May 2006

State Tax Review

Interim Report

Department of Treasury and Finance
Government of Western Australia

Message from the Treasurer

Today I have released for public discussion the Interim Report of the State Tax Review.

In the 2005-06 Budget I announced the Government would undertake a consultative review process that would provide tax relief to the Western Australian community and that would shape tax reform in this State over the next five years. The tax relief provided in the 2006-07 Budget and the release of the Interim Report mark the end of Stage 1 and the commencement of Stage 2 of the process.

Taxes are a necessary part of good Government. In Western Australia taxes provide around 30 per cent (or about $5 billion per annum) of our total revenue. All of this revenue is returned to the Western Australian community, either in the delivery of services or through investments in the infrastructure required by our growing State.

While taxes are necessary there is a wide variety of views in the community around what is taxed, and by how much. This is borne out in the breadth and diversity of the 136 submissions to the State Tax Review, in consultation sessions, in letters I receive as Treasurer and in general public commentary. Just as it is not possible to fund every call for additional expenditure, it is also not possible to satisfy every demand to reduce or abolish a particular tax.

Along with identifying the tax relief provided in Stage 1, the Interim Report also highlights a range of issues for consideration in the future, including:

- refining the relative priority of reductions in the various taxes, such as reductions in stamp duties (property, motor vehicle and insurance) as against payroll or land tax;
- realistic mechanisms to address bracket creep through either tax scale design and/or indexation, including for concessions (like the first home buyer stamp duty concession);
- stamp duties being calculated on GST-inclusive prices;
- deferral of the payment of land tax liabilities; and
- the application of the land-rich provisions.

The Interim Report also includes commentary on a range of issues that were raised in submissions or consultation that the Government does not support. Concepts like the introduction of a State personal income tax, a broader based or higher rate GST, or the creation of a new form of wealth tax are not proposed or supported by the Carpenter Government.

I look forward to continued discussion and community consideration of the topics identified for further analysis in the Interim Report.

I would like to thank all of the Reference Group members, the Technical Committee and in particular the Chair of the Reference Group, Mr Jonathan Ilbery, for their contributions to date. I also appreciate the hard work of the officers of the Department of Treasury and Finance.

TREASURER

1 June 2006

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STATE TAX REVIEW

INTERIM REPORT

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Introduction

As part of the 2005-06 Budget, the Government announced that it would initiate a State Tax Review to shape tax reform in Western Australia over the next five years. The context of the announcement included strong growth in State revenues on the back of a booming economy, and the State's desire for further reform of State taxes, including those listed for review in the GST agreement with the Commonwealth, to reflect community priorities.

Objectives of the Review

The purpose and objectives of the Review were detailed in the Terms of Reference, released on 5 July 2005.

"The purpose of the Review is to make recommendations on reform of the State tax system for the next five years, in consultation with and reflecting the priorities of the Western Australian community.

The over-arching objectives of the Review are to enhance the competitiveness, equity, and efficiency of the State tax system in Western Australia, including minimising distortions to economic activity and compliance costs for taxpayers.

The Review will not be restricted to a revenue-neutral outcome, but aim to provide genuine, aggregate tax relief to the Western Australian community within the constraints of the community's demand for services and infrastructure and the requirement for responsible financial management".

The Terms of Reference, and the associated Guide for Public Submissions, are reproduced in full in Appendix A. Definitions of the objectives or principles quoted above are also included in this section.

Review Process

The State Tax Review is progressing in two stages, and is being coordinated by the Department of Treasury and Finance (DTF).

Community consultation on the Review has involved both public submissions and the establishment of an external Reference Group to act as a sounding board for DTF and a source of independent advice for the Treasurer.

Stage 1

Stage 1 of the Review has primarily involved DTF summarising and analysing proposals and issues raised in public submissions to the Review, and developing preliminary findings, in consultation with the Reference Group.

- 136 submissions were received from the general public, industry and community groups, professional bodies and government organisations. A list of submissions is provided in Appendix B.

- The Reference Group includes 27 invited members representing a broad cross-section of the community, and has convened on five separate occasions. Written comments on issues papers circulated by DTF were also provided in between meetings.

- A Technical Committee of invited members was also established during Stage 1 to consider 'technical' policy issues and issues of tax administration. Papers developed for and considered by the Technical Committee are included in the Technical Appendices of this report.

- The Reference Group and Technical Committee are chaired by Mr Jonathan Ilbery (Partner, Jackson McDonald). The full membership of the Reference Group and Technical Committee is provided in Appendix C.

Regular reports on this work were provided to the Cabinet Expenditure Review Committee or the Treasurer's Office, and were taken into account by the Government in deciding on the revenue measures announced on 21 March 2006 and in the 2006-07 Budget.

