[redacted] **ON PROPOSED NEW PROPERTY TAX BY NSW GOVERNMENT**

1. PROPERTY TAX PROPOSAL ITSELF:

1.1 No Increase in Land Tax Thresholds:

This is one of the most important questions that is unanswered in the information that NSW Treasury have provided re the new Property Tax proposal.

Will Land Tax Thresholds continue to vary according to the growth of land values and in accordance with the Land Tax Management Act 1956 No 26 Division 4A Section 62TBB(3)
"On or before 15 October in each year (commencing with 2006), the Valuer-General is to publish in the Gazette the percentage change in land values, and the indexation factor applicable to the following land tax year, as determined in accordance with this section."

If Land Tax thresholds are not increased in the same manner in which they are currently done pursuant to section 62TBB (3) of the *Land Tax Management Act 1956*, (*"the percentage by which average land values of land within residential, commercial, business and industrial zones have changed between 1 July one year and 1 July the next"*), then it will be obviously that this lack of increasing threshold that has existed in the past is not being renewed in order to specifically have investment land owners move over to the new Property Tax.

1.2 No Property Tax Rates Provided for Trusts:

Again, all of the information provided by NSW Government and Treasury has no information at all on what are the proposed taxes on trusts, especially Self-Managed Superannuation Trusts.

No idea has been provided as to what the new Property Tax will look like for Self-Managed Superannuation Funds. Is it to be assumed that it will be the same as for Residential Investors as it is with the current Stamp Duty & Land Tax regime?; i.e. $1,500 base amount and 1% of land value?

2. MANNER IN WHICH NEW PROPERTY TAX PROPOSAL PRESENTED

The last case study within the "What Could This Mean For You" example
(see https://www.treasury.nsw.gov.au/budget-financial-management/reform/nsw-property-tax-proposal/what-could-mean-you

covers "I am Planning to buy a Residential Investment Property" (see screenshot here)

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Working investors

Michelle and Rob are looking to buy their second residential investment property. They plan to sell after 10 years and use the profits to fund further investment properties. As residential investors, Michelle and Rob would have the choice to pay stamp duty and land tax, or the proposed property tax.

	2021 Investment property $800,000	Total State tax over 10 years (excludes income tax)
Stamp duty and land tax or	$31,335 + Starting at $5,920 p/a	[$31,335 + $70,420*] = $101,755
Property tax	Starting at $7,020 p/a	$83,505*

Total savings over 10 years; $18,250

Michelle and Rob choose to pay the annual property tax and save $18,250 over 10 years under the proposed changes. They would also benefit from deducting property tax from their income tax.

** An (illustrative) estimated growth rate of 3.8% per year has been applied to the property tax and land tax payments.*

2.1.1 High Land to Property Ratio Chosen:

When looking at this Case Study chosen by the Government, it can be calculated that the First Investment Property purchased by this couple now has a Land Value of $566,750 (its purchase price is not given and is inconsequential in determining the Second Investment Property's taxes). The Second Investment Property has a total cost of $800,000 and a Land Value of $552,000.

In this example, the Land Value of the Second Investment Property thus represents 69% of the total purchase price. When compared with the ratio of land values to total property values for my own circumstances, this ratio appears abnormally high.

My own ratio of total NSW Land Value to Total NSW Property Value is 37.4%. The least percentage of my five properties was 29.3% whilst my highest ratio was 59.2%.

The NSW Government's choice in the Investment example quoted above of a 69% ratio thus appears to be abnormally high for some reason.

The NSW Government should have the actual average ratio of land value to total property value but if we assume a level of 40% (slightly higher than my own average) then for the second property purchased in the Residential Investor Case Study, the purchase price would still be $800,000 but the land value would thus be $320,000.

If this is the case then the Stamp Duty on the Second Investment Property is still $31,335 but the total land tax paid on both Investment Properties over the 10 year period is now $29,581 giving a total cost of $60,916.

The total Property Tax on the Second Investment property would be $58,386 and thus the advantage of the new Property Tax over the existing Stamp Duty & Land tax system would only be $2,530 and not the $18,250 figure indicated in the Case Study.

