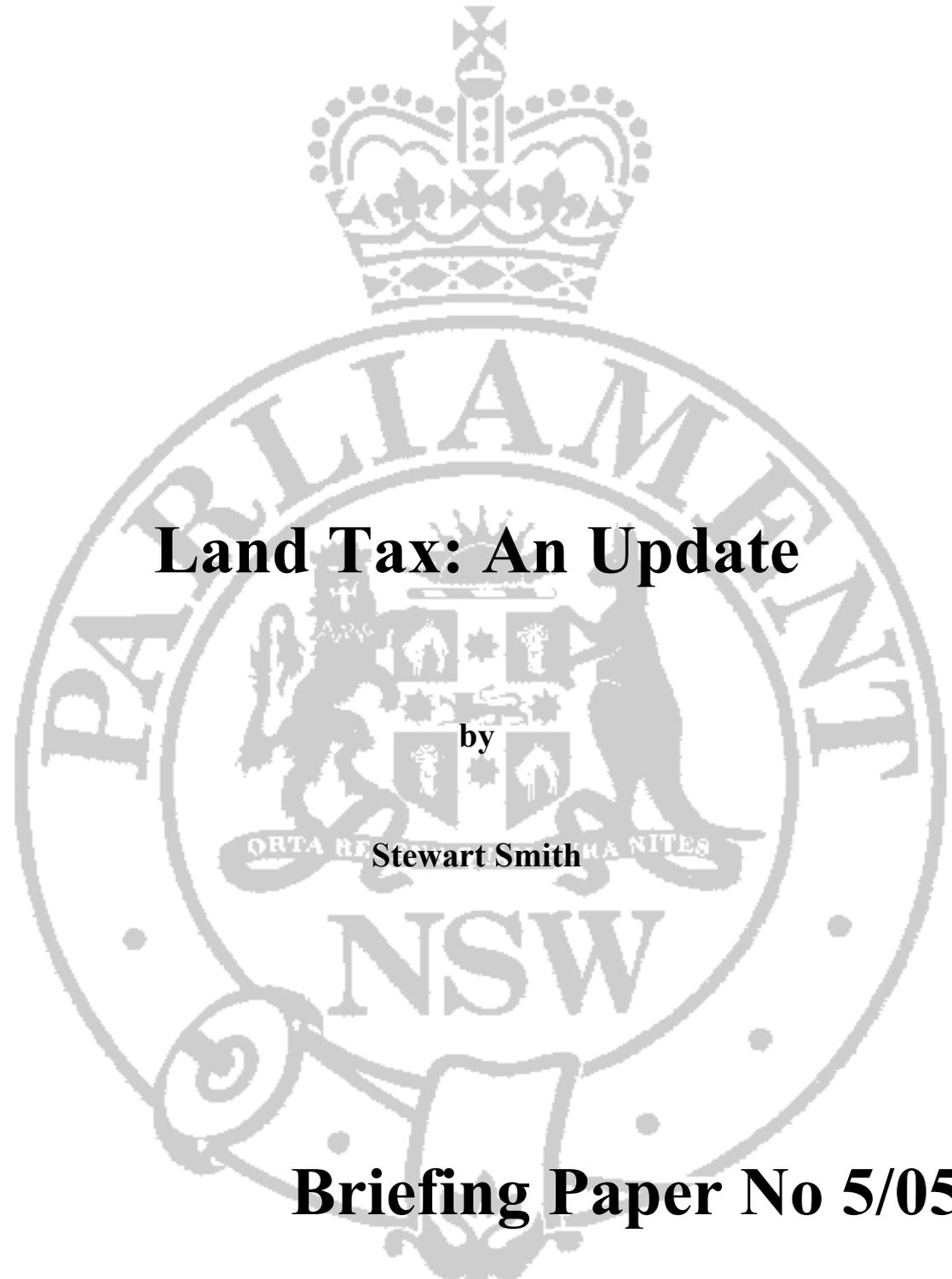


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**Land Tax: An Update**

by

**Stewart Smith**

**Briefing Paper No 5/05**

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# **Land Tax: An Update**

**by**

**Stewart Smith**

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## EXECUTIVE SUMMARY

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 NSW in 1895. In 1906, the then NSW Premier, JH Carruthers, abolished land tax altogether as part of his major reform of local government. The aim was to provide local councils with an independent revenue source, land tax, for which they no longer had to compete with the State. 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 conditional purchase, settlement purchase, or a lease in perpetuity.

Currently land tax is a tax levied on the owners of land in NSW as at midnight on 31 December of each year. In general, the principal place of residence or land used for primary production is exempt from land tax. Properties potentially liable for land tax therefore include: vacant land, including vacant rural land; holiday homes; investment properties; and residential, commercial or industrial units.

On 6 April 2004, the NSW Treasurer Hon Michael Egan MLC delivered a Mini-Budget in which he announced significant changes to land tax in 2005. Previously, NSW land tax had a tax free threshold of \$317,000 and a rate of 1.7 % after that. From 1 July 2004, the threshold was abolished and new, lower tax rates were introduced.

The changes to the tax regime announced in the Mini-Budget have resulted in considerable disquiet amongst investors, many of whom are liable for land tax for the first time. Approximately 400,000 investors will be charged a tax on their investment or holiday properties for the first time. Opposition Leader John Brogden MP has stated that the Liberal-National Coalition will abolish the vendor duty and reinstate an indexed land tax threshold.

This Briefing Paper compares the land tax rates in NSW with other jurisdictions. States that have a tax free threshold include: Victoria (land value up to \$174,999); South Australia (up to \$100,000); Tasmania (up to \$15,000); and Western Australia (up to \$100,000). The previous NSW tax free threshold of \$317,000 was quite high compared to current states with a tax free threshold. NSW, Queensland and the ACT have no tax free threshold – although Queensland does have a statutory rebate of \$220,000. The annual land tax bill for the average Sydney suburban investment unit, with a strata title land value of \$101,000, for each of the jurisdictions would be as follows:

- NSW - \$404.00;
- Victoria – Nil;
- Tasmania – \$505.00;
- South Australia - \$3.00 (from 2005-06 year);
- Queensland – Nil;
- Western Australia - \$151.50
- ACT - \$835.00

It can be seen from the above that the rate of NSW land tax is roughly in the middle of the spectrum between no tax payable in Victoria, South Australia and Queensland, and a high of \$835.00 in the Australian Capital Territory.



## 1.0 INTRODUCTION

Land tax has had a chequered history in New South Wales. It was first introduced in 1895, abolished in respect of all land not in a local government area in 1906, reintroduced in 1956 and amended many times since. This Briefing Paper updates the Research Service's 1998 Paper on land tax, up to and including the most recent changes to NSW land tax announced in the April 2004 Mini-Budget. All States and the Australian Capital Territory levy land tax – the Northern Territory does not. This Paper also compares the tax in these jurisdictions with the NSW regime.

## 2.0 HISTORY OF LAND TAX IN AUSTRALIA

### 2.1 Land Tax imposed by the Commonwealth<sup>1</sup>

The Commonwealth Government introduced a land tax in 1910<sup>2</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:

- 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);
- 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;
- 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.
- The reduction in the administrative costs which would accompany abolition of a land tax.<sup>3</sup>

### 2.2 Land Tax as imposed by the States

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 NSW in 1895, by the *Land and Income Tax Assessment Act 1895*. The rationale for introducing a land tax in

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<sup>1</sup> Section 2.1 and 2.2 was adapted from: *Land Tax in New South Wales*, NSW Parliamentary Library Briefing Paper No 6/98.

<sup>2</sup> *Land Tax Assessment Act 1910*.

<sup>3</sup> Reece, B. *State Land Taxation: A Critical Review*, Australian Tax Research Foundation, Research Study No 15, 1992 at 69-71.

the State 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 NSW 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 conditional purchase, settlement purchase, or a lease in perpetuity.<sup>10</sup> The re-introduction of

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<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 at 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: see Dickey, n 3, at 343.

<sup>6</sup> The first attempt by the Reid Government 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 at 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> 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 at 343.

<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

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

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 derived less than 90% of their income from primary production

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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%, 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.

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

remained liable for land tax.<sup>15</sup>

More recently, in a review of State taxes on land, the Productivity Commission has noted that broad-based property taxes have long been regarded as a relatively efficient form of taxation. For instance, the supply of land is unresponsive relative to goods and services or to other productive factors, especially in the short run. This makes a broad based property tax a desirable tax on efficiency grounds – a given amount of revenue can be raised more efficiently than using other forms of taxation. However, according to the Productivity Commission, land tax as applied in its current form falls short of being ideal. It has a fairly narrow base – land tax is only applied to commercial and industrial purposes and non-owner occupied housing, which may encourage land to be devoted to exempt activities. The most obvious area of inefficiency in regards to land tax is treating owner-occupied housing differently from rental accommodation.<sup>16</sup>

### 3.0 LAND TAX IN NSW

Land tax is a tax levied on the owners of land in NSW as at midnight on 31 December of each year. In general, the principal place of residence or land used for primary production is exempt from land tax. Properties potentially liable for land tax therefore include:

- vacant land, including vacant rural land;
- a holiday home;
- investment properties;
- company title units; or
- residential, commercial or industrial units.

On 6 April 2004, the NSW Treasurer Hon Michael Egan MLC delivered a Mini-Budget in which he announced significant changes to land tax in 2005. Previously, NSW land tax had a tax free threshold of \$317,000 and a rate of 1.7 % after that. From 1 July 2004, the threshold was abolished and the following tax rates introduced.

**Table 1: Current NSW Land Tax Rates**

<b>Taxable value of land owned</b>	<b>Rates of land tax payable</b>
Not more than \$400 000	0.4 cents for each \$1
More than \$400 000 but not more than \$500 000	\$1 600 plus 0.6 cents for each \$1 by which the taxable value exceeds \$400 000
More than \$500 000	\$2 200 plus 1.4 cents for each \$1 by which the taxable value exceeds \$500 000

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

<sup>16</sup> Gabbittas, O. & Eldridge, D. *Directions for State Tax Reform. Staff Research Paper.* Productivity Commission, May 1998, at 155.

In his Mini-Budget speech the Treasurer said of the new land tax regime:

These changes are designed to do two things.

First, take some of the heat out of the frenzied residential investment property market which has been the major factor driving up New South Wales house prices.

And second, provide most businesses with a significant reduction in their land tax bills. The new rates are tailored to deliver the major benefit to small and medium sized businesses, those whose business premises have a land value component of between \$500,000 and \$1 million...

Lowering the top rate from 1.7 per cent to 1.4 per cent gives New South Wales the most business friendly land taxes in Australia.<sup>17</sup>

Other features of the Mini-Budget were:

- \$365 million of targeted expenditure cuts and savings;
- the levying of a 2.25 % stamp duty on the sale of properties except for a person's principal place of residence and farms;
- exemption of stamp duty for first home buyers for homes costing up to \$500,000, with the concession phasing out between \$500,000 and \$600,000.
- Changes to the premium property tax, involving the removal of the land tax on owner occupied properties with a land value of over \$1.97 million and the imposition of a 7 % marginal rate stamp duty on all residential properties purchased for more than \$3 million (on that amount above \$3 million).

With the passage of the *State Revenue Legislation Amendment Bill 2004*, the above changes as announced by the Treasurer came into effect. Speaking to the Bill in the Second Reading Speech, Parliamentary Secretary Graham West referred to the changes in the land tax regime:

According to an analysis produced by Macquarie Bank, "few investors are likely to feel more than minor cash-flow stress as a direct result of NSW's proposed land tax changes." Property investors paying land tax for the first time next year will pay it at a very low rate—0.4 per cent of the value of the land under their property. The maximum extra payment from the land tax changes is about \$25 a week. But as Mr Rory Robertson, Macquarie Bank's interest rate strategist, has pointed out:

For investors on annual taxable income over \$52,500, that \$25 a week is reduced to about \$13 a week once Federal income tax deductibility is taken into account. Mum and Dad investors owning a single two-bedroom apartment in a high rise block will pay some fraction of that \$13 a week as the

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<sup>17</sup> Hon Michael Egan, MLC, *New South Wales Mini-Budget Speech*. 6 April 2004.

unimproved land value will be modest.