- The Government's decisions also took into account discussions between the Treasurer and the Chair of the public Reference Group on early priorities emerging from the Review process.

Importantly, the preliminary findings in this report are DTF's, rather than the Government's or the Reference Group's. However, the Reference Group has provided much valuable feedback to DTF in its role as a sounding board.

Stage 2

Stage 2 of the Review commences with the release of this Interim Report, and an invitation from the Government for public comments on the preliminary findings and, in some cases, more specific issues identified in individual chapters.

Public comments will be considered alongside further consultation with the Reference Group in developing final recommendations for the Review. It is expected that the Government will consider the final recommendations in framing the 2007-08 Budget.

The timetable for Stage 2 of the Review is provided below. The deadline for public comments on the Interim Report has been brought forward (relative to that originally proposed) by one month to 31 August 2006, to help ensure adequate time for analysis.

- **Late May 2006 – 31 August 2006**: continued research and analysis by DTF on issues and proposals flagged in the Interim Report for further consideration.
- **31 August 2006**: deadline for public comments on the Interim Report.
- **1 September 2007 – March 2007**: examination of public comments and further research and analysis by DTF in consultation with the Reference Group, in developing the final recommendations for the Review.
- **May 2007**: the Government responds to the final recommendations of the Review in the 2007-08 Budget, after also receiving independent advice from the Chair of the Reference Group.

A Guide for Stage 2 public submissions will be posted separately on the State Tax Review website, at www.statetaxreview.wa.gov.au.

Acronyms

ACCI	Albany Chamber of Commerce and Industry
AELA	Australian Equipment Lessors Association
AFC	Australian Finance Conference
AIC	Australian Institute of Conveyancers Western Australian Division Inc.
AICD	Australian Institute of Company Directors
AIS	Association of Independent Schools
APRA	Australian Prudential Regulation Authority
APSI	Alienation of Personal Services Income
AWE	Average Weekly Earnings
AWOTE	Average Weekly Ordinary Time Earnings
BCTR	Business Coalition for Tax Reform
BTR	Business Tax Review
CAT	Central Area Transit
CCI	Chamber of Commerce and Industry of Western Australia
CGC	Commonwealth Grants Commission
CIAWA	Caravan Industry Association of Western Australia
CIF	Community Insurance Fund
CME	Chamber of Minerals and Energy of Western Australia
CNSP	Council on the Ageing National Seniors Partnership
COAG	Council of Australian Governments
COTAWA	Council on the Ageing Western Australia
CPI	Consumer Price Index
CTP	Compulsory Third Party
DET	Department of Education and Training
DHW	Department of Housing and Works
DMF	Discretionary Mutual Funds
DoE	Department of Environment
DPC	Department of Premier and Cabinet
DPI	Department of Planning and Infrastructure
DOFI	Direct Offshore Foreign Insurers
DTF	Department of Treasury and Finance
ESL	Emergency Services Levy
FESA	Fire and Emergency Services Authority
FHOG	First Home Owner Grant
FSL	Fire Services Levy
FTZ	Free Transit Zone
GDP	Gross Domestic Product
GSP	Gross State Product
GRV	Gross Rental Value
GST	Goods and Services Tax
HIA	Housing Industry Association
HRIA	Hire and Rental Industry Association
IAG	Insurance Australia Group
ICA	Insurance Council of Australia

ICAA	Institute of Chartered Accountants Australia
IGA	Intergovernmental Agreement on the Reform of Commonwealth - State Financial Relations
IPFA	Insurance Premium Finance Association of Australia
MBA	Master Builders Association of Western Australia
MRIT	Metropolitan Region Improvement Tax
MRS	Metropolitan Region Scheme
MTA	Motor Trade Association of Western Australia
MYEFO	Mid-Year Economic and Fiscal Outlook
NIA	National Institute of Accountants
OSR	Office of State Revenue
PAYG	Pay As You Go
PCA	Property Council of Australia
PGA	Pastoralists and Graziers Association of Western Australia
PPL	Perth Parking Levy
PPR	Principal Place of Residence
PWDWA	People With Disabilities Western Australia
RAC	Royal Automobile Club
REIWA	Real Estate Institute of Western Australia
RRP	Recommended Retail Price
SBDC	Small Business Development Corporation
SBEA	Western Australian Small Business and Enterprise Association
TIA	Taxation Institute of Australia
UDIA	Urban Development Institute of Australia
UV	Unimproved Value
VFI	Vertical Fiscal Imbalance
VGO	Valuer General’s Office
WACOSS	Western Australian Council of Social Services
WAPC	Western Australian Planning Commission
WAFF	Western Australian Farmers Federation
WAFIC	Western Australian Fishing Industry Council
WST	Wholesale Sales Tax

Definitions of State Tax Review Principles

Competitiveness

The taxation system should be competitive nationally (and internationally) to ensure Western Australia is attractive for families and business. However, in considering any differences in the tax burden between jurisdictions, an important consideration is whether there are discernable impacts on taxpayer choices, or incentives for avoidance.