2.1.2 Assumption of yearly increase in both Property Tax and Land Tax of 3.8%.

This is a most unusual way of providing an example of comparison; both land tax and property tax are calculated depending on the land value.

However, in the Case Study provided, it is not the land value that is given a constant growth but the land tax and property tax - both are assumed to increase each year at 3.8%.

For the Land Tax to increase by 3.8% each year over a 10 year period the land value must have increased in the first year by 1.26% and kept increasing in the next ten years reaching a maximum annual increase of 1.52% in the final year.

For the Property Tax to increase by 3.8% each year over a 10 year period the land value must have increased in the first year by 4.83% and kept growing at a slower rate over the next ten years with a final annual yearly increase of 4.52%.

The average of the above 1.26%, 1.52%, 4.83% and 4.52% is 3.03% which could be used as a better growth rate for land values.

However, given the Value General themselves have provided an average growth rate in land values over the last 10 years of 6.6%, we have used that figure in our more realistic comparisons.

2.1.3 No Increase in Land Tax Thresholds Each Year.

Whether intentional or unintentional, this is perhaps the greatest omission in all of the examples provided to property owners within the documents provided by NSW Government.

In ALL of the cases shown within the NSW Treasury "*What Could This Mean to You*" web site communication, there is no annual increase at all in the General Land Tax Threshold or the Premium Land Tax Threshold.

Over the past 10 years the average annual increase in the Land Tax threshold has been 6.6% (see table below) and according to the way this is calculated from Division 4A of the Land Tax Management Act 1956 and the corresponding NSW Government Gazette referred to, this is based on *"the percentage by which average land values of land within residential, commercial, business and industrial zones have changed between 1 July [prior year] and 1 July [this year]"*

Year	General Threshold	Premium Threshold	Increase
2021	$755,000	$4,616,000	2.9%
2020	$734,000	$4,488,000	6.1%
2019	$692,000	$4,231,000	10.0%
2018	$629,000	$3,846,000	14.6%
2017	$549,000	$3,357,000	13.9%
2016	$482,000	$2,947,000	11.6%
2015	$432,000	$2,641,000	4.9%
2014	$412,000	$2,519,000	1.5%
2013	$406,000	$2,482,000	2.5%
2012	$396,000	$2,421,000	2.3%
2011	$387,000	$2,366,000	2.9%
2010	$376,000	$2,299,000	
		Average Increase Per Year:	**6.6%**

Without this annual increase in the Land Tax Threshold, and with the Second Investment Property having a more realistic land value of $320,000 and land value growth rate of 6.6%, the Stamp Duty and Land Tax over the 10 year period totals $103,898 whilst the total Property Tax is $58,386. This shows a benefit of the new Property Tax for this example of $45,512.

However, if the Land Tax threshold increases by the same rate as it has averaged over the last 10 years (i.e. 6.6% p.a.), the total Stamp Duty and Land Tax over the 10 year period has now been reduced to $60,916 whilst the total Property Tax is still $58,386. This now shows a benefit of the new Property Tax of only $2,530.

Thus, simply removing the annual Land Tax threshold increase which has been used over the last 10 years results in an increased Land Tax cost of $42,982.

2.1.4 More Relevant Scenarios.

2.1.4.1 Michelle Purchases Second Investment Property Outright

The example quoted above states Michelle and Rob own their First Investment Property and are now looking to purchase their Second Investment Property.

I know in my circumstance that although the first property may be purchased jointly with my partner, future properties purchased by us were in each of our own names. If therefore the First Investment Property is purchased in both names, it is more likely that the Second Investment Property would be purchased in only one of the partner's names, this being normally due to one partner being the significant breadwinner.

If you look at the case where Michelle purchases the Second Investment Property in her name alone, then even with a land value originally quoted in the example of $552,000 and with no increase in land tax threshold allowed for and a land value increase each year of 6.6%, Michelle benefits under the proposed Property Tax scheme by only $2,912 whilst the benefit to Rob is zero (he does not own any of the second property and pays no land tax on the first property).

This is a total benefit of the new proposed Property Tax system of only $2,912 and not $18,250 as outlined in the case study example by NSW Treasury. This is a difference of $15,338 in this example.

