

**NSW PARLIAMENTARY LIBRARY  
RESEARCH SERVICE**

**Land Tax in New South Wales**

by

**Rachel Simpson and Honor Figgis**

**Briefing Paper No 6/98**

**NSW PARLIAMENTARY LIBRARY RESEARCH SERVICE**

**Dr David Clune (9230 2484), Manager**

**Dr Gareth Griffith (9230 2356) Senior Research Officer, Politics and Government / Law**

**Ms Honor Figgis (9230 2768) Research Officer, Law**

**Ms Rachel Simpson (9230 3085) Research Officer, Law**

**Mr Stewart Smith (9230 2798) Research Officer, Environment**

**Ms Marie Swain (9230 2003) Research Officer, Law/Social Issues**

**Mr John Wilkinson (9230 2006) Research Officer, Economics**

**ISSN 1325-5142**

**ISBN 0-7313-1613-4**

© 1998

**This paper was originally prepared for Legislative Council General Purpose Standing Committee No. 1, March 1998.**

Except to the extent of the uses permitted under the *Copyright Act 1968*, no part of this document may be reproduced or transmitted in any form or by any means including information storage and retrieval systems, without the prior written consent from the Librarian, New South Wales Parliamentary Library, other than by Members of the New South Wales Parliament in the course of their official duties.

**Should Members or their staff require further information about this publication please contact the author.**

Information about Research Publications can be found on the Internet at:

*<http://www.parliament.nsw.gov.au/gi/library/publicn.html>*

April 1998

## CONTENTS

### EXECUTIVE SUMMARY

1.0	INTRODUCTION .....	1
2.0	HISTORY OF LAND TAX IN AUSTRALIA .....	2
3.0	LAND TAX IN NEW SOUTH WALES .....	5
3.1	Land tax prior to 1997/98 State Budget .....	5
3.2	1997/98 State Budget land tax provisions .....	6
4.0	WHAT IS LAND TAX? .....	7
4.1	Ownership of land .....	7
4.2	Land exempt from taxation .....	8
4.3	Taxable Value of land .....	11
4.4	Assessment of tax payable .....	15
5.0	ADMINISTRATION OF LAND TAX IN NEW SOUTH WALES .....	16
5.1	Land tax administration .....	16
5.2	Objections and appeals .....	20
6.0	INTERSTATE COMPARISONS .....	21
6.1	Victoria .....	21
6.2	Queensland .....	23
6.3	Western Australia .....	25
6.4	South Australia .....	26
6.5	Tasmania .....	27
6.6	Australian Capital Territory .....	30
6.7	Northern Territory .....	31
7.0	INTERNATIONAL COMPARISONS .....	31
7.1	New Zealand .....	31
7.2	United Kingdom .....	32
7.3	Canada .....	33
8.0	POTENTIAL PROBLEMS WITH LAND TAX IN NEW SOUTH WALES .....	34
8.1	Effect of Inflation .....	34
8.2	Pensioners and self-funded retirees .....	36
8.3	Effect on rental prices .....	37
8.4	Ability to pay .....	38

APPENDIX 1: Land tax levied in NSW: 1960-61 to 1995-96

APPENDIX 2: New South Wales land tax rates 1973-1999

APPENDIX 3: Recommendations of previous New South Wales land tax studies

APPENDIX 4: Land value and land tax increases in selected Sydney suburbs

## EXECUTIVE SUMMARY

**Land tax** in New South Wales is a tax payable by the owner of land on the taxable value of all the land owned by that person that is not exempt from taxation. The **taxable value** of land is the unimproved value of the land (that is, without taking into account any buildings or structures or other improvements) if the land was used for its most productive potential use (regardless of its current use). This method of valuing land is called the 'site value', and is used as the tax base in most Australian States (pages 11-14). The **value of land** is ascertained by the Office of State Revenue on the basis of yearly valuations provided by the Valuer-General's Department (pages 11-12). This briefing paper gives an outline of the history of land tax in Australia (pages 2-5), and discusses the advantages and disadvantages of land tax bases other than site value (for example, capital value or acquisition value) (pages 12-15).

There are numerous **exemptions** from land tax, including: a principal place of residence, if the land value is less than \$1 million; land used for primary production; land used to maintain endangered animals and birds; land used for low-cost accommodation; retirement villages and nursing homes; land owned by a public hospital, an area health service, a private hospital not carried on for pecuniary profit, a charitable, religious, sporting or educational institution not carried on for pecuniary profit; an association or industrial organisation of employers and employees; an aboriginal land council, a public cemetery or crematorium, or a State-Government owned corporation (pages 8-11).

In New South Wales a **flat rate of land tax** is imposed. The threshold for liability to pay land tax is a taxable land value of \$160,000 for land that is not a principal place of residence; where the land is a principal place of residence, the threshold taxable land value is \$1 million. The New South Wales land tax regime was altered significantly by the **1997-98 State Budget** handed down by the Treasurer in May 1997. The main provisions affecting land tax contained within the budget were: an increase in the rate of land tax from 1.65% to 1.85% for the 1998 and 1999 land tax years, falling to 1.7% thereafter; and imposing liability to pay land tax on owner-occupied residential land over a threshold of \$1 million. The current rate of land tax in New South Wales is illustrated in the following table (pages 15-16):

<b>Taxable value as assessed (non residential)</b>	<b>Land tax payable</b>
Less than \$160,000*	Nil
\$160,000	\$100
More than \$160,000	\$100 plus 1.85% of the excess over \$160,000
<b>Taxable value as assessed (residential)</b>	<b>Land tax payable</b>
Less than \$1 million	Nil
\$1 million	\$100
More than \$1 million	\$100 plus 1.85% of the excess over \$1 million

**Total revenue** to be raised from land tax in 1997-98 is estimated to be \$786 million, an increase of 25.8% over 1996-97.

The land tax system is administered by the Chief Commissioner of State Revenue, as head of the Office of State Revenue. The Chief Commissioner ascertains the taxable value of land and issues notices of assessment of land tax liability (pages 17-18). There are mechanisms for a taxpayer to object to the assessment (including to the valuation of the land), and if the **objection** is not successful, to appeal to the Supreme Court. If the objection relates to the valuation of the land, the **appeal** is to the Land and Environment Court.

There are provisions for relief in the case of **serious hardship**. Applications for relief are dealt with by a Hardship Board, which has the power to waive liability to pay land tax wholly or in part. The Board may also, in such cases as it thinks fit, **defer payment** of the whole or part of any land tax for any period. Retirees on a pension or with limited income insufficient to pay land tax on their principal place of residence will be able to defer payment of the tax, with interest at the market rate (currently 8.8%). The tax and interest will be recoverable from their estate or from proceeds of sale if the property is sold (pages 18-19).

New South Wales is the only State to impose a flat rate of land tax, with the other States imposing progressive tax rates with various degrees of complexity. The briefing paper summarises the land tax systems in the **other Australian States**, and the amount of revenue it is estimated that each State will raise from land tax in 1997-98. In brief, Victoria estimated that land tax will raise \$427 million (page 21); the Queensland estimate is \$197.6 million (although the Queensland Government has announced its intention to phase land tax out completely) (page 23); the Western Australian estimate is \$168 million (page 25); the South Australian estimate is \$137.9 million; the Tasmanian estimate is \$27.4 million (page 28); and the ACT estimate is \$29 million (page 30). There is no land tax in the Northern Territory.

This briefing paper also outlines the status of land tax in some other Commonwealth countries. **New Zealand** no longer has a land tax, having abolished it in 1990 (pages 31-32). The **United Kingdom** has not had any form of land tax since the Development Land Tax (which was very different to land tax as imposed in Australia) was abolished in 1985 (page 32). In **Canada**, the imposition of land tax is largely the domain of local government, although the governments of some of the Provinces levy taxes on land value. These taxes vary widely across Canada, and tend to be significantly different from Australian land taxes (pages 33-34).

Finally, this briefing paper identifies some **potential problems** with land tax in New South Wales (pages 34-39):

- the effect of inflation;
- the effect on pensioners and self-funded retirees;
- the effect on rental prices;
- what happens where taxpayers are unable to pay their tax assessment.

---

## 1.0 INTRODUCTION

Land tax has had a chequered career in New South Wales. It was first introduced in 1895, abolished in respect of all land except that land not in a local government area in 1906, reintroduced in 1956 and amended many times since. As Table 1 in the Appendix illustrates, land tax as a percentage of total state revenue has fluctuated between a high of 16.13% in 1965-66 to a low of 4.83% in 1994-95. It has declined steadily since 1991-92, in both dollar terms and as a percentage of total State revenue. Land tax has been called a wealth tax. However changes to the way in which land tax is levied and new assessments effective from the 1998 land tax year challenge this assertion. While it is claimed that many who own large investment property portfolios are most able to pay additional taxes, it has also been asserted that is simply not true that owners of the most highly valued land have the greatest capacity to pay.<sup>1</sup> This is particularly so in relation to residential property, from which not income is derived, and which New South Wales is unique in assessing for land tax purposes.<sup>2</sup>

It is not the purpose of this paper to delve into the truth of these statements, or to assess the merits or otherwise of land tax, in theory, and as imposed in New South Wales. Instead, the aim of this paper is to provide the Standing Committee with some context for their investigation into the impact of land tax on investment and residential property in New South Wales. The paper will begin by providing a history of land tax in Australia, focussing on the tax as imposed by New South Wales and the Commonwealth. The paper then examines the operation of land tax in New South Wales, including determining the ownership of land, land exempt from taxation, the taxable value of land, and the assessment of tax payable. The paper then looks at the administrative and appeals mechanisms in New South Wales, and continues by providing some interstate and international comparisons in regard to the imposition of land tax. Finally, the paper highlights some of the controversy surrounding the latest amendments to land tax in New South Wales, including the problem of bracket creep, the effect on pensioners and self funded retirees, and the effect of land tax on rental prices, from the points of view of various industry and community bodies.

References to “the Act” refer to the *Land Tax Management Act 1956*.

---

<sup>1</sup> New South Wales Tax Task Force, *Review of the State Tax System*, August 1988, p. 244-245.

<sup>2</sup> Victoria currently includes residential land in its assessments for land tax, but the Government has announced that it will be exempt from 1 January 1998. Legislation to this effect is to be introduced in the Autumn 1998 session of Parliament, and backdated to apply from 1 January 1998. For more detail see Part 6.1 - Victoria, below.

---

## 2.0 HISTORY OF LAND TAX IN AUSTRALIA

### *Land Tax as imposed by the States*<sup>3</sup>

South Australia was the first Australian state to introduce a land tax, based on the unimproved capital value of land, in 1884. Land tax was first imposed in New South Wales in 1895, by the *Land and Income Tax Assessment Act 1895*. The rationale for introducing a land tax in New South Wales was that, if the Government was to abolish tariffs, income needed to be raised by the imposition of direct taxation.<sup>4</sup> In fact, as the name of the Act which introduced land tax in New South Wales states, income tax, as the other form of “direct taxation” was included in the same bill as land tax.<sup>5</sup> There was also community pressure for the Government to tax wealth in the hands of property owners, and a Government desire to break up the large estates.<sup>6</sup> Western Australia introduced land tax in 1907, Tasmania and Victoria in 1910 and Queensland in 1915. Prior to 1884, the states gained revenue primarily through the sale of Crown Land, although there existed in some states taxes based on the annual assessed value of the land, representing a tax on imputed income gained from the land.<sup>7</sup>

In 1906, the then NSW Premier, JH Carruthers, abolished land tax altogether as part of his major reform of local government.<sup>8</sup> The aim was to provide local councils with an independent revenue source - land, for which they no longer had to compete with the State.<sup>9</sup> This situation existed until 1956, when the State again imposed a land tax on the unimproved capital value of freehold land and land held from the Crown on tenures such as

---

<sup>3</sup> For a contemporary comparison of land tax between the states, see Part 6.

<sup>4</sup> B Dickey, ‘The introduction of direct taxation in New South Wales, 1892-1898’, *Journal of the Royal Australian Historical Society*, vol 74, no 4, April 1989, p. 335.

<sup>5</sup> In the first decade of land tax in New South Wales, it raised more revenue than income tax: £305,316 in 1896 compared to £141, 022 raised from income tax, and £336,785 compared to £276,299 in 1906. The trend, however, is easily seen even from these two figures: the level of revenue raised from land tax fell comparatively as that from income tax rose: Dickey, n 4, p. 343.

<sup>6</sup> The first attempt to introduce land taxes was defeated in Parliament, and resulted in a general election being called which the Government won, with the Bills passing through Parliament upon its return. See also New South Wales Government, *Land Tax Review: Report of the Government Treasury Advisory Committee*, 29 June 1990, pp. 13-16 for a history of land tax in New South Wales, which goes into more detail on the parliamentary debates surrounding the introduction of land tax.

<sup>7</sup> B. Reece, *State Land Taxation: A Critical Review*, Australian Tax Research Foundation, Research Study No. 15, 1992, p. 69.

<sup>8</sup> *Local Government Act 1906*. Where the local government levied rates of at least 1 penny in the pound, the State was not to impose additional land tax. There was an exception relating to the City of Sydney, and the State imposed a land tax on freehold tenures in the unincorporated areas of the Western Division, where local rates were not imposed.

<sup>9</sup> Dickey, n 4, p. 343.

conditional purchase, settlement purchase, or a lease in perpetuity.<sup>10</sup> The re-introduction of State-imposed land tax was necessitated in part by the Commonwealth's centralising the imposition and collection of income tax during the Second World War,<sup>11</sup> thereby denying the States access to revenue of this type.