Efficiency

There is both an economic and an administrative dimension to efficiency.

In an economic sense, more efficient taxes will have smaller impacts on taxpayer behaviour, and cause less distortion of economic activity. Typically they will be imposed on less-price sensitive activities, transactions or assets that are not highly 'mobile' across jurisdictional borders.

In an administrative sense, an efficient tax will impose low administrative costs on both taxpayers and the revenue collection authority relative to the amount of tax revenue paid (or collected). Diversion of resources to exploitation and countering of avoidance opportunities will also be minimal.

Equity

There are also two dimensions to equity. Taxes should have regard for both 'capacity to pay' (vertical equity), which is usually measured relative to the taxpayer's income, and endeavour to ensure 'equality of treatment' of similar transactions or circumstances (horizontal equity). Opportunities for tax avoidance can reduce equity on both counts.

Other Related Objectives

Simplicity and Transparency

Under a simple and transparent tax system, taxpayers can easily understand their tax obligations, contributing to relatively low compliance and administration costs (the tax principles overlap in a number of ways).

Robustness or Stability

In order to ensure that there is an adequate taxation base for the long-term funding of services and infrastructure, a tax system should be robust to changes in markets, industry structures and market conditions. Tax revenues should also not be excessively volatile.

Executive Summary

Introduction

While the purpose of the Review is to make recommendations on reform of the State tax system, this Interim Report includes only preliminary findings and areas identified for further consideration in Stage 2 of the Review process (without necessarily limiting the range of issues that could be considered in Stage 2).

As set out in Chapter 1, ‘fundamental’ reform of the State tax system is considered to depend largely on further reform at the national level, reflecting constraints imposed at the State level by the Australian Constitution and Australia’s system of Commonwealth-State financial relations.

- Fundamental reform would include replacing existing State taxes with alternative taxes that rate more highly against the State Tax Review guiding principles, including competitiveness, efficiency (in both an economic and administrative sense), fairness (in both a ‘capacity to pay’ and ‘equality of treatment’ sense), simplicity and ‘robustness’.

- Theoretical alternatives include a broader based or higher rate GST (but this would reduce the States’ fiscal sovereignty and require agreement from the Commonwealth and other States), a personal income tax imposed on the Commonwealth base (but this would require the Commonwealth to ‘make room’) or a new form of wealth tax (but past experience suggests such taxes may be unsuited to the State level of government).

  – Apart from the need for national collaboration, few submissions to the Review raised such reform options, and community opinion on them remains untested.

- Further information on, among other things, how Commonwealth-State financial relations has impacted on and constrains the State tax system is included in a recent DTF discussion paper *Commonwealth State Relations – an Economic and Financial Analysis of how Western Australia Fares* (April 2006), which is also available on the Internet at www.dtf.wa.gov.au.

Nonetheless, a small number of proposals for broadening existing State tax bases, facilitating a reduction in tax rates (fully offsetting the revenue impact of the base-broadening), with a view to improving the overall efficiency and equity of the tax system, were raised in public submissions, discussed in Reference Group meetings and are canvassed in this report. Such rate cuts would be additional to those aimed at providing net tax relief.

- The most practical of these proposals is considered to be the broadening of the property conveyance stamp duty base by improving the consistency of the stamp duty treatment of indirect transfers of interests in land-owning business entities (e.g. companies, trusts and partnerships).

Furthermore, where there is sustainable financial capacity to do so (focussing beyond just the budget year), the abolition of 'nuisance taxes', and reductions in the rates of the most distortionary and least equitable State taxes, also constitutes reform of the State tax system. This area was the major focus of public submissions to the Review, and reflects the aim of the review to provide genuine, aggregate tax relief where affordable.

