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SUBMISSION

Subject **NSW GOVERNMENT PROPOSAL TO INTRODUCE ANNUAL PROPERTY TAX BASED ON LAND VALUE**

Reference **Treasury Discussion Paper 0920-01**

PURPOSE OF THIS SUBMISSION

To respond to the NSW Government proposals to introduce Land Tax on all property in NSW.

BACKGROUND TO CONSULTATION

The Government has proposed a major change to property taxes in New South Wales and called for public comment on its proposals.

Disappointingly the Discussion Paper has insufficient detail to evaluate consequences that may occur if the proposal is adopted (i.e. it is silent on withdrawal/abolition of exemptions and/or concessions provided for by the *Duties Act 1997* and *Land Tax Act 1956).*

The Discussion Paper is a poor example of consultation both in timing for stakeholders (during a Pandemic and over Christmas) and in its unbalanced content. It does not provide sufficient detail to consider all the implications.

The support for change is mostly vested property sector interests and ideological economist's opinion.

The long term social consequences are unknown and have not been canvassed in the Discussion Paper.

AD-HOC NATURE OF THE PROPOSAL

The proposed replacement of stamp duty with property tax on property purchases only is an ad-hoc response to the need for reform of the State's tax base.

It will do nothing to address the impost on the community of stamp duty on insurance and emergency service levies on transactions while reducing the community's capacity to pay those.

<u>Tax reform needs review of all State taxes and levies on a much wider base than just on property</u>.

INSUFFICIENT/POOR JUSTIFICATION FOR CHANGE

The Government's major justification for change is that it will make housing purchases more affordable. In reality the proposed change will not do so with housing prices principally driven not by stamp duty but by monetary policy settings (i.e. interest rates and other market factors).

Deferred duty specifically for housing is a demand side policy that will bid up the price of homes, just like government first home buyer grants have historically done. For many older people it will discourage them to downsize.

There is no broad evidence in the community that a significant proportion of it supports the change proposed *(i.e. NSW Review of Federal Financial Relations Draft Report Page 40 Footnote 29 "Of the residents surveyed by the authors* ***only 10 per cent*** *of those who were unhappy with their current housing arrangements cited tax as a reason for not moving").*

It is also noteworthy that, rather than survey responses received by the Task Force revealing, *"broad support for the reform"* that of the 836 thoughts published on the consultation website to date (i.e.14 March 2020) many respondents express strong misgivings about the proposal and 43% of the 5673 Quick Poll responses indicate the proposal if implemented will not help them enter the housing market. This claimed level of public support *(i.e. less than 2/3rd of less than 1% of NSW electors)* is not *"broad support"* and it does not justify any tax change before the proposal and detailed consequential legislative change being taken to an election before proceeding.

RELATIONSHIP WITH OTHER NSW LAND TAXES (i.e. DOUBLE TAXATION)

It is noteworthy that concurrently with this property tax proposal the Government is considering the *Local Government Rating Bill 2020*. That Bill contains proposals for Local Government to increase rates (an existing land tax) above the rate peg.

There appears to be no consideration in the double taxation of property that NSW citizens are facing in this proposal and the rating proposal as to whether or not it is affordable.

While property industry stakeholders, economists and Governments favour the *"economic efficiency" (the ease of collection and the tax growth)* of these proposals there ought to be some consideration of citizens capacity to pay.

The community cannot continue to endlessly fund increasing indirect and direct tax collection by the State government.

State charges are a principal community concern in respect to the rising cost of living in a time of reducing incomes and are imposing hardship.

PRINCIPAL POTENTIAL IMPACTS NOT CANVASSED IN THE DISCUSSION PAPER

Important matters (covered by both the *Land Tax Act 1956* and the *Duties Act 1997)* are not canvassed in the Discussion Paper and should have been.

Unless existing exemptions and thresholds are maintained within the proposed changes there is potential for a death tax, a matrimonial breakdown tax , trust taxes (including for Disability Trusts) and retrospectivity that will 'interfere with arrangements by taxpayers who have made every effort to comply with the prevailing law ' at the time of their setting up their estate arrangements.

All exemptions/concessions and estate arrangements made within the current law ought to be fully 'Grandfathered'. To not do so establishes a retrospective element to the proposal.

COMMENTS ON THE FRAMEWORK OF THE PROPOSAL

"THE PROPERTY TAX WILL BE AN ANNUAL TAX ON LAND VALUE

The property tax would consist of a fixed amount plus a rate applied to the unimproved land value of an individual property, and not aggregate landholdings. This is the same approach as council rates."

Comment - The fixed annual fee amount component is a duplication of the base rate tax imposed by Local Government rates on each property. It is double taxation.

"BUYERS WILL BE GIVEN THE CHOICE OF WHICH TAX TO PAY
Buyers could choose to pay the property tax at the time of purchase. It would replace stamp duty and (where applicable) land tax. Once a property is subject to the property tax, subsequent owners must pay the property tax."

Comment - The second leg of the proposed framework removes any long term choice.

"IF YOU ARE NOT BUYING A PROPERTY, THERE IS NO CHANGE
There will be no double taxation. If you have already paid stamp duty on your property then you will not have to pay the property tax."

Comment - This aspect needs further explicit explanation as it is not clear.

There are a number of ways a property title in NSW is transferred that do not involve purchase of the property and are exempt from stamp duty (e.g. bequests, matrimonial breakdowns, and transfers to trusts).

Despite numerous enquiries to the Treasurer's office and the Treasury Taskforce (Mr. P Barfield on 2nd December 2020) I have not been able to ascertain how such transfers are proposed to be treated under the proposal.

There is no discussion in the Paper of consequential amendments to existing Land Tax and/or Stamp Duty legislation (i.e. what happens to existing exemptions and concessions on residential transactions and/or exemption under the Land Tax threshold (currently $734,000 indexed annually) for those who have paid stamp duty on property already owned.

"BALANCED RATES
Residential owner-occupied and primary production properties would pay lower rates than residential investment properties, which in turn would pay lower rates than commercial properties."

Comment - Residential investment properties and commercial properties are currently subject to Land Tax. The proposal contains insufficient justification to alter current arrangements.

Comment - Imposing an ongoing property tax on regionally located land will increase the existing inequitable cross subsidy in respect to city based population growth and infrastructure provision which is the main State cost.

"PRICE THRESHOLDS WILL HELP MAINTAIN FISCAL RESPONSIBILITY
Price thresholds would limit the number of properties initially eligible for transition to keep revenue and debt impacts within reasonable levels, while ensuring over 80 per cent of residential properties are eligible to opt-in from day one."

Comment - These are not detailed in the Discussion Paper.

"PROTECTIONS
Protections would apply so that the property tax does not result in rent increases without a tenant's agreement. A hardship scheme would recognise that taxpayers' financial situations can change over time and ensure that no one facing hardship needs to sell their home to meet property tax liabilities."

Comment - Hardship schemes currently in place in Local Government are mostly only deferral based with compounding interest (i.e. the amount deferred plus costs and compound interest accrued) models (i.e. Local Government @ 8% and Pension loan schemes @ 4.5%). Deferral is not relief it is a death/estate tax.

"REVENUE NEUTRALITY
In the short term, the proposed model will reduce the NSW Government's revenue. Over the longer term, the property tax would be revenue neutral, collecting the same amount of revenue as stamp duty and land tax"

Comment - This is simply a recursive assertion, I cannot accept that in the longer term, the property tax would be revenue neutral, collecting the same amount of revenue as stamp duty and land tax.

Rather the proposal is more likely over time to significantly increase Government tax collected from property transfers. This in my view is the main driver of the proposal

"FIRST HOME BUYERS & ***OTHER CONCESSIONS (i.e.*** *Land Tax Act 1956* and the *Duties Act 1997)*
Existing stamp duty concessions for first home buyers could be replaced with a grant up to $25000."

Comment – As discussed above the Paper is silent on detail of the treatment of existing stamp duty concessions.

They are important matters that need to be resolved before any further action is proposed.

