

COMMONWEALTH GRANTS COMMISSION (CGC) 2010 REVIEW

COMMISSION POSITION PAPER 2008/07

STAMP DUTY ON CONVEYANCES

NEW SOUTH WALES TREASURY COMMENTS

MARCH 2009

New South Wales Treasury is of the view that the proposed assessment for Stamp duty on conveyances is not appropriate for a category in which different policy responses have significant impacts on each jurisdiction's revenue raising abilities.

New South Wales Treasury believes the use of an assessment which employs a Value Distribution Adjustment (VDA) is unnecessarily complex and departs from the normal assessment methods employed by the Commission in the revenue areas.

The Commission currently proposes to assess Stamp duty on conveyance revenues in two parts using property values:

- Duties raised from the sale of major State government owned assets and corporate reconstructions.
- Duties from other conveyance transactions.

New South Wales Treasury notes the Commission's intention to assess the first group on an equal per capita (EPC) basis. The sale of state government assets reflects state policy choices, making an EPC assessment appropriate. Corporate reconstructions are required to be assessed EPC by the Commission's terms of reference.

The Commission proposes to assess the duties on other conveyances using the value of the property conveyed as the tax base but adjusted for the distribution in values across the base (VDA) and differences in the type of property subject to duty. The types of property adjustment reflects the differences in the tax base in the different jurisdictions.

Value distribution adjustment

The Commission initially proposed not to make an adjustment for differences in the value of properties conveyed because the structure of the tax rates reflects the policy choices of the jurisdictions. New South Wales Treasury continues to believe this is

still the more appropriate method of assessment as it is not convinced the use of the VDA is justified because of the role of policy. The Commission's initial view would simplify the assessment considerably as the terms of reference direct.

The revenue raised by stamp duty on conveyances in the different jurisdictions reflects distinct policy decisions relating to:

- The rates of the duty,
- Any threshold imposed, and
- The types of property transactions the duty is levied on.

Each component is adjusted by the jurisdiction in response to changing land values and changes in the distribution of land values. These changes are the result of policy choice. These policies, in turn, influence the value of assets such as real property. When a seller places a parcel of real estate on the market, the vendor will seek to cover not only the original purchase price plus other costs plus margin but rather the purchase price, plus other costs plus margin plus original transfer duty. In other words, they attempt to capitalise the transfer duty costs. If the sale proceeds, the capitalised transfer duty will inflate the transfer duty levied on that sale. The thresholds and rate of transfer duty are clearly policy influenced and so property values are influenced, in part, by these policy decisions.

An indication of the role of policy decisions in conveyancing revenues can be gauged from some of the more significant changes which have occurred in transfer duties over the last decade.

New South Wales:

- 1998-99 changes in the thresholds and discounts for First Home Purchase Scheme,
- 1999-00 early payment discounts offered as part of the First Home Purchase Scheme,
- 2000-01 First Home Plus package introduced and exemption thresholds adjusted
- 2003-04 change to the transfer duty base,
- 2004-05 exemption of approved equity release schemes for aged home owners and the raising of thresholds in the First Home Plus package, change in the top marginal rate and threshold for residential properties,
- 2007-08 proportional transfer duty concessions offered where first home buyers purchasing a home in conjunction with equity partners who have previously owned residential property in Australia.

Victoria:

- 1998-99 general threshold raised as were the thresholds associated with concessions for first home owners and pensioners,
- 2004-05 expansion to exemptions on conveyance duty,
- 2006-07 further changes to pensioner concessions,
- 2007-08 changes to transfer duty rates,
- 2008-09 changes to transfer duty rates.

Queensland:

- 2004-05 extension of concession on principal place of residence, and change in the threshold for first home owners exemption,
- 2006-07 first home owners exemption extended to land below a threshold and changes in transfer duty rates,
- 2008-09 reduce number of transfer duty bands and changes to the rates.

Western Australia:

- 1998-99 increased stamp duty on property transfers and increased stamp duty concessions for home buyers,
- 2002-03 changes to conveyance duty rates,
- 2003-04 changes to conveyance duty rates,
- 2004-05 exemptions from conveyance duty for first home owners below threshold, reduced stamp duty rates on conveyancing and extension of concessions,
- 2007-08 first home buyer exemption thresholds increased,
- 2008-09 concessional transfer duty scale introduced.

South Australia:

- 1999-00 increase in transfer duty rate for high value properties,
- 2002-03 increase in some conveyancing transfer duty rates ,
- 2004-05 partial transfer duty concession for first home owners,
- 2006-07 changes to the transfer duty for land rich entities.

Tasmania:

- 2004-05 concessions on transfer duty for first home owners,
- 2006-07 increase in conveyance duties.

Northern Territory:

- 2002-03 increase in the stamp duty threshold for first home owners and concessions for the principal residence,
- 2006-07 change in business conveyance for non-land transfers,
- 2007-08 increase in threshold for first home owners,
- 2008-09 further increase in threshold for first home owners and changes to transfer duty rates.

Australian Capital Territory:

- 2004-05 adjustment in conveyance duty thresholds for higher property values.

It can be readily observed all jurisdictions adjust their transfer duties in response to the changing economic and political environments. As these environments are regularly changing, so too are the policy responses.

If the Commission continues to advocate the use of a VDA, then it may be appropriate to attempt to identify the policy component and the non-policy component of asset values employed in each VDA grouping of the assessment. Once this is completed the assessment can be made by treating the policy induced component on an EPC basis and the non-policy on the differential basis for each of the VDA groupings.

The argument for the VDA, promoted by some jurisdictions and the Commission, is that the VDA allows an adjustment for the different range of transaction values in the different jurisdictions. The argument that where transaction values are higher, revenue increases at an accelerating rate as the thresholds for higher marginal rates of duty are reached is accurate to an extent. However, as more large transactions occur, the top marginal rate and the progressivity of the duty scales become less important as a larger proportion of the duty revenue raised is from transactions assessed at the top marginal rate. Further, the loss of revenue from the concessions and exemption granted decline in their significance. As more transactions occur at the top rates, the VDA becomes less important.

New South Wales Treasury does not believe, as South Australia contends, that VDA is analogous to use rates in other assessments. Use rates in Justice services or Schools education, for example, reflect the way in which some groups in the population use services at a higher rate than other groups in the same population. Value distribution adjustment simply attempts to group the values of transactions. Value distribution reflects the operation of market influences in the different jurisdictions. This is considerably different from use rates in other assessments.

Adjustments for differences in the type of properties subject to duty

New South Wales Treasury notes the VDA does not adequately reflect the influence of non-real estate property transfers. These could also vary considerably between jurisdictions depending on the industrial structure of their respective economies and the current stage in the business cycle.

New South Wales Treasury notes the Commission's undertaking to seek independent advice on the nature and size of adjustments necessary for differences in the

properties subject to duty. The independent evaluation should determine whether these adjustments are material.

New South Wales believes the currently proposed assessment of Stamp duty on conveyances category is unnecessarily complex and the revenues used in the assessment are too heavily influenced by policy decisions by the respective jurisdictions.