- An assessment of proposals against the guiding principles for the Review suggests that further reductions in stamp duties (i.e. in addition to the abolitions recently scheduled by the Government) should be the highest priority, as these are the least efficient, equitable, competitive and/or robust of Western Australia's taxes. This applies to each of the major (remaining) stamp duties - on property transactions, motor vehicles and insurance.
  - While conveyance duty rate cuts (or threshold increases) arguably rank highest of all against the principles, timing is considered to be important. In the current property market environment of severe supply constraints, stamp duty cuts may further fuel price growth rather than benefit buyers (more research is considered necessary).
    - Notably, this concern was shared by the Western Australian Council of Social Services (although not by property groups).
    - A recent Curtin University study found that the introduction of first home buyer stamp duty concessions in 2004-05 had a significant impact on demand, while concluding that further research was required on whether stamp duty reductions are eventually capitalised into higher prices, negating the initial policy objective of increasing affordability for the target group[1].
    - The announcement of the phased abolition of mortgage duty (see below) already ensures a measure of stamp duty relief for property purchasers, benefiting in particular lower income earners more dependent on borrowings.
  - Rankings against the principles do not necessarily line up with 'community' preferences in all cases (partly reflecting that the community comprises many disparate groups). For example, the Chamber of Commerce and Industry of Western Australia advised that a survey of members indicated that reductions in insurance duty were a lower priority for businesses than payroll and property taxes.
- While there is also a case (in terms of the principles) for reducing the payroll tax rate if affordability permits (particularly if a broad base is maintained), current rate and threshold settings in Western Australia are relatively competitive. A higher priority reform in the case of payroll tax, although requiring collaboration between all States, is

[1] Greg Costello (2006) The Impact of Stamp Duty Reductions on Demand in the Perth Housing Market, Curtin University School of Economics and Finance Working Paper Series 06:01. This paper also quoted earlier UK research that certain tax relief for owner occupiers had been ineffective, resulting in higher house prices.

considered to be reducing compliance costs for the many taxpayers operating in more than one State, by standardising certain 'administrative' aspects of the tax.

- Conversely, land tax, although also the 'target' of many submissions for tax cuts, stands out against the guiding principles as a potentially under-utilised tax (growth in aggregate land tax revenues has been 'capped' at well below the growth in average land values, through annual amendments to the tax scale, over a number of years), but only if issues concerning the high inherent bracket creep in the current tax scale and 'capacity to pay' in relation to non-income generating land, can be satisfactorily addressed.

While a preliminary summary rating ('high', 'medium' or 'low') of a wide range of potential tax cut options against the State Tax Review principles and Reference Group members' views was conducted early in Stage 1 of the Review, the outcomes are not published in this interim report. These will now be reviewed in the context of the detailed analysis in the tax specific chapters, and further community feedback, in Stage 2.

Notably, there were no proposals in submissions to the Review for the State Government to consider broadening of the gambling tax base in Western Australia along similar lines to other States (i.e. by legalising gaming machines in hotels and clubs), to pay for reductions in other taxes (although this was raised by one Reference Group member).

Importantly, the question of how much tax relief is affordable, or what preference should be given to further tax relief over service and infrastructure enhancement in Western Australia, was not squarely within the terms of reference for the Review, although it was nonetheless subject to some discussion and debate in Reference Group meetings.

- It was clear from these meetings that there is strong support for substantial further tax cuts from the business community (including the property and motor trades sectors), but not from the social welfare sector (or unions). However, this report focuses on the priorities for any further cuts, not on the capacity for or quantum of any such cuts.

Major Themes and Priorities to Emerge in Public Submissions

GST Agreement Taxes

Many submissions supported the abolition of the remaining taxes listed for review in the GST Agreement with the Commonwealth, particularly mortgage duty, hiring duty and stamp duty on the sale of non-real business property such as goodwill, intellectual property and statutory licences (feedback from the Reference Group included a comment that the benefits of abolishing duty on real non-residential property should also be further reviewed).

- It was apparent that the Commonwealth's claim, rightly or wrongly, that there was a moral obligation on the State to abolish these taxes in view of the strength of GST revenues, had struck a chord in the community. However, many submissions also argued that these taxes were highly inefficient and inequitable.

As noted below, the Government has already taken action on this front. A detailed discussion of the issues is included in Chapter 3 of this report.

Stamp Duty on GST-Inclusive Prices

Many submissions argued that the application of insurance, motor vehicle and property conveyance stamp duties to GST-inclusive prices (where applicable) amounted to double taxation and an unfair burden on taxpayers. A misunderstanding that the GST was intended to replace these stamp duties was also highlighted in a small number of submissions.

The preliminary findings below note that the additional tax burden could more simply be addressed by a stamp duty rate cut rather than excluding GST from prices for stamp duty purposes, but that adverse perceptions would remain. A detailed discussion of the issues is included in Chapter 4 of this report.

Indexation

Many submissions expressed concern about 'bracket creep', whereby average tax rates increase, or the value of concessions is eroded, if the thresholds applicable under progressive tax scales are not adjusted over time. This is relevant to all of the major State taxes, with the exception of insurance duty (where a flat rate applies).

As noted below, further work on this matter is proposed in Stage 2 of the Review. A detailed discussion of the issues is included in Chapter 5 of this report.

Using the Tax System to Achieve Broader Policy Objectives

Many submissions and some Reference Group members proposed the use of State taxes as a tool to help achieve broader public policy objectives (i.e. rather than just as a means of raising revenue to fund public services in the least distortionary, fairest manner), such as enhanced social welfare, environmental and education and training outcomes.