If the Second Investment land value is at the more realistic figure of $320,000 and the land tax thresholds are increased at 6.6% p.a. as they currently have been (as described above), the result is even more beneficial for the existing system. In this case the benefit to Michelle is $27,051 whilst the benefit to Rob is zero (he does not own any of the second property and pays no land tax on the first property).

This is a total benefit of the existing Stamp Duty & Land Tax system over the proposed Property Tax system of $27,051. This compares with the NSW Treasury stated benefit of the new Property Tax of $18,250. This is a difference of $26,818 in this example.

I realise that the above two examples I have provided are different circumstances to what the NSW Government example provides. But these are more realistic circumstance with more realistic growth rates for both land values and land tax thresholds and more realistic land values than what the Government has provided. And it shows without doubt that the new Proposed Property Tax is not the beneficial regime that the Government is espousing.

2.1.4.2 Average Property Investor in NSW Owns 1.48 Investment Properties

The 2018 ATO statistics show that Residential Property Investors in NSW on average own 1.49 investment properties.

If we take the average value of residential property purchased in NSW as $888,900 (ABS) with associated land value of even 50% or $444,450, then over a 10 year period with land value increase of 6.6% and no land tax threshold increase, this ownership of 1.5 properties of the above value have a total Stamp Duty and Land tax cost of $77,415 or a new Property Tax of $120,389. This is a disadvantage of the new Property Tax of $42,974.

If the Land Tax threshold were allowed to increase at approximately the same rate as the last 10 years (i.e. 6.6% p.a.) then the total Stamp Duty and Land Tax cost would be $50,671 whilst the new Property tax cost would be $120,389. <u>This is a disadvantage of the new Property Tax of $69,718</u>

The above example I have provided is thus more realistic based on government statistics and again shows that the proposed new Property Tax is a lot less beneficial than the NSW Treasury is trying to have NSW citizens believe.

3. COMMENTS ON NSW TREASURY SURVEY

These comments relate to the NSW Treasury/Government Survey on the new Property Tax which commences with the first question asking if you own a Residential Property

https://www.haveyoursay.nsw.gov.au/nsw-property-tax-proposal?tool=survey_tool&tool_id=survey#tool_tab

Q4. How important would each of the following be to you when deciding to purchase a residential property in NSW?

*** Land Tax not mentioned**

*** Property Tax not mentioned**

These are two very important issues which cause people to not purchase in a state and yet they are not mentioned here.

Q6. How much do you agree with the following features of the proposed changes to stamp duty?

c. Once a property is subject to the property tax, subsequent owners would not pay stamp duty and must pay the annual property tax

* This will distort the market by favouring existing Stamp Duty/Land Tax properties wishing to be purchased by owners looking to keep long term and especially those owner occupiers.

d. The property tax would consist of a fixed amount plus a rate applied to the unimproved land value of an individual property, like council rates.

* The new property tax should have a threshold in the same way that the existing land tax has a threshold

f. Residential owners and farmers would pay lower property tax rates than residential investors, who in turn would pay lower rates than commercial property owners

* This is unfair that residential property investors are again the whipping post - already having had higher interest rates levied by banks, removal of genuine travel costs for necessary work, removal of genuine depreciation on fixtures & Fittings, the Federal Government's creation of the Adjusted Taxable Income measure instead of Net Taxable Income measure. It is now obvious that when any government wants to increase revenue, residential property investors will be amongst the first to pay the price. The land is the same isn't it? And council rates do not differentiate between owner occupiers and investors.

g. Price thresholds would initially exclude people buying the most expensive properties from choosing the property tax, but over 80 per cent of residential properties would be eligible to choose the property tax

* This is being biased against one group of people. The tax should be an equal percentage for all.

h. Protections would apply so that the property tax does not result in rent increases without a tenant's agreement.

