevant date (2 December 2008 for most land) and 30 June 2010, the due date for payment of the GAIC liability (and the deadline for making an election to defer part of that liability) will be 3 months after the last of the following things to occur -

- (a) The land is brought within a growth area;
- (b) The land is brought within an urban growth boundary; and
- (c) The land is brought within an Urban Growth Zone.

70% of the GAIC liability can be deferred by a purchaser of type B land. The remaining 30% must be paid to the SRO by the due date referred to above.

If the GAIC liability is not paid by the due date, interest will be payable from the due date. The current rate of interest applicable to late payments is 12.80% pa. The SRO may also impose a late payment penalty.

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Section 32 statements for all contracts of sale in relation to all GAIC land must now include a new warning notice to potential purchasers, as well as copies of relevant GAIC certificates that have been issued by the SRO.

## **The GAIC impacts option agreements signed prior to 2 December 2008.**

Following discussions with the SRO and the Department of Planning, the SRO has confirmed to Pitcher Partners their view that land transfers pursuant to the exercise of a call option agreement signed prior to the relevant date (2 December 2008 for most land) are not exempted from the GAIC, unless the actual contract of sale was also signed prior to the relevant date. The SRO's view may come as a nasty shock for some purchasers who entered into option agreements at fixed exercise prices prior to Government first announcing its intention to bring in the GAIC. Affected purchasers should consider whether the SRO's view is open to challenge

## **FURTHER INFORMATION**

Please ask your regular Pitcher Partners tax contact for further details on the issues raised in this Tax Bulletin.

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