As noted below and discussed in detail in Chapter 6, it is considered that these proposals need to be considered in the context of the national tax and welfare systems, and other tools are often likely to further these objectives in a more cost effective manner. However, there may be a role for the State tax system in certain cases.

Consistency

Many submissions suggested that the State tax system could be made simpler, fairer and more efficient by standardising administrative requirements, definitions and 'treatments' between taxes and charges within the State, between States, and/or with the Commonwealth.

Examples included the stamp duty treatment of direct and indirect transfers of interests in property, and payroll tax administrative and base differences between States (and vis a vis certain Commonwealth taxes), as noted above. A detailed discussion of the issues is included in the relevant tax specific chapters (particularly Chapters 7 and 8).

Binding Rulings

Several submissions suggested that a system allowing for private binding rulings by the Commissioner of State Revenue be introduced to enable taxpayers to have more certainty about the taxation consequences of transactions.

Overtaxing

There was a strong sentiment (both in public submissions and in Reference Group meetings) that State taxes were too high or had been increased unnecessarily. Thus (and consistent with the triggers for and objectives of the Review), many submissions proposed abolitions, rate reductions or threshold increases (discussed in detail in the tax-specific Chapters).

However, this sentiment was not shared by the social welfare sector (or the union movement). One Reference Group member submitted details of a particular poll suggesting that, given the choice, a majority of Western Australians would prefer increased expenditure on community services and infrastructure to reduced taxes.

Tax cuts and enhanced social welfare are not necessarily incompatible, particularly if the former encourage more economic growth and employment opportunities. Notwithstanding evidence of State taxes having limited impacts on the economy, and the current boom conditions locally, a balanced approach is considered appropriate.

An analysis of Western Australia’s tax competitiveness (see Chapter 2 in this report) suggests that the State is currently about average compared to other jurisdictions (although there has been some deterioration over recent years). While its current operating budget surpluses are much larger, these are forecast to diminish over time, including as a result of the Commonwealth Grants Commission’s (CGC’s) ‘equalisation’ process.

Feedback in Reference Group meetings was critical of the DTF’s revenue forecasting performance, which had contributed to earlier Government decisions to increase taxes that subsequently proved unnecessary. A copy of the Department’s *Review of Revenue Forecasting*, setting out a program of improvements, is now also available on its website.

Proposals Already Implemented

On 21 March 2006, the Western Australian Government announced a plan to progressively abolish stamp duties on mortgages, hiring transactions and conveyances of non-real business property. Legislation to help give effect to this plan will be introduced as part of the 2006-07 Budget.

- Mortgage duty will be halved from 1 July 2006 and fully abolished on 1 July 2008.

- Hiring duty will be fully abolished from 1 January 2007, subject to further discussions with the finance and leasing industry concerning compliance costs associated with abolishing this duty on existing (as opposed to new) contracts.

- Stamp duty on conveyances of business goodwill, intellectual property, statutory licences and other 'non-real' property will be abolished on 1 July 2010.

A limited number of additional measures, which incorporate certain other proposals raised in Stage 1 of the State Tax Review process, will also be implemented as part of the 2006-07 Budget. This is consistent with feedback from the Reference Group that the Government should be prepared to consider early introduction of relatively low budget impact measures, as well as more substantive measures.

- Family members who provide a home for a disabled adult child, grandchild or sibling will no longer pay land tax on that property and will be able to claim concessions for rates and government charges (subject to certain conditions).

- The lower thresholds of the land tax scale will be increased, helping to offset bracket creep arising from increases in land values and the progressive tax scale.

- The aggregation provisions of the *Land Tax Assessment Act* will be tightened to help ensure that land tax bills cannot be 'artificially' minimised by transferring a minor interest in a taxable property into different ownership (i.e. for avoidance purposes).

- The liable party on gifts of property will be changed from the 'donor' to the 'donee', such that gifts of property to tax-exempt charitable institutions will no longer be subject to stamp duty.

- First home buyers who purchase a home under a shared equity arrangement with the Department of Housing and Works will receive the first home buyer stamp duty exemption on additional purchases of equity in the home.

- The *Stamp Act* will be amended to ensure that undocumented (as well as documented) transfers of property from a bankrupt to creditors under the *Bankruptcy Act* are exempt from conveyance duty.

Key Issues to be Considered as Part of Stage 2

Stage 1 of the Review has highlighted a number of key areas for further analysis and community consultation before final recommendations are made.

Major Reform

As noted, a handful of proposals have been put forward for materially broadening the State's existing tax bases, thereby providing for an offsetting cut in tax rates and associated improvements in equity and efficiency.

