

Submission in response to the NSW Consultation Paper: Buying in NSW, Building a Future

The NSW State Govt. claims that the proposal is a “REFORM”; “A ONCE IN A GENERATION CHOICE”: “MAKING HOME OWNERSHIP MORE ACHIEVABLE IN NSW” and it is stated that changes to Stamp Duty is “ONE OF THE BIGGEST BARRIERS TO HOME OWNERSHIP”. Each of these claims is spurious & dubious, proved by records and facts. Currently, many owners who have paid hefty Stamp Duty **ALSO** pay Land Tax. Merely rehashing the name, converting it from one off levy to life-long instalments, and imposing the selection on all future buyers are no REFORM measures. I suggest that the proposal be totally abandoned and a fresh genuine reform be initiated - keeping in mind the fundamental constitutional principles of EQUITY, EFFICIENCY, SIMPLICITY, CERTAINTY & NEUTRALITY. Each of these elements is well explained and defined and readily available for reference. This is our, the people of NSW, chance to prevail on the powers that be to usher in a modern efficient equitable simple system for generating needed revenue for the wellbeing and economy of the State.

It is to be stressed that law abiding citizens in a civilised progressive country have no issue with paying their due taxes and levies. But what is abhorrent is the fact that taxes so collected to a considerable extent abused and wasted; Govt. and administrators indulge in self-aggrandisement and personal gains at tax-payers’ expense. Most do not grudge paying fair tax as long as there is assurance of proper appropriation of the same and there is a sense of value for money.

BACKGROUND:

It is relevant to note that Stamp, Death & Estate Duties were first introduced centuries ago. In Australia, Death Duty was abolished altogether in the 1970s and Estate Duty was abolished in the 1980s. However, Stamp Duty (SD) has remained as the important and easy source of revenue collection for the States and Territories in Australia.

On 31 July, 1995, a joint exposure draft of a “Stamp Duty Rewrite” (the Rewrite) proposal was published by NSW, Victoria, South Australia, Tasmania & the ACT. Subsequently WA & NT also joined the process. The proposal was made on the basis that changes are required as SD legislation has traditionally focussed on commercial instruments and documents. Advancements in technology and digital records have revolutionised practices and procedures and records creation & maintenance. Therefore revenue raising legislation need to be reviewed and changed to keep in tune with trends and practices to protect revenue bases AND reduce compliance costs on taxpayers.

To put it in context, Stamp Duty has its origin in Vienna dating back to 1604; it was introduced in Spain in 1610, in the Netherlands in the 1620s, in France in 1651, in Denmark in 1651, in Prussia in 1682, in England in 1694, and the USA in 1765. Most of these were introduced to cover the cost of war efforts and maintenance of peace in distant domains of the States.

Stamp Duty was first introduced in the NSW state of the Colony in 1865, passed as an Act in 1880, and subsequent amendments and consolidation in the Stamp Duties Act of 1898. This was repealed and replaced by the Stamp Duties Act 1920. The current version incorporating the Stamp Duties Act 1920 is the *Duties Act 1997*.

The Rewrite has undergone several reviews since original publication and some Governments adopted the proposal in various revised and updated forms, the NSW Government and some other Governments have done nothing about it so far.

Our taxation system is one of the most complex in the world, we are subject to approximately 125 different taxes - both State and the Commonwealth.

Characteristics of Stamp Duty in its current form are:

- revenue for the State is directly linked to the market cycle of sales, which in turn depends on: economic cycle, interest rates, unemployment rates, access to and terms of loans. Hence, revenue is unpredictable and uncertain.
- commercial & business property ownership has considerably longer duration than residential properties; a one-off Stamp Duty is paid off in about 10 - 12 years. Whereas, residential property

ownership may have a much less duration; effectively, those owners who move in less than 10 years, have not only paid substantially higher amount, and also pay for the new property they buy for relocation. Such owners have been hit with very high impost over short terms. Such owners provide a bonanza of revenue. This is contrary to the principles of equity, certainty, neutrality

- NSW *Thodey Review* reports that 26% of owner-residents have remained in the same property for at least 20 years. Such property owners have benefitted not only from the services provided by the State over the life of ownership, without having to pay anything over the initial Stamp Duty amount, but have also benefitted from the ‘once in a generation windfall from land price appreciation’.
- directly related to the purchase price of the property;
- it is a one-off upfront levy;
- it is a serious barrier to affordability and home ownership;
- the levy is a huge financial burden on the buyer;
- the levy is a capitalized cost item;
- most owner-occupier buyers borrow the capital at market interest rates and pay interest on the Stamp Duty amount over the term of the loan;
- many buyers move/relocate/upscale/downsize several times in their lives forced by several factors - profession, personal/family circumstances, choice, children education, etc., etc... Such people therefore pay Stamp Duty every time they buy a property for any reason.
- every time a property changes hands, Stamp Duty is paid; effectively, the property suffers this impost several times in the property’s life-time. If a property has a lifetime of 50 years (tax laws allow a lifetime of 40 years for buildings), & it changes hands 5 times, i.e. every 10 years this very property has suffered stamp duty 6 times. And every subsequent times, the stamp duty amount is higher, as it is linked to the sale price of the property. The very mechanics of the impost fails the fundamental principles of revenue raising.
- as a rule, paying Stamp Duty does not relieve the buyer of Land Tax.
- there is no direct correlation between appropriation of the duty revenue and the direct benefit to the tax payer.

