



Queensland Government
Treasury

Queensland Treasury Response to
Commonwealth Grants Commission
Position Paper 2008/07

Stamp Duty on Conveyances

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SUMMARY OF QUEENSLAND'S POSITION

Queensland believes the existing methodologies for the assessment of revenue categories are generally robust, measure the revenue base using reliable data, and that simplification in the 2010 Review proposed revenue assessments could be largely presentational. In the Stamp Duties on Conveyances assessment the proposed simplification leads to a less transparent and less robust methodology.

All States have progressive rates of tax, supporting the case for a value distribution adjustment (VDA). Simplification is not achieved by selecting, one, three or ten value ranges. Rather, Queensland considers that the number of value ranges should, subject to data quality, be based on the average policies of states.

The proposal to use three value ranges may produce a method that appears simpler, but arguably does so at the expense of equalisation. The reduced number of value ranges increases the average effective rate of taxation applied to higher proportions of transactions, favouring higher taxing States. The proposed method significantly reduces the transparency of the assessment, allowing little scrutiny between states. Historically, all states have been able to provide detailed data of satisfactory quality to support a greater number of value ranges.

Should the Commission continue with the use of three value ranges then they should be lowered to \$0.0 to \$0.2 million; \$0.2 million to \$0.6 million; and \$0.6 million and above, reflecting the notional break points outlined in the Commission's staff research and presented in the position paper.

In the case of Land-rich/holder provisions, Queensland considers that the Commission should not exclude any significant portion of one State's own-sourced revenue on the basis that the State claims its duty provisions are unique or a consultant says is "materially different". If the Commission supports the argument put forward by Western Australia, the decision would likely to lead to further claims of revenue "uniqueness". In fact, the Blake-Dawson Consultancy suggests policy adjustments to states' duty collections could lead to a situation where the Commission is required to adjudicate on the level of uniqueness of all provisions in state tax legislation. This would not be an efficient use of the Commission's resources, particularly as States acknowledged that revenue assessments were, by and large, not a concern for the 2010 Review.

Queensland suggests that just as stamp duty on conveyances is State revenue based on land tenure, so to the Western Australian land-rich/holder arrangement enables that State to collect revenue based on land tenure. State revenues based on land tenure should be treated equally by the Commission as stamp duty on conveyances.

Key Issues

- the value ranges for the VDA adjustment to more closely align with average state policies (the 2004 value ranges would be suitable);
- if the Commission decides to use three value ranges for the VDA adjustment, that these be reduced to \$0.0 to \$0.2 million; \$0.2 million to \$0.6 million; and \$0.6 million and above;
- the inclusion of all revenue related to stamp duty on conveyances/land tenure; and
- no policy adjustments to be made in the assessment.

ISSUES

2004 Review Model

In Position Paper CGC 2008/7, the Commission noted that most states supported a continuation of the 2004 Review method. It also concluded to continue with a value distribution adjustment (VDA) assessment because it was average State policy to have progressive rates of stamp duty, and that data sourced from State Revenue Offices was of sufficient quality to support a VDA assessment.

It is not clear why the Commission proposes moving from a methodology that it and states are generally satisfied with to one that, while apparently simpler, would reduce transparency and move further away from achieving equalisation.

It is acknowledged that the Terms of Reference (ToR) instructs the Commission to simplify by aggregating existing categories, components and factors, and reviewing the scope to use more general indicators of revenue capacity. However, the ToR notes that “providing that to do so is consistent with the principle of Horizontal Fiscal Equalisation”. Queensland contends that by moving away from reflecting what states do in choosing the value ranges for the VDA adjustment, the proposed method is not consistent with the principle of Horizontal Fiscal Equalisation.

It is average policy for states to have progressive rates of stamp duty, and it is average policy for states to have six progressive rates of stamp duty, not three, as seen in Table 1. A VDA adjustment in the stamp duty on conveyances assessment using 6 value ranges would more accurately reflect the average state revenue collection policy.

Table 1: Stamp Duty on Conveyances – Number of Value Ranges 2008-09

	NSW	VIC	QLD	WA	SA	TAS	ACT	NT	Average
Number of Value Ranges	7	6	5	5	9	7	6	2	6

2010 Review Model – Three Value Ranges

The three value range thresholds proposed in Position Paper CGC 2008/7 do not appear to reflect the information presented in the position paper. The method in the position paper proposes the following thresholds:

