

## CHAPTER 5

# STAMP DUTIES ON CONVEYANCES

### WHAT IS INCLUDED IN THE STAMP DUTY ON CONVEYANCES CATEGORY?

- 1 Stamp duty on conveyances is a tax on the transfer of ownership of property. The tax is based on the value of property transferred and is paid by the purchaser.
- 2 The concept of taxable property is very broad. It comprises both real property (such as land, houses, apartments, shops, factories, offices etc) and non-real property (such as copyrights, goodwill, patents, partnership interests and options to purchase). The category includes duty raised from the sale of major State government owned assets, but excludes duty raised on the transfer of shares and marketable securities.
- 3 In 2008-09, revenue from stamp duty on conveyances averaged 10.7 per cent of own-source revenue (Table 5-1), making it the third largest State revenue source (after miscellaneous revenue and payroll tax). However, it is a volatile source of revenue — Table 5-2 shows it was 16 per cent in 2007-08 but fell to 11 per cent in 2008-09. The fall was very significant in Western Australia where conveyance revenue was 20 per cent of total revenue in 2007-08 but only nine per cent in 2008-09.

**Table 5-1 Stamp duty on conveyances category revenues, 2008-09**

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Category revenue (\$m)	2 725.5	2 666.8	1 805.8	1 008.1	679.7	148.0	195.9	108.2	9 338.1
Total (\$pc)	387.07	497.08	415.18	457.39	421.66	295.84	563.29	488.22	431.49
Proportion of State revenue (%)	11.0	13.0	9.0	9.3	10.7	8.9	9.9	10.2	10.7

Source: Commission calculation using State data.

**Table 5-2 Stamp duty on conveyances as a proportion of State own-source revenue**

	2005-06	2006-07	2007-08	2008-09
Total for category (\$m)	10 598.1	12 815.5	14 185.5	9 338.1
Total own source revenue (\$m)	78 043.0	86 408.3	87 598.6	87 173.8
Proportion of total own source revenue (%)	13.6	14.8	16.2	10.7

Source: Commission calculation using ABS GFS data and State data.

### The average revenue raising policy

- 4 As shown in Table 5-3, all States impose conveyance duty at progressive rates — the marginal rate of duty increases with the value of the property transferred.

**Table 5-3 Effective tax rates on conveyances of selected values, 2008-09**

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
	%	%	%	%	%	%	%	%
Value of transfer								
\$150 000	2.49	2.71	2.45	2.66	3.22	2.62	2.50	2.49
\$300 000	3.00	4.36	2.98	3.39	3.78	3.18	3.17	3.47
\$450 000	3.50	4.90	3.15	3.84	4.18	3.46	3.28	4.46
\$600 000	3.75	5.18	3.34	4.14	4.47	3.59	4.38	4.95
\$750 000	3.90	5.34	3.57	4.34	4.68	3.67	4.65	4.95
\$1 000 000	4.05	5.50	3.82	4.54	4.88	3.76	4.93	4.95

Note: The effective rates of tax are calculated as the tax payable on the transaction under the State's legislation divided by the value of the transaction.

Source: Commission calculation based on State tax rates published in New South Wales Treasury, *Interstate Comparison of Taxes, 2008-09*.

- 5 However, the States do not have harmonised legislation and there are differences in the range of property subject to duty. For example, Victoria has a concession for 'off the plan' transactions, but those transactions are fully dutiable in other States. The differences between States in the range of property subject to duty are material to comparisons of revenue raising capacities.

## ASSESSMENT APPROACH

### Overview

- 6 Consistent with its terms of reference, the Commission sought to derive a more general and simpler measure of conveyance revenue capacity. It initially considered using ABS data on secured housing finance to measure the revenue base. The States opposed this option because it did not deal well with transfers of commercial property and was not transparent. They asked the Commission to retain the approach it had used in the 2004 Review where the revenue base was the value of property transferred and was measured using data collected from each State. The Commission agreed because the 2004 Review method better reflected the way States

impose the duty, was more transparent and we considered reliable measures of the revenue base could be prepared using data provided by each State.

- 7 The assessment approach makes a distinction between two types of revenue:
  - those for which a differential assessment is not made:
    - revenue from duty on corporate reconstructions where most States refund the duty collected or exempt the transactions to encourage economic reform. Previous terms of reference directed that these revenues should not affect State GST requirements; and
    - revenue from the sales of major State assets where collections arise due to State policies on the ownership of assets; and
  - those for which a differential assessment is made — all other transfers.
- 8 The first type of revenue is assessed on an equal per capita basis and does not affect the relative fiscal capacities of the States.
- 9 Assessments for the second type of revenue affect State GST requirements because there are differences between the States in their capacities to raise the tax arising from differences in the per capita value of the property transferred, defined and measured on the basis of the average scope of the tax.

### **The scope of taxable transactions**

- 10 Data on the value of property transferred in each State are obtained from each State's tax collection processes and therefore reflect the State's tax laws. While the States adopt a common approach to the bulk of the transactions taxed as conveyances, there are some material differences in the range of taxable transactions arising from differences in policies on some matters, especially anti-avoidance measures.
- 11 States generally accepted that adjustments to the State provided data were required to improve comparability. However, there was disagreement on which adjustments should be made.
- 12 We relied on the expert advice of a consultant we engaged to identify material differences between States in the type of property subject to duty. The consultant's advice was given to States for their comment. Their comments were considered by the consultant and reflected in the final report, which is available on the Commission's web site.
- 13 After considering that advice, we have made the following adjustments to the State data to ensure they are consistent with the average tax policy and comparable across States:
  - *an 'off the plan' adjustment.* This adjustment increases the measured revenue base of Victoria to include off the plan sales of unit titles which are exempt in Victoria but are taxed in all other States. Data provided by Victoria indicated this exemption reduced its revenue base by about 2.75 per cent;
  - *a 'non-real property' adjustment.* This adjustment is required because States are progressively phasing out stamp duty on non-residential property other than real

property. The timing for the abolition of this duty differs across States<sup>1</sup>. However, it will still be average policy to impose the duty on non-real property transactions in 2010-11.

To make the data more comparable across States and consistent with the policies that will apply in 2010-11 (the year the relativities would be applied), we have increased the revenue bases of the States that did not impose the duty in the assessment years.

Accordingly, we have increased Victoria's revenue base for each assessment year and Tasmania's for 2008-09 by six per cent. The six per cent adjustment is based on data from other States which enabled us to estimate the importance of transfers of non-real property in their revenue bases.

In the case of the ACT, its data for past years indicated non-real property transactions were responsible for only a minor part of its conveyance revenue. On the basis of those data, the ACT's revenue base for 2007-08 and 2008-09 is increased by one per cent<sup>2</sup>.

- *an adjustment for 'land rich' transactions involving listed corporations.* Prior to 2008-09, Western Australia was the only State that imposed duty on land rich transactions involving listed corporations. New South Wales and Northern Territory have recently enacted similar legislation. Taxing these transactions takes the scope of the tax beyond that of the average policy. While land rich transactions involving listed corporations are not common, they can be large.

Queensland said the revenue and value of transactions caught by these provisions should be treated like other conveyance transactions — it said Western Australia viewed them as substitutes because it reduced its other conveyance duties by five per cent when it introduced these provisions. We are not aware of a causal relationship between the two actions. However, it is clear that imposing duty on land rich transactions involving listed corporations was something other States did not do and including those transactions in Western Australia's revenue would be beyond the average tax policy<sup>3</sup>.

As a result, we remove the value of these transactions from States' revenue base when they occur.