All these factors and more reported in various reviews and commissions make a compelling case for immediate change to Stamp Duty. It makes a compelling case for abolishing the duty altogether, in the first place, and to introduce a tax which meets all the fundamental elements of a modern, fair, efficient revenue system.

As to what form the new tax system should be is a matter for careful analysis and balance. The ACT model of property tax is a case for consideration. The change was implemented in the 2012-13 ACT budget, and in its 8 years of implementation, it is well received and accepted by the people of ACT; and by experts and tax specialists. It is to be noted that the ACT Labour Govt. which initiated the change has won 6 consecutive elections.

NSW Budget 2020 - 21

Total revenue (in billions)		
Taxation revenue	\$31.7	
Grants from Fed	\$50.4	\$82.1
Taxation revenue		
Payroll tax	\$ 8.53	
Stamp Duty	\$ 9.90	
Land Tax	\$ 4.64	
Mot Veh Taxes	\$ 2.38	
Gamb & Betting	\$ 2.77	
All othr taxes	\$ 3.49	\$31.71
Stamp Duty as a proportion of total tax rev		31.25%
Stamp Duty as a proportion of State revenue		12.06%

Land Tax as a proportion of total tax rev	14.63%
Land Tax as a proportion of State revenue	5.65%

It is clear that Stamp Duty as a means for raising revenue is very attractive to Governments for expediency and ease of collection and administration. To the taxpayer it is onerous for compliance as well as financially. It is unfair as it is linked to property values dictated by the market forces; the land tax is linked to valuations based on property appreciation, which is directly linked to market forces. Land tax is levied on top of the Stamp Duty, subject to exemption rules. In effect, the land tax is a double tax - in different names. On top of these taxes, the Local Governments levy an annual Rates - which is a form of tax. The Rates are linked to the property value, subject to annual appreciation and market forces. Currently, a property buyer/owner bears triple whammy - first off, a one-time massive hit of Stamp Duty at the time of purchase; followed by recurring annual council rates; and then a recurring annual land tax, subject to exemption rules.

NSW Budget 2020-21 Proposal

NSW Treasurer has proposed changes to Stamp Duty and Land Tax. The changes are nothing but a hasty and misleading rehash and rename of the taxes. Characteristics of the proposed Property Tax are:

- it is a choice for the new buyers, they can either pay Stamp Duty in its existing form or elect to the proposed Property Tax
- once a new buyer opts-in for the Property Tax, successive buyers of the same property are forced into the Property Tax regime
- opt-in into the Property Tax implies that the property has suffered the one-off Stamp Duty paid by the previous owner, but also is now imposed the on-going Property Tax for the rest of the life of the property; it implies double taxation and over-lapping tax system
- Property Tax is an expense, as against a capital cost of Stamp Duty
- long term owner-residents continue to receive all benefits of State services for the one-off Stamp Duty paid over long years ago; Property Tax payers have to pay for the services
- the proposed Property Tax is based on the unimproved land value as valued by the State Land Valuation office. Valuation is revised every year based on sales in the area over the past year. This creates inequity as existing owners are required to pay higher Property Tax if there are many sales in the area. As an example, if an area has several identical or comparable blocks with an average then unimproved land value of, say, \$500,000; and in that year if 2 blocks are sold for, say, \$800,000 each, then the subsequent year's unimproved value of all blocks of land will increase. The newer sale processes are dictated by market forces. The older owners are unjustly hit with increased property tax for the rest of their years of ownership.

There is considerable volumes of analysis and studies of imposition, impact, revenue and the inefficiency of the Stamp Duty regime. Recent research and references reports have been published on various proposals to reform the Stamp Duty and its proposed replacements. From these references it is clear that:

1. Stamp Duty needs to be abolished
2. Land Tax needs to be abolished
3. The proposed Property tax in its proposed form is not a reform, *per se*
4. Using the unimproved land value as the base for the property tax is inequitable
5. Proposed mechanics of transitioning from the existing Stamp Duty to Property Tax is inequitable, inefficient and imposes heavy burden on some section of the owners, example, retirees who are asset rich, but income poor
6. The proposed changes do not increase housing affordability
7. Successive Governments have been reluctant to reform the stamp duty levy because of the political cost to the ruling political party

A broad framework of reform that can be developed and acceptable to the tax payers may be on the following lines:

- Abolish Stamp Duty forthwith, with immediate effect

- Abolish Land Tax forthwith on the same deadline date as the Stamp Duty is abolished
- Introduce a broad bases Property Tax at a low flat rate of say 2.5% of unimproved land value - similar to Council Rates
- Property sales which were subject to Stamp Duty up to the deadline date should be given credit on a *pro rata* basis for future years until the Stamp Duty amount is neutralized, and the Property Tax on such properties to be effective from the year after that
- State Government should have the will to brave any backlash from minority interest groups and self-interest groups, including opposition parties, who indiscriminately oppose anything and everything that a ruling government proposes/implements
- State Government should give wide publicity and run a mass education campaign to inform the people of the long term benefits; take the people into confidence in introducing the reform and modernize the state tax system. History proves that a well informed people will embrace a change if the change meets all the elements of a good tax system
- Use the expertise and experiences of the best brains and think tanks accessible to it and reform the system which will hold good for the next several hundreds of years.