The regime introduced in 1956 operated without major modification until 1 November 1970, from which date land used for primary production was wholly exempt from the tax.<sup>12</sup> The system was further amended in 1973 when the *Land Tax (Amendment) Act 1973* was passed. This Act had two major functions:

- the relevant time for determining land tax was changed from 1 October to 1 December of the previous year, to bring the land tax year in line with the local government rating year. Thus, land tax levied for 1974 and all following years was calculated on land as owned at midnight on 31 December the previous year, and
- residential land not exceeding more than 1,200 square metres where it is used and occupied solely for residential purposes was made exempt from land tax.<sup>13</sup>

The stated rationale behind this amendment was that:

The tax is sectional in its application and has no regard for capacity to pay...

and

---

<sup>10</sup> Certain land was wholly exempt from land tax, including: that land owned by the Crown, local government or other public authority, gas or electricity supply authorities; public or licensed private hospitals; charitable or educational institutions carried on solely for those purposes and not for profit; registered associations of employers or employees; building, co-operative, friendly, medical benefit or hospital benefit societies; those premises owned and used for the purposes of religious societies, racing clubs and agricultural show societies; lands used solely as a place of worship, a club or charitable institution, a children's home, a registered private school, or a cemetery, and lands used primarily for sport and owned by sporting clubs not carried on for profit. Additionally, under the original tax structure, the value of lands owned by a mutual life assurance society and used for the conduct of life assurance business was taxed at a concessional rate: *New South Wales Official Year Book*, No 56, 1959, p. 284.

<sup>11</sup> The High Court endorsed this move by the Commonwealth Government in the First Uniform Tax Case in 1942 (*South Australia and Others v The Commonwealth and Another* (1942) 65 CLR 373).

<sup>12</sup> *Land Tax (Amendment) Act 1970*. Prior to this amendment, land used for primary production was subject to a rebate in respect of land tax. Prior to the amendment, the amount of rebate in 1967-68 was 15%, in 1968-69 it was 33 $\frac{1}{3}$ %, in 1969-70 it was 60%.

<sup>13</sup> Previously, an exemption applied where the value of the *only* land owned by a person was less than \$33,000 and used solely as a site for a single dwelling. This exemption was introduced by the *Land Tax (Amendment) Act 1969*, and commenced 1 November 1969. Prior to that, all land above a certain value (except when used for primary production) was subject to land tax.



With rising [property] values it has been found that land owners are becoming liable for taxes in cases where this was never intended and, also, that the incidence of tax is becoming unduly burdensome in some cases.<sup>14</sup>

The Act also finalised arrangements for exempting land used for primary production by including land owned by family companies incorporated in other states and territories, and registered in New South Wales under the Companies Act, so that only land owned by public companies which derive less than 90% of their income from primary production remained liable for land tax.<sup>15</sup>

### ***Land Tax imposed by the Commonwealth***

The Commonwealth Government introduced a land tax in 1910<sup>16</sup>, which was imposed until 30 June 1952. The tax was expensive to collect, with collection costs representing 3.92% of revenue gained from the tax in 1951/52. This compared to 0.91% for income tax, 0.3% for sales tax and 0.45% for payroll tax. The average cost of tax collection in that year was only 0.87%. Considering that during the post war period and up to 1951 the combined revenue raised from Federal and state land taxes represented only 1% of total tax revenue, it is not surprising the Commonwealth opted out of this form of taxation. The then Treasurer, Mr Fadden, in his speech when the Bill to abolish Commonwealth land tax was first introduced, gave four reasons why the Commonwealth was abolishing the tax:

1. The land tax was not achieving its stated objective of breaking up the big estates (75% of revenue came, not from big rural estates but from city areas where it was considered there was little or no prospect of further subdivision).
2. The tax was one on a “capital base” which, particularly in relation to farmers, was a tax on their “major income producing asset”. No similar taxes were levied on other assets of any type.
3. The growth of revenue from other sources, particularly from income tax, reduced the importance of the fiscal expediency argument for imposing a land tax. Further, the income tax deduction available to payers of land tax would be lost to those taxpayers, therefore partly making up for the reduction in revenue raised.
4. The reduction in the administrative costs which would accompany abolition of a land tax.<sup>17</sup>

Valuation Boards were created in 1927, from which time re-valuations of land were carried out triennially. Prior to this, the Commissioner of Taxation exercised the power to re-value

---

<sup>14</sup> Hon Wallace Fife, MP, second reading speech, NSWPD, 16 October 1973, p. 2086.

<sup>15</sup> NSWPD, 16 October 1973, p. 2086.

<sup>16</sup> *Land Tax Assessment Act 1910*.

<sup>17</sup> Reece, n 7, pp. 69-71.

---

land within a period of two years.

### 3.0 LAND TAX IN NEW SOUTH WALES

The present land tax regime was introduced into New South Wales in 1956, being applied for the first time to land owned at midnight on 31 October of that year. The legislative regime was predominantly based on the provisions of the repealed Commonwealth *Land Tax Act 1910*.<sup>18</sup> There are two primary Acts relating to land tax: the *Land Tax Act 1956*, which prescribes the tax and sets out the rates at which the tax is payable, and the *Land Tax Management Act 1956* which provides the machinery for land tax, including provisions relating to liability, exemptions, returns, assessments and objections in relation to land tax (see Part 4 - What is Land Tax?). The *Strata Titles Act 1973* is also relevant as by section 95 it imposes liability to land tax on the owners of strata title properties. The *Taxation Assessment Act 1996* is also relevant to land tax, providing the overall framework for the administration of revenue collection in New South Wales, including the administration of land tax from 1 January 1997 (for more detail see Part 5 - Administration).<sup>19</sup>

#### 3.1 Land tax prior to 1997/98 State Budget

The system of land tax that operated prior to changes contained in the 1997/98 State Budget was that contained within the 1956 legislation, as amended on various occasions (see Part 2 - History of Land Tax in Australia, above). The primary features of the system were:

- Landowners with an adjusted land value above the threshold of \$160,000 at 31 December were liable for land tax.
- The rate of tax levied, on land holdings at 31 December 1996, was \$100 for a taxable value of land of \$160,000, and \$100 plus 1.65% of the excess value over \$160,000 (this was an increase from the rate of 1.5% which applied prior to the 1996 land tax year). For a table of land tax rates for the land tax years 1973-1999, see Appendix 2.
- Land used and occupied by the owner (not a company) as the owner's principle place of residence, and for no other purposes, where the land did not exceed 2,100 square metres was exempt from the tax. Where land exceeded 2,100 square metres, a partial exemption applied.

- Land used ordinarily for primary production was exempt from the tax. Revenue from land tax in 1996-97 was \$641 million; in 1995-96 it was \$601 million.<sup>20</sup>

---

<sup>18</sup> Reece, n 7, p. 71.

<sup>19</sup> The *Land Tax Management Regulation 1992* was repealed effective 30 June 1997.

<sup>20</sup> Australian Bureau of Statistics, *Taxation Revenue Australia 1996-97*, p. 23.

### 3.2 1997/98 State Budget land tax provisions

The New South Wales State Budget was handed down by the Treasurer, the Hon Michael Egan, MLC, on 6 May 1997. It contained a number of provisions relating to the imposition of land tax, to apply from the 1998 land tax year (on all property held at midnight 31 December 1997).<sup>21</sup> The two main provisions affecting land tax contained within the Budget Speech are:

- The rate of land tax will be increased from 1.65 per cent to 1.85 per cent for the 1998 and 1999 land tax years and from 1.5 per cent to 1.7 per cent thereafter [1.5% was the rate for the 1996 land tax year].
- ‘To improve the equity of the tax system’, from 31 December 1997, the value of owner-occupied residential land over a threshold of \$1 million will be subject to land tax, and the 2,100 metre size threshold will be abolished.<sup>22</sup>

It was estimated that approximately 4,000 residential properties would be affected by the removal of the exemption for residential land which falls above the \$1 million threshold. Most of these properties are on the harbour-front in Sydney. It is claimed that approximately 1,300 of these properties are already subject to land tax because, although used for private residence, they are owned by a company owned by the resident, or in a trust of which the resident is a beneficiary. Therefore, it was estimated that only an additional 2,700 properties will be subject to the tax.<sup>23</sup> The Budget estimated a gain in revenue of \$67 million in 1997-98 (bearing in mind that the land tax year begins 1 January) and \$80 million in a full year in relation to the growth in unimproved capital land values and the increased rate of land tax on all properties (from 1.65% to 1.85%), and a gain of \$42 million in 1997-98, and \$50 million in a full year in relation to the extended coverage to residential land valued at \$1 million or more.<sup>24</sup> Total revenue to be raised from land tax in 1996-97 is estimated to be \$625 million. This is a revised estimate taking into account the changes effective from 1 January 1997. In 1997-98 total revenue from land tax is estimated to be \$786 million, an increase of 25.8% over 1996-97.<sup>25</sup> The Budget Papers indicated that they have taken into consideration the “pick-up in the residential property market”, expecting that “to have a

---

<sup>21</sup> New South Wales Budget Information 1997-98, *Budget Paper No. 2*, p. 3-8.

<sup>22</sup> Interestingly, the report of the New South Wales Tax Task Force (see n 1), released in August 1988, recommended in relation to land tax that the tax base be widened by including owner-occupied dwellings, with an exemption for the first \$500,000, and family farms, with an exemption for the first \$1 million in land value. See Chapter 19 on land tax, and particularly pp. 247 and 251.

<sup>23</sup> The Hon M Egan, MLC, NSWPD, 29 May 1997, p. 9500-9501.

<sup>24</sup> New South Wales Budget Information 1997-98, n 21, pp. 3-7 - 3-8.

<sup>25</sup> New South Wales Budget Information 1997-98, n 21, p. 3-12.

---

positive impact on land receipts in 1998-99”.<sup>26</sup>

#### 4.0 WHAT IS LAND TAX?

Put simply, land tax is a tax levied payable by the owner of land on the taxable value of all land in New South Wales which is not exempt from taxation under the Act.<sup>27</sup> In order to determine a person’s liability for land tax, therefore, it is necessary to determine the following:

- the land that is owned by the person as at midnight of the relevant December;
- what, if any, of such land is exempt from taxation;
- the taxable value of the land that is owned and not exempt, and
- the tax payable on the taxable value.<sup>28</sup>

Each of these points will be considered in more detail in the following sections.

#### 4.1 Ownership of land

“Owner” is defined in section 3(1) of the Act to be:

- (a) in relation to land, every person who jointly or severally, whether at law or in equity:
    - (i) is entitled to the land for any estate of freehold in possession;
    - (ii) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise,
- or any other person who the Act deems to be an owner for the purposes of the Act.

The effect is that a sole or joint owner, a company (whether solely or as a part of a grouped or related companies), a trustee of a trust or a society or organisation whose land is not exempt may be an owner for the purposes of land tax. Those persons deemed to be owners of land for the purposes of land tax under the Act are:

---

<sup>26</sup> New South Wales Budget Information 1997-98, n 6, p. 3-30.

<sup>27</sup> *Land Tax Management Act 1956*, section 7(1).

<sup>28</sup> CCH Tax Editors, *New South Wales Land Tax*, ¶11-080.

- 
- a person to whom the Crown has contracted to transfer the fee simple in any land under the *Crown Lands Consolidation Act 1913* or under any other Act relating to the alienation or disposal of Crown lands, or a person who under any such Act holds land under a lease from the Crown in perpetuity (section 21);
  - a person who is a lessee (not a sub-lessee) of any land owned by the Crown or a local council (section 21C);
  - a mortgagee in possession of land or any other person in possession of land as security for money after a period of three years has elapsed since the mortgagee came into possession (section 23);
  - the purchaser of land as soon as the purchaser has obtained possession (section 26(1)(a));
  - the vendor of land until possession of the land has been delivered to the purchaser and at least 15% of the purchase money has been paid, or where the vendor resumes possession of the land without rescinding the agreement for sale or secures the use of the land and receives the income from any business being carried out on the land (section 26(1)(b));
  - any person who is entitled to receive income from a business carried on on land by some other person in whom the legal estate of the land is vested (section 30);
  - any person making a conveyance, transfer, declaration of trust, settlement or other disposition of land so long as the person remains or is in possession of the rents and profits of the land (section 31); and
  - any person occupying, controlling or using the land who is not the owner where there is no lease or agreement for a lease for a definite term in respect of occupancy, control or user (section 32).

#### **4.2 Land exempt from taxation**

The following land is exempt from land tax.<sup>29</sup>

- ***Land used and occupied as the owner's principal place of residence***

An exemption is available for land, not being land that is owned by a company or a Special trust, that is used and occupied as the owner's principal place of residence, provided that the land value as determined by the Chief Commissioner of State Revenue is less than \$1 million. If the land value is \$1 million or more, land tax is assessed independently of any other land liable for land tax.

---

<sup>29</sup> This information is taken from the Office of State Revenue's publication, *Land Tax 1998 Information Booklet*, pp. 2-3.

---

Exemption or partial exemption is also available for:

- land where income is earned by the owner from one only other occupancy on the land, for example separate accommodation such as a granny flat;
- land owned by a deceased estate formerly used and occupied by the deceased as his or her principal place of residence;
- people whose homes are damaged or destroyed through an event such as fire, earthquake, storm, accident or malicious damage for a period of up to two years to rebuild on the land concerned, and
- strata lots used and occupied as the owner's principal place of residence and for no other purpose.