In fact, most smaller investors will face very small land tax bills. Someone who owns an average investment unit in Sydney would face a land tax bill of \$7.70 a week—before any Federal tax deduction—based on the average land value for strata units in Sydney of \$101,000.<sup>18</sup>

With the elimination of the tax free threshold, the Valuer General has suggested that approximately 660,000 properties may be subject to land tax.<sup>19</sup> This compares to the approximately 260,000 properties that were liable for land tax when the tax free threshold was \$317,000.<sup>20</sup>

The changes to the tax regime announced in the Mini-Budget have resulted in considerable disquiet amongst investors, many of whom are liable for land tax for the first time. According to the figures noted above, approximately 400,000 investors will be charged a tax on their investment or holiday properties for the first time. It has been reported that the Labor backbench has raised concerns about the political damage caused by the land tax issue.<sup>21</sup> Opposition Leader John Brogden MP has stated:

... the Liberal-Nationals Coalition will abolish the vendor duty and will reinstate an indexed land tax threshold. Those are critical measures in ensuring that New South Wales becomes competitive.<sup>22</sup>

It has been argued that the removal of the land tax tax free threshold has merit on the grounds of equity. For example, a 1998 inquiry into land tax by the NSW Legislative Council General Purpose Standing Committee No 1 noted the emerging view from some community groups that no tax free threshold should exist at all (as has now been implemented). This argument was based on the principle of equity, in that having a tax free threshold creates two main problems. Firstly, those over the threshold must pay considerably more to compensate for lost revenue from those below the threshold and thus exempt from the tax. Secondly, any arbitrary amount set as the tax free threshold presents an opportunity to avoid the tax by ensuring holdings are structured in the most tax efficient way and divesting one's wealth in other assets once the value of land holdings reach the tax free threshold. It is also claimed that the problem of volatility of land tax liabilities is due

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<sup>18</sup> NSWPD, Mr Graham West, Parliamentary Secretary, Second Reading Speech, *State Revenue Legislation Amendment Bill 2004*, at 8630.

<sup>19</sup> Parliament of New South Wales, Joint Committee on the Office of the Valuer General, *Report on the First General Meeting with the Valuer General*, Report No 53/01, December 2004 at 5.

<sup>20</sup> NSW Legislative Council, General Purpose Standing Committee No 1, *2004 Mini Budget*, Report No 25, June 2004 at 16.

<sup>21</sup> See for example: "Carr ponders land duty backflip" in *Australian Financial Review*, February 24 2005.

<sup>22</sup> NSWPD, *Hansard Proof, Intergovernmental Agreement On Goods And Services Tax* 24 March 2005, at 15.

to the nature of the land tax rate scales – a particularly relevant problem in respect of land valuations near the tax free threshold where the tax liabilities are small but can change significantly with changes in valuations. The Standing Committee noted that the abolition of the tax free threshold, and the majority or all of the land tax exemptions, would spread the burden across the whole base of NSW land owners. The land tax rates could also be reduced considerably. However, the Committee considered that the policy to provide a tax free threshold should be maintained.<sup>23</sup>

Similarly, the Council of Social Service of NSW (NCOSS) has called on the Government to reject calls to roll back land tax in the forthcoming budget. Director of the Service Gary Moore said:

Land tax, applied broadly and progressively, is an efficient and equitable way in the long term for the NSW Government to raise necessary revenue... The massive wealth and income inequities in our community have been, and will continue to be, fuelled by the way governments currently tax property... In the absence of a Federal capital gains tax [on owner occupied property] and the existence of very generous negative gearing treatment of property, there is an opportunity for the NSW Government to further broaden land tax to cover owner occupiers and investors, in return for scrapping vendor tax and examining options to reduce stamp duty on housing purchases... NCOSS supports both the broadening of the land tax base and the lessening of the land tax load on investors who own lower cost rental housing, and who may well already be providing affordable private rental accommodation.<sup>24</sup>

The Property Council of Australia has welcomed changes to the land tax regime, but has been very critical of the introduction of the vendor duty tax. The Council has stated:

While we welcome changes to land tax announced in the 2004/05 budget, the reduction in tax these provide is substantially outweighed by the increased costs generated by the Government's new property taxes.<sup>25</sup>

The Executive Director of the Property Council Ken Morrison was reported to have said: "I can understand new land tax payers being upset about a bill that they haven't got before... But by far the worst of the two evils is the vendor tax... There is no doubt the vendor tax is having a highly distortionary [sic] effect. It's really drying up transactions."<sup>26</sup> The Property Council commissioned Access Economics to evaluate the merits of the Vendor Duty and the consequences of its abolition. Access Economics concluded that: the

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<sup>23</sup> NSW Legislative Council, General Purpose Standing Committee No 1, *Report on the Inquiry into Changes in Land Tax in New South Wales*. Report No 3, July 1998, at 19.

<sup>24</sup> *NCOSS Media Release*, "Don't wind back land tax." NCOSS Director Gary Moore, 23 February 2005.

<sup>25</sup> Property Council of Australia, *Priorities for NSW, 2005/06 Pre Budget Submission*, December 2004 at 13.

<sup>26</sup> "Carr ponders land duty backflip" in *Australian Financial Review*, 24 February 2005.

tax as a revenue raising measure has been a failure; the tax fails against the basic tax design criteria of efficiency, equity and simplicity; and there is clear evidence of the high degree of taxpayer responsiveness to the tax – through the ‘locking in’ of property holdings that otherwise might have changed hands and a diversion of investment activity to other States.

Access Economics concluded that the chances of abolition of vendor duty on non-residential property becoming substantially self-financing are quite good, and that a significant proportion of the cost of abolishing the tax on residential transactions would be recouped in additional stamp duty revenue.<sup>27</sup>

Others criticised the new land tax regime. One property investor, quoted in the *Sydney Morning Herald*, said of it: “For a lot of people who are intending to set themselves up for something approaching self-sufficiency in their retirement age this is quite a backwards step.”<sup>28</sup> Other reports noted the impact on pensioners who are struggling to pay land tax on properties they are too unwell to live in. For example, one newspaper provided the example of 96 year old Ms Elise Boylan who entered a nursing home two years ago and rented out her flat to pay the nursing home fees. Ms Boylan then faced a \$307 land tax bill. Her son-in-law Geoff Woodland was quoted as saying: “I told the land tax office it’s not an investment and they said it was because it’s not her primary residence; the nursing home is her primary residence. But it’s her only property.”<sup>29</sup>

As noted above, Treasurer Egan stated that one of the reasons to introduce the new tax regime was to “take some of the heat out of the frenzied residential investment property market”. This seems to have been achieved, as Sydney is now described as the weakest property market in Australia. Real estate valuer Brad Piltz was reported to have said: “Property confidence in NSW is at an all time low...Since last March it has been devastation – vendor tax, land tax, depreciation changes, construction costs and interest rates. It’s the big five.”<sup>30</sup> Louis Christopher of Australian Property Monitors was reported to have said: “The vendor stamp duty and the broadening of the land tax has had an impact on investment property, causing decreased demand and falling prices.”<sup>31</sup>

Noting the concern in the community about the imposition of land tax for the first time for approximately 400,000 people, Premier Carr has told Parliament:

...the Government reviews spending and revenue measures in the context of each budget and the Treasurer will review land tax in the context of the State

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<sup>27</sup> Access Economics, *A Taxation ‘Free Kick’ for other States? The NSW Vendor Duty: How Inefficient is it? The Benefits from its Abolition*. Report by Access Economics Pty Ltd for Property Council of Australia, April 2005.

<sup>28</sup> “Season’s greetings – now pay land tax.” in *The Sydney Morning Herald*, 1 January 2005, quote by Mr Chris Turner.

<sup>29</sup> “Tax grab on properties of old and frail” in *The Sydney Morning Herald*, 29 March 2005.

<sup>30</sup> “Sydney’s gone from hero to zero.” *Australian Financial Review*, 24 March 2005.

<sup>31</sup> “Sydney’s gone from hero to zero.” *Australian Financial Review*, 24 March 2005.

budget, taking into account all the community concerns we have heard.<sup>32</sup>

#### 4.0 THE VALUATION OF LAND

The valuation of land plays a critical role in the implementation of any land tax. This is because land tax is applied on the value of land as determined by the Valuer-General. In NSW the Department of Lands is responsible for determining land values on behalf of the Valuer General. Land value refers to the dollar value of the land only and does not include the value of any home or other structures on the land. The determined land value is used by local councils and the State Government to calculate rates and taxes. Local councils use land value and other factors to determine council rates, whilst the State Government uses land values to determine land tax liability.

The Department of Lands publishes representative land values for selected suburbs in Sydney and regional areas. The land value of the average block of land from 2000 to 2004 for various parts of NSW is shown in Table 2, with a comparable base value of 1996 also shown.

**Table 2: The Average Land Value in Selected Areas in NSW**

Location	Land Value \$					
	1996	2000	2001	2002	2003	2004
<b>Average Sydney Metro.</b>	189,104	289,336	310,436	363,300	430,200	494,418
% Change from previous year		5%	7%	17%	18%	15%
Index (1996=100)	100	153	164	192	227	261
<b>Average Newcastle, Central Coast, Wollongong</b>	83,742	120,533	137,720	170,860	220,700	268,600
% Change from previous year		18%	14%	24%	29%	22%
Index (1996=100)	100	144	164	204	264	321
<b>Average Country – Single Dwelling Sites, Coastal Cities &amp; Towns</b>	57,238	67,481	72,156	97,913	146,419	181,956
% Change from previous year		11%	7%	36%	50%	24%
Index (1996=100)	100	118	126	171	256	318

Source: NSW Department of Lands, *NSW Land Values*, see website <http://www.lands.nsw.gov.au/Records/Valuation/nswlandvalues.htm>, Accessed March 2005.

Table 2 shows the large increases in land values, especially over the last four years. For

<sup>32</sup> NSWPD, *Investment Property Tax*, 23 February 2005, at 14100.

instance, for the average Country Single Dwelling Site – Coastal Cities and Towns - an area where many holiday homes would be located, land values increased by 18% over the four years from 1996 to 2000. But over the next four year period from 2000 to 2004, land values rose by another 200%.

As an indication of the level of public interest in land valuations because of their impact on land tax and council rates, there have been numerous government and Parliamentary inquiries commissioned into the land tax system over the last decade or so. These include:

- NSW Government, Tax Task Force, *Tax Reform and NSW Economic Development, Review of the State Tax System*, August 1998;
- *Report of the Government Treasury Advisory Committee, Land Tax Review*, June 1990;
- *White Paper on Land Tax: Review of the Land Tax Base and Valuation System*, February 1992;
- Legislative Council General Purpose Standing Committee No 1, *Report on the Inquiry into Changes in Land Tax in New South Wales*, July 1998;
- NSW Government, *Report of Inquiry into Operation of Valuation of Land Act*, Julie Walton, October 1999.

In July 1998 the NSW Legislative Council General Purpose Standing Committee No 1 inquired into changes in land tax in the State. The Committee received many submissions indicating dissatisfaction with the land valuations produced by the Valuer-General. This was especially pertinent at the time as the Government had just introduced a land tax on principle place of residence land with a value over \$1,000,000.

Given these complaints, the Committee reviewed the land valuation process. It noted that in recent times the difficulty in valuing the site value of land seems to be the lack of land without improvements in existence. Without comparable sales of vacant land the valuation process becomes more subjective and less defensible. The Committee also noted that vacant land is rare and desirable, lifting the price upwards. It is argued that if all land being valued in that area was vacant, lower valuations would result. The Committee reviewed land valuation methodologies and the following section is based on its report.<sup>33</sup>

The current methodology: 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). Site value is the tax base used in New South Wales, as in most Australian states. This method has also been used in Canada and South Africa. Site value differs from unimproved value because, while it does not take into account capital improvements to the land, it does take into account land improvements, that is those improvements that

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<sup>33</sup> NSW Legislative Council, General Purpose Standing Committee No 1, *Report on the Inquiry into Changes in Land Tax in New South Wales*. Report No 3, July 1998, at 70.

change the structure of the land itself. Site value is essentially the amount of money that an unmortgaged plot of vacant freehold land might be reasonably expected to realise upon sale. This method has the perceived advantage of encouraging development of land.

Some of the disadvantages of using site value are:

- There are a decreasing number of vacant lots of land in existence. Consequently, there are practical difficulties and subjectivity associated with assuming improvements do not exist and virtually no way of determining the quality or accuracy of any valuations made; and
- land value appreciation, particularly when a product of a highly speculative market, results in large unbudgeted increases in revenue from land tax.

The principal alternative methodologies are described below.

#### Other valuation methodologies

##### (i) *Capital value*

Capital value is the major alternative to site value. This method is used throughout the USA. It includes the value of existing improvements on the land. It is therefore a measure of the market 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. It has been argued that using the land's capital value better reflects the capacity to pay land tax. One problem associated with using capital value, based on property market values, is that the tax base is particularly severe in boom times as it is a multiple of site values.

Additionally, the capital value method will affect the choice of how land is used. A tax on the value of land and improvements, besides raising problems for valuation of the improvements, would reduce incentives to make the best possible use of the land because of the taxation attached to the improvements constructed on that land.

While both site value and capital value distort investment and land use decisions, the present basis of definition of the tax base (site value) is considered more consistent with the desire to achieve economic development of the state by not discouraging the improvement of land.

##### (ii) *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 at the time of acquisition. In addition to the advantages outlined in relation to capital value, acquisition value is inexpensive to administer, as there is no need for a valuation system. It is also aligned to capacity to pay at the time of acquisition and future tax liabilities are known by land owners with certainty, as they are based on acquisition price of the property.

The disadvantages of using this valuation method include the relative inelasticity of revenue collections compared to those based on annual updates. The method also offers opportunity for avoidance and evasion of the tax given no independent valuations are undertaken. Finally, major variations of land tax liabilities on land, which should be of similar value, arise because the valuation is dependent on when the property was purchased and that state of the market at the time. Any attempt to index values during periods when properties are not sold would create the same problems as those under the indexing current value method (refer paragraph iv).

*(iii) Discounted capital value*

In light of the decreasing number of vacant blocks of land, particularly in the greater Sydney area, an alternative to valuing land based on comparable land sales may be to value land based on comparable property sales discounted for the estimated value of the improvement. This method would require some arbitrary discount to be calculated to account for improvements. A different discount would apply to different types of properties, based on zoning or component classification currently used when undergoing mass appraisals.

Although arbitrary figures are never best practice, they are often realistically next best option taking into consideration the cost benefits or reduced administration costs and the accuracy which mathematical equations can produce. Given classification of property already exists, the administration costs associated with this method would be relatively low. However, problems associated with arbitrary discounting would result in inequities amongst land owners with varying improvements.

*(iv) Indexation of current values*

Another option available regarding valuations is to use the current land valuations but to manipulate them to produce less volatile fluctuations in response to the market. A number of techniques could be used to produce such a result. For example, averaging values over a number of years (refer paragraph vi), applying indexes such as the CPI or movements in gross rents.

The CPI is a commonly used and accepted index. The advantage of using the CPI in adjusting current valuations would be that increases would only move in line with the cost of living. Essentially, at times of very low inflation, the real value of land would not change greatly. From a revenue perspective this is a major disadvantage. There would also need to be some mechanism for periodic revaluations under such a regime. These revaluations would only cause irregular and large increases, creating the same problems currently faced.

The Land Tax Review undertaken in 1990 recommended such a valuation method, whereby the revaluations occurred at the time a property was sold. The advantage of this method of valuation is reduced valuation costs. The rate of increase in land values would consequently be a function of the frequency of sales. This would

affect decision making in relation to sales of land, as tax liabilities would increase as a result. Consequently, the efficiency of such a tax would be considered low. Additionally, this option encourages land owners to find ways to change the use of land without a change in ownership, in order to avoid increased land tax liabilities.

(v) *Annual value*

Annual value is based on the rental value 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 that would be received if the property were used to its highest value use. Further, the value can be a gross amount or a net amount taking into consideration the cost of outgoings relating to the land.

The advantages of using an annual value are that it reflects well an ability to pay, and administrative costs would be low in the case where actual rents were used. This information would also be available in income tax records. However, difficulties may arise in relation to information flows between State and Federal Government in this regard. Additionally, sales information is publicly available whereas rental information is not. Further, vacant properties would not be taxed, increasing the tax burden on income producing properties.

It is argued by economists that this form of valuation is most likely to lead to avoidance and evasion based on possible manipulation of the figures. Additionally, as improvements to the land would cause an increased tax liability, this would create a disincentive to maintain land and structures properly, much like capital valuations. It also moves away from the notion of taxing land holdings only. In fact, it could be argued that the tax base under this method is based on production, which is related to income rather than land. This could result in a constitutional challenge on the grounds that the tax takes the form of excise tax.

It is also noteworthy that there is little difference between capital value and annual value. In theory, capital value is equal to net annual income capitalised at the relevant market interest rate, and in an equilibrium situation property owners are assumed to be using their properties so as to maximise net income.

(vi) *Average value*

Averaging schemes allow a land owner to average their tax liability over a number of years. The fluctuation in land tax liability could possibly be reduced through averaging depending on the period chosen. Land owners who sold during a boom period would benefit under this system as a higher tax liability would be spread across a number of years, ie tax paid would be lower than otherwise up to and including the year of sale. The administration costs of averaging would be small using computer records.

Queensland and the Australian Capital Territory currently assesses land owners on the average of land values over the past three years, resulting in lower tax liabilities in times of rising land values. This valuation method was introduced as part of the

phasing out of land tax, which the Queensland Government intends to achieve over a ten year period. In the 1997 Budget Speech, the Treasurer of Queensland announced the move to assessing land tax on an average valuation, stating:

This will moderate one of the worst features of this tax – its volatility in times of rising land values.

The main disadvantage of this method is the differential between tax liabilities and land values. When the market is falling, tax liabilities are relatively high.

(vii) *Capping values*

Capping a land value essentially limits the land owner's liability and correspondingly revenue. The regime carries additional administration costs in implementing the cap. The cap would normally be in regard to the increase in a land owner's tax liability. The main issue with regards to a capping scheme is where to set the cap. Additionally, the ability of governments or other bodies to set or change the cap affords them influence over the property market which could be used to the detriment of the market purely for political reasons.

(viii) *Land value increment taxation*

The basic justification for the taxation of the increment in land values is that the same increment in value is not repeatedly taxed. This method also removes any retrospectivity from the taxation of land, as only increases after the introduction of the method are taxed. Effectively this is a supplementary capital gains tax. The introduction of this valuation method would marginally depress land prices (relative to other assets), which would have a positive effect on development.

There are disadvantages in using this method. While the equity problems associated with land tax are much less using this method, so are the revenues raised. Additionally, this method appears to shift the tax base from land only to income in form of capital gains.

In summary, all the methods outlined have shortcomings. The Committee concluded that the current methodology is the most appropriate method to use in valuing land at this time.<sup>34</sup>

Under the *Valuation of Land Amendment (Valuer-General) Act 2003*, a Joint Parliamentary Committee on the Office of the Valuer General was established in December 2003. In his Second Reading Speech, Mr Bryce Gaudry MP on behalf of Minister Knowles stated:

The object of the bill is to provide for the establishment and functions of a joint committee of members of this Parliament to oversee the functions of the Office of the Valuer-General and to ensure the independence of that office.

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<sup>34</sup> NSW Legislative Council, General Purpose Standing Committee No 1, *Report on the Inquiry into Changes in Land Tax in New South Wales*. Report No 3, July 1998, at 70.

Honourable members may be aware that in recent years the quality and independence of valuations undertaken at the direction of the Valuer-General have been open to speculation from some quarters. To ensure the community's continued confidence in the Office of the Valuer-General, the Premier announced the creation of a joint committee of Parliament that will have the power to monitor and review the functions of the Office of the Valuer-General....

As honourable members will be aware, the land market in Sydney has enjoyed an extended period of growth. More recently, the coastal areas of New South Wales have enjoyed a similar boom. This Government wishes to assure the people of New South Wales that land valuations undertaken by the Valuer-General are sound, well-informed, quality valuations based on reliable information and expertise. This process will ensure that the functions of the Office of the Valuer-General remain open and accountable to the public. The joint committee will not, however, have the ability to review individual valuations or objections to individual valuations.<sup>35</sup>

The Committee, chaired by Hon Kaye Griffin MLC, issued its first report in December 2004.<sup>36</sup>

## **5.0 LAND TAX IN OTHER STATES**

All States apart from the Northern Territory apply land tax. This section describes the land tax regime in each of the other States.

### **5.1 Victoria**

The *Land Tax Act 1958* imposes an annual tax on the total unimproved value of all land owned in Victoria at midnight on 31 December of the year. A principal place of residence exemption has been in place since 1998. In addition, land used for primary production is also exempt. Land Tax is assessed on a calendar year basis. The State Revenue Office (SRO) issues assessments during the period March to June each year. The 2005 assessment is calculated on the total unimproved value of all land owned (either solely or jointly) at midnight 31 December 2004, excluding exempt land.

Land owners with a total unimproved value of \$175,000 or more (excluding exempt land), will be required to pay Land Tax in 2005. An 'owner' includes:

- A person who holds the freehold title to land;
- A person who leases land from the Crown;
- A person who occupies land subject to a life tenancy; and
- A person deemed to be the owner because he or she is in possession of land.

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<sup>35</sup> NSWPD, 30 May 2003, *Valuation of Land Amendment (Valuer-General) Bill 2003*, at 1549.

<sup>36</sup> Parliament of New South Wales, Joint Committee on the Office of the Valuer General, *Report on the First General Meeting with the Valuer General*, Report No 53/01, December 2004.

The Victorian land tax rates are shown in Table 3:

**Table 3: Victorian Land Tax Rates**

Total unimproved value	Tax rates in 2005
0 - \$174,999	Nil
\$175,000- \$199,999	\$175 plus 0.1 cents for every \$1 of the value that exceeds \$175,000
\$200,000 - \$539,999	\$200 plus 0.2 cents for every \$1 of the value that exceeds \$200,000
\$540,000 - \$709,999	\$880 plus 0.5 cents for every \$1 of the value that exceeds \$540,000
\$710,000 - \$849,999	\$1,730 plus 1.0 cents for every \$1 of the value that exceeds \$710,000
\$850,000 - \$1,129,999	\$3,130 plus 1.75 cents for every \$1 of the value that exceeds \$850,000
\$1,130,000 - \$1,619,999	\$8,030 plus 2.75 cents for every \$1 of the value that exceeds \$1,130,000
\$1,620,000 - \$2,699,999	\$21,505 plus 3.0 cents for every \$1 of the value that exceeds \$1,620,000
\$2,700,000 and over	\$53,905 plus 4.0 cents for every \$1 of the value that exceeds \$2,700,000

Source: State Revenue Office of Victoria,

[http://www.sro.vic.gov.au/sro/srowebsite.nsf/taxes\\_landtax.htm?OpenPage&charset=iso-8859-1](http://www.sro.vic.gov.au/sro/srowebsite.nsf/taxes_landtax.htm?OpenPage&charset=iso-8859-1)

## 5.2 South Australia

In South Australia the *Land Tax Act 1936* contains provisions relating to the collection and administration of land tax. Land tax is an annual tax based on land ownership and usage as at 30 June. Where land is owned by a natural person (ie not a company) and is the principal place of residence land tax is exempt. Exemptions are also available where land is used for the following purposes:

- Land which is used wholly or mainly for primary production purposes and primary production is the owner's main business;
- Land which is used wholly or mainly for religious or educational purposes;
- Land which is used for non-profit associations for the purpose of recreation for the local community, the preservation of buildings, the holding of agricultural shows or other specified purposes (charitable or sporting purposes).<sup>37</sup>

The South Australian land tax rates applicable for the 2004/2005 year are shown in table 4.

<sup>37</sup>

RevenueSA, see website <http://www.revenuesa.sa.gov.au/taxes/ltax.html>

**Table 4: South Australian Land Tax Rates 2004 – 2005**

Total Taxable Site Value	Tax
Up to \$50,000	Nil
\$50,001 - \$300,000	35 cents for each \$100 or part \$100 over \$50,000
\$300,001 - \$1,000,000	\$875 plus \$1.65 for each \$100 or part \$100 over \$300,000
\$1,000,001 and over	\$12,425 plus \$3.70 for each \$100 or part \$100 over \$1,000,000

On 7 February 2005 the South Australian Government announced a new land tax regime. The threshold before land tax is payable was increased from \$50,000 to \$100,000, and new tax rates were introduced. The new measures will reduce the level of land tax payable, and involve:

- legislative changes to the land tax thresholds and tax rates to apply from the 2005/2006 land tax assessment year;
- an *ex gratia* land tax rebate for 2004/2005; and
- the introduction of further legislatively based exemptions and amendments to some existing exemption arrangements.

The following land tax rates will apply from the 2005/2006 land tax assessment year, as shown in Table 5:

**Table 5: South Australian Land Tax Rates from 2005 – 2006.**

Site Value \$	Tax Rate
0-100,000	Nil
100,001-350,000	\$0.30 for every \$100 or fractional part of \$100 over \$100,000
350,001-550,000	\$750 plus \$0.70 for every \$100 or fractional part of \$100 over \$350,000
550,001-750,000	\$2,150 plus \$1.65 for every \$100 or fractional part of \$100 over \$550,000
750,001-1,000,000	\$5,450 plus \$2.40 for every \$100 or fractional part of \$100 over \$750,000
above 1,000,000	\$11,450 plus \$3.70 for every \$100 or fractional part of \$100 over \$1,000,000

The South Australian Government has also approved the one off payment of *ex gratia* land tax rebates in relation to 2004/2005 land tax assessments for all taxpayers. The rebate amount is equal to 50% of the tax savings from applying the new tax scale to 2004/2005 taxable land values.

Other changes announced in February include new exemptions to be available for caravan parks and residential parks. Eligibility criteria will also be relaxed for the following land tax exemptions: the principal place of residence where a portion of the residence is used to

conduct a business; and land used for primary production in defined rural areas.<sup>38</sup>

### 5.3 Tasmania

Land tax in Tasmania is payable by the owner of land as at 1 July each year. Land Tax is administered by the State Revenue Office under the *Land Tax Act 2000*. No land tax is payable for principal residence land and primary production land (land used substantially for primary production). All other land is classified as General Land and is subject to land tax. However, the following categories are exempt from land tax:

- property owned and used for religious purposes;
- property owned by charitable institutions;
- property used as a private hospital or rest home;
- Aboriginal land used principally for aboriginal cultural activities; and
- land subject to a conservation covenant.

While sporting clubs are not exempt from paying land tax, they may be entitled to a concessional rate of tax.

The land tax rates in Tasmania are shown in Table 6.

**Table 6: Tasmanian Rate of Land Tax**

Land Value	Rate of Tax
Less than \$15,000	Nil
\$15,000 to \$99,999.99	\$25 plus 0.55 cents per \$1 above \$15,000
\$100,000 to \$199,999.99	\$492.50 plus 1.25 cents per \$1 above \$100,000
\$200,000 to \$499,999.99	\$1,742.50 plus 2.25 cents per \$1 above \$200,000
\$500,000 and over	\$8,492.50 plus 2.5 cents per \$1 above \$500,000

### 5.4 Queensland

Land tax is an annual tax levied on the aggregate unimproved value of freehold land that a person owns in Queensland as at midnight on 30 June. The tax assessed covers the following financial year. The Office of State Revenue (OSR) collects land tax in Queensland under the provisions of the *Land Tax Act 1915*.

Of all the States, Queensland has the most complicated land tax schedules. For instance, the land tax rates have 19 categories from \$0 to \$1.5 million, and there are numerous deductions and rebates available. Residents may be liable to pay land tax if the total unimproved value of freehold land was equal to or greater than \$275,997. Corporations,

<sup>38</sup> <http://www.revenuesa.sa.gov.au/circulars/c252.html>

trustees, clubs and associations may be liable to pay land tax if the total unimproved value of the freehold land owned was equal to or greater than \$170,000.

For land tax purposes, all natural persons who own freehold land in Queensland, and are also an Australian resident, automatically receive a statutory deduction of \$220,000 off the value of their landholdings. If land is owned with a total unimproved value of less than \$275,997, a land tax assessment will not be issued. Assessments are not issued for less than \$350, which is the tax levied on a taxable value of \$55,997.

Other deductions apart from the statutory deduction of \$220,000 are available. These include for principal place of residence or land used for the business of agriculture, pasturage or dairy farming. These must be applied for. In relation to the principal place of residence deduction, an amount equal to the relevant unimproved value of the land for that year is deducted from the total unimproved value of lands held by that owner for that year. Any building, or part of a building, or part of the land must not be rented, leased, let or used for business activity.

In addition, societies, clubs or associations may apply for an exemption if their business is not carried on for pecuniary profit and the land they own is not rented, leased or let.<sup>39</sup>

Land tax is assessed on a sliding scale. The maximum rate is 1.8 per cent. The rates for 2004-05 are shown in Table 7:

**Table 7: Queensland Land Tax Rates**

<b>Taxable Value</b>	<b>Tax Payable</b>
Less than \$4,000	0.20 cents in each \$
\$4,000 - \$5,999	\$8.00 plus 0.36 cents in each \$ more than \$ 4,000
\$6,000 - \$9,999	\$15.20 plus 0.52 cents in each \$ more than \$ 6,000
\$10,000 - \$29,999	\$36.00 plus 0.70 cents in each \$ more than \$ 10,000
\$30,000 - \$49,999	\$176.00 plus 0.87 cents in each \$ more than \$ 30,000
\$50,000 - \$199,999	\$350.00 plus 1.03 cents in each \$ more than \$ 50,000
\$200,000 - \$349,999	\$1,895.00 plus 1.20 cents in each \$ more than \$ 200,000
\$350,000 - \$499,999	\$3,695.00 plus 1.37 cents in each \$ more than \$ 350,000
\$500,000 - \$649,999	\$5,750.00 plus 1.54 cents in each \$ more than \$ 500,000
\$650,000 - \$799,999	\$8,060.00 plus 1.71 cents in each \$ more than \$ 650,000
\$800,000 - \$949,999	\$10,625.00 plus 1.89 cents in each \$ more than \$ 800,000
\$950,000 - \$1,099,999	\$13,460.00 plus 2.01 cents in each \$ more than \$ 950,000
\$1,100,000 - \$1,249,999	\$16,475.00 plus 2.23 cents in each \$ more than \$ 1,100,000
\$1,250,000 - \$1,299,999	\$19,820.00 plus 2.44 cents in each \$ more than \$ 1,250,000
\$1,300,000 - \$1,349,999	\$21,040.00 plus 2.66 cents in each \$ more than \$ 1,300,0
\$1,350,000 - \$1,399,999	\$22,370.00 plus 2.87 cents in each \$ more than \$ 1,350,000
\$1,400,000 - \$1,449,999	\$23,805.00 plus 3.09 cents in each \$ more than \$1,400,000
\$1,450,000 - \$1,499,999	\$25,350.00 plus 3.30 cents in each \$ more than \$1,450,000
\$1,500,000 or more	1.80 cents for each and every \$

All natural persons receive a general rebate of 15 per cent off their tax payable. The general rebate does not apply to companies, trustees or absentees. Companies, trustees and absentees may receive a phasing-in rebate depending on the taxable value of their land.

<sup>39</sup>

Queensland Office of State Revenue, *Land Tax in Queensland, A General Guide*. See website: [http://www.osr.qld.gov.au/taxes/land/brochures/Land\\_Tax\\_in\\_Qld.pdf](http://www.osr.qld.gov.au/taxes/land/brochures/Land_Tax_in_Qld.pdf)

This phasing-in rebate is a maximum of 36 per cent where the taxable value is \$170,000, and then reduces by 0.5 per cent for every \$1,000 of taxable value in excess of \$170,000. The phasing-in rebate cuts out when the taxable value reaches \$235,000.<sup>40</sup>

### 5.5 Western Australia

Land Tax is an annual tax based on the ownership and usage of land owned at midnight on 30 June. The tax is based on the unimproved value of the land. The *Land Tax Assessment Act 2002* provides the legislative mechanism to impose the tax. In general, land tax is not levied on a principal place of residence.

Land may be exempt or entitled to a concession if it is used:

- for primary production;
- as a retirement village;
- as a mining tenement;
- for educational purposes;
- for religious purposes;
- by non-profit societies, clubs and associations; or
- held under an approved conservation covenant.

The land tax rate scale has been adjusted for 2004/2005 – the minimum taxable value threshold was increased from \$50,000 to \$100,000, and the second and third thresholds were increased by \$30,000 and \$20,000 respectively. The tax rates are shown in Table 8.

In addition the Western Australian government applies the Metropolitan Region Improvement Tax. This is a special purpose tax raised on all land situated within the metropolitan region which is subject to land tax. The tax is collected on behalf of the Western Australian Planning Commission and the funds assist in financing the cost of providing land for roads, open spaces, parks, and similar public facilities. The improvement tax is currently imposed at a rate of 0.15 cent for every dollar of the unimproved value of the land.

**Table 8: Western Australian Land Tax Rates**

Land Value	Tax Rate 2004/2005
0 - \$100,000	Nil
\$100,000 - \$220,000	\$150 + 0.15 cent for each \$1 in excess of \$100 000
\$220,000 – \$570,000	\$330 + 0.45 cent for each \$1 in excess of \$220 000
\$570,000 - \$2,000,000	\$1,905 + 1.76 cents for each \$1 in excess of \$570 000
\$2,000,000 - \$5,000,000	\$27, 073 + 2.30 cents for each \$1 in excess of \$2 000 000
\$5,000,000 and upwards	\$96, 073 + 2.50 cents for each \$1 in excess of \$5 000 000

<sup>40</sup> Queensland Office of State Revenue, Land Tax Information Sheet, *Queensland land tax 2004-05 financial year*, see website [http://www.osr.qld.gov.au/taxes/land/info\\_sheets/Information\\_Sheet\\_2004-2005.pdf](http://www.osr.qld.gov.au/taxes/land/info_sheets/Information_Sheet_2004-2005.pdf)

## 5.6 Australian Capital Territory

From 1 July 2004, the legislative basis on which ACT Land Tax is imposed, assessed and paid changed with the commencement of the *Land Tax Act 2004* which is administered under the provisions of the *Taxation Administration Act 1999*.

Land Tax is imposed under the *Land Tax Act 2004* and the marginal rates used to calculate Land Tax are determined by disallowable instrument under s139 of the *Taxation Administration Act 1999*.

Generally, land tax applies to all rateable commercial properties and any residential properties that are rented or that are owned by a trustee or a corporation.

Residential land used as a retirement village, nursing home, or by a religious institution to provide accommodation to a member to perform their duties, is exempt from land tax. Other exemptions from land tax include land used for rural purposes, broad-acre subdivision, residential land owned by a trustee under a will of a deceased person and occupied by a life tenant, and residential land owned by a not-for-profit housing corporation.

An exemption on compassionate grounds may be available for up to one year on a residential property that is rented where the Commissioner for ACT Revenue is satisfied that the owner (a natural person) is temporarily absent because of a compelling compassionate reason.

Land tax liability is assessed quarterly for all properties and is based on the status of a property on 1 July, 1 October, 1 January and 1 April (liability dates). Land tax is assessed for a whole quarter and there is no daily pro-rata of land tax liability within a quarter.

Quarterly land tax assessments for 2004-05 are based on the Average Unimproved Value (AUV) that includes the 2002, 2003 and 2004 unimproved land values of the property. The AUV is determined under the *Rates Act 2004* and is used to calculate both land tax and rates. The land tax rates for 2004-05 are shown in Table 9 below.

**Table 9: ACT Land Tax Marginal Rates for 2004-05**

<b>For Residential Property</b>	<b>Tax Rate</b>
Average Unimproved Value (AUV) up to \$50,000	0.65%
AUV from \$50,001 to \$125,000	1.00%
AUV from \$125,001 to \$225,000	1.25%
AUV from \$225,001 and over	1.5%

<b>For Commercial Property</b>	<b>Tax Rate</b>
AUV up to \$125,000	1.00%
AUV from \$125,001 to \$225,000	1.40%
AUV from \$225,001 and over	1.70%

## 6.0 A COMPARATIVE SUMMARY OF LAND TAX ACROSS ALL JURISDICTIONS

From the above description of each of the jurisdictions land tax regime, it is possible to make the following observations:

- all jurisdictions rely on a separate ‘Valuer General’ to establish land values. The ACT bases its land tax on the average of the previous three years land value, others are based on the latest annual value;
- States that have a tax free threshold include: Victoria (land value up to \$174,999); South Australia (up to \$100,000); Tasmania (up to \$15,000); and Western Australia (up to \$100,000);
- The previous NSW tax free threshold of \$317,000 was quite high compared to current states with a tax free threshold;
- NSW, Queensland and the ACT have no tax free threshold – although Queensland does have a statutory rebate of \$220,000;
- The annual land tax bill for the average Sydney suburban investment unit, with a strata title land value of \$101,000, for each of the jurisdictions would be as follows:
  - NSW - \$404.00;
  - Victoria – Nil;
  - Tasmania – \$505.00;
  - South Australia - \$3.00 (from 2005-06 year);
  - Queensland – Nil;
  - Western Australia - \$151.50
  - ACT - \$835.00
- It can be seen from the above that the rate of NSW land tax is roughly in the middle of the spectrum between no tax payable in Victoria, South Australia and Queensland, and a high of \$835.00 in the Australian Capital Territory;
- The highest rate of land tax applied is in Victoria, where land values above \$2.7 M are taxed at a rate of 4%;
- In NSW, the highest land tax rate of 1.4% begins with amounts over \$500,000. In contrast, in Tasmania land values over \$500,000 are taxed at a rate of 2.5%.

## 7.0 CONCLUSION

The Productivity Commission notes that in terms of efficiency, land tax applied at its broadest is the most efficient. It could therefore be argued that the 2004 changes to land tax in NSW, by eliminating the tax free threshold and reducing the tax rates, have broadened the scope of the tax and made its implementation more efficient and equitable. The Property Council of Australia has welcomed the land tax changes, although it has strongly criticised vendor tax. Similarly, the Council of Social Services of NSW has noted the equity of a broad based land tax, and has proposed a land tax for all property (including owner occupier), in order to reform the vendor tax and stamp duty for new home purchases. Despite the approval or acceptance of the new land tax regime in some sections of the community, there has been strong criticism of the changes from others.

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