- These include the proposal for further broadening the property stamp duty base to improve the consistency of the stamp treatment of indirect transfers of land held in different types of business structures, through the adoption of a 'land-holder' regime.

Substantial further work is required on appropriate land value and 'percentage acquisition' thresholds, the likely 'incidence' impacts, and what scope would be generated for tax rate reductions. Regard may also need to be had for potential future reviews of stamp duty on conveyances of 'real' business property under the GST Agreement.

Another proposal is to extend the payroll tax base beyond wages paid to employees to payments for all labour services, thereby also addressing current difficulties in distinguishing employees from contractors. However, this would introduce new complexities such as distinguishing the labour component of contractors' charges.

- It is also considered unlikely that a fully-fledged reform measure of this nature could be developed in the timeframe for the final report.

- Reference Group feedback included one view that the 'contractors' issue could alternatively be addressed by lowering the current payroll exemption threshold to the 'administrative break-even point' (thereby 'capturing' wages paid to contractors' staff).

Reference Group feedback also included some support for examining broadening of the land tax base to some currently exempt classes of land. However, analysis so far does not indicate unambiguous benefits in terms of the State Tax Review principles, and any further substantive work in this area will depend on community feedback in Stage 2.

Indexation

As noted, there is strong support for indexation of State tax thresholds to address bracket creep and the erosion of the value of certain concessions over time. Various administrative and technical issues associated with indexation (including which indexation factors may be most appropriate in each case) will be the subject of further examination.

Payroll Tax Consistency Across States

Substantial effort, including in consultation with other State Treasuries, will be invested in examining the feasibility of increased standardisation of various aspects of payroll tax, including definitions and record keeping requirements for specific components of the tax base (e.g. travel and accommodation allowances, and superannuation and fringe benefits).

- This work will not extend to payroll tax rates or thresholds.

Land Tax Deferral Mechanism

One of the strongest concerns about land tax in Western Australia is its impact on holiday homes or other non-income generating family property in regions where land values are appreciating rapidly. To address the issue that the increase in the owner's wealth may not be matched by a corresponding increase in capacity to pay the land tax, the need for and feasibility of equitable and efficient deferral mechanisms will be examined.

Rationalisation of Land Tax and MRIT

Metropolitan Region Improvement Tax (MRIT) is currently collected in conjunction with land tax on taxable properties in the Perth metropolitan area, but applies differently and is hypothecated for the purposes of the Western Australian Planning Commission (WAPC). Various options for streamlining and improving the equity and efficiency of the current arrangements will be examined.

Stamp Act Rewrite

As decisions and directions on stamp duty policy issues continue to emerge, the parallel project of rewriting the *Stamp Act* in plain English will be able to gather pace.

Transparency in Budget Decision Making

Feedback from Reference Group members included concerns that the extent to which individual State tax scales were reviewed, and the basis for specific tax policy changes, in the annual budget process was not always clear. These concerns will be considered further, in consultation with the Reference Group.

Further information on each of these potential reforms, and certain other matters identified as needing further consideration in Stage 2, is included below in the Summary of Preliminary Findings, and in the relevant specific chapters of this report. In addition, refinement of the priorities for any further State tax relief, based on community feedback and assessment against the State Tax Review principles, will be undertaken.

Proposals Referred to Another Forum or Ruled Out

As noted, this report focuses mainly on priorities for reform and any further State tax relief, rather than on the amount of any further tax relief or what priority should be given to tax relief vis a vis increased investment in services and infrastructure.

- While keen community interest in the latter is acknowledged and has been recorded in this report, it involves broader policy and financial management issues for the Government that are generally beyond the remit of this report.

It is considered that a number of other matters raised in Stage 1 of the Review would also be best addressed in other forums.

Consistency of State Tax Exemptions and Concessions

A number of submissions highlighted inconsistencies between State tax exemptions and concessions, such as universities being exempt from most State taxes but not payroll tax, churches also being exempt from most State taxes but not the Perth Parking Levy (PPL), and certain non-profit entities (e.g. hospitals) being exempt from State taxes even though they compete with commercial entities.

- Redressing these 'anomalies', having due regard for the impact on taxpayers and the State budget, is considered to be a significant project in its own right, and could not be completed in the timeframe for the final report (without a significant increase in resourcing for the Review).

Review of State Government Social Concessions

Some submissions and feedback from the Reference Group raised issues concerning the targeting and consistency of State government concessions for rates and utility charges, as opposed to State taxes. Again, this is considered to be a major project in its own right. Furthermore, the Government has previously given a commitment to undertake such a review in its current term.

Review of Perth Parking Levy

Although treated as within scope, the PPL is not 'officially' a tax, and is the responsibility of the Minister for Planning and Infrastructure rather than the Treasurer. Feedback and analysis in Stage 1 suggests that there is a case for a review of the effectiveness of the levy, having regard, among other things, for its intended purposes (including reducing traffic congestion) and relevant experience in other cities.