- ***Land intended as the owner's principal place of residence***

Exemption is available for land, whether improved or unimproved, which was purchased with the intention of being used and occupied solely by the owner as his or her principal place of residence. The exemption applies for two years, but does not apply if the person, including a joint owner, owns and occupies other land as his or her principal place of residence.

- ***Primary production land***

Exemption is available for land used for a business of primary production; and for land located in a rural or non-urban zone and used for primary production purposes.

- ***Land used to maintain endangered animals and birds***

Exemption, subject to conditions imposed by the Director-General of National Parks and Wildlife being met, is available for land that is used primarily for maintaining endangered animals and birds native to Australia if the Director-General approves of their maintenance.

- ***Land used and occupied primarily for low cost accommodation***

Exemption is available to land used and occupied primarily for low cost accommodation when the conditions listed below are met (applicable to the 1997 land tax year, according to Rulings LT53 and LT54, 31 December 1996):

- (a) the land anywhere in NSW is used as a boarding house where at least 80% of the accommodation was available to long term residents and:
  - (i) where full board and lodging was provided, the maximum tariff charged was no more than \$184 per week for single accommodation

and \$307 per week for family or shared accommodation, or

- (ii) where less than full board and lodging was provided, the maximum tariff charged was no more than \$123 per week for single accommodation and \$205 per week for family or shared accommodation; or
- (b) the land is used for self-contained accommodation (such as houses and flats) and is situated within a 5 kilometre radius of the Sydney GPO and:
  - (i) each tenancy is subject to a Residential Tenancy Agreement, and
  - (ii) the maximum weekly tariff paid during the six months ended 31 December 1996 did not exceed \$123 for one-bedroom accommodation, \$164 for two bedroom accommodation and \$205 for three (or more) bedroom accommodation;
  - (iii) a tenant used and occupied these premises or part of the premises for residential purposes and no other for the six months immediately preceding 31 December 1996, and
  - (iv) the owner gives an undertaking to pass on a benefit to the tenants broadly equivalent to the land tax exemption.

- ***Retirement villages and nursing homes***

Exemption is available for land used and occupied as a retirement village or a combined retirement village and nursing home. Partial exemption applies where only part of the land or a building is used and occupied for these purposes.

- ***Commercial nursing homes***

Exemption is available for land that is used or occupied solely as the site of a nursing home within the meaning of the *Nursing Homes Act 1988*.

- ***Other exempt land***

Exemption is available for some lands including those owned by a primary production marketing authority, a public hospital, area health service, charitable, religious, sporting or educational institution not carried on for pecuniary profit, an association or industrial organisation of employers or employees, the New South Wales Aboriginal Land Council, Regional Aboriginal Land Council or Local

---

Aboriginal Land Council,<sup>30</sup> public cemetery or crematorium, private hospital not carried on for pecuniary profit, or State Government owned corporation.

### 4.3 Taxable Value of land

The tax base of land tax (land value) has been identified as an area of volatility, particularly in light of the large increases in land values during the 1980s and 1990s.<sup>31</sup> Prior to 1985, land tax in New South Wales was levied on the basis of the “land value” of all lands situated in New South Wales. From the 1986 land tax year to the 1992 land tax year, a system of “adjusted land values”<sup>32</sup> was employed. Land value was adjusted by applying equalisation factors for each local government area, to bring land values in each area up to a common valuation date.<sup>33</sup> Victoria and Tasmania still retain the system of equalisation (see Parts 6.1 and 6.4, below).

Since the 1993 land tax year, the system of equalisation has not applied. Land value is that value given to land by the Chief Commissioner as at 1 July each year, and must be recorded in the Register of Land Values. The method for working out land values is that which is contained within the *Valuation of Land Act 1916*. Land tax valuations are generally based on yearly valuations provided by the Valuer-General’s Department to the Office of State Revenue. The Valuer-General keeps a survey of land sale prices in each area and these are used to ascertain yearly land values.<sup>34</sup> In some instances computerised Land Titles records

---

<sup>30</sup> There has been a question raised in relation to land that is the object of a successful Native Title claim. Much of this land that was previously exempt from land tax because it was Crown Land. However, as the Aboriginal people potentially hold title to the greater part of Australia’s land surface (as much as 79 per cent), it begs the question of whether or not native title holders should be liable for land tax, as are pastoral lease-holders or freeholders. See P McGuiness, ‘One man’s ideas stir land-tax row’, *Sydney Morning Herald*, 11 December 1997.

<sup>31</sup> Note that this has long been considered a relevant issue: in the second reading speech introducing the Land Tax Amendment Bill 1973, in which the exemption in relation to residential property was introduced, the Hon Wallace Fife, MP stated that one of the reasons for the exemption was the rising property values, which resulted in residents not originally intended to be liable having to pay land tax. See NSWPD, 16 October, 1973, p. 2086.

<sup>32</sup> “Adjusted value” in relation to land was defined in section 3(1) of the *Valuation of Land Act 1916* (No. 2). It can be summarised as: if there is no deductible allowance, land value multiplied by the applicable equalisation value; and where there is a deductible allowance, land value minus the allowance, multiplied by the applicable equalisation factor.

<sup>33</sup> The “equalisation factor” was defined in section 70B of the *Valuation of Land Act 1916* to be that factor, determined by the Valuer-General, by which the aggregated land values of all land values within an area should be multiplied in order to produce the aggregate value that would be most likely to result if a general valuation was to be made on the equalisation date. It therefore takes into account inflation, and was necessary because land valuations did not occur yearly. For an example of the equalisation factors applicable in the 1991 and 1992 land tax years, see the *Gazette* No 154 of 30 November 1990, beginning on p. 10,560.

<sup>34</sup> Information supplied by the Office of State Revenue and Valuer-General’s Department.



have been used to update land holdings.<sup>35</sup> A land value, however, need not be ascertained before the start of the land tax year to which it is to be applied - the Chief Commissioner is empowered to re-ascertain land value as at 1 July at any time.

Assumptions to be applied in valuing certain categories of land are contained in sections 57-62A of the Act. For example, special provisions apply to land subject to conservation orders or heritage restrictions, coal mines, rent-protected land (protected tenancy provisions of the *Landlord and Tenant (Amendment) Act 1948*), and Crown lease restricted land. In valuing land an allowance may be made where expenses for effective land improvements have been incurred by an owner, occupier or lessee (section 62B).

From the taxpayer's perspective, it is important to have a stable tax base to enable future tax liabilities to be estimated with relative accuracy, and to be able to take future tax liabilities into account when purchasing property. However, as the New South Wales Government's 1992 review of the NSW land tax base and valuation system, the *White Paper on Land Tax* stated, volatility is not the only important characteristic of a tax base. Other criteria which were applied to the alternative land tax bases, which are discussed in more detail below, are: efficiency (resource allocation effects); equity (incidence); simplicity (administrative), and compliance costs. The *White Paper* concluded that the current valuation used, site value, was the most appropriate base for land tax.<sup>36</sup> This is consistent with the New South Wales Tax Task Force's conclusion to retain the current tax base.<sup>37</sup> However, the Government Treasury Advisory Committee's *Land Tax Review* contemplated an alternative model by which adjusted values would apply, taking into consideration factors such as rental value.<sup>38</sup> The options for alternative tax bases are discussed below.

### *Alternative tax bases*

#### **1. Site Value**

Site value is the value of the unimproved land used in its most productive potential use, irrespective of its current use. It has also been defined as "the market value of the land assumed to be vacant (or unimproved) and capable of being developed in accordance with its zoning or its existing use (whichever is greater)".<sup>39</sup> Site value is the tax base used in New South Wales, as in most states (see Part 6 for a comparison on land tax regimes across the States). Site value differs from unimproved value because, while it does not take into account capital improvements

---

<sup>35</sup> Office of State Revenue, n 29, p. 5.

<sup>36</sup> NSW Government, n 6, p. 44. See Appendix 3 for the recommendations from this and other relevant NSW reports on land tax.

<sup>37</sup> New South Wales Tax Task Force, n 1, p. 238.

<sup>38</sup> Government Treasury Advisory Committee, *Land Tax Review*, June 1990, pp. 26-29. For a discussion of this Review, see Reece, n 7, p. 24.

<sup>39</sup> *Ibid*, p. 26.

to the land, it does take into account land improvements, that is those improvements which change the structure of the land itself.<sup>40</sup> It is an improvement over unimproved value, as that would require valuing the land as it originally existed in its natural state. Site value is, therefore, essentially the amount of money that an unmortgaged plot of vacant freehold land might reasonably expect to realise upon sale.<sup>41</sup> This measure of value captures the economic rent arising from the location of the land, which may reflect both the natural features of the land (for example, whether the land has a spectacular view), as well as general social and economic development. To the extent that community development increases land values, a tax based on site value returns some of the community investment back to the community as a whole.<sup>42</sup>

Site value has also been described as the best way of capturing economic rents, and encouraging the development of the land to its highest value. This is because, unlike a tax levied on land and land improvements, land tax based on site value will not affect the choice of how the land is used. It will, however, be an incentive to use the land for some sort of income-producing activity to help meet the tax liability of the land.<sup>43</sup> Additionally, land tax based on site value is beneficial because it has a relatively low administrative cost, as it is best suited to “centralised assessment procedures”.<sup>44</sup>

## 2. Capital Value

Capital value includes the value of existing improvements on the land. It is, therefore, a measure of the property market’s value of the land. In contrast to site value, capital value is a measure of the existing use value rather than the best use value of the land.<sup>45</sup> It has been argued that using the land’s capital value better reflects the capacity to pay. However, it has been further argued that because capital

---

<sup>40</sup> M D Herps, ‘Local government rates and state land tax in New South Wales’, *Good Government*, October 1992, p. 6.

<sup>41</sup> Reece, n 7, p. 29.

<sup>42</sup> NSW Government, n 6, p. 41.

<sup>43</sup> NSW Tax Task Force, n 1, p. 237. There is also an income tax deduction for the expense of preparing a land tax return where the land is income-producing, and the cost of the tax itself is allowable as a normal business expense (ITAA36, sec 51(1); ITAA97 sec 8-1). This, of course, does not apply to residential land subject to land tax, a consideration deemed to be “very relevant ... in analysing the burden of land tax on residential real estate used for private purposes” by the NSW Tax Task Force (p. 239).

<sup>44</sup> *Ibid*, p. 42. The cost of collecting the tax in the 1997-98 financial year by Treasury was estimated in the 1997-98 Budget Paper No 3, *Budget Estimates vol 1*, p. 667. The total operating expenses were estimated to be \$24,661,000. This is 37.25% of the \$662 million expected to be collected from land tax in 1997-98.

<sup>45</sup> *Ibid*, p. 42.

value may reflect the “expectation of higher but unrealised future income streams that would accrue from an alternative use of the property, it is possible that land tax liability based on capital value may not reflect the taxpayer’s current ability to pay”.<sup>46</sup> The problems associated with using capital value, based on property market values, as the tax base are particularly severe in boom times, since such prices have been said to have “engulfed all sensible notions of land’s value in use”.<sup>47</sup>

### 3. Acquisition Value

Acquisition value is a variation on capital value. It includes the value of all improvements on the property, as well as the land value itself. In addition to the advantages outlined in relation to capital value (above), acquisition value has the added advantages of being very inexpensive to administer, as there would be no need for a valuation system to update values. It is also aligned to capacity to pay at the time of acquisition, and is easy to take into account in calculating the offer price for a property. However, the NSW *White Paper on Land Tax* also acknowledged a number of disadvantages in using acquisition value as the tax base for land tax: a much lower revenue elasticity than with a tax base which includes annual updates; the potential for avoidance and evasion because of no independent valuations, and a large variation in tax liability, as taxpayers with properties of similar value could face wide differences in tax liability, based on when the property was purchased and the state of the market at that time.<sup>48</sup>

### 4. Annual Value

Annual value is based on the rental value of the land and any structural improvements to the land. The value can be based on either the actual rental return on the property, or it can be based on the rental stream which would be received if the property was used to its highest value use. Further, the value can be a gross amount, or a net amount taking into consideration the cost of maintenance, insurance etc.<sup>49</sup> The advantages of using an annual value are that it reflects well an ability to pay, and administration costs would be low since the information prepared in order to assess and pay income tax would be used to calculate land tax liability as well. However, tax authorities argue that this form of valuation is the most likely to lead to avoidance and evasion of the tax. For example, accounting tricks may greatly reduce the net rent received, thus lowering the tax liability. Another, philosophical problem is that rents reflect both the land itself and structures erected on and improvements made to the land. Tax liability would therefore be affected by any improvements made to the land, which would create a disincentive to maintain land

---

<sup>46</sup> NSW Government, n 6, p. 42.

<sup>47</sup> Reece, n 7, p. 30.

<sup>48</sup> NSW Government, n 6, p. 43.

<sup>49</sup> Ibid, p. 44.

---

and structures properly. It also moves away from the notion of taxing land holdings only.<sup>50</sup>

### *Other considerations*

When considering options for valuing land, it is also necessary to decide whether different parcels of land held by the one person be valued separately or whether the separate holdings be aggregated and valued as a whole. Revenue interests are best served if the holdings are aggregated. In New South Wales, a combination of the two systems operates: in relation to investment properties the aggregate of land is examined for land tax purposes, although residential land with a value of \$1 million or more is taxed independently of any other holdings. The frequency of valuations is also an important factor, particularly in periods of rapidly changing values. Properties in New South Wales are now valued annually for the purposes of land tax. Related to this is the question of indexation. If land is not revalued annually, a decision must be made regarding any indexation of values. If land is revalued annually, it is logical that some indexation of any applicable threshold occurs. An example is the New South Wales situation in relation to the \$1 million residential land. The Act stipulates that the value of the threshold be adjusted annually according to the CPI (section 9). However, this indexation does not apply in relation to non-residential property held. A threshold of \$160,000 has applied since 1989. This problem is examined in more detail in Part 8.1 - Effect of Inflation, below.

#### **4.4 Assessment of tax payable**

In New South Wales a flat rate of land tax is imposed. New South Wales is the only State to impose a flat rate of land tax, with the other States imposing progressive tax rates with various degrees of complexity. This is illustrated by the interstate comparison in Part 6. It has been the practice in New South Wales to impose a flat rate of land tax since the 1986 land tax year.<sup>51</sup> See Appendix 2 for a history of the rate of land tax in New South Wales. The current rate of land tax in New South Wales is illustrated in the table on the following page:

---

<sup>50</sup> Reece, n 7, pp. 31-32.

<sup>51</sup> *Land Tax (Further Amendment) Act 1985*. The flat rate was introduced because the existing tapered scale was considered to be too complicated: Hon Mr Debus, MP, NSWPD, 26 November 1985, p. 10631.

<b>Taxable value as assessed (non residential)</b>	<b>Land tax payable</b>
Less than \$160,000*	Nil
\$160,000	\$100
More than \$160,000	\$100 plus 1.85% of the excess over \$160,000
<b>Taxable value as assessed (residential)</b>	<b>Land tax payable</b>
Less than \$1 million	Nil
\$1 million	\$100
More than \$1 million	\$100 plus 1.85% of the excess over \$1 million

\* The \$160,000 threshold does not apply to land owned by a company defined in section 29 of the Act as a non-concessional company, or land owned by a Special trust as defined by the Act. In each of these situations, land tax of 1.85% of the total taxable value is payable. The administration of land tax is examined in Part 5 below.

The benefits of a flat rate of tax are that it is easy to calculate, and that it is difficult for land owners to alter their tax liability by changing their method of property ownership, for example by splitting their holdings. However, this is only really effective in a system where there was no threshold, such as applies to land owned by a company or special trust currently. The main disadvantage of a flat rate structure is the fact that taxpayers who own large parcels of land could arguably be capable of paying considerably more tax than small owners. It would only be possible to capture this higher tax-paying capacity by using a progressive tax structure.<sup>52</sup>

It is interesting to note that the previous Government studies of land tax have differed in their recommendations in respect to whether a flat rate or progressive rate of land tax be imposed in New South Wales (see Appendix 3). The New South Wales Tax Task Force recommended in 1988 that the flat rate structure be retained, and that the fixed charge of \$100 be removed. In contrast, the Government Treasury Advisory Committee recommended in 1990 that a progressive tax rate structure be introduced in New South Wales and provided a model for the rates. Then in 1992, the White Paper on Land Tax recommended that the existing proportional approach be retained, including the tax free threshold.

## **5.0 ADMINISTRATION OF LAND TAX IN NEW SOUTH WALES**

### **5.1 Land tax administration**

The administration of land tax in New South Wales is governed by two statutes: the *Land Tax Management Act 1956* (LTMA) and the *Taxation Administration Act 1996* (TAA). The TAA, which came into force on 1 January 1997, standardises the administration of several

<sup>52</sup> New South Wales Tax Task Force, n 1, pp. 255-256.

---

New South Wales State taxes including land tax, payroll tax, debits tax, the parking space levy and the health insurance levy. Under the TAA, the Chief Commissioner of State Revenue, as head of that Office, is responsible for the general administration of State taxation laws, including the land tax legislation. Responsibilities may be delegated by the Chief Commissioner. The functions of the Chief Commissioner in relation to land tax are described briefly below.

### ***Assessment of taxable value of land***

The Chief Commissioner must cause an assessment to be made of the taxable value of the land owned by any taxpayer, and the land tax payable on it, from land tax returns and from any other information in his possession (LTMA section 14). The assessment is for the 12 months following 1 January of the tax year.

The Chief Commissioner may reassess a person's tax liability one or more times, but generally cannot make a reassessment of a tax liability more than 5 years after the initial assessment. However, no time limit for reassessment applies if the facts and circumstances affecting liability were not fully and truly disclosed (TAA section 9(3)). The Chief Commissioner ascertains land values as at 1 July every year. See Part 4.3-taxable value of land, for a more detailed examination of land valuation. The method of valuing land for land tax purposes is the same as under the *Valuation of Land Act 1916* (LTMA section 56(1)).

If it is difficult or impractical to determine a taxpayer's exact land tax liability without undue delay or expense, the Chief Commissioner can make an estimated or compromise assessment of liability. A compromise assessment can only be made with the taxpayer's agreement (TAA sections 12(1) and (2)).

### ***Notice of assessment***

A Notice of Assessment showing the tax payable and the land value used for calculating liability is issued upon assessment. Included with each Notice of Assessment is:

- a support schedule showing details of lands assessed;
- a Variations-Only Return for completion if any of those details are incorrect; and
- an interest-free instalments schedule.

The method of assessing tax liability is discussed in Part 4.4 above. In addition to the above information, a Notice of Assessment will show separate calculations where tax is postponed (where land is occupied solely as a site of a single dwelling house despite being zoned commercial), where the land is subject to a heritage order or where the land is unoccupied, flood liable land (which land is entitled to be assessed for tax as if it were the only parcel of land owned). Additionally, the land tax payable in respect of residential property with a land value over \$1 million must be assessed separately and included in the Notice of Assessment. If a written notice has not been issued with the assessment, the Chief Commissioner must

issue a notice if requested to do so by the taxpayer (TAA section 14). If the assessment is incorrect, an amended assessment, based on the information contained in the Variations Only Return, will be issued.

Two options for payment are available to taxpayers:

- *payment by instalments* - the due date for each instalment is shown on the interest-free instalment schedule; or
- *payment of the assessment in full* - the due date for full payment is shown on the front of the Notice of Assessment.

### ***Annual returns***

The Chief Commissioner may require all persons, or specified classes of persons, to furnish land tax returns for a particular year (or years). Land tax returns must set out all the land owned by the person at midnight on 31 December of the previous year. Generally a person who has lodged an initial land tax return does not have to lodge another one unless required to by the Chief Commissioner. Annual returns are called for by Gazette notice (LTMA section 12). The Chief Commissioner may require any person to provide a further and fuller return.

### ***Serious hardship***

If payment of an assessment will cause serious financial hardship, an application for relief can be made (section 50 LTMA). The application is considered by a board consisting of the Chief Commissioner, the Auditor-General and the Under Secretary of the Treasury (or their delegates). The Board may waive the payment of land tax wholly or in part if it is shown that:

- (a) a person has suffered such a loss or is in such circumstances that exacting the full amount of land tax would cause serious hardship; or
- (b) owing to the death of a person who, if he or she had lived, would have been liable to pay land tax, the dependants of that person are in such circumstances that exacting the full amount of land tax would cause serious hardship.

A full statement of assets and liabilities must be lodged with the application, including information relating to income and expenditure over the previous 12 months.<sup>53</sup>

The Board may, in such cases as it thinks fit, defer payment of the whole or any part of any land tax for such period as the Board thinks fit. The Board may impose conditions on the deferment (LTMA ss 50(1E) and (1F)). The power to defer payment is not dependent on

---

<sup>53</sup>

*Land Tax Ruling* LT 17, 23/6/1988.

---

a finding of serious hardship. The Office of State Revenue has stated that retirees who are receiving a pension or have limited income insufficient to pay land tax on their principal place of residence will be able to defer payment of the tax, with interest at the market rate specified in the TAA (currently 8.8%). The tax and interest will be recoverable from their estate or from proceeds of sale if the property is sold. Persons in receipt of means-tested social welfare assistance (such as unemployment benefits) will be automatically entitled to an extension of time to pay for an indefinite period.<sup>54</sup> For a more thorough discussion of the effect of land tax on pensioners and self funded retirees, see Part 8.2, and in relation to inability to pay, see Part 8.4, below.

### *Other relevant matters*

**Unpaid tax a debt:** Land tax for each year is due and payable as required by the notice of assessment served on the taxpayer. The Chief Commissioner may recover any unpaid tax as a debt, even though an objection of appeal is still outstanding (TAA sections 44, 94).

**Refunds:** The Chief Commissioner must refund any amount paid in excess of a tax liability. A refund can offset an existing tax liability or be credited against a future liability, with taxpayer approval (TAA sections 18-19).

**Interest:** Standard interest applies to the late payment of taxes, bringing the interest imposed on late payment into line with accepted commercial practice. The market rate of interest payable for tax default (failure to pay tax by a certain date - including failure to lodge a land tax return on time) under the TAA has been reset at 17.8% from 1 July, 1997. This rate will be reset at 1 July each year.

**Penalty tax:** In addition to interest payable, penalty tax applies where it can be established that there has been a deliberate underpayment of tax. The standard penalty rate is 25% of the tax concerned, but it can be as much as 75% if there has been an intentional disregard of the law. There is no penalty if the underpayment was beyond the taxpayer's control or the taxpayer took reasonable care. The 25% and 75% penalty rates will be reduced where the tax default has been disclosed voluntarily (TAA sections 26-30).

**Collection of tax:** The Chief Commissioner can recover money from a defaulting taxpayer or a third party holding money on behalf of a taxpayer (TAA sections 44-46).

**Records:** Records sufficient to enable the Chief Commissioner to determine a person's tax liability must be kept for 5 years after they were either made or the transaction to which they relate occurred, whichever is the later (TAA sections 48, 53).

---

<sup>54</sup>

<http://www.osr.nsw.gov.au/osrnews.htm#Budget>; Office of State Revenue, *Land Tax Changes*, pp 6-7.



## 5.2 Objections and appeals

### *Objections*

A taxpayer dissatisfied with an assessment (or re-assessment) of land tax or a decision of the Chief Commissioner may lodge an objection within the 60 days after service of the notice of assessment. The Chief Commissioner may permit a person to lodge an objection after the 60-day period (TAA sections 86, 89, 90).

A taxpayer's right to object to an assessment includes the right to object to any land value on which the assessment is based (LTMA sections 35(1A) and (1B)). The grounds on which an objection to land value may be lodged are (LTMA section 35(1A):

- that the land value was too low or too high
- that the lands which should have been valued together were valued separately; or
- that the lands which should have been valued separately were valued together.

The objector bears the onus of establishing the grounds of the objection (TAA section 88). The Chief Commissioner must give written notice of any decision and the reasons must be included if an objection has been wholly or partly disallowed. The decision must be issued within 90 days of the objection being received or the objector may proceed directly to the appeal stage (TAA sections 91, 96).<sup>55</sup>

If an objection is successful and a refund results, the Chief Commissioner will pay the market rate of interest to the taxpayer from the date on which the tax was paid.

### *Appeals*

If dissatisfied with the Chief Commissioner's decision on his or her objection, (or if 90 days have elapsed without a decision) the objector may appeal to the Supreme Court. The appeal must be made within 60 days of the Chief Commissioner's decision (TAA section 96). If the objection concerns the valuation of land, the appeal is to the Land and Environment Court (LTMA section 38A). On appeal, neither party is restricted to the grounds in the objection and may produce new information to the court. The appellant has the onus of establishing his or her case (TAA sections 100, 101).

---

<sup>55</sup> There has been an increase in complaints and objections lodged with the Valuer-General's Office since the latest land valuations have been sent to owners in the Eastern Suburbs. It was reported in the *Sydney Morning Herald* that "the deluge of objections is three times the number the Valuer-General's Department usually receives from the region". There are normally approximately 7,000 objections lodged from landowners in the whole of New South Wales, but it was reported that "the dramatic increase in land values and the new tax on residential land worth \$1 million or more could push the number of objections closer to 20,000." J Chancellor, 'Complaint deluge for new land evaluations', *Sydney Morning Herald*, 9 February 1998.

The Court may determine the amount of land tax payable as a result of its decision (including any additional land tax, or additional land tax by way of penalty). If the court's decision requires the Chief Commissioner to refund an excess amount of tax paid, the objector is entitled to be paid interest on that excess amount (TAA sections 102, 104, 105).

### *Other avenues for appeal*

There may be some cases where a decision or action or inaction on the part of the Chief Commissioner, (or other departmental officer) could be the subject of a complaint to the New South Wales Ombudsman who would have power to investigate the complaint under the *Ombudsman Act 1974* (NSW).<sup>56</sup>

## **6.0 INTERSTATE COMPARISONS**

### **6.1 Victoria**

In 1997 the Victorian Government introduced a number of reforms to make land tax more equitable and to bring it into line with land tax legislation in other States and Territories. Under the amended provisions of the *Land Tax Act 1958* (Vic) an annual tax is imposed based on the total unimproved value of all Victorian land owned by a taxpayer. Land tax is payable where the unimproved value of a taxpayer's holdings in Victoria equals or exceeds \$85 000 as at 31 December of the previous year.

The unimproved value of land is the site value, determined by the municipality in which the land is located. The value is adjusted by an annual equalisation factor determined by the Valuer-General. This factor represents, for a given municipality, the average change in land value between the last valuation and a date determined by the Treasurer for the year of assessment. Applying these equalisation factors to the original municipal valuations allows all land tax assessments to be made on consistent, same-date valuations.<sup>57</sup>

The Victorian Government estimated that in 1997-98 land tax would raise \$427 million. This is approximately 2.7% of the total estimated receipts for 1997-98 of \$15, 580.8 million.<sup>58</sup>

The eight point rate scale that applies from 1997 (see below) replaces the previous capping system which ensured that land tax could not increase by more than 50% when compared with the tax that would have been payable on the same land holding on 1993 values and rates.

