



THE TAX INSTITUTE

THE MARK OF EXPERTISE

9 April 2015

Department of Treasury and Finance
State Tax Review
GPO Box 1045
ADELAIDE SA 5001

By email: statetaxreview@sa.gov.au

Dear Sir/Madam

STATE TAX REVIEW – DISCUSSION PAPER

The Tax Institute welcomes the opportunity to make a submission to the Treasury in relation to the State Tax Review Discussion Paper of February 2015 (**Discussion Paper**).

About The Tax Institute

The Tax Institute is Australia's leading educator and professional association in tax, with more than 15,000 members. Further details about The Tax Institute are included at Appendix A.

Context

The Tax Institute continues to advocate for all levels of Government to provide a sustained commitment to tax reform for the benefit of all Australians. This requires a measured and structured approach to reform, that includes a timeline and a process for advancing priority issues.

Despite the budgetary position of both the Federal Government and most States (including South Australia), it is crucial to avoid an undue delay in respect of the hard work on policy formulation that is required to improve our tax and transfer system. To ensure that the country is well positioned for the challenges of the decades ahead, Australia must do the preparatory work now to ensure the tax reform debate continues and that there is a plan for reform in the coming years as our budgetary position improves.

The benefits of tax reform will flow to all Australians in the form of a stronger economy.

Australia's tax and transfer system must strive to be efficient, equitable and simple. The system should encourage savings and investment as well as greater workforce participation, particularly having regard to the ageing of our workforce. The revenues generated by the system should be sufficient to meet public and social needs, in turn supporting economic growth.

The Tax Institute has formulated a set of Tax Policy Principles that serve to guide thinking about Australia's tax system and possible reforms; these principles are included at Appendix B. It should be noted that listed amongst these principles are that the tax system should meet the relevant Government's revenue needs and that wherever possible the system should be as efficient as possible.

Discussion

General Comments

The State Government should be commended for taking the first steps to "enter the national debate in an informed way". However the State Government should without further delay outline a detailed timetable for tax reform which should only be deviated from if national tax reform actions require it.

The Tax Institute shares the view (page 14 of the Discussion Paper) that there will be "winners & losers" with any reform. However this inevitability, along with the consequence that some or all of any proposals will be 'unpopular' with some sections of the community, should not be used as an excuse to not undertake tax reform.

If after detailed modelling it is believed that a reform of taxation will be beneficial to the State we would implore the State Government to commit to those changes.

We note that the Discussion Paper acknowledges that the GST is an area of possible reform. However, it is stated that the State Government's view is that "the national tax reform debate should not leap straight to a debate about expanding or increasing the GST". We would urge the State Government to support discussion of the GST as part of the Federal Tax White Paper process.

Conveyance duty and land tax

The Tax Institute is in agreement with statements from various quarters (including the State Government) that conveyance duty is:

- inefficient (in terms of its impact on the State economy);

- volatile (from a State Government budgeting point of view);
- inequitable (as while it is inherently progressive, it punishes those who transact more regularly, and is subject to a range of exemptions and concessions which produce horizontal inequity); and
- costly to both administer and comply with.

Accordingly its abolition should be strongly considered.

Without relying on higher GST or alternate payments from the Federal Government, one way for State Government revenue to be replaced from such an abolition could be a broader-based land tax.

However, detailed modelling would need to be undertaken before any decision could be made in this respect, and such modelling would need to include a particular focus on transition into any new regime. This will be fundamental to generate support for any new system, as well as to the fairness of that system.

The first issue is the design of the new system, and the key design issues should be as follows:

- exemptions (including those applicable to primary producers, retirement village occupants, charities and other not-for-profits);
- rates and aggregation;
- valuation base (capital/site value); and
- whether other land taxes already paid by households/land owners (including Emergency Services Levy, River Murray levy, council rates, and water charges) should be abolished or reduced.

On the proviso that the modelling aforementioned supports the same, The Tax Institute would be more in favour of a system which:

- has the broadest base (and so the smallest number of exemptions) and the lowest rate (while still meeting the State Government's revenue needs); and
- uses the existing Land Tax framework rather than the creation of a new tax base.

The second issue is transitioning to any new system. Appropriate transitional measures could consist of both (i) a staggered removal of conveyance duty (as in the ACT) and (ii) an appropriate phase-in of new land tax changes.

In this regard, if a staggered removal of conveyance duty were to be considered, The Tax Institute would suggest the following order:

1. conveyance duty on the transfer of shares (other than landholder duty)

2. conveyance duty on the transfer of units in unit trusts (other than landholder duty)
3. conveyance duty on non-land assets (including the taxing of goods under the landholder provisions)
4. conveyance duty on land (including landholder duty)

The Tax Institute is of the view that the order is appropriate on the grounds that:

- the first three taxes should have already been abolished but such abolition was deferred (indefinitely) “until Budget circumstances allow” in the May 2012 State Budget; and
- conveyance duty on the transfer of shares raises a relatively inconsequential amount of revenue and such revenue is predicted to continue to decline.

In respect of an appropriate phase-in of land tax, there should be an adequate balance struck between preventing ‘double taxation’ and waiting too long for benefits from reform to be achieved. The State Government should also strive to implement a method with low compliance costs.

The Discussion Paper notes that transition mechanisms suggested in previous tax reviews include:

- the annual property tax only apply after a property is subsequently transferred; or
- the provision of credits for conveyance duty paid on recent property purchases that could then be applied against future annual property tax liabilities.

The Discussion Paper states that these transition mechanisms will have a significant impact on Government finances.

The Tax Institute agrees that the first method should not be pursued. However the second method described above where a credit is provided for conveyance duty paid by the relevant taxpayer over a set past period (and we would suggest that this should be at least 10 years), should be further considered and modelled accordingly. Such modelling could also consider which taxpayers (for example residential homeowners, primary producers and others) would qualify for any credit, and whether different rules should apply for different taxpayers.

Finally, the modelling should consider whether compensation may be required to be paid to affected taxpayers, and if so, the appropriate payment mechanism.

Payroll tax

The Tax Institute notes that the Discussion Paper includes the following statements:

- Payroll tax is a relatively efficient tax;

- The State's "relative tax effort" from Payroll tax is somewhat lower than the national average (albeit that the differences of the "effort" of each of the States from the average is not as significant as with other taxes);
- The State has a competitive payroll tax regime;
- Payroll tax revenue grows broadly in line with gross state product and displays low volatility and so allows it to be forecast with reasonable accuracy and provides a stable base to fund expenditure; and
- The long term incidence of payroll tax is borne by consumers/employees through reduced wages and higher prices.

In our view, there is still merit in modelling the economic benefits which could be gained from a reform of payroll tax. This tax is typically regarded as a disincentive to employment growth and also has a narrow base.

If payroll tax is to be retained, we are of the view that these laws must continue to be harmonized and there must be uniformity across the States in the application of the tax, including in relation to applicable thresholds, rates and exemptions. Any 'not for profit' concessions for payroll tax (and indeed for all other state taxes) should as far as possible be linked to ACNC/ATO registration.

Insurance Taxes

The Discussion Paper states that insurance taxes are inefficient and accordingly The Tax Institute is of the view that their abolition should be considered. However, we recognise that it will be difficult to do so without the injection of additional revenue from another source.

Other Alternatives

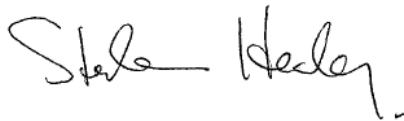
Given that the State Government's Tax Review potentially provides a "once in a generation" reform opportunity, we question whether the Government has considered any other alternatives for raising state revenues (or whether such consideration will occur at some later stage of the reform process). In our view, any potential alternatives should be discussed with the community, in order to demonstrate that there has been a comprehensive review and consideration of the available options.

Conclusion

The Tax Institute again thanks the State Government for opportunity to provide this submission. We would be happy to continue to be involved and provide independent debate and comment on your thoughts and proposals as they progress.

If you would like to discuss any of the above, please contact either me or Tax Counsel, Thilini Wickramasuriya, on 02 8223 0044.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Steve Healey', with a small horizontal line at the end.

Stephen Healey
President

APPENDIX A

About The Tax Institute

The Tax Institute is Australia's leading professional association and educator in tax, with more than 15,000 members. We set the benchmark for the most up-to-date tax professional development events and education programs in the country. Meaning our members are best placed to have the highest level of expertise in the field.

Our growing membership base includes tax professionals from commerce and industry, academia, government and public practice throughout Australia.

In 2012, we introduced the internationally recognised Chartered Tax Adviser (CTA) designation to ensure our members have the credentials to demonstrate their tax expertise to employers and clients.

In 2014, we became accredited as a higher education provider and introduced the Graduate Diploma of Applied Tax Law, which has been designed to meet the changing needs of the tax profession.

Our reach extends to over 40,000 Australian business leaders, tax professionals, government employees and students through the numerous specialist, practical and accurate tax publications – all of which ensure that the latest information is available at their fingertips.

Established in 1943, the purpose of The Tax Institute was to provide education and information products and services to the tax profession as well as support improvements in the tax law and its administration. That core purpose remains.

Today we lead the tax profession with a strong and authoritative voice in supporting a fair and equitable tax system in Australia, whilst at the same time providing a full suite of education and information products that keep today's tax professional up-to-date and build the capacity of the next generation of tax professionals.

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APPENDIX B

Tax Policy Principles

- Tax laws exist primarily to generate revenue to aid the function of Government and the provision of Government services.
- Tax laws may also fulfil the function of either encouraging or discouraging certain activities, as defined by Government.

In fulfilling these goals, our tax system should:

1. Meet the Government's revenue needs.
2. Consider these revenue needs in a broader and longer-term context of current and future Government services, anticipated demographic changes, the specifics of our economy (such as heavy Australian reliance on foreign capital).

Efficiency

3. Minimise distortions wherever possible, unless intended. This means minimising special treatments, exemptions and cliffs in the tax system (especially in relation to substantive tax provisions) where possible.
4. Encourage or discourage only those behaviours that are intended to be affected.
5. Support growth, productivity (including workforce participation), investment and desired social outcomes (such as equity).
6. Tax entities (companies, trusts, partnerships) as conduits.
7. Tax individuals, superannuation funds and not-for-profits as ultimate taxpayers.
8. Seek to tax the substance of the transaction appropriately, but only via clearly defined laws rather than the inclusion of nebulous concepts in legislation.
9. Levy taxes on a uniform base where possible (for example, current taxes on the factors of production: land tax and payroll tax).
10. Levy taxes on the basis of a broad base, low rate principle.

Equity

11. Be horizontally equitable in relation to each type of final taxpayer. Integrity provisions may be necessary to safeguard equity and prevent specific taxpayers from taking advantage of current laws.

Simplicity

12. Be simple to understand and apply, unless the desired outcome can only be achieved via complexity and after taking the cost of that complexity into account.
13. Resolve integrity concerns commensurate with risk to revenue/risk to integrity.
14. Minimise compliance costs for both taxpayers and the ATO/State Revenue Authorities.
15. Rely on safe harbours and sound administration/interpretation rather than blunt legislative instruments where possible without jeopardising the rights of taxpayers or the rule of law.

Other

16. Be formulated with reference to the current structure of the system, including taxation (including state taxation), offsets, transfers and other Government payments.
17. Be formulated with reference to, and after proper consultation with, the relevant stakeholders, including taxpayers, the revenue authority, the Inspector-General of Taxation and other relevant agencies.
18. Cost measures in line with an objective standard, and also with reference to likely behavioral changes by individuals, investors, businesses etc.
19. Be altered prospectively only, unless retrospective application would not be adverse to taxpayers or retrospectivity is necessary to protect the integrity of the tax system.
20. Changes should be legislated as soon as possible after announcement, subject to the need for consultation. This is especially so if the measure applies from date of announcement or earlier.
21. Not be altered unless necessary. If necessary, should be altered in line with the principles set out above.