Subject to further submissions that may be received in Stage 2 of the State Tax Review, it is considered that a review of the levy might best be conducted by an external economic expert, who could either report back to the Reference Group or independently to the Government.

Tax Concessions for Social and Environmental Purposes

Although requiring some coordination with the State Tax Review, proposals for Commonwealth tax concessions for the provision of accommodation support to family members with disabilities, further land tax concessions to encourage the conservation of land, and State tax concessions to encourage sustainable housing are the subject of other Commonwealth or State review processes.

Further information on these and other proposals or issues not intended to be progressed (at least directly) as part of Stage 2 of the State Tax Review is included below in the Summary of Preliminary Findings, and in the relevant specific chapters of this report.

Summary of Preliminary Findings

The following is a consolidated listing of the preliminary findings on specific issues and proposals raised in the course of Stage 1 of the Review that can be found at the end of each chapter (or sections of chapters) throughout this report. Issues and proposals raised in submissions ranged from the general themes noted above to highly technical matters that would be of interest to only certain sectors of the community.

Tax Reform (Chapter 1)

Recommendations on the appropriate aggregate amount of tax relief are considered outside the scope of the Review, as this is an on-balance decision for Government to make in light of ensuring an adequate level of funding for community service and infrastructure priorities, while remaining fiscally responsible.

While there is scope for improving the composition of the State tax system through base broadening, nuisance tax abolition and reducing the rates of the State taxes that rate 'worst' against the Review principles, fundamental reform would require national leadership and collaboration with the Commonwealth and other States and Territories.

Reductions in the remaining stamp duties are considered to be the highest priorities for further tax relief on the basis of the State Tax Review principles. This appears to generally but not fully accord with community priorities, where the latter differ between (for example) the business and general community.

A full review of State tax concessions and exemptions (including to address inconsistencies) would be valuable but is considered to be a major project in its own right and could not be completed in the timeframe for the final report.

Recommendations to address the targeting and consistency of State Government concessions for rates, fees and charges are outside the scope of the Review, and would similarly justify a separate review project.

Western Australia's Tax Competitiveness and Associated Targets (Chapter 2)

No single measure of tax competitiveness is considered entirely satisfactory on its own. However, the Government's current target based on tax revenues as a proportion of Gross State Product (GSP) is supported on the basis that it is an internationally recognised measure, and highlights the tax burden on the economy as a whole.

- The Commonwealth's April 2006 Warburton-Hendy International Benchmarking Study focussed on taxes as a proportion of GDP.

Nonetheless, the 'taxes per capita' measure and the CGC's 'tax effort' measure also have advantages (e.g. only the latter focuses on parameters that are fully within the Government's control). On the other hand, representative taxpayer models (whether for households or businesses) are not considered a practical measure of overall tax competitiveness (particularly given subjective judgements required in determining a representative entity).

In terms of where Western Australia currently sits, the GSP measure suggests that Western Australia is modestly below average. The CGC's measure seems likely to show Western Australia as about average once 2005-06 data (incorporating the full impact of tax cuts in Western Australia in the last two years) are available, while the tax per capita measure indicates that Western Australia is well above average (but reflecting the State's high economic output and associated tax capacity per capita).

However, tax competitiveness could be considered a narrow measure of the relative impact of governments on the community. It may differ substantially from and (appropriately) be a less important driver of Government policy than the relative impact of its overall taxes, fees and charges.

GST Agreement Taxes (Chapter 3)

The net financial benefits from the GST Agreement were not necessarily considered a suitable measure of the State's capacity to abolish the remaining stamp duties listed in the Agreement (as an improvement in the State's financial position was an explicit objective of the Agreement), nor was it considered to be in the interests of federalism for Western Australia to abolish these taxes solely because of pressure applied by the Commonwealth.

- However, abolition of stamp duties on hiring and mortgages (and to a lesser degree, stamp duty on non-real business property) rated highly on the basis of the State Tax Review principles, and was supported by significant sections of the community, including business and the accounting, legal and tax professions.

Mortgage Duty

The abolition of mortgage duty should be a high priority on competitiveness, efficiency, equity, and tax administration and compliance costs grounds.

This measure could be considered the preferred form of stamp duty relief for property transactions, as it particularly benefits those buyers most reliant on borrowings.

Hiring Duty

The abolition of hiring duty should be a high priority on competitiveness, efficiency, equity, tax administration, harmonisation and affordability grounds.

Conveyance Duty – Non-Residential Conveyances

The abolition of stamp duty on non-real business conveyances (accounting for roughly 17% of non-residential conveyances) does not rate as highly as mortgage or hiring duty on efficiency, equity or administration grounds. Nonetheless, retention of the duty would have needed to be reviewed again as other States removed this duty over time.

While it is recognised that stamp duty on conveyances of non-residential real property is among the most inefficient of the remaining State taxes, its abolition is not supported on affordability, tax administration or competitiveness grounds, and to ensure that there is no differential tax treatment vis a vis real residential property.

Stamp Duty on GST-Inclusive Prices (Chapter 4)

Stamp duty on GST-inclusive prices/values is arguably more of a ‘problem’ of perception rather than tax burden. However, although reductions in stamp duty rates (or increases in thresholds) would be a simpler alternative to removing the GST from prices/values for stamp duty purposes, adverse community perceptions would remain (including where the GST is an input tax credit in some cases but not others).

Accordingly, subject to resolution of administrative issues, changing the basis of stamp duty to GST-exclusive prices could be given a similar priority to the equivalent rate reduction.

Motor Vehicle Transfers

The case against levying stamp duty on GST-inclusive motor vehicle prices may be less to the extent that motor vehicle prices generally fell as a result of the GST replacing the higher wholesale sales tax. There are also administrative issues (i.e. consistency with the current ‘list price’ stamp duty regime) that would require further consideration if the Government were attracted to changing to a GST-exclusive approach.

Property Conveyances

Further analysis of administration and compliance issues would be required if any change to a GST-exclusive basis were to be contemplated.

Insurance Premiums

Levying stamp duty on a GST-exclusive basis would appear to pose few administrative or compliance issues.

Indexation of Tax Scale Thresholds (Chapter 5)

Indexation of tax thresholds would involve costs as well as benefits, and not all of the benefits are as clear-cut as may appear at first glance. Reviews of thresholds as part of the annual budget process (taking into account movements in values, and pre-budget submissions from the community) may offer a viable alternative in at least some cases.

Nonetheless, further analysis in Stage 2 of the Review, including of the technical and administrative issues, and whether there may be a stronger case for indexation of specific concession and transaction type thresholds vis a vis general tax scale thresholds, would assist a more fully informed decision by the Government.

Payroll Tax Exemption Threshold

See general preliminary findings above.

Conveyance Duty Thresholds – General Thresholds

See general preliminary findings above.

Conveyance Duty Thresholds – Land-Rich Thresholds

See general preliminary findings above.

Land Tax Thresholds

See general preliminary findings above

Using the Tax System to Achieve Broader Policy Objectives (Chapter 6)

Tax Relief/Reform for the Disadvantaged

In general, it is considered that broadly based State tax relief, benefiting all taxpayers, should be a higher priority than targeted tax relief for disadvantaged or older people, particularly having regard for the State's social welfare expenditure programs, various concessions on everyday charges, and the Commonwealth's over-arching responsibility for social welfare.

Tax Relief for Seniors, Pensioners and Self Funded Retirees

Land Tax

Options for owners of non-income producing properties to defer paying land tax, and the merits of a land tax exemption for private aged care providers, should be further examined as part of Stage 2 of the Review. Otherwise, the general preliminary findings above apply.

Stamp Duties

See general preliminary findings above.

Payroll Tax

It is not clear that the proposal for a payroll tax exemption in respect of mature aged workers would be cost-effective in achieving the objective of increased employment opportunities for these workers. Refer also to the general preliminary findings above.

Removing Taxation Barriers for People with Disabilities

Land Tax and Rates and Charges

An exemption from land tax, and rates and charges concessions, should be provided in circumstances where a property is occupied by an adult child with a disability as their Principal Place of Residence (PPR), but is held in the parents' or grandparents' or siblings' name (subject to the qualifications noted in Chapter 6).

Stamp Duty Relief

Further consideration should be given in Stage 2 of the Review to the possible provision of stamp duty relief for trusts established for the benefit of a family member with a disability.

First Home Owner Grant

The *First Home Owner Grant (FHOG) Act* already provides access to the grant where a home is acquired in trust for a person with a disability.

Deferment of Tax Payable

If the proposal to extend the land tax exemption and rates and charges concession were adopted, this proposal would be unnecessary.

Tax Incentives and Rewards for Educational and Training Purposes

In general, it is considered that financial assistance to promote educational and training objectives should be provided through expenditure programs. It is also considered that broadly based State tax relief, benefiting all taxpayers (including education providers), should be a higher priority than targeted State tax relief for education providers or training purposes.

While inconsistencies in the provision of State tax concessions (which extend beyond universities and other examples quoted in submissions to the Review) are an issue, they may be better addressed through a separate dedicated process (refer also to the preliminary finding under 'Taxation Reform').

Payroll Tax Concessions or Compensation for Universities

Additional State grant assistance for worthy university projects would be preferable to payroll tax exemