
From: [REDACTED]
Sent: 22/02/2021 4:02:42 AM
To: Tax Reform Taskforce [taxreformtaskforce@treasury.nsw.gov.au]
Subject: Response to Property Tax Reform Consultation Paper

Dear Treasurer

I refer to the Consultation Paper released on 17 November 2020 in relation to the proposed introduction of a Property Tax and make the comments/observations and suggestion for your consideration:

- I agree that there should be thresholds for opting in as the model is not sustainable if all properties can opt in
- Marketing the change to taxpayers as an “opt in” or a “choice” is misleading – the decision by a single taxpayer in relation to a property may mean that there is no option for future owners of that property. This may particularly be even more misleading when a developer has acquired the land and opted in (as they do not intend to hold the property for a significant period of time), meaning that the end purchasers, and the first real owners of that home, have no real choice.
- Commercial properties (including properties that are acquired by developers for development and resale) and investment properties should be excluded from the Property Tax (refer to the Alternative model below).
- The examples given in the consultation paper are very simplistic. Accordingly, it is very difficult for us to comment and provide meaningful feedback when there is no information relating to many common transactions, for example:
 - Partial transfers of land (eg. how does the opt in model work when a person doesn’t acquire 100% of the property, do they force the other owner into their “choice”)
 - Leases – grants or transfers
 - Subdivisions (eg. what happens when a developer buys a property and opts in and the property is then subdivided, does the developer’s choice then apply to the subdivided lots and therefore the end purchaser does not in fact get a “choice”?)
 - Landholder duty – applies to indirect transfers of land (be it freehold, leasehold, fixtures, items fixed to land) and goods and gives rise to significant amounts of duty. No information has been provided as to how the Property Tax will apply to these types of transactions. These types of transactions may result in deemed 100% transfers of the underlying land and goods or partial deemed transfers of the land and goods.
 - Goods – stamp duty currently applies to direct or indirect transfers of goods when transferred with interests in land (including leases) and in my experience, can give rise to significant amounts of duty
 - Properties currently exempt from land tax
- The introduction of a property tax will likely lead to a significant increase in objections to the assessments (by way of objecting to the valuation placed on the property). It is my understanding that there had already been a significant jump in objections over the last few years due to the 3 year averaging, however, the inclusion of all properties will likely lead to an even more significant increase in objections – thus resulting in costly valuation exercises and proceedings for taxpayers and government.

Alternative Model

I understand that one of the purposes of the Property Tax is to create a steady revenue stream for the Government such that revenues are not impacted as significantly in periods of economic downturn. Whilst I agree with this in principle, I do question whether a Property Tax is the right method. As we have seen in the current environment, land taxes were the first area where nearly every State and Territory government provided relief or concessions, and continue to do so. Accordingly, it is not clear how a Property Tax achieves the stated aim if it is the first lever to be pulled in such a situation.

Further, I don’t agree that that a Property Tax removes barriers to home ownership and/or changes in residence as taxpayers circumstances change. In all transactions, whether residential or commercial, the stamp duty cost is simply

factored into the financing. This will not be able to be done with a Property Tax and in fact places a greater burden on meeting this annual obligation. Stamp duty is not the barrier to home ownership or transactions occurring that many people make it out to be. Property prices in NSW are a barrier to home ownership and the introduction of this Property Tax will likely mean that vendors will consider that purchasers have more funds available and thus increase their asking price.

Notwithstanding this, if the government is set on introducing a Property Tax I make the following suggestions:

- Commercial properties and investment properties should be excluded from the Property Tax and continue to be subject to the stamp duty/land tax regime. These types of properties are already subject to land tax, so the government already receives a steady revenue stream from these properties. Further, these types of properties are regularly transacted, for example, private equity buyers typically hold their investments for a short period. The duty cost is simply factored into the financing and in my experience is typically not a barrier to the transaction occurring. By retaining stamp duty on these types of properties you will continue to charge land tax at 1.6% - 2% and receive the stamp duty revenue as these transactions occur (and they will occur). Retaining stamp duty and land tax on these types of property is also consistent with the purpose of the Property Tax, which is to make home ownership more affordable/attainable and not a barrier to movements.
- For owner occupied and primary production, these are currently not subject to land tax. Once again, in my experience I don't see stamp duty as being a barrier to these transactions occurring. The stamp duty is factored into the price and financing of the transaction and such transactions will occur, and continue to occur (and as we have seen during the pandemic, have continued to occur at significant rates). Accordingly, my suggestion is to apply a lower rate of stamp duty to these transactions, this will mean that you continue to receive stamp duty on each transaction. In exchange for the lower stamp duty rate, a land tax (at a lower rate than what you have currently suggested for the Property Tax for these types of property) could be imposed annually – this creates a steady revenue stream for the government and allows a purchaser of such property to wrap the stamp duty up in their financing (something which would not be able to be done under the proposed Property Tax). To make this palatable for home owners, the land tax rate would need to result in an annual levy that is in the hundreds of dollars, not thousands or tens of thousands of dollars, per year.
- The current Duties Act and Land Tax Management Act already contain definitions of residential land, principal place of residence and primary production land that could be utilised in order to give effect to this Alternative Model. However, given the number of cases on primary production land it may be worth revisiting this definition to see whether it could be clarified further for taxpayers.

Specific Responses to Consultation Questions

1. No, I do not agree that stamp duty is outdated or a handbrake on the economy and do not consider it necessary to replace with a broad based annual property tax.
2. Of the options tabled, unimproved value is clearly better as it results in lower tax payable. However, whichever method is used, there will be a significant jump in objections to assessments.
3. No, because you cannot fund the annual property tax in your financing.
4. Assuming a property tax will be introduced, my preference for a gradual approach is to either follow the ACT lead – that is, slowly reducing the duty rate over a 20 year period and increasing the property tax rate or by maintaining both stamp duty and land tax in a way suggested in the Alternative Model above. In this way all purchasers are on an equal playing field.
5. No, I would not delay a purchase as I would choose stamp duty.
6. Assuming a property tax will be introduced, yes there should be different rates.
7. As noted above, I do not believe that the reform is necessary. You have indicated in the paper that the revenue to be raised over the long term will be identical, therefore, why spend the money reforming. Further, land tax was the first lever to be pulled in the pandemic to provide relief for taxpayers, therefore, query whether a property tax provides that constant revenue stream you are looking to achieve if it too will be the first lever to be pulled. Transactions have continued, and will continue, to occur, irrespective of the imposition of stamp duty.
8. Yes

9. I am not convinced that the property tax will result in lower rents for tenants and would expect landlords to pass on the tax to tenants.
10. In addition to people in genuine hardship, the Government needs to think of how people in retirement are meant to fund the property tax. Whilst this may not initially be a problem based on the current proposal (as retiree's will not be in properties that have the property tax applied to them) this will be a problem that will eventuate. You cannot place retiree's in a situation where they need to sell their property, or that on death the outstanding tax is to be paid out of the estate (a reintroduction of death duty).
11. Refer to alternative model above and/or response to question 4
12. Refer to alternative model above and/or response to question 4

Please feel free to contact me if you wish to discuss any of the above.

Kind regards



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