### *Exemptions*

---

<sup>56</sup> CCH Tax Editors, n 28, ¶¶2-150.

<sup>57</sup> *Budget Estimates 1997-98*, Budget Paper No. 3, Victorian Department of Treasury and Finance, p 366.

<sup>58</sup> *Ibid* pp 363, 364.

Land which is exempt from tax includes:

- land used for primary production;
- land owned by charitable, religious or educational bodies;
- land owned by municipalities or public statutory authorities;;
- mines;
- retirement villages;
- land owned by friendly societies or organisations which provide or promote sporting, recreation or cultural activities.

There is currently no principal place of residence exemption, although the Victorian Government has announced that there will be an exemption for an owner's principal place of residence from 1 January 1998. The exemption has not yet occurred, but it due to be introduced in the Autumn 1998 session of the Victorian Parliament and backdated to apply from 1 January 1998.<sup>59</sup> The exemption will only be available to owners as natural persons (ie not companies).

### ***Tax scale***

Where land was held at 31 December 1997, the applicable tax rates are set out below. The minimum amount of land tax payable is \$85.

<b>Taxable land value</b>	<b>Land tax payable</b>
\$0 - \$84 999	nil
\$85 000 - \$199 999	\$85 + 0.1% of excess over \$85 000
\$200 000 - \$539 999	\$200 + 0.2% of excess over \$200 000
\$540 000 - \$674 999	\$880 + 0.5% of the excess over \$540 000
\$675 000 - \$809 999	\$1, 555 + 1% of the excess over \$675 000
\$810 000 - \$1, 079 999	\$2, 905 + 1.75% of the excess over \$810 000
\$1, 080, 000 - \$1, 619, 999	\$7 630 + 2.75% of the excess over \$1, 080, 000
\$1, 620, 000 - \$2, 699, 999	\$22, 480 + 3% of the excess over \$1, 620 000
\$2, 700, 000 or more	\$54, 880 + 5% of the excess over \$2, 700, 000

## **6.2 Queensland**

<sup>59</sup>

State Revenue Office, *Important information about land tax*, January 1998.

---

Under the *Land Tax Act 1915* (Qld) land tax is levied annually on the aggregate of the unimproved value of all freehold land owned in Queensland as at 30 June each year. The Queensland government has committed itself to abolishing land tax over a 10-year period. As part of this change, the basis on which land tax is calculated was changed in 1996-97 from annual land values to the average of the land values for the last three years, resulting in lower land tax assessments in times of increasing land values.<sup>60</sup>

Queensland land tax receipts in 1997-98 are estimated to be \$197.6 million, which is approximately 1.4% of total estimated 1997-98 receipts of \$14, 249.1 million.<sup>61</sup>

### ***Exemptions***

Generally, land which is used exclusively as the principal place of residence of an owner who is a natural person is exempt from land tax. This concession may also extend to land owned by a trustee where all the beneficiaries of the relevant trust so use the land. Other exemptions include:<sup>62</sup>

- Resident natural persons (ie not companies and trusts), are entitled to a statutory deduction of \$200 000 from the total unimproved value of land before arriving at the taxable value. As Queensland has a minimum assessment of \$100, it means the effective land value threshold below which no tax is payable is \$219 895 for natural persons.
- The exemption threshold in respect of land owned by companies, absentees and trustees increased to \$100 000 from 1 July 1997
- Land used for the business of agriculture, pasturage or dairy farming is exempt, unless owned by a public company, a trust which has a public company as a beneficiary, or an absentee.
- Land owned by non-profit clubs, associations, societies and charitable institutions may qualify for exemption if specific qualifying criteria are satisfied.

### ***Rebate***

Taxpayers are entitled to a rebate of tax equal to 5% of the land tax assessed for the 1997/98 year and subsequent years. A rebate of tax is also allowed on a sliding scale to companies and trustees where the taxable value of land is less than \$165 000.

---

<sup>60</sup> *State Budget 1997-98: Budget Overview*, Budget Paper No. 2, p 48.

<sup>61</sup> *Ibid* pp 7, 50.

<sup>62</sup> This information is extracted from *1998 Australian Master Tax Guide*, CCH Australia Ltd, 1998, ¶38-030.

The rebate and other concessions are estimated to cost \$20 million in revenue in 1997-98. As a result of the concessions, approximately 15, 000 former land tax payers (about 33% of all land tax payers) will no longer be liable for land tax in 1997-98.<sup>63</sup>

### *Tax scale*

The applicable tax rates are set out in the table below:

<b>Taxable land value</b>	<b>Land tax payable</b>
\$0 - \$3, 999	0.2%
\$4, 000 - \$5, 999	\$8 + 0.36% of the excess over \$4, 000
\$6, 000 - \$9, 999	\$15.20 + 0.52% of the excess over \$6, 000
\$10, 000 - \$29 999	\$36 + 0.7% of the excess over \$10, 000
\$30, 000 - \$49, 999	\$176 + 0.87% of the excess over \$30, 000
\$50, 000 - \$199, 999	\$350 + 1.03% of the excess over \$50, 000
\$200, 000 - \$349, 999	\$1, 895 + 1.2% of the excess over \$200, 000
\$350, 000 - \$499, 999	\$3, 695 + 1.37% of the excess over \$350, 000
\$500, 000 - \$649, 999	\$5, 750 + 1.54% of the excess over \$500, 000
\$650, 000 - \$799, 999	\$8, 060 + 1.71% of the excess over \$650, 000
\$800, 000 - \$949, 999	\$10, 625 + 1.89% of the excess over \$800, 000
\$950, 000 - \$1, 099, 999	\$13, 460 + 2.01% of the excess over \$950, 000
\$1, 100, 000 - \$1, 249 999	\$16, 475 + 2.23% of the excess over \$1, 100, 000
\$1, 250 000 - \$1, 299, 999	\$19, 820 + 2.44% of the excess over \$1, 250 000
\$1, 300, 000 - \$1, 349, 999	\$21, 040 + 2.66% of the excess over \$1, 300, 000
\$1, 350, 000 - \$1, 399, 999	\$22, 370 + 2.87% of the excess over \$1, 350, 000
\$1, 400, 000 - \$1, 449, 999	\$23 805 + 3.09% of the excess over \$1, 400, 000
\$1 450, 000 - \$1, 499, 999	\$25, 350 + 3.3% of the excess over \$1 450, 000
\$1, 500, 000 or more	1.8% flat rate

<sup>63</sup>

*State Budget 1997-98: Budget Overview, Budget Paper No. 2, p 50.*

---

### 6.3 Western Australia

Under the *Land Tax Assessment Act 1976* (WA) and the *Land Tax Act 1976* (WA) an annual land tax is levied on the unimproved value of land. Land value is assessed on the basis of land holdings as at 30 June of the previous year.

The WA Government estimated that in 1997-98 the revenue from land tax would be \$168 million. This is approximately 2.4% of the total estimated receipts of \$7, 048.8 million for 1997-98.<sup>64</sup>

#### *Exemptions*

There are a number of categories of land which may qualify for exemption dependent upon dimensions, usage and/or ownership, including:<sup>65</sup>

- principal place of residence, provided it is less than 2.02 hectares and not subdivided;
- primary production land used solely or principally for agricultural, pastoral, silvicultural (forestry) or reforestation, horticultural, apicultural, viticultural, grazing, poultry, horse-breeding or pig-raising purposes. Land used in silviculture or reforestation in the metropolitan area is only exempt if it is at least 100 hectares and is fully stocked with trees.
- land owned and used by sports associations to provide facilities for members to engage in sports;
- land owned by other non-profit associations where it is used solely for association purposes;
- land owned by the government or a semi-government body; and
- land owned by a non-profit, charitable or religious body, provided it is used for those purposes.

---

<sup>64</sup> Government of Western Australia, *1997-98 Budget Statements*, Budget Paper No. 2, Vol 1 pp 10, 12.

<sup>65</sup> Extract from *1998 Australian Master Tax Guide*, CCH Australia Ltd, 1998, ¶38-050.

### *Tax scale*

The applicable tax rates are set out in the following table:

<b>Taxable land value</b>	<b>Land tax payable</b>
\$0 - \$10, 000	nil
\$10, 001 - \$75, 000	\$15 + 0.15% of the excess over \$10, 000
\$75, 001 - \$140, 000	\$112.50 + 0.25% of excess over \$75, 000
\$140, 001 - \$210, 000	\$275 + 0.45% of the excess over \$140, 000
\$210, 001 - \$325, 000	\$590 + 0.8% of the excess over \$210, 000
\$325, 001 - \$700, 000	\$1, 510 + 1.2% of the excess over \$325, 000
\$700, 000 - \$1, 100, 000	\$6, 010 + 1.6% of the excess over \$700, 000
\$1, 100, 000 or more	\$12 410 + 2% of the excess over \$1, 100, 000

There is also a **Metropolitan Region Improvement Tax** levied on the unimproved value of land situated in the metropolitan region at the rate of 0.15c per \$1.<sup>66</sup>

## **6.4 South Australia**

Under the *Land Tax Act 1936 (SA)*, land tax is levied on the site value of land as at 30 June preceding the financial year for which the tax is levied. The site value of land is defined in the *Valuation of Land Act 1971 (SA)* to mean, broadly, the market value of unimproved land. The minimum amount of tax payable is \$10.

The South Australian Government estimated that in 1997-98 it would received \$137.9 million from land tax revenue.<sup>67</sup> This is approximately 2.6% of the total estimated revenue for 1997-98 of \$5, 276.3 million.

### *Exemptions*

Land which is exempt from the tax includes:<sup>68</sup>

- land exempted by the Commissioner, broadly, as being a principal place of residence, including retirement villages;

<sup>66</sup> *Metropolitan Region Improvement Tax Act 1959 (WA)*.

<sup>67</sup> South Australian Government, *Estimates of Receipts and Payments 1997-98*, Financial Paper No. 2, 1997 pp 92, 93.

<sup>68</sup> Extracted from *1998 Australian Master Tax Guide*, CCH Australia Ltd, 1998 ¶138-040.

- certain land used for primary production;
- land which is owned by prescribed associations and is used for relevant purposes (such as sporting, recreational, historical and agricultural shows);
- land used solely for religious purposes, or used solely for the purposes of a hospital subsidised by the Government;
- land owned (or in certain situations occupied) by certain charitable, educational, benevolent or philanthropic organisations.

### ***Tax scale***

The applicable tax rates are set out in the table below:

<b>Taxable value of land</b>	<b>Land tax payable</b>
\$0 - \$50, 000	Nil
\$50, 001 - \$300, 000	0.35% of the excess over \$50, 000
\$300, 001 - \$1, 000, 000	\$875 + 1.65% of the excess over \$300, 000
\$1, 000, 001 or more	\$12, 425 + 3.7% of the excess over \$1, 000, 001

## **6.5 Tasmania**

Under the *Land and Income Taxation Act 1910* (Tas) and the *Land Tax Act 1997* (Tas), an annual land tax is payable based on the aggregate assessed value of land as at 30 June of the previous year. Broadly, the assessed value of the land does not include improvements. The assessed land value is the value determined periodically by the Valuer-General adjusted by a valuation adjustment factor determined by the Valuer-General as at 31 March each year to bring all property in the State to a common valuation date each year. The valuation adjustment factors are determined for each land category within each municipality and represent estimates of the general movements in land values since the last municipal re-evaluation was made.<sup>69</sup>

Since 1982-83, land tax was levied on the basis of three land categories - general, rural and principal residence land. However, in the 1995-96 Budget it was announced that the taxation of principal residence land would be phased out over two years. The *principal residence* category applies to land on which there is a dwelling or stratum unit which is occupied as the principal residence of the owner or a member of the owner's family. This category includes retirement village units used as a principal residence. The *rural land* category includes land ten hectares or more used principally for primary production, and land of less than ten hectares used principally for primary production and which provides the owners or occupiers with their only or principal source of income. *General land* related to any land

<sup>69</sup> Parliament of Tasmania, *Budget Overview 1997-98*, Budget Paper No. 1, 1997 p 150.



which is not principal residence or rural land. It includes commercial and industrial land, land used for the rental of residential housing and vacant land, whether in urban or rural areas.<sup>70</sup>

The Tasmanian Government estimated that in 1997-98 it would receive \$27.4 million in revenue from land tax. This approximately 1.4% of the total estimated receipts for 1997-98 of \$1 961.3 million.<sup>71</sup>

### ***Exemptions***

No land tax is payable on some classes of land, including:<sup>72</sup>

- rural land;
- principal residence land used for domestic purposes.
- home unit company land, retirement village land and co-operative housing land used as a principal residence;
- land owned by public or private hospitals;
- land owned by the Crown, local authorities or friendly societies;
- land owned by any public, charitable or religious organisation and used for public, charitable or religious purposes; or
- a school or college.

### ***Tax scale***

The tax rates in the table on the following page apply to land held at 1 July 1997:

---

<sup>70</sup> Ibid p 149.

<sup>71</sup> Ibid pp 25, 153.

<sup>72</sup> Extracted from *1998 Australian Master Tax Guide*, CCH Australia Ltd, 1998 ¶38-060.

Taxable land value	Land tax payable
\$0 - \$1, 000	Nil
\$1, 001 - \$15, 000	\$25
\$15, 001 - \$40, 000	\$25 + 0.75% of the excess over \$15, 000
\$40, 001 - \$68, 750	\$212.50 + 1% of the excess over \$40, 000
\$68, 751 - \$100, 000	\$500
\$100, 001 - \$125, 000	\$500 + 1.25% of the excess over \$100, 000
\$125, 001 - \$170, 000	\$812.50 + 1.5% of the excess over \$125, 000
\$170, 001 - \$210, 000	\$1, 487.50 + 1.75% of the excess over \$170, 000
\$210, 001 - \$250, 000	\$2, 187.50 + 2% of the excess over \$210, 000
\$250, 001 - \$500, 000	\$2, 987.50 + 2.25% of the excess over \$250, 000
\$500, 001 or more	\$8, 612.50 + 2.5% of the excess over \$500, 000

The Tasmanian Government has announced that subject to the future sale of the Hydro-Electric Corporation's transmission, distribution and retail businesses, there will be a simplification and reduction of land tax rates from 1 July 1998. The proposed reduction will be in two stages, commencing 1 July 1998 and 1 July 1999. The proposed reductions are.<sup>73</sup>

### 1998-99 land tax year

Taxable land value	Land tax payable
\$0 - \$1, 000	Nil
\$1, 001 - \$15, 000	\$25
\$15, 001 - \$100, 000	\$25 + 0.55% of the excess over \$15, 000
\$100, 001 - \$200, 000	\$492 + 1.25% of the excess over \$100, 000
\$200, 001 - \$500, 000	\$1, 742 + 2.25% of the excess over \$500, 000
\$500, 001 or more	\$8, 492 + 2.5% of the excess over \$500, 000

<sup>73</sup>

This information is drawn from New South Wales Treasury, *Interstate Comparison of Taxes 1997-98*, Treasury Research and Information Paper TRP 98-2, January 1998 pp 19-20 and Parliament of Tasmania, *Budget Overview 1997-98*, Budget Paper No. 1, 1997 p 151-152.

**1999 - 2000 land tax year**

<b>Taxable land value</b>	<b>Land tax payable</b>
\$0 - \$1, 000	Nil
\$1, 001 - \$15, 000	\$25
\$15, 001 - \$200, 000	\$25 + 0.55% of the excess over \$15, 000
\$200, 001 - \$500, 000	\$1, 042 + 2% of the excess over \$200, 000
\$500, 001 or more	\$7, 042 + 2.5% of the excess over \$500, 000

**6.6 Australian Capital Territory**

Under the *Rates and Land Tax Act 1926* (ACT) land tax is payable annually on the unimproved value of all rateable commercial properties and residential properties that produce income. It is assessed on the value of land held at 30 June in the previous year. The rolling three year average of property values used for general rates is incorporated in the land tax base. Both ownership of land and leases of land are subject to land tax.

The ACT Government estimated that the revenue from land tax for 1997-98 will be \$29 million. This is approximately 2% of total estimated receipts for 1997-98 of \$1, 438.5 million.<sup>74</sup>

***Exemptions***

Land tax is not payable on some classes of land, including:

- land used for residential purposes;
- land used principally for primary production;
- land exempted from general rates (such as churches, most schools and recognised hospitals); and
- land used for the purposes of a retirement village or nursing.

---

<sup>74</sup> *Australian Capital Territory Budget Overview 1997-98*, Budget Paper No.3, Canberra 1997, pp 110, 112.

### ***Tax scale***

The applicable tax rates are set out in the following table:

<b>Taxable land value</b>	<b>Land tax payable</b>
\$0 - \$100, 000	1% flat rate
\$100, 001 - \$200, 000	1.25% flat rate
\$200, 000 or more	1.5% flat rate

## **6.7 Northern Territory**

There is no land tax in the Northern Territory.

## **7.0 INTERNATIONAL COMPARISONS**

New Zealand and the United Kingdom have both abolished land tax: New Zealand in 1990 and the United Kingdom has not had any form of land tax since 1985. Of the three countries examined, only Canada imposes land tax in some form. As in Australia, the imposition of land tax in Canada is determined by provinces and local governments, and as such varies greatly across the country. The position in New Zealand, the United Kingdom and Canada are examined in the following sections.

### **7.1 New Zealand**

New Zealand no longer has a tax on land value. A land tax had been in place since 1891, but it was abolished in 1990.<sup>75</sup> The land tax system in New Zealand in 1989, just before it was abolished, imposed a tax on the total value of land owned at 30 March each year.

Up to and including the 1988 income year, land tax was generally 2% of the value of the land less a special exemption of \$175, 000. It therefore was not payable by any taxpayer whose total interest in property has a value of less than \$175, 000. The exemption reduced by \$1 for every \$1 by which the land value exceeded \$175, 000. Thus no exemption was allowable when the land value exceeded \$350, 000.<sup>76</sup>

For the year ended 31 March 1989, legislation reduced the rate of land tax to 1.5% from 2% of the land value. From 31 March 1990 the rate of land tax was set at 1% of the land value. The land tax base was broadened by abolishing many exemptions and applying the tax to

<sup>75</sup> *Land Tax Abolition Act 1990 (NZ)*.

<sup>76</sup> New Zealand, *Official Year Book*, Wellington NZGP, 1990, p 659, quoted in B. Reece, 'The Abolition of Land Tax in New Zealand: Searching for Causes and Policy Lessons', (1993) 10 *Australian Tax Forum* 223 p 230.

virtually all commercial and industrial land uses. The exemption of land owned by public and local authorities was removed and the special exemption of \$175, 000 was repealed. The 1989 Budget changes technically simplified the rate scale by removing the threshold, making the rate scale proportional. At the same time the removal of the threshold broadened the tax base by catching in the tax net those who had previously been exempted.<sup>77</sup>

In 1991-92 the rate was lowered to 0.5%, and the tax was abolished in the following year. The 1990 New Zealand *Budget Papers* (at p 170) estimated that the net cost to revenue of abolition was estimated in 1991-92 to be \$200 million, approximately 1% of total tax revenue. The estimate was net because allowance was made for the deductibility of land tax against income tax liability.

## 7.2 United Kingdom

The United Kingdom does not have a tax on land value.<sup>78</sup> The most recent example of a land tax was the Development Land Tax (DLT), introduced on 1 August 1976 and abolished on 19 March 1985. The DLT was significantly different from land tax as it is imposed in Australian States. It was a tax imposed on gains in the value of land arising from the development (or approval or proposal to develop) the land. It was designed to capture windfall gains resulting from sharp increases in the value of land slated for development.

There were a range of exemptions from DLT, such as local authorities, parish councils, town development corporations, charitable organisations, and the main residence of natural persons. The DLT was linked to other measures to encourage the community ownership of development land - local authorities were permitted when acquiring land to deduct the DLT liability from the market value compensation paid, reducing the effective cost of land to local authorities.

When DLT was first introduced, it was charged at a rate of 80%. The first £10, 000 of annual realised development value was tax free. A reduced rate of 66% was charged on the next £150, 000, while the main rate of 80% was levied on annual gains in excess of this figure. In 1979, the rate of DLT was cut to 60% and the annual exempt limit was raised to £50, 000. In 1984, the annual exemption limit was raised again, to £75, 000. Two further exemptions resulted in no DLT being charged if the development of land was agricultural purposes, or if the relevant interest in the a land was disposal by way of a gift or bequest. In 1985, the DLT was abolished. The Government cited the complexity of the tax and its effect of discouraging the bringing forward of land for development as reasons for its abolition. The net cost of abolition was estimated at £50 million for a full tax year.

---

<sup>77</sup> Reece B, 'The Abolition of Land Tax in New Zealand: Searching for Causes and Policy Lessons', (1993) 10 *Australian Tax Forum* 223 p 231.

<sup>78</sup> The information in this section was supplied by the Research Service of the House of Commons Library.

---

### 7.3 Canada

Taxes on land are imposed by the governments of some of the Provinces of Canada, and are imposed by all local governments.<sup>79</sup> Taxes on land seem to be principally the domain of local government. As with the Australian States, the taxes vary from province to province and from municipality to municipality. These provincial and local government taxes are called property taxes, and they differ in several respects from land tax as it is imposed in the Australian States.

Canadian local and provincial property taxes seem to be more closely integrated than are land tax and local council rates in Australia. In Canada, property taxes are the most important source of revenue for local governments, but are only a small part of provincial revenue. It seems that at the provincial level, property taxes are sometimes imposed to raise funds for specific purposes, such as education, rather than as part of the general revenue. Provincial governments may collect property taxes on behalf of local governments. All provincial governments levy property taxes in areas where there are no municipal authorities. In many provinces school authorities have the power to impose and collect property taxes.

In 1997, **Prince Edward Island** and **New Brunswick** imposed general property taxes at the provincial and municipal level. The provincial government imposes property taxes in the unincorporated areas of northern **Saskatchewan** and northern **Manitoba**. In **Alberta** the province levies a province-wide property tax to fund education expenses. In **British Columbia** general purpose property taxes are imposed by the provincial government in areas without local municipalities. In the remaining provinces, **Newfoundland**, **Nova Scotia**, **Quebec** and **Ontario**, property taxes are generally the domain of municipal governments and school authorities. The territorial governments in the **Northwest Territories** and **Yukon** levy taxes on properties outside municipally organised regions.

The property tax is one of the oldest taxes in Canada and is levied as an annual charge paid by the owners of real property on a measure of its value. Different rates are often applied to different types of property. Unlike land tax assessment in Australia, in Canada land value is generally the **improved value** of the land - that is, the base for the property tax is the value of the land and things permanently attached to the land, such as buildings and structures. In some provinces, machinery and equipment that is fixed to the land is included in the assessment.

#### *Assessment*

Differences in the frequency of reassessment, the base year used and valuation methodologies lead to substantial variations in the assessed value of similar properties across the country. In some provinces, assessed values are multiplied by provincially prescribed

---

<sup>79</sup> The information in this section is drawn from Treff K and Perry D, *Finances of the Nation: A review of expenditures and revenues of the federal, provincial and local governments of Canada*, Canadian Tax Foundation, 1997, chapter 6.

factors to calculate taxable assessed values. These factors may vary by property class (such as residential, agricultural, commercial, industrial, or recreational) and are used primarily to control tax shifts between classes. For example, a lower percentage may be applied to the assessed value of residential or farmland property to determine its taxable assessed value.

### *Exemptions*

The categories of exemption again vary between provinces and municipalities. Many exemptions are mandatory under provincial legislation; in other jurisdictions, municipalities have the permissive authority to exempt specified types of property from taxation. Although there is a great deal of variety in provincial property tax exemptions, some types of property are exempted in all or most provinces:

- property owned and occupied by federal, provincial or municipal governments
- colleges and universities;
- churches and cemeteries;
- public hospitals;
- various charitable organisations and societies.

An exemption for residential property is not usual, although in most provinces it attracts a lower rate of tax. Farmland is exempt or given favourable treatment in most provinces.

### *Tax rates*

As in Australia, tax rates vary between provinces and municipalities, and they often vary between classes of property. For example, in **New Brunswick** the provincial real property tax is levied at \$1.50 per \$100 of assessed value for residential property and at \$2.25 per \$100 for non-residential property.

## **8.0 POTENTIAL PROBLEMS WITH LAND TAX IN NEW SOUTH WALES**

### **8.1 Effect of Inflation**

As illustrated in Appendix 2, the threshold level for land tax has been set at \$160,000 since the 1989 land tax year, when it was increased from \$135,000. In times of rising property values, this could be cause for concern. The following table illustrates the percentage change in the consumer price index (CPI) in Sydney since 1989. It also illustrates the change in the housing price index (HPI) over the same period.

YEAR	1990-91	1991-92	1992-93	1993-94	1994-95	1995-96	1996-97
CPI	2.8	1.0	1.8	1.4	3.5	5.0	1.4
HPI	*to fill in	* to fill in	0.4	3.3	4.5	1.8	2.7

Source: ABS *Consumer Price Index*, and *House Price Indexes*.

Using these inflation figures, if an investment property had a land value of \$160,000 in 1989-90, applying the inflation figures above (CPI), the property would be worth \$188,968 at the end of June 1997.<sup>80</sup> Note that this is a very crude estimation of the rise in land value, and does not take into account the impact of all market influences. It is meant merely to give an illustration of the need to keep the threshold relevant to current prices, bearing in mind the effects of inflation. It follows that in order to keep the tax base stable, a threshold level of approximately \$190,000 should be applied in the 1998 land tax year (the year which uses June 1997 values). In fact, the Real Estate Institute of NSW has called on the Government to increase the tax-free threshold to \$320,000, on the basis that ‘average residential values have increased by over 30%, and CPI by 20.4%’.<sup>81</sup> The following table provided by the Real Estate Institute illustrates the increased land values in Sydney during the period 1990 to 1996. Again, there are limitations to this illustration. For example it does not take into account variations within areas, or within suburbs, nor does it take into account factors such as the size of the property. See Appendix 4 for a more detailed table showing the effect of increased land tax liability in selected suburbs in Sydney. However, it does provide a good illustration of the general increase in land values in Sydney.

	Land value 1990	Land value 1996	Change %
<b>Inner suburbs (0-6km from GPO)</b>	\$210,909	\$279,091	32.3
<b>Middle suburbs (6-25km from GPO)</b>	\$187,800	\$243,700	29.7
<b>Outer suburbs (25km plus from GPO)</b>	\$95,158	\$118,842	24.9

If the threshold is not indexed, or reviewed frequently, the two tables show that a greatly increased number of small investors will be liable for land tax. This phenomenon is called “bracket creep” and has also been evident in relation to income tax. This point becomes particularly relevant now that re-evaluation occurs annually in New South Wales, which means that the real effect of movement in the property market is captured in the land value that is taxed.

<sup>80</sup> I have chosen to use the CPI rather than the HPI as the CPI is a better general indication of inflation, whereas the HPI reflects housing prices specifically. Bearing in mind that land tax is not levied on the basis of house value, but land value, it was felt that the HPI would not be truly representative. It is included for information only.

<sup>81</sup> Media Release, ‘Land Tax Double Whammy’, Real Estate Institute of NSW, 23 January 1998.



The problem was addressed in relation to residential properties with a land value over \$1 million when the exemption was altered in 1997. For the 1999 land tax year and all subsequent years, section 9 of the Act provides the following formula to take make allowances for the effects of inflation in relation to the \$1 million threshold:

$$\text{\$1 million} \times \frac{\text{the CPI for the financial year last proceeding the tax year}}{\text{the CPI for 1996/97}}$$

## 8.2 Pensioners and self-funded retirees

It is unclear what the impact of the changes will be on pensioners and self-funded retirees. While it is true that members of this group do own investment properties, and will therefore be affected in the same way as any other investment property owner, there is no evidence that this group will be affected more so than others with investment properties. Gary Moore, Director of the Council of Social Service of New South Wales told the author that the Council had “not been swamped” by calls regarding pensioners’ and self-funded retirees’ land tax liability, and concluded that while it is an issue that must be taken into consideration, it is not one that is unduly troubling the people affected.<sup>82</sup> This is consistent with information obtained by the author from the Office on the Ageing, who received 139 calls in January 1988 and 108 calls in February 1998 concerning land tax either predominantly or in some form.<sup>83</sup>

The other question in relation to this group of taxpayers is the impact of the imposition of land tax on residential properties with a land value over \$1 million. As found by the New South Wales Tax Task Force, there are “a significant number of retired persons” who fall into the category of people “who from no choice of their own have a disproportionate share of their wealth invested in their owner-occupied home.”<sup>84</sup> Rapidly rising land values in Sydney were seen as a particular problem for those retirees who bought their home a number of years ago when the property market was not so strong. The Office of State Revenue has stated that retirees who are receiving a pension or have limited income insufficient to pay land tax on their principal place of residence will be able to defer payment of the tax, with interest. The tax and interest will be recoverable from their estate or from proceeds of sale if the property is sold. Other living in a high value home who are income poor will be able to apply for similar deferrals through the Hardship Board of the Office of State Revenue - see *Serious hardship* in Part 5.1 above. For this reason, in respect of those elderly people who do not have the capacity to pay the tax, it has been called a de facto death duty.<sup>85</sup> Death duty was abolished in New South Wales on the estates of persons who

<sup>82</sup> Telephone interview with Gary Moore, 18 March 1998.

<sup>83</sup> Telephone interview with Office of the Ageing staff member, Pat Donaghy, 18 March 1998.

<sup>84</sup> New South Wales Tax Task Force, n 1, p. 245.

<sup>85</sup> L McBride, ‘If we’re to have a land tax, why not an equitable one?’, *Sydney Morning Herald*, 23 December 1997.

---

died on or after 31 December 1981.<sup>86</sup>

### 8.3 Effect on rental prices

The Real Estate Institute of NSW has expressed concern over the combined effect of an increase in the land tax rate from 1.65% to 1.85%, coupled with re-evaluations resulting in much higher valuations being applied to investment properties. In a media release dated 23 January 1998, the Institute's President said that land tax increases "will affect the whole community because of higher rental accommodation rates and higher prices for goods and services". A report in the *Sydney Morning Herald* stated that one-third of Sydney's population live in rental accommodation, so the potential impact is great.<sup>87</sup> In fact, the Real Estate Institute has estimated that there are 196,000 investment properties in New South Wales with a land value over \$160,000.<sup>88</sup> Even where the rental accommodation is a unit or flat, in which case the land value is relatively low,<sup>89</sup> if a property owner owns more than one property it is likely that the combined holdings have a total land value of more than \$160,000.<sup>90</sup> The incidence of multiple holdings, however, has been found to be quite low: the Australian Bureau of Statistics survey, 'Investors in Rental Dwellings in Australia' (July 1993) found that 77 per cent of investment property owners own only one property. Thirteen per cent own two and four per cent owned more than five rental properties. Another relevant finding was that of the property recently acquired at the time of the survey, 62 per cent were separate houses, while 25 per cent were units or flats.<sup>91</sup>

Land tax is also particularly relevant to tenants with commercial leases, as many leases contain provisions requiring tenants to pay outgoings which include their share of liability for land tax. Land tax in these situations will add to the operating costs of the businesses, and could affect their viability or the price they charge for their products.<sup>92</sup>

---

<sup>86</sup> *New South Wales Official Year Book*, vol. 70, 1987, p. 552.

<sup>87</sup> N Gruzman, 'Tenants are rent asunder', *Sydney Morning Herald*, 23 February 1998.

<sup>88</sup> A Bernoth, 'Now land tax rise to hit rents', *Sydney Morning Herald*, 31 December 1997.

<sup>89</sup> Special rules apply to the valuation of land value of strata properties, so that land value is attributed in the same proportion as the unit entitlement of the lot bears to the aggregate unit entitlement (section 9AA of the Act). This would have the effect that where there are a large number of units in a block, the land value for each unit will be relatively small.

<sup>90</sup> The ABS survey, 'Investors in Rental Dwellings in Australia' (April 1994) found that 77 per cent of investment property owners owned only one property. 13 per cent owned two and 4 per cent owned more than five rental properties. Of the recently acquired property, 62 per cent were separate houses, while 25 per cent were units or flats.

<sup>91</sup> Australian Bureau of Statistics, *Investors in Rental Dwellings, Australia*, July 1993. The next issue: June 1997, is expected to be released in May 1998.

<sup>92</sup> New South Wales Tax Task Force, n 1, p. 237. There are special provisions in the Act to deal with these situations, where a deduction is allowed to the secondary taxpayer the amount of land tax payable by the secondary taxpayer, in order to prevent double taxation.

The Institute calculated that a property with an increased land tax value of \$250,000 from \$200,000 would be liable for an additional \$1,005 land tax. This equated to \$19.30 per week.<sup>93</sup> It must not be forgotten, however, that an investment property owner who derives income from the property may be able to claim the land tax as an income tax deduction, and can also claim the cost of preparing a land tax return. This can reduce the amount that can realistically be passed on to the tenant in the above situation by up to 47% or \$9.07, being the highest marginal tax rate. The Council of Social Service of New South Wales (NCOSS) prepared a table which illustrates the amount that in their opinion, would realistically be passed on to tenants. This table assumes a 10% across the board increase in land value in 1997 from 1996, as did the Real Estate Institute, and takes into account the increase in land tax rate. Note that no allowance is made for negative gearing or other “positive fiscal benefits” attributable to the property, such as increased equity or improved capital gain.

1996 land value \$	Land tax (1.65%) \$	1997 land value \$	Land tax (1.85%) \$	Annual difference	Likely number of units held	Weekly increase \$
200,000	660	220,000	1,110	450	1	\$8.65
250,000	1,485	275,000	2,128	643	1-3	\$4.12-\$12.36
300,000	2,310	330,000	3,145	835	2-3	\$5.35-\$8.02
400,000	3,960	440,000	5,180	1,220	3-4	\$5.87-\$7.82
500,000	5,610	550,000	7,098	1,488	4-6	\$4.77-\$7.15
750,000	9,735	825,000	12,303	2,568	7-9	\$5.49-\$7.05
1,000,000	13,860	1,100,000	17,390	3,530	7-12	\$5.65-\$9.70

Source: Fax from Gary Moore, Director, NCOSS, 9 March 1998.

#### 8.4 Ability to pay

One of the fundamental premises upon which a tax on property is levied is the assumption of the property owner’s ability to pay.<sup>94</sup> However, land tax as levied in New South Wales does not take into consideration whether the land is owned outright or is subject to a large mortgage, for example, or subject to another encumbrance. It is assessed solely on the value of the land, with no regard for the owner’s equity in the land, and hence some indication of

<sup>93</sup> Media Release, ‘Land Tax Double Whammy’, Real Estate Institute of NSW, 23 January 1998.

<sup>94</sup> J Stotsky & M Zühtü Yücelik, ‘Taxation of land and property’, in P Shome (ed), *Tax Policy Handbook*, IMF, 1995, p. 185. The other rationale for property tax is based on a notion of benefit: infrastructure and services provided by the State confer a benefit on the property for which the owner may be charged. This was one of the main reasons given by the Treasurer, Hon M Eagan, MLC, in his Budget Speech 1997-98: “the value of these almost exclusively Sydney properties very much depends on the huge amount of taxpayers’ money that goes into making Sydney the world’s finest city” (p. 26).

---

the owner's ability to pay.<sup>95</sup> There is the contrary argument that the mere fact that land tax is levied will provide incentive to the owner to use the land for some income-producing purpose, thus relieving the tax burden.<sup>96</sup> This, of course, is not an argument relevant to residential properties, particularly those which have been owned by the same family for many years, a fact that was addressed in the New South Wales Tax Task Force report: "the Task Force placed considerable emphasis on the strong case for ensuring that land tax did not create strong financial pressures forcing sale of the family home, especially for families occupying the same home for some substantial period of time."<sup>97</sup> This particular impact of land tax has been picked up repeatedly by the media.<sup>98</sup> In any event, the New South Wales Tax Task Force stated that "it is simply not true that the owners of the most valuable land have the greatest capacity to pay".<sup>99</sup>

Where a landowner can not afford to pay their land tax bill, there are options available to them to apply to have the tax liability waived or deferred - see *Serious Hardship* in Part 5.1, above. The Office of State Revenue has stated that retirees who are receiving a pension or have limited income insufficient to pay land tax on their principal place of residence will be able to defer payment of the tax. However, where an extension of time to pay is granted, there are quite harsh financial penalties. Interest is charged on the amount owing, which over a period of time can amount to a large sum. Interest is charged at the current market rate specified in the *Taxation Administration Act*, and is currently 8.8%. Interest is calculated daily, although it is not cumulative.<sup>100</sup>

---

<sup>95</sup> New South Wales Tax Task Force, n 1, pp. 236-237.

<sup>96</sup> New South Wales Tax Task Force, n 1, p. 237.

<sup>97</sup> New South Wales Tax Task Force, n 1, p. 244,

<sup>98</sup> See, for example, A Clennell, 'Wealthy? At these prices, we're not', *Sydney Morning Herald*, 21 February 1998, R Wainwright, 'Will it be out homes nest, ask widows', *Sydney Morning Herald*, 12 December 1997, K Gosman, 'Tax puts family houses at risk', *Sunday Telegraph*, 7 December, 1997 and 'We can't take a brick to pay bills', *Daily Telegraph*, 26 May 1997.

<sup>99</sup> New South Wales Tax Task Force, n 1, p. 256.

<sup>100</sup> In an article by R Wainwright in the *Sydney Morning Herald* (12 December 1997), it was estimated that a homeowner with land valued at \$1.5 million who defers the tax will owe \$57,000 after 5 years, and \$152,000 after 10 years. This is based on an interest rate of 10.5%.

## **APPENDICES 1-4**

**APPENDIX 1: Land tax levied in NSW: 1960-61 to 1995-96**

<b>Year</b>	<b>Amount \$ 000</b>	<b>Amount as % total revenue</b>	<b>Year</b>	<b>Amount \$ 000</b>	<b>Amount as % total revenue</b>
<b>1960-61</b>	16,898	13.29	<b>1977-78</b>	122,654	7.28
<b>1961-62</b>	18,570	13.77	<b>1978-79</b>	128,031	6.92
<b>1962-63</b>	20,287	12.99	<b>1979-80</b>	133,048	6.38
<b>1963-64</b>	24,101	12.96	<b>1980-81</b>	135,825	5.55
<b>1964-65</b>	29,717	14.78	<b>1981-82</b>	143,782	5.13
<b>1965-66</b>	34,477	16.13	<b>1983-84</b>	188,885	5.10
<b>1966-67</b>	33,646	14.33	<b>1984-85</b>	225,616	5.55
<b>1967-68</b>	35,711	13.54	<b>1985-86*</b>	295,900	6.43
<b>1968-69</b>	33,802	10.01	<b>1986-87</b>	345,600	6.61
<b>1969-70</b>	32,544	8.41	<b>1987-88</b>	412,800	6.52
<b>1970-71</b>	40,398	9.83	<b>1988-89</b>	497,000	6.56
<b>1971-72</b>	46,220	7.93	<b>1989-90</b>	657,400	8.11
<b>1972-73</b>	53,638	7.13	<b>1990-91</b>	759,600	8.96
<b>1973-74</b>	58,729	6.59	<b>1991-92</b>	826,000	9.21
<b>1974-75</b>	81,155	7.19	<b>1992-93</b>	549,000	5.90
<b>1975-76</b>	99,197	7.10	<b>1993-94</b>		
<b>1976-77</b>	111,638	7.12	<b>1994-95</b>	510,000	4.83

Source: NSW Year Book, 1961-1997

\* From 1985-86, figures were expressed in millions of dollars.

**APPENDIX 2: New South Wales land tax rates 1973-1999**

<b>Land held at 31 December:</b>	<b>Where taxable value assessed under the principle Act*</b>	<b>Rates of land tax payable</b>
<b>1973-1983</b>	does not exceed \$5,000 exceeds \$5,000 but does not exceed \$10,000 exceeds \$10,000 but does not exceed \$20,000 exceeds \$20,000 but does not exceed \$30,000 exceeds \$30,000 but does not exceed \$40,000 exceeds \$40,000 but does not exceed \$50,000 exceeds \$50,000 but does not exceed \$60,000 exceeds \$60,000 but does not exceed \$70,000 exceeds \$70,000 but does not exceed \$80,000 exceeds \$80,000 but does not exceed \$90,000 exceeds \$90,000 but does not exceed \$100,000 exceeds \$100,000 but does not exceed \$110,000 exceeds \$110,000 but does not exceed \$120,000 exceeds \$120,000 but does not exceed \$130,000 exceeds \$130,000	0.3c for each \$1 \$15.00 plus 0.45c for each \$1 in excess of \$5,000 \$37.50 plus 0.6c for each \$1 in excess of \$10,000 \$97.50 plus 0.75c for each \$1 in excess of \$20,000 \$172.50 plus 0.9c for each \$1 in excess of \$30,000 \$262.50 plus 1.05c for each \$1 in excess of \$40,000 \$367.50 plus 1.2c for each \$1 in excess of \$50,000 \$487.50 plus 1.35c for each \$1 in excess of \$60,000 \$622.50 plus 1.5c for each \$1 in excess of \$70,000 \$772.50 plus 1.65c for each \$1 in excess of \$80,000 \$937.50 plus 1.8c for each \$1 in excess of \$90,000 \$1,117.50 plus 1.95c for each \$1 in excess of 100,000 \$1,312.50 plus 2.1c for each \$1 in excess of \$110,000 \$1,522.50 plus 2.25c for each \$1 in excess of \$120,000 \$1,747.50 plus 2.4c for each \$1 in excess of \$10,000
<b>1984</b>	does not exceed \$55,000 exceeds \$55,000 but does not exceed \$60,000 exceeds \$60,000 but does not exceed \$70,000 exceeds \$70,000	nil \$50 plus 0.5c for each \$1 in excess of \$55,000 \$75 plus 1.5c in each \$1 in excess of \$60,000 \$225 plus 2.5c in each \$1 in excess of \$70,000
<b>1985-1986</b>	is less than \$94,000 is not less than \$94,000	nil \$100 plus 2c for each \$1 in excess of \$94,000
<b>1987</b>	is less than \$125,000 is not less than \$125,000	nil \$100 plus 2c for each \$1 in excess of \$125,000
<b>1988</b>	is less than \$135,000 is not less than \$135,000	nil \$100 plus 2c for each \$1 in excess of \$135,000
<b>1989-1995</b>	is less than \$160,000 is not less than \$160,000	nil \$100 plus 1.5c for each \$1 in excess of \$160,000

<b>1996</b>	is less than \$160,000 is not less than \$160,000	nil \$100 plus 1.65c for each \$1 in excess of \$160,000
<b>1997-98</b>	is less than \$160,000 is not less than \$160,000, except in the case of a principle place of residence for which land tax is payable under section 9(3) of the principle Act* is less than \$1 million in the case of a principle place of residence is not less than \$1 million in the case of a principle place of residence for which land tax is payable under section 9(3) of the principle Act	nil \$100 plus 1.85c for each \$1 in excess of \$160,000  nil \$100 plus 1.85c for each \$1 in excess of \$1 million
<b>1999</b>	is less than \$160,000 is not less than \$160,000, except in the case of a principle place of residence for which land tax is payable under section 9(3) of the principle Act* is less than \$1 million in the case of a principle place of residence is not less than \$1 million in the case of a principle place of residence for which land tax is payable under section 9(3) of the principle Act	nil \$100 plus 1.7c for each \$1 in excess of \$160,000  nil \$100 plus 1.7c for each \$1 in excess of \$1 million

\* *Land Tax Management Act 1956*

These figures are taken from Schedules 1-9 of the *Land Tax Act 1956*.



### **APPENDIX 3: Recommendations of previous New South Wales land tax studies**

#### **Recommendations of the New South Wales Tax Task Force, *review of the state tax system* (August 1998)**

1. That the land tax continue to be levied on the basis of the adjusted value of land.
2. That the Government place greater emphasis on land tax collections in situations where owners, particularly non-residents of Australia or New South Wales, have the ability to transfer ownership to other parties without the knowledge of the NSW tax authorities.
3. That the present exemption of the principal place of residence be removed and replaced with an exemption level of \$500,000 indexed annually on the basis of the change in the weighted average State-wide residential equalisation factors.
4. That special measures be introduced to assist persons who may be adversely affected by the proposed changes. These include the provision of assistance by the existing Land Tax Hardship Board and the continued exemption from land tax of owner-occupied residences where the original owner or members of their immediate family were continually resident in the property for a period of at least twenty years.
5. That action be taken to extend the exemption policies adopted towards the owner-occupied home to persons owning their house via a family company or trust or as part of some more complicated group title arrangement.
6. That an exemption from land tax of \$500,000 be given to rental accommodation ordinarily used as a principal residence. The \$500,000 exemption would be administered for individual parcels of land and no attempt be made to apply grouping provisions to separate parcels of land. Annual indexation of the exemption should be applied on the same basis as for a principal residence.
7. That the present automatic exemption of primary production land from land tax be removed and replaced with an exemption for farms owned and operated by families in individual, family company or trust names with a basic exemption from tax of land with an unimproved capital value of \$1.0m, twice the level proposed for the owner-occupied home in the city.
8. That the threshold exemption for primary production land be indexed annually on the basis of change in the weighted average State-wide residential equalisation factors.
9. That the present large range of land tax exemptions for the existing diverse range of activities be removed or reduced in scope, except in cases such as religious and charitable bodies and educational institutions where the exempt land is unlikely to be converted to alternative uses at some later date.
10. That no exemption from land tax in the form of either a household exemption or a

general exemption be given except those specified earlier.

11. That the present rate of land tax of 2% continue to apply, but that the fixed charge of \$100 be removed.

**Recommendations of the Report of the Government Treasury Advisory Committee, *Land Tax Review (June 1990)***

**To provide relief to existing taxpayers**

1. An owner's principal place of residence, not used for any other purpose should be exempt from land tax irrespective of land size.
2. Principal place of residence of a shareholder or the immediate family of a shareholder in a "family" company should be exempt from land tax.
3. Principal place of residence of a limited range of beneficiaries or immediate family of a beneficiary in a "family" trust should be exempt from land tax.
4. Retirement Villages to the extent permanently occupied by retired residents should be exempt from land tax.
5. Nursing Homes to the extent that they are the permanent residence of patients should be exempt from land tax.
6. The threshold, below which no land tax is payable should be increased from \$160,000 to \$170,000 from the 1991 land tax year.
7. (i) The present adjusted land values (i.e. those applicable for the 1990 land tax year) for the 1990 land tax year) for all existing land taxpayers to be adjusted by reference to the Consumer Price Index (CPI) for 1991 and 1992 only.  
  
(ii) Adjusted land values calculated by reference to equalisation factors be the basis for determining the liability of owners who were not land taxpayers in 1990.
8. Introduction of a progressive marginal scale whereby 99.3% of all land taxpayers will pay less. There would be a top marginal tax rate of 2% on land valued at more than \$10 million and a top marginal rate for residential land of 1%. NSW would still have the lowest rates of land tax of any State in Australia.

TAXABLE LAND VALUES	MARGINAL RATES	(ACTUAL RATES)
Up to \$170,000	Nil	(Nil)
\$170,001 to \$500,000	\$100 plus 0.75%	(0.06% to 0.52%)
\$500,001 to \$1,000,000	\$2,575 plus 1.00%	(0.52% to 0.76%)
\$1,000,001 to \$5,000,000	\$7,575 plus 1.50%	(0.76% to 1.35%)

\$5,000,001 to \$10,000,001	\$67,575 plus 1.75%	(1.35% to 1.55%)
Above \$10,000,000	\$155,075 plus 2.00%	(1.55% to 1.99%)

9. Land owners should have the right of objection and appeal against the Valuer General's equalisation factors as well as full valuations.
10. The period during which land owners can lodge an objection against the Valuer General's valuations should be extended from 42 days to 60 days.
11. The basis of calculating the land tax liability of properties used for dual purposes should be changed to apportion to valuation between the separate uses before calculation of the land tax liability.
12. Standardise the calculation of land tax liability between investors in residential strata lots and residential company title lots.
13. National Trust properties over which heritage orders have been obtained should be exempt at the discretion of the Chief Commissioner.
14. A system of payment by interest free instalments, similar to that offered by the Water Board and Local Government Authorities whereby payment can be by four instalments at two monthly intervals, be introduced for 1991 land tax year.

#### **To Restore Equity and Broaden the Tax Base**

15. Land owners not resident in Australia, (including companies) should pay land tax at the full 2% marginal rate on the value of land owned and not be eligible for exemptions available to Australian residents.
16. Government Trading Enterprises and Public Authorities to pay land tax on land used directly or indirectly for commercial purposes.
17. State and Local Government Superannuation Funds should pay land tax on the same basis as other superannuation funds.
18. The exemption for land used for primary production to be clarified so that only land used for a business of primary production will be exempt.
19. Strengthen the anti-avoidance and penalty provisions of the Act to be consistent with other taxing legislation and to combat potential abuse of the various exemptions and concessions available under the legislation.
20. Require lessees of land owned by local government, county councils and public authorities to be liable to land tax from 1991 on, where leases were entered into after 1 January, 1998.

#### **Future Land Tax System**

21. An independent inquiry by a committee, constituting representatives of land owners, professional advisers and NSW Treasury (Office of State Revenue and Office of Financial Management) to canvas options for further changes to the basis on which land tax is levied or whether an appropriate replacement source of revenue can be found.

This review has looked at three possible options in some detail. It is obvious, however, that the feasibility of researched and costed before implementation, which is beyond the resources or time available in this review. The three options looked at are:

- (i) calculation of land tax by reference to an assessed annual value (AAV) or rental value;
- (ii) assess land tax on market value at the time of purchase adjusted annually by CPI; and
- (iii) assess land tax on the full improved value of the land i.e. land and buildings.

These three options, of course, should be included in the considerations and options investigated by the Independent Inquiry.

***Recommendations of the White Paper on Land Tax: review of the NSW land tax base and valuation system (February 1992)***

- In view of the arguments as to the merits of each tax base, including their volatility, efficiency, equity and tax administration considerations, the Government's preferred approach is to retain site value as the base for land tax. In addition, it is proposed to take a more active approach to using tax rate changes to ameliorate the effects of sudden large variations in land values.
- The Government's preferred approach is to retain the current proportional rate structure including a tax free threshold.
- The Government's preferred approach is for land tax to be based on a six month lag between the land valuation and tax assessment date. This will involve the annual valuation of properties subject to land tax.
- The Government's preferred approach is to permit private sector valuers to bid for valuation contracts for designated local government areas.
- The Government's preferred approach is to adopt a standard fee schedule for taxpayers seeking appeal with taxpayers making an upfront payment to cover the cost of appeal and receiving a refund if the appeal is successful. The Government will be considering alternative appeal procedures designed to reduce the costs of appeal. In the case of successful appeals the cost should be payable by the valuer (either the Valuer-General or the private sector valuer responsible for the original valuation).

- In order to reduce the incentives which may exist for private valuers to undervalue properties, the Government will also be developing audit procedures for private valuation firms contracted to undertake land tax valuations.
- The Government's preferred approach is for assessed valuations to reflect the impact of legally binding orders of the Heritage Council of NSW and Local Environment Plans where this materially impacts on the property valuation.
- The Government's preferred approach is for valuations used for land tax purposes to take into account the impact of the Landlord and Tenancy Act.
- The Government's preferred approach is to exempt from land tax owner-occupied properties exceeding the current size limit in cases where planning provisions prevent subdivision of the property from proceeding within a 5 year period.

**APPENDIX 4: Land value and land tax increases in selected Sydney suburbs**

Suburb	1996 land value \$	Land tax (1.65%) \$	1997 land value* \$	Land Tax (1.85%) \$	Increase in land tax liability	
					\$	%
Balmain	165,000	182.50	181,500	497.75	315.25	172.7
Bondi	370,000	3,565.00	407,000	4,669.50	1,104.50	31.0
Randwick	400,000	4,030.00	440,000	5,280.00	1,220.00	30.0
Bankstown	162,500	141.50	178,750	446.87	305.62	216.4
Belrose	220,000	1,090.00	242,000	1,617.00	527.00	48.3
Campsie	165,000	182.50	181,500	497.75	315.25	172.7
Carlingford	175,000	347.50	192,500	701.25	353.75	101.8
Chatswood	325,000	2,822.50	357,500	3,753.75	931.25	33.0
Drummoyne	240,000	1,430.00	264,000	2,024.00	604.00	42.5
Earlwood	280,000	2,080.00	308,000	2,838.00	758.00	36.4
Hurstville	210,000	925.00	231,000	1,413.50	488.50	52.8
Oatley	260,000	1,750.00	286,000	2,431.00	681.00	38.9
Ryde	185,000	512.50	203,500	904.75	391.25	76.9
Castle Hill	170,000	265.00	187,000	599.50	334.50	126.2
Cronulla	300,000	2,410.00	330,000	3,245.00	853.00	34.6
Miranda	195,000	677.50	214,500	1,108.25	430.75	63.6

Source: Fax from Real Estate Institute of NSW, 10 February 1998.

\* Land values are values of standard serviced allotments in selected suburbs from the Valuer-General's Office - *Real Estate Values 1996*. 1997 valuations assume a 10% across-the-board increase in taxable land values over 1996 values.