



Response to Commission Position Paper CGC 2008/06:

Land Tax

Department of Treasury and Finance

February 2009

Summary

- Tasmania supports the Commission's proposed continuation with the [broad] 2004 Review approach to the assessment of land tax capacity (in preference to alternatives canvassed in previous staff discussion papers).
- However, Tasmania considers there is a prima facie conceptual case for the assessment of a value distribution adjustment.
- This conceptual case has been reinforced, since the release of the Commission Position Paper, by the New South Wales Government's decision to introduce a new land tax "premium threshold" from 2009. That is, the existence of an (indisputably) progressive land tax regime in New South Wales removes any ambiguity as to whether it is national "average policy" to impose land tax progressively.
- At the practical measurement level Tasmania accepts that the VDA assessment approach used for the 2004 Review may be materially distorted (relative to states actual tax bases) due to its incapacity to account for aggregation impacts.
- Tasmania is therefore strongly supportive of the Commission's exploration of the alternative "aggregated holding" data based approach which could more reliably support a VDA.
- In this context, Tasmania notes that it is able to provide aggregated holdings data in conformity with the draft data request circulated in December 2008 for the relevant five data years.
- Tasmania also notes informal consultations with a number of other states suggest that while there are some aggregated holdings data issues, these are not such as to negate the reliability of an assessment based on aggregated holdings data.

Overview of Commission position

1. The Position Paper indicates that the Commission has decided to continue the [broad] 2004 Review approach to assessing land tax. However, it leaves open-ended the question of whether or not a value distribution adjustment could continue to apply.
2. Specifically, paragraphs 35-37 note:

"The Commission does not intend to assess a VDA for land because:

- *it is not clear that the average policy is to have progressive rates of tax; and*
- *we do not have reliable data on which to base a VDA assessment.*

In the absence of data it is difficult for the Commission to advocate a methodology beyond a common effective rate of tax. We note that even to do

that will require us to impute the differential impact on the ownership of principal residences.

To move beyond this point we would require data on the actual distribution of taxable properties. We accept that this creates an incentive for those states who might lose from a VDA, not to provide that data. However, the Commission will consider using the partial data where they are available if they will improve the equalisation outcomes and are consistent with its assessment guidelines.”

3. In terms of data on the “actual distribution of taxable properties”, paragraph 20 clarifies that

“Ideally, to assess land tax we would require data on land holdings by owner. The data would :

- *include holdings valued below each state’s threshold;*
- *make no distinction between C&I and NPR land ;*
- *allow us to distinguish between type of owner; and*
- *be valued on a comparable basis.*

4. Commission staff have since circulated an “aggregated ownerships” draft data request asking that states indicate their capacity to provide data in accordance with this specification for the five data years which underpin the 2009 Update.

The average policy of states and the conceptual case for a VDA

5. The Position Paper analysis indicates that the tax bases of the seven states that impose land tax are similar in terms of scope and structure, albeit that some states distinguish between individuals and ‘others’ (trusts, companies etc).¹
6. However, paragraph 18 notes that *“New South Wales has a flat rate above a tax free threshold², Queensland has progressive rates, except for its highest range which is regressive, the tax rate for the remaining states are progressive albeit fairly slightly. The ACT does not have a tax free threshold. The top tax rate also varies significantly from state to state, both in its value and in the threshold from which it applies”.*

¹ That is, states tax holdings of commercial and industrial and residential land; exempt principal residence and primary production land; aggregate holdings of land; and, with the exception of ACT, allow a tax free threshold.

² At the time the Position Paper was released, NSW had a flat rate of 1.6 per cent above its (2008) threshold of \$359,000. It has since introduced an additional rate of 2.0 per cent above \$2,250,000 from 2009, such as to create a clearly progressive structure.

7. Flowing from paragraph 18, the Commission states (paragraph 19) that “*it is not clear to us that the average policy is to have progressive rates of tax. We do not conclude that a conceptual case for a VDA has been established.*”
8. Even before the recent change to the New South Wales land tax regime, the analytical basis for this conclusion was unclear to Tasmania.
9. In a recent email, Commission staff sought to clarify the Commission’s decision rule for determining whether there is an average State policy to levy a tax (refer email from Peter Connell, 16 January 2009). While the email context was the 2007 Update treatment of financial taxes that were to be abolished as part of the 1999 IGA, its extension to a decision rule regarding whether it is average policy to tax progressively flows readily. That is (Tasmania’s additions in italics) “an assessment would continue to be made for a *progressive* tax if, in the application year:
 - the States collectively taxed *progressively* at least 50 per cent of the all-State aggregate tax base; and
 - four or more States imposed the tax *progressively*.”
10. Attachment A of the Paper suggests that in 2008, with the exception of NSW and the ACT, all states which impose land tax would have had 2 or more progressive tax bands above a national average threshold, even after allowing for a reasonably high “national average” threshold (the “average” threshold would be driven predominantly by the four largest states, and could reasonably be expected to fall somewhere between \$300 000 - \$350 000).
11. Tasmania considers it would need to be tested empirically (not simply assumed) that New South Wales would account for more than 50 per cent of the aggregated tax base above that national average threshold in order to conclude that there is no average policy of progressive rates.
12. Tasmania is not aware of any empirical analysis which establishes this.
13. The statement that the Queensland “top rate is regressive” ignores the fact that the threshold (otherwise applicable to the lower brackets) has also been removed. Queensland property valued at or above the top threshold of \$3 000 000 (for individuals) or \$2 000 000 (for companies, trustees, and absentees) is taxed at a constant proportional rate of 1.5 per cent of the underlying property valuation. It can also be readily shown that this rate exceeds the proportion of tax to property valuation in lower brackets (to be regressive, this tax to valuation ratio would need to be declining³ relative to that in the lower brackets – this is simply not the case).
14. The observation that there is a wide range of variability in the actual rates and thresholds applied across the states does not seem to be of specific

³ Boadway, Robin; *Public Sector Economics* 1979, p 378

relevance to the question of whether there is an average policy to have progressive rates.

15. Irrespective of the above points, as New South Wales has since adopted an unambiguously “progressive” land tax regime (rate of 1.6 per cent above its 2009 threshold of \$368 000, rising to 2.0 per cent above \$2 250 000), the conceptual case for a VDA based on average (progressive) tax policy no longer seems to be in question.
16. That is, in line with the assessment guidelines, Tasmania considers a clear conceptual case exists for the application of a VDA within the land tax assessment.

The reliability of the data on which a VDA could be based

17. The reliability of data for estimation of a VDA is a distinct and separate issue to the overall reliability of the valuation data base.
18. The overall reliability of the valuation data base is about differences between states in valuation approaches/methodologies. Tasmania considers this issue has been effectively “put to bed” for the 2010 Review through the Commission decision to continue with the 2004 Review “state provided” data approach, implying the Commission has determined the valuation basis of this data is sufficiently reliable/fit for purpose.
19. This overall reliability determination holds, whether the Commission continues to calculate states’ tax bases using the 2004 Review approach (state-provided valuers-general data on absolute numbers of property and their associated values falling within defined values bands) or moves to an approach based on state revenue offices “aggregated holdings” data. This is so because the valuations underlying both approaches remain the property valuations determined by states valuers-general.
20. The Commission has indicated its conceptual preference for aggregated holdings data (paragraph 20) as better reflective of states underlying relative tax capacities. It is also the approach which would best support a VDA assessment.
21. Tasmania supports this view.
22. Land tax is applied progressively and all states undertake aggregation. State revenue office data on aggregated holdings reflects the policy impact of this. The data on aggregated holdings also better allows for the exclusion of principal residences (all states exempt these). In contrast, the valuer-general data cannot reflect the aggregation impacts and only proxies the principal residences exclusion (through the application of rental proportions).
23. The Position Paper’s analysis suggests that aggregation impacts could be material. Tasmania own internal analysis of its land tax base supports this. The effect of aggregation is to materially skew the distribution of taxable

holdings into the upper tax bands of the Tasmanian value distribution. That is, a VDA applied to simple land valuations rather than aggregated taxable holdings would be expected to be materially distorted.

24. In sum, therefore, the use of an aggregated holdings approach to assess states relative tax capacities within a progressive tax context should result in an improved equalisation outcome.
25. The issue remaining to be resolved is whether states can provide their aggregated holdings data on a sufficiently complete and comparable basis for it to be deemed “reliable”.

Aggregated holdings data

26. The Commission staff circulated a draft data request in December 2008 seeking to determine states capacities to provide aggregated rateable holdings data for five assessment years according to the Position Paper specification (paragraph 20).
27. Tasmania can confirm that it can provide this information according to this specification for the five years in question⁴.
28. Tasmania has also undertaken some preliminary work in association with a sub-set of other states (Victoria, South Australia, and Queensland) to test the comparability of our state aggregated tax bases and identify areas of differences.
29. Overall, the broad range of exemptions (some exceptions at the margin), the approach to aggregation, provisions relating to trusts (outside of actual tax rates and thresholds) appear to be similar/the same. All these states (with some caveats by Queensland) are able to provide aggregated holdings data below their state thresholds and for the five years in question.
30. Preliminary indications of differences are:
 - the application of grouping, in addition to aggregation, by Victoria and Tasmania – however, both states can provide aggregated holdings data on a non-grouped basis;
 - the recognition of both primary and secondary taxpayer liabilities within the Victorian aggregation framework;
 - some differences in approach to counting taxpayers in Queensland; and

⁴ Our only caveat is the split between individuals and “other” (meaning trusts, companies etc) as the identification of trusts would need to be done manually, a laborious task – we intend to discuss the necessity for this distinction in Tasmania’s case (where there is no difference in threshold or taxation rates applied in contrast to some other states) further with Commission staff.

- some limitations on Queensland's capacity to exclude principal residences from data on aggregated holdings below its own state thresholds.
31. However, these differences do not appear insurmountable or such as to compromise the capacity of these states at least to provide aggregated holdings data on a sufficiently comparable basis to be considered "fit for purpose"/reliable.
 32. That is, based on this work across this sub-set of states, the data comparability issues in relation to land tax aggregated holdings data appear no worse (and probably better) than those encountered in some other revenue assessments (for example, conveyances).

Conclusion

33. The conceptual case for a VDA assessment is a strong one.
34. In principle, an aggregated holdings measure is a superior basis from which to measure states relative tax capacities.
35. Reliable data to support assessment of a VDA clearly requires an aggregated holdings data approach.
36. Preliminary indications from a subset of states are that this data can be obtained, and could meet a "reliability" standard.
37. The outstanding issue in Tasmania's view is the ability of states to provide aggregated holdings data to an extent sufficient to support its use within an assessment context.
38. Tasmania urges the Commission to progress this data avenue.