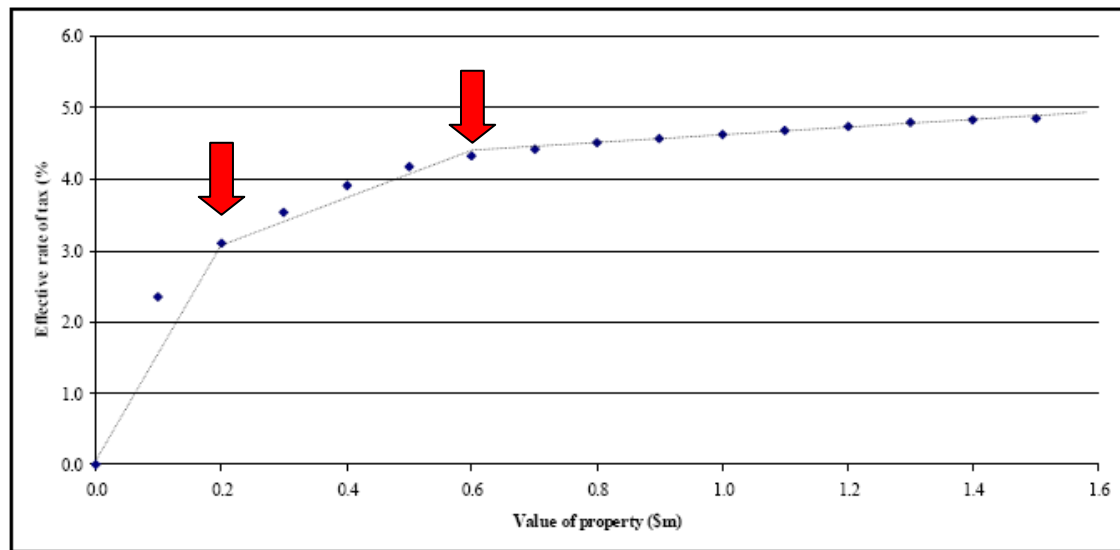
- \$0.0 to \$0.3 million;
- \$0.3 million to \$1.0 million; and
- \$1.0 million and above.

As discussed above, Queensland does not consider the use of only three value ranges as appropriate. However, if the Commission decides to use three value ranges to make the VDAs, Queensland suggests the value ranges should be lowered to reflect the apparent break points in Figure 1 of the position paper:

- \$0.0 to \$0.2 million;
- \$0.2 million to \$0.6 million; and
- \$0.6 million and above.

Figure 1 shows that the average effective rates of tax change when property values are \$200,000 and greater and \$600,000 and greater.

Figure 1 Average effective rates of tax, 2006-07



Source: Table 2 and 3.

Land-rich Provisions

Western Australia claims that it has unique land-rich provisions and argues that revenue collected under these provisions should be excluded from the Commission’s Stamp Duty on Conveyances assessment. All States collect land-rich (or landholder) duty and all States have somewhat unique provisions that influence the amount of duty able to be collected.

In Western Australia, legislation allows collection of duty on the value of land held by an entity, on acquisition of 50% or more of an unlisted entity (or 90% of a listed entity). Queensland, on the other hand, is unique in that it does not exclude all mining interests from its definition of land under its *Duties Act 2001*. In Queensland, interests that are of significant value (eg. mining leases) are included within the definition of land for the purposes of the *Duties Act 2001* and as such are potentially subject to land-rich provisions.

Queensland notes that the Commission appears inclined to accept the approach suggested by Western Australia in the 2009 Update. Selecting which individual provisions of state tax legislation should be assessed or not assessed appears to be at odds with the statement in paragraph 24 of the position paper, that “... we should interpret what states do in a broad way. We propose to define average policy more broadly than we did in the 2004 Review”.

It is arguable whether the Commission’s apparent approach to Western Australia’s request is the intent of the TOR. However, whichever approach the Commission intends to take it should be applied consistently, particularly within the same assessment.

Queensland considers that the Commission should not exclude a significant portion of a state’s own-source revenue on the basis that the state claims its duty provisions are unique. If the Commission considers the duty to have been collected under distinctive duty provisions a separate component should be introduced to ensure the revenue is reflected in the assessment. This could be done on a similar basis to past provisions for the sale of major State Government assets or corporate reconstructions.

Blake Dawson Consultancy

The consultant specifically identifies that a key limitation of its report is that while differences in the law of each State can be set out, it is extremely difficult to determine the extent to which any difference in the law may have practical effects on revenue collection.

The consultant then lists types of dutiable transactions:

- which are “materially” different between States;
- where a “policy adjustment” is necessary and suggests budget forecasts and sampling as a method of adjustment; and
- highlighting a considerable manual data collection exercise which if adopted, would need to be collated annually.

Queensland agrees with the consultant’s conclusion that the task of judging the size of policy adjustments will be difficult, and suggests the recommendations put forward by the consultant to standardise or “policy adjust” stamp duty revenues do little to improve equalisation. A more likely result of the consultant’s suggested “policy adjustments” would be increased complexity and reduced transparency. Further, to ensure consistency across assessments, the Commission would need to undertake a similar exercise in all other revenue assessments. Queensland suggests that the Commission continue with its past approach.