- *a 'land rich' adjustment for differences in the scope of duty.* This adjustment reduces the revenue bases and fiscal capacities of States where a wider range of unit trusts are dutiable. The adjustment is based on data provided by Western Australia on the transactions taxed under its listed corporations and unit trusts provisions and historical data which indicated the extra trusts taxed in Queensland, Western Australia, South

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<sup>1</sup> In 2009, three States, New South Wales, South Australia and Tasmania, said they would delay the abolition of this duty until 1 July 2012. Queensland and Western Australia deferred the abolition of the duty until 1 July 2013. Victoria did not impose duty on these transactions over the assessment period. The ACT abolished the duty in 2006-07 and Tasmania abolished it from 2008-09.

<sup>2</sup> While the ACT abolished the duty from 1 July 2006, it continued to collect revenue in 2006-07 from some outstanding transactions.

<sup>3</sup> Western Australia's five per cent tax rate reduction in July 2008 may be seen as a partial reversal of the 15 per cent tax rate increase it introduced in July 2003.

Australia were equivalent to about three per cent of their revenue bases. The revenue bases of those States are reduced by three per cent;

- *a 'land rich test' adjustment for States that impose a 'land rich' test to determine liability for tax when legal entities that own land are transferred.* Under the average policy expected to be in place in 2010-11, a land holder provision applies, where the transfer of an entity that owns land is taxed at conveyance rates. However, some States adopt a narrower land rich approach where transfers are taxed at conveyance rates only if land is more than a prescribed proportion of the entity's assets. Consequently, we have increased the revenue bases of States that have land rich provisions to make them comparable with the bases of the States that have the broader land holder provisions. The size of the adjustment was based on data for Western Australia, which indicated the land holder provisions increased its revenue base by two per cent.

- 14 Making these adjustments is intended to ensure our assessments are not affected by differences between the States in their policies on the scope of conveyance duty. The adjustment for States that impose a land rich test is the only adjustment that was not assessed under the 2004 Review methods.
- 15 Queensland was concerned that these adjustments would be difficult to assess and would do little to improve equalisation. We consider the adjustments improve the equalisation outcome because they have material effects on the GST distribution and, as far as possible, their size has been based on data provided by the States.
- 16 The consultant suggested two other adjustments:
  - an adjustment for differences in the level of interest in a land rich entity that must be acquired before duty is required to be paid. We did not assess this adjustment because we had no information on which to base it. Western Australia and Tasmania said their experience indicated the differences in level of acquisition would not have a material impact on State revenue collections; and
  - an adjustment for differences in the time taxpayers have to pay the duty. Victoria had proposed to reduce the time for payment of duty to within 14 days of the transfer of ownership whereas taxpayers may have up to 90 days in other States. However, the proposal did not receive parliamentary approval.
- 17 Western Australia asked the Commission to consider making an adjustment for mining tenements if other States did not tax acquisitions of mining tenements. The Commission asked each State whether they taxed transfers of land with mining tenements and transfers of mining tenements alone.
- 18 The State responses indicated the average policy is to impose duty on the transfer of mining tenements. Victoria and the ACT do not, but given the minor role the mining industry plays in their economies, it is likely that any duty foregone is minimal. While Western Australian legislation on the treatment of transfers of mineral development or exploration licences appears broader than other States, we have no data on how much extra duty it collects in this

area or alternatively, how much duty the other States forego. As a consequence, we have not made an adjustment for possible differences in the coverage of States' legislation.

