

WESTERN AUSTRALIAN FEBRUARY 2009 SUBMISSION

CGC 2008/07 STAMP DUTY ON CONVEYANCES

Key Points

- Western Australia does not object to the application of a VDA, nor to the Commission's proposed choice of value ranges.
- As highlighted in the draft consultant's report, material policy differences exist in relation to the States' conveyance duty provisions.
 - The Commission should recognise Western Australia's new landholder regime, including the State's unique listed company provisions, in its assessment of the conveyance duty base.

VALUATION DISTRIBUTION ADJUSTMENT (VDA)

- On the grounds of simplicity, Western Australia's preference is not to apply a VDA in relation to transfer duty (similar to our views on land tax and payroll tax).
- However, we recognise that this position is not shared by other States. Western Australia does not object to the application of a VDA in this case on the basis that: (1) the average policy of the States is to have progressive tax rates; and (2) the use of progressive rate scales for conveyance duty is not inconsistent with principles of good tax design (i.e. vertical equity).

Number and choice of value ranges

- Western Australia supports the value ranges set out in Commission Paper 2008/07:
 - \$0.0 million to \$0.3 million;
 - \$0.3 million to \$1.0 million;
 - \$1.0 million and above.

POLICY DIFFERENCES ACROSS THE STATES

Landholder duty in Western Australia and the abolition of the land rich test

- Western Australia introduced a new Landholder Regime on 1 July 2008. This expanded the State's tax base by removing the "land rich test" for land (including mining tenements) acquired through the purchase of controlling interests in companies owning the land (i.e. the requirement that entities hold more than 60% of their total assets in land was abolished).

- At the time of the 2008-09 State Budget, we estimated that this reform would increase Western Australia's tax base by \$100 million in 2008-09. On the strength of this estimate, the Government cut the transfer duty rates by 5% across the board, with the objective of achieving revenue neutrality.
- As highlighted in the draft report by Blake Dawson, the abolition of the "land rich test" in Western Australia (as well as the Northern Territory, the Australian Capital Territory and now New South Wales), gives rise to a highly significant policy difference among the States.
 - The Commission will need to adjust its assessments of the revenue base in light of these material policy differences.
 - * Note that Western Australia is required to quantify the effect of this policy change and report to Parliament under section 205 of the *Duties Act 2008*.

Listed company takeovers

- The consultant's report also confirms that Western Australia is the only jurisdiction to extend its landholder provisions to takeovers of listed companies and unit trusts.
- The value of revenue generated by Western Australia's unique provisions is very material (\$339 million in 2007-08).
- Western Australia's Office of State Revenue collects relevant information on revenue generated by these provisions under section 205 of the *Duties Act 2008*.

Specific comments on the consultant's report

Landholder duty: unit trusts and level of acquisition (page 13 - point (iv))

- The draft report notes that New South Wales, Victoria and the Territories prescribe a lower level of interest that must be acquired before transactions become dutiable (i.e. 20%). In other States, a 50% interest is required. This difference is characterised as being 'highly significant.'
 - Western Australia is not convinced these differences are material.
 - * This is based on Western Australia's experience in having recently moved from a situation where any percentage acquisition in a unit trust was dutiable to one where 50% or more is dutiable.
 - Ultimately, the Commission will require robust data to evaluate the significance of these differences (such as by tracking relevant dutiable transactions in those jurisdictions).

Unit trust provisions / summary (page 15)

- The draft report concludes that Queensland's unit trust provisions are broader than in New South Wales, Victoria, Tasmania and both Territories. For different reasons, the draft report also concludes that Queensland's provisions are broader than South Australia's arrangements.
- However, there is no direct comparison between Queensland and Western Australia.
 - We believe that our provisions are roughly equivalent, as Western Australia does not have a wholesale trust exemption. This means that we collect duty on all unlisted public unit trust transfers of 50% or more (whereas Queensland would not collect duty in these circumstances). Conversely, Western Australia does not receive duty from private unit trust transfers of less than 50% (but Queensland does).

Data collection/ chattels (page 19)

- We agree that the information being collected under section 205 of the *Duties Act 2008* would be sufficient for CGC purposes. However, we have also undertaken to separately identify and report on the duty collected that is attributable to taxing chattels through the landholder duty base.
 - Western Australia is the only jurisdiction that calculates duty on the chattels component of indirect interest transfers under its landholder regime.
 - If the amount of revenue collected under this provision is significant, an adjustment may be required in the future.

Abolition of non-real non-residential transfer duty

- The South Australian Government announced in its 2008-09 Mid-year Review that the abolition of stamp duty on non-real property transfers will be deferred to 1 July 2012.
 - The government had previously announced that these taxes would be phased out over a two-year period from 1 July 2009, with full abolition from 1 July 2010.