* Absolutely disagree. The new tax will impose an extra expense on all owners and the government is now asking all investment owners to swallow that expense by not being able to pass on an equitable amount of it to a tenant. Again, residential property investors being treated as the whipping post.

i. A hardship scheme should ensure that no one facing financial hardship needs to sell their home to meet property tax liabilities

* Will the government allow this for residential property investors as well as owner occupiers?

j. Over the long-term, the property tax would replace the Government revenue currently provided by stamp duty and land tax. The amount of revenue should not increase or decrease

* This is the most deceptive question in the survey. On the one hand a respondent may answer no for the first part and thus not wish to replace the current stamp duty and land tax regime, but would answer yes for the second part of the question and agree that property tax revenue should not increase or decrease above stamp duty and land tax revenues. Just about all respondents would answer yes to this question because of the second part and so now the government would say that just about everyone wants to replace the existing stamp duty and land tax scheme with the new property scheme!!! Most deceitful!!

4. MORE GENERAL COMMENTS

OWNER OCCUPIER AND INVESTOR SHOULD BE AT THE SAME RATE

Land should be taxed the same base amount and rate for all people and not provide advantages or disadvantages to one group or another. Under the current system this is done because Owner Occupiers and Investors with only one or two properties (and thus total NSW Land Value under the $755,000 threshold) do not pay land tax.

In proposing the new Property Tax, the Government quotes the manner in which Council rates are levied as an example of how the new Property Tax will work.

Council rates are the same for everyone with a possible discount for seniors. Why does the NSW Government not follow a similar methodology for all property owners and thus charge the same rate for both Owner Occupiers and Investors? And if it does want to have a system similar to that of Council rates, then also provide a discount for seniors?

The new Residential Investor Property Tax rates shown are significantly higher than the Owner Occupier rates. At this stage with an Unimproved Capital Value of say $450,000, you are looking at $6,000 per year Property Tax compared to $1,850 for the Owner Occupier. This is more than three times the amount. This is too much of a difference. Investors should not need to pay three times as much as an owner occupier in Property Tax.

Whether it is recognised by the Government or not, residential property investors do help to provide housing to those who cannot afford to purchase their own home and helps to assist in providing housing where the Government is often expected to provide such housing – e.g. housing commission or "social housing".

Since some of these Residential Property Investments thus provide an element of social housing, especially whilst the Government is in the process of selling a lot of such public housing, investors should not be penalised in the way that they currently are but rather be supported. This would thus help the Government in the provision of housing, property investors to not rely on Government grants in retirement and social housing for the community – a win/win/win situation.

In discussing the role of Residential Property Investors in providing housing for those not able to yet purchase property, rents should be determined by market conditions and not have additional Government imposed factors which favour the tenant to the detriment of owners. More and more legislation and rules are being enacted by Government for the benefit of tenants and this is a good thing. My own view is that any property owner who does not treat their tenant in a manner which they themselves would want to be treated as a tenant, should not be a property investor.

However, it is the property investor and not the Government that is the entity that must pay for all of the additional costs that these changes cause and which are solely for the benefit of the tenant. Yet whilst the Government is decreasing its social housing expenditure, it expects the costs caused by these new rules to be borne by the property owner. Property owners everywhere would always support additional legislation and rules for the benefit of tenants if all of the cost burden of such rules was paid by the Government.

For this reason the new Property Tax should be the same for all property owners and not a different rate for Owner Occupiers versus Investors.

LOSS OF LAND TAX THRESHOLD

Of major concern is the fact that the Government has not specified how the annual increase in the existing land tax thresholds will be calculated or if indeed, there will be land tax threshold increases each year as there has been in the past.

If Land Tax thresholds are not increased in the same manner in which they are currently done pursuant to section 62TBB (3) of the *Land Tax Management Act 1956*, *("the percentage by which average land values of land within residential, commercial, business and industrial zones have changed between 1 July one year and 1 July the next"*), then it will be obvious that this lack of increasing threshold that has existed in the past is not being renewed in order to specifically force investment land owners move over to the new Property Tax.

Over the last 10 years, the average percentage increase of the General and Premium land tax threshold has been 6.6%. With increasing land values without a corresponding increase in the land tax threshold, all investment property owners will eventually be hit with land tax once their land values eventually exceed the current stationary threshold.

If that is the case then no property investor will want anything to do with the proposed Property Tax.

THE EFFECT ON SMALL SELF FUNDED RETIREMENT INVESTMENT OWNERS

The proposed Property Tax payment scheme for investors in the long term is unsustainable. Property is used by the majority of property investors as a vehicle to build equity for retirement and thus allow the individual to fund their own retirement rather than rely on Government handouts. Given that the average number of investment properties owned by any property investor is 1.49 (refer ABS and ATO statistics although you may have better access to the exact average calculation), the proposed Property Tax will hinder middle class working small (typically denoted as "Mum and Dad") investors to build their retirement funds as costs keep increasing. Property owners (in particularly investors) are now being continually penalised or disadvantaged by Government policy, higher lending rates and tenancy legislations that make investing in property more difficult and less financially viable.

HOW CAN THE ELDERLY MEET NEW PROPERTY TAX PAYMENTS FOR THEIR OWN HOME

Is the Government able to explain how, in 30-40 years' time, an elderly person is going to meet an additional land tax impost on their home, when currently most struggle to pay their rates and power bills in today's market? Will this not only increase this hardship and force more elderly home owners on to Government assistance again?

CAPPING RENT INCREASES?

This new Property Tax will eventually result in increased taxes for the majority of property investors. As ATO statistics (2017-2018) show, around 90% of residential property investors own only one or two investment properties and the majority of these people in NSW have total NSW land holdings which are below the current land tax General threshold of $755,000 for 2021.

Increased taxes have to be paid by someone. It is lacking in sense to believe that taxes may be increased and rents will not increase because a household at the 'end of the line' will 'feel the pinch' and respond in some way. If property investment was a risk-free investment, why would the Government not become more involved in this themselves?

Property investment has been taken on by many Australians and New South Wales citizens because they feel they do not have the business acumen or capability to commence their own business, they are too worried about the total loss of their savings to invest in the stock market and they cannot get anywhere near a reasonable return on any funds they may have in the bank. Yet these same citizens want to try and give themselves every possibility to be able to eventually retire and not go to the Government in retirement for continual handouts.

This only leaves Property Investment as a means of achieving this and the majority of these investors do not know enough about anything other than Residential Property.

Such property investors should not be penalised by having onerous rental caps in place or tenancy legislation aimed specifically against them. It is already the case that property investment has become much more difficult due to Government and Banking decisions which have targeted property investors by increasing the interest rates for Investors and for Interest Only loans. When the Government and Banks took these decisions to make it easier for Owner Occupiers, they did not reduce the interest rates for Owner Occupiers but instead increased the interest rates for investors.

Further disadvantaging Residential Property Investors by making them pay three times the amount of Property Tax as for a normal Owner Occupier is wrong.

NOT LOCKED IN TO PROPERTY TAX

All purchasers should have the choice of paying stamp duty / land tax or paying the new Property Tax. One shouldn't have to pay Property Tax just because the owner before you opted to.

PROPERTY TAX TIME LIMIT

This new scheme disadvantages buyers who hold property for the long term as they will pay more than the initial stamp duty. The annual Property Tax should stop when the buyer has paid out the same amount as the initial stamp duty would have been.

PROPERTY TAX THRESHOLD??

Perhaps the Government should consider a threshold for each property in much the same way that currently exists for Land Tax. This way, Owner Occupiers would still maintain some form of advantage whilst the small property investor would not try and increase rent to cover such a large cost.

NEW SYSTEM NOT EXPLAINED SUFFICIENTLY – TOO MANY UNKNOWN DETAILS

The Government has not outlined how joint ownership will be handled? Is this $500 each for owner occupiers plus 0.3% as opposed to $500 in total plus 0.3%. And is it $1,500 each for property investors plus $1% or is it $1,500 in total plus 1%?

There has been no explanation of what rates will apply for Self-Managed Super Funds, Special Trusts, and Fixed Trust? This sounds like something is being hidden from us?

The Government has not explained whether or not the current Land Tax thresholds will be increased each year in much the same way they have increased over the last 10 or 11 years – i.e. around 6.6%

CHOOSING OTHER STATES OR ASSET CLASSES

I know that neither I nor my partner will now purchase further property within NSW even though we would like to. This is because we are now paying land tax at the rate of 1.6% and we do not want to pay a Property Tax of 1% plus $1,500 for any future property we will buy. It would be better for us to invest in another state where we have not reached any land tax threshold or in the Northern Territory where there is no Land Tax at all.