Different classes of stamp duty exemptions or concessions on real estate are currently set out in Part 6 of the *Duties Act 1997* that have not been canvassed.

a) *Transfers pursuant to a Will ($50) – section 63, Duties Act 1997 (NSW)*
   A concessional duty of $50 applies to transfers made from a legal representative to a beneficiary under a will. (Note a beneficiary may include a trust for a disabled person)
b) *Transfers pursuant to divorce and breakdown of de facto relationships (exempt) – section 68, Duties Act 1997 (NSW)*
   No duty is chargeable on a transfer of matrimonial/relationship property to a party in a relationship that has broken down.
c) *Transfer PPR to joint names, married couple or de facto partners (exempt or partially exempt) – section 104A-C, Duties Act 1997 (NSW)*
   A transfer of a family home or vacant land that is intended to be used as a family home between a married couple or de facto partners is exempt from stamp duty.
d) *Transfer to a self-managed super fund ($500) – section 62A, Duties Act 1997 (NSW)*
   A concessional duty of $500 applies to transfers from a member of a self-managed superannuation fund to a trustee of the self-managed superannuation fund.
e) *Home buyer exemptions and concessions*
   Under this scheme, purchasers are exempt from stamp duty on new and existing homes valued up to $650,000 and receive concessions for new and existing homes valued between $650,000 and $800,000. Also no duty is payable on vacant land up to $350,000 and on vacant land valued between $350,000 and $450,000.

THE TOPICS ON WHICH PUBLIC COMMENT IS SOUGHT

The Task Force has requested comment on several specific questions. My comments follow:-

"1. Do you agree that stamp duty is out of date and is a handbrake on the economy? Is there merit in replacing it with a broad-based annual property tax?"

No to both. Counter arguments and views are not canvassed in the Consultation Paper. This lack of balance means I am unable to evaluate the proposal.

"2. The annual property tax would be based on unimproved land value, much like the way council rates are currently calculated – what do you think of this approach?"

The proposal actually canvasses including an annual base rate fee ($500) plus a levy based on ULV.

"3. Do you agree that it would be attractive to be able to choose an annual property tax rather than paying a large lump-sum stamp duty on a purchase and, for investors, the current annual land tax?"

No. Each individual case consideration would be different for every buyer.

"4. Is an opt-in and gradual approach the best way of ensuring a fair transition to the property tax?"

No.

"5. Would you delay a home purchase if it meant you could opt-in to the property tax? Should there be a limited window for retrospective opt-in to the property tax, after it commences?"

No & No.

6. Should there be different property tax rates for residential owner-occupied properties, residential investment properties, farmland, and commercial properties?

No. Existing Land Tax arrangements should continue in Force.

"7. Given this tax reform is an investment into our future, do you think it is worth the cost?"

No. The inflationary impacts are horrendous.

"8. Should price thresholds be used to exclude people buying the most expensive properties from being able to choose the property tax?"

No.

"9. What arrangements should be made for residential and commercial tenants if their landlord chooses to pay the property tax?"

None. Proposal should not proceed.

"10. What should happen for people who have chosen the property tax, but then can't afford it? "

None. Proposal should not proceed.

"11. What is the best way of ensuring that the property tax remains affordable for taxpayers, while generating the same amount of long-run revenue as stamp duty and land tax?"

Index any tax to CPI not to property value.

"12. Is there a specific aspect of our proposed reform you would change to help make the proposal better?"

I suggest the following **changes to the proposal**:

1. Maintain and guarantee no changes to current indexed Land Tax Exemption threshold (currently $734,000) in the *Land Tax Act 1956* on property on which stamp duty has been paid;
2. Maintain and guarantee the current Stamp Duty Exemptions in the *Duties Act 1997* for property transfers and exempt these transfers from the proposed property tax;
3. Do not establish hardship provisions based on taxes accumulated via compound interest against an estate as part of the proposal;
4. Include concessions for low income earners and pensioners;
5. Abolish double tax for real estate (either have Local Government rates or a Property tax NOT both);
6. Guarantee there will be no annual base charge (i.e. no Poll Tax) in any Property Tax;
7. Fully detail what consequential changes will be made to all other legislation prior to further consideration of the proposal;
8. Defer this proposal until the Government develops a holistic suite of tax reform proposals; and
9. Take a comprehensive holistic tax policy to an election.

CONCLUSION

The Discussion Paper is poorly thought through and the arguments presented are incomplete and lacking sufficient detail of consequential legislative change. The long term social implications for the community are not explored.

There is no recognition that property is already taxed by each of the three levels of Government. (NSW Land Tax, Insurance levies and Stamp Duties, Local Government rates on all NSW property Federal CGT on investment and holiday homes and Federal GST on some farms and businesses). This proposal will impose the third inflation based growth tax on property if it proceeds.

The case for change is not sufficiently made out.

RECOMMENDATION

I strongly oppose the proposal, it should not proceed.

Any tax change of the magnitude/impact of this proposal should be canvassed at the next State Election.

[redacted]

14th March 2021