### **Allowing for the progressive rates of tax**

- 19 All States impose stamp duty on conveyances using progressive rates of tax and it is, therefore, a feature of the average approach to imposing this tax. The application of progressive tax rates means the revenue raised from the tax is affected by the total value of property transferred and the value distribution of the transfers. Consequently, differences between States in the value distribution of their transfers affect their relative revenue raising capacities. States where a greater proportion of transfers have high values have a greater capacity to raise revenue under the average policy than States with relatively more low valued transfers.
- 20 We allowed for this effect in the past by making a 'value distribution' adjustment. In this review, we have used an equivalent, more direct approach whereby the revenue base is subdivided by grouping transfers into value ranges and a calculation of assessed revenue is made for each value range. Under this approach an average effective tax rate is derived for each value range and applied to the value of transfers in each State in that range. Each State's total assessed revenue is then the sum of its assessed revenue in each value range.
- 21 While most States supported an approach that allowed for the effects of interstate differences in the value distribution of transfers, New South Wales and Western Australia did not. They said the assessment would be simpler without it. New South Wales also said decisions about what duty regime to apply to property was a policy choice on how the tax burden is spread across taxpayers. However, our assessments are not based on the tax rates of any one State. Our assessments are policy neutral in the sense that the same progressive tax rate scale is applied to all States, with that scale determined as an average of the rates applied by all States.
- 22 States also disagreed on the number of value ranges that should be used in this adjustment. Some said three value ranges would be adequate and would result in some simplification of the calculations. Others argued three value ranges was too few because State tax schedules contained more value ranges and the outcome could be affected by decisions on where each range began and ended. They said as many as eight value ranges should be used.
- 23 To overcome the difficulties over the choice of value ranges, we have decided to use equal \$100 000 ranges up to \$1 500 000 with a final range of \$1 500 001 and above. With the exception of premium residential property in New South Wales, all States impose their maximum rates on transactions valued above \$1 500 000. While the arithmetic of this approach is more detailed, it is relatively simple and it avoids any unintended effects arising from the choice of fewer broader ranges. It also means the choice of the value ranges does not have to be revisited in the future when States change their tax rates.

### **Treatment of refunds of appealed assessments**

- 24 In the past, the Commission treated refunds of duty following successful appeals on an accruals basis — we removed the transfer from the revenue base of the year when the transfer

originally occurred. Western Australia asked the Commission to reconsider this treatment in the light of the move from a five to a three year assessment period.

- 25 Since appeals against duty payments can take many years to resolve, the shorter assessment period adopted in this review makes it more likely that by the time the refunds occur, the year the transfer took place would not be part of our assessment period. Continuing the accrual approach could therefore result in State revenue capacities being overstated because the refunds are not adequately recognised.
- 26 We reconsidered the treatment of refunds and have decided to make an adjustment for refunds in the year they are made and allow them to work their way through successive inquiries. We make the adjustment by reducing the State revenue in the year the refund is made by the amount of the refund and also reducing the value of properties transferred in the State in that year by the value of the properties involved.

### **First home buyers' bonus payments**

- 27 In recent years, a number of States have introduced schemes where they give first home buyers a 'bonus payment' once their transaction has been finalised. We handle these payments by deducting the value of these bonus payments from the revenues the States collect from conveyance transactions.

## **THE ASSESSMENT METHOD**

### **Overview**

- 28 The category comprises two components:
- an equal per capita component; and
  - an 'other conveyances' component, where the revenue base is measured by the value of property transferred adjusted to reflect the average policies on the scope of transfers taxed.
- 29 All States supported a two component assessment.

### **Equal per capita component**

- 30 All States supported assessing corporate reconstructions and sales of major State assets on an equal per capita basis.
- 31 Western Australia said revenue from its unique land rich provisions should also be included in this component. We have left those revenues in the 'other conveyances' component, although we excluded the relevant transactions from the value of transactions. This approach is in line with the other adjustments in the other conveyances component. For example, with the 'off-the-plan' adjustment, we increase Victoria's revenue base by 2.75 per cent, but we do not attempt to estimate the revenue foregone.

### Other conveyances component

- 32 The revenue base for this component is the value of property transferred in each State that would be taxed under the average tax policy. It is measured using data provided by each State on the value of transfers in the State — States are the only source of these data. We make adjustments to ensure the data from each State reflected the average policies on the scope of transfers taxed (that is, we ensure the coverage of the data is comparable across States). The data are also dissected into value ranges to capture the effects of the common policy of applying progressive tax rates.
- 33 In brief, the assessment process involved the following steps:
- Data are collected from each State on the value of the transfers taxed in the State and the revenue collected from those transfers. These data are dissected by value range.
  - Both the value of transfers in the State and the revenue from them are scaled to ensure the revenue is equal to the total actual conveyances revenue collected by the State. The same proportional adjustment is made to the data for each value range.
  - The value of transfers in each State is adjusted to reflect the average scope of the duty. The same proportional adjustment is made in each value range.
  - An Australian average tax rate is calculated for each value range.
  - For each value range, the Australian average tax rate for the range is applied to the value of property in the range in each State. This produces the assessed revenues for each range.
  - Each State's assessed revenue for other conveyances is the sum of its assessed revenue in each range.

### Scaling

- 34 Typically, the data the States supply on the value of transfers and revenue raised from them are derived from their State revenue offices. It is usually the case that the total revenue across all value ranges derived from the State revenue office data does not equal the actual total revenue collections provided to the ABS by State Treasuries and which we use to derive the State average revenue. Therefore the State revenue office data are rescaled to ensure the sum of the revenue raised in each value range equals the actual revenue collected by States in each year.
- 35 The State revenue office data on both the value of transactions and the revenue raised in each value range are rescaled by the same proportion<sup>4</sup>.

### Adjustments for differences in property subject to duty

- 36 Table 5-4 sets out the adjustments to the value of transfers reported by each State required to make them consistent with the average scope of the revenue base for 2008-09. Collectively, they imply the scope of the tax in Victoria is the narrowest of all States. Victoria's data for

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<sup>4</sup> The scaling proportion for each State is calculated as total revenue from the State revenue office data divided by the total other conveyances revenue derived from GFS data.

2008-09 are increased by 10.75 per cent to remove the effects of its non-average policies to provide the off the plan concession, not apply duty on non-real business transactions and apply a land rich test. Western Australia has the broadest provisions. Consequently, the value of transfers provided by its revenue office is reduced by three per cent.

**Table 5-4 Adjustments for differences in scope of the conveyances duty, 2008-09**

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
	No.	No.	No.	No.	No.	No.	No.	No.
Off-the-plan-concession	1.00000	1.02750	1.00000	1.00000	1.00000	1.00000	1.00000	1.00000
Non-real property	1.00000	1.06000	1.00000	1.00000	1.00000	1.06000	1.01000	1.00000
Land rich - scope of duty	1.00000	1.00000	0.97000	0.97000	0.97000	1.00000	1.00000	1.00000
Land rich - land rich test	1.02000	1.02000	1.02000	1.00000	1.02000	1.02000	1.00000	1.00000
<b>Combined adjustment (a)</b>	<b>1.02000</b>	<b>1.10750</b>	<b>0.99000</b>	<b>0.97000</b>	<b>0.99000</b>	<b>1.08000</b>	<b>1.01000</b>	<b>1.00000</b>

- (a) The combined property adjustment is calculated as the sum of the four property adjustment factors minus three. Within a State, it is considered that each property adjustment is independent of all other adjustments. For example, the off the plan transactions in Victoria are considered to be unrelated to land rich transactions in that State.
- Note: In 2008-09, no adjustments were made for transfers taxed under the listed corporations aspects of land rich provisions in New South Wales, Western Australia and the Northern Territory because there were no such transactions. These adjustments would be made by deducting the actual value of them from the revenue bases of States where they are taxed.

Source: Commission judgment.

#### *Calculating assessed revenue for the other conveyances component*

- 37 Average effective tax rates were calculated for each value range by dividing the total revenue in all States in the value range by the total adjusted value of property in all States in the value range.
- 38 Each State's assessed revenue in each range was then derived by applying the average effective rate of tax for the range to its adjusted value of transfers in the range. Its total assessed revenue for the other conveyances component was obtained by summing the assessed amounts for each value range.
- 39 Table 5-5 shows the 2008-09 average effective tax rates and each State's assessed revenue for each value range.

**Table 5-5 Average tax rates and State assessed revenues by value range, 2008-09**

	Tax rate	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
	%	\$m	\$m	\$m	\$m	\$m	\$m	\$m	\$m
\$1 to \$100 000	1.69	9.3	16.4	7.8	2.4	5.6	3.5	0.1	0.3
\$100 001 to \$200 000	1.98	61.9	126.0	54.1	20.6	27.7	16.2	2.6	1.9
\$200 001 to \$300 000	2.02	193.2	202.5	158.1	52.7	61.5	29.6	4.5	6.2
\$300 001 to \$400 000	2.16	292.2	243.1	284.2	97.6	73.1	21.5	20.8	11.2
\$400 001 to \$500 000	2.45	268.1	195.8	267.2	102.9	50.7	13.2	25.0	12.8
\$500 001 to \$600 000	3.31	253.8	178.7	199.3	84.5	38.9	9.0	19.6	9.8
\$600 001 to \$700 000	3.79	210.8	151.3	141.1	63.8	30.9	6.7	12.7	7.3
\$700 001 to \$800 000	3.94	167.8	106.1	100.3	48.8	22.6	4.1	7.9	4.0
\$800 001 to \$900 000	4.06	132.3	86.7	74.4	40.0	16.1	3.6	4.2	3.4
\$900 001 to \$1 000 000	4.15	95.8	66.3	53.6	30.3	11.8	2.7	2.7	2.2
\$1 000 001 to \$1 100 000	4.24	75.1	46.9	35.5	21.4	8.8	1.7	1.1	1.2
\$1 100 001 to \$1 200 000	4.32	65.1	41.7	33.2	18.3	8.0	1.5	1.8	1.1
\$1 200 001 to \$1 300 000	4.38	65.6	40.5	29.8	17.3	6.4	1.4	1.1	1.2
\$1 300 001 to \$1 400 000	4.44	53.1	31.2	26.1	15.0	6.6	0.8	1.1	0.7
\$1 400 001 to \$1 500 000	4.49	47.5	30.5	23.8	13.9	5.4	0.6	0.7	0.7
\$1 500 000 plus	4.85	929.4	671.3	776.5	350.9	126.5	25.8	42.1	36.2
<b>Total assessed revenue</b>		<b>2 920.9</b>	<b>2 235.0</b>	<b>2 264.9</b>	<b>980.6</b>	<b>500.6</b>	<b>142.0</b>	<b>148.1</b>	<b>100.2</b>

Source: Commission calculation using State data on the value of transactions and the duty raised.

#### *Calculating total assessed revenue for all conveyances*

- 40 Table 5-6 calculates total assessed revenue for all conveyances by combining the assessments for the two components.
- 41 Table 5-7 shows each State's actual and assessed revenue and assessed category factor ( its relative revenue raising capacity is calculated by dividing its assessed revenue per capita by the Australian average revenue per capita) for 2008-09.

**Table 5-6 Calculation of assessed revenue, 2008-09**

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
<b>Sale of major State government assets and corporate reconstructions component</b>									
Actual revenue (\$m)	0.0	5.8	39.8	0.0	0.2	0.0	0.0	0.0	45.8
Revenue base (million)	7.0	5.4	4.3	2.2	1.6	0.5	0.3	0.2	21.6
Average tax rate (\$pc)									2.12
Assessed revenue (\$m)	14.9	11.4	9.2	4.7	3.4	1.1	0.7	0.5	45.8
<b>Other conveyance transactions component</b>									
Actual revenue (\$m)	2 725.5	2 661.0	1 766.0	1 008.1	679.5	148.0	195.9	108.2	9 292.3
Assessed revenue (\$m)	2 920.9	2 235.0	2 264.9	980.6	500.6	142.0	148.1	100.2	9 292.3
<b>Total assessed revenue (\$m)</b>	<b>2 935.8</b>	<b>2 246.4</b>	<b>2 274.1</b>	<b>985.3</b>	<b>504.1</b>	<b>143.0</b>	<b>148.8</b>	<b>100.7</b>	<b>9 338.1</b>

Source: Commission calculation.

**Table 5-7 Calculation of revenue raising capacity, 2008-09**

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Actual revenue (\$m)	2 725.5	2 666.8	1 805.8	1 008.1	679.7	148.0	195.9	108.2	9 338.1
Assessed revenue (\$m)	2 935.8	2 246.4	2 274.1	985.3	504.1	143.0	148.8	100.7	9 338.1
Population (million)	7.041	5.365	4.350	2.204	1.612	0.500	0.348	0.222	21.642
Assessed revenue (\$pc)	416.94	418.73	522.84	447.02	312.69	285.89	427.77	454.06	431.49
Category factor	0.96628	0.97042	1.21171	1.03600	0.72467	0.66257	0.99138	1.05232	1.00000

Source: Commission calculation.

### WHAT IS THE IMPACT ON THE GST DISTRIBUTION?

- 42 Table 5-8 shows the extent to which the assessment for this category moves the recommended distribution of the GST for the 2010 Review away from an equal per capita distribution. Queensland and Western Australia are assessed to have above average revenue capacity. The assessment redistributes GST from them to the other States.

**Table 5-8 Impact on the GST distribution of the Stamp duties on conveyances assessment**

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Redist
Dollars million	86.2	407.1	-667.0	-302.3	322.3	113.3	10.0	30.5	969.4
Dollars per capita	12.09	74.55	-149.76	-133.66	197.71	224.41	28.26	134.71	44.02

Note: The difference from an equal per capita assessment — derived using assessed revenues for the period 2006-07 to 2008-09 and the 2009-10 GST.

Source: Commission calculation.

- 43 Queensland's and Western Australia's above average capacity is a relatively recent development. Queensland's increase was driven by large interstate migration, increased resource developments and interest from overseas and southern investors for property in Brisbane, the Sunshine Coast and the Gold Coast. Western Australia's increase was driven by its strong resource sector and population growth. However, such growth has been volatile. Both States suffered a sharp downturn in conveyance revenue collections in 2008-09, with collections in Western Australia down 55 per cent and Queensland collections down 39 per cent. Overall, conveyance revenue collections declined by 34 per cent in Australia in 2008-09.
- 44 Revenue capacity has been increasing in Tasmania and the Northern Territory. Slower economic growth in New South Wales since 2003-04 has seen its revenue capacity decline.
- 45 Table 5-9 provides a summary of the main reasons for changes in our recommendations since the 2009 Update.

**Table 5-9 Changes since the 2009 Update, Stamp duty on conveyances**

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Redist
	\$m	\$m	\$m	\$m	\$m	\$m	\$m	\$m	\$m
Shortening the review period	239.3	12.1	-78.3	-188.5	13.5	1.2	2.4	-1.9	268.6
Method changes	-69.8	-24.9	63.8	0.5	18.7	3.5	6.4	1.7	94.7
State circumstances	-1.3	-158.4	52.4	215.4	-64.0	-16.3	-11.0	-16.8	267.8
<b>Total</b>	<b>168.2</b>	<b>-171.1</b>	<b>38.0</b>	<b>27.5</b>	<b>-31.8</b>	<b>-11.5</b>	<b>-2.2</b>	<b>-17.0</b>	<b>233.7</b>

Source: Commission calculation.

- 46 The substantial change in GST distribution arising from the shortening of the review period from five years to three years largely reflects the relatively stronger growth in property markets in Queensland and Western Australia compared to other States in the period 2005-06 to 2007-08 compared to the period 2003-04 to 2004-05.
- 47 Method changes have arisen from a number of sources:
- the switch from eight value ranges to 16 value ranges. States also took advantage of the opportunity to revise previously supplied data for the years 2006-07 and 2007-08 which impacted on the GST distribution;
  - the treatment of refunds. In the past, the Commission treated refunds of duty following successful appeals on an accruals basis. We now make the adjustment by reducing the State revenue in the year the refund is made by the amount of the refund and also reducing the value of properties transferred in the State in that year by the value of the properties involved. States were provided with the opportunity to provide details of any refunds made over the past three years; and
  - the introduction of a land rich test adjustment for States that impose a 'land rich' test to determine liability for tax when legal entities that own land are transferred. Under the average policy expected to be in place in 2010-11, a land holder provision applies, where the transfer of an entity that owns land is taxed at conveyance rates. However, some States<sup>5</sup> adopt a narrower land rich test approach where transfers are taxed at conveyance rates only if land is more than a prescribed proportion of the entity's assets. Consequently, we have increased the revenue bases of States that have land rich test provisions by two per cent to make them comparable with the bases of the States that have the broader land holder provisions.
- 48 Changes in State circumstances can largely be explained by the collapse in property markets in most States in 2008-09. Table 5-10 sets out the changes in the per capita average value of properties used in the revenue base calculations for the period 2005-06 to 2008-09. There was an overall decline in the per capita value of properties in 2008-09 since 2005-06 of 11 per cent. The decline was concentrated in three States, Western Australia (down 44 per cent),

<sup>5</sup> In 2008-09, only Western Australia, the ACT and Northern Territory were adopting the stricter provisions. New South Wales moved to the broader land holder provisions in 2009-10.

Queensland (15 per cent) and New South Wales (9 per cent), and these States receive an increased GST distribution (Table 5-9).

**Table 5-10 Value of transactions, 2005-06 to 2008-09**

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Average
	\$pc	\$pc	\$pc	\$pc	\$pc	\$pc	\$pc	\$pc	\$pc
2005-06	13 547	12 751	18 981	23 412	9 570	9 942	12 486	10 458	14 962
2006-07	17 124	13 614	22 471	22 470	11 083	10 708	15 833	12 547	17 174
2007-08	15 764	16 911	23 611	21 631	13 296	13 207	17 592	12 590	17 959
2008-09	12 348	13 167	16 073	13 117	10 477	10 799	13 340	13 746	13 233
Percentage change from 2005-06 to 2008-09	-8.85	3.26	-15.32	-43.98	9.48	8.62	6.84	31.44	-11.55

Source: Commission calculation.

- 49 Total actual revenue collections in 2008-09 compared to 2005-06 declined by nearly 12 per cent (Table 5-2). This would lead to a decreased amount of revenue being redistributed by this category. This has an effect to redistribute some GST revenue towards the States whose assessed revenues in 2005-06 were above average, namely Queensland and Western Australia.

## UPDATE PROCESS

- 50 We recommend that data used in these assessments be updated annually when new data become available to ensure the relativities remain contemporary and consistent with the circumstances of the States. Implementing this recommendation would require annual requests to States seeking details by value range of the number of transactions, the value of transactions and the duty assessed and the total actual collections for the year. States would also be given the opportunity to provide details of any refunds made during the current year. Revisions to adjustment factors may need to be considered if there are changes to State legislation.

## SIMPLIFICATION

- 51 All States have progressive rates of conveyance duty with the number of duty rates varying from four to nine. Furthermore, States have introduced changes to their conveyance duty rates structures regularly in recent years. This has made it difficult to ascertain what is average policy. To overcome this, the Commission has expanded the number of value ranges in the assessment from the previous eight value ranges to a more ordered 16 value ranges. The initial value range is from \$0 to \$100 000, with 14 incremental increases in the range of \$100 000 up to a \$1 400 00 to \$1 500 000 range and a final range of above \$1 500 000.

- 52 While this change has not simplified the assessment, it better represents the progressive rate structure that States use to collect conveyance duty.
- 53 Reflecting the increasing complexity of conveyance legislation, an additional property adjustment has been introduced.

#### **FURTHER INFORMATION**

- 54 Background material in support of this assessment is published on the Commission's website. The material includes the following documents, released for comment in the development of this assessment, together with State submissions responding to those documents.
- Staff discussion paper *2006\_07 Disaggregating revenue*;
  - Staff discussion paper *2007\_03-S Proposed methods for Revenue assessments*;
  - Commission position paper *2008/07 Stamp duty on conveyances*;
  - Consultant Report, *2009 Conveyance Duty Differences between States and Territories*; and
  - *2010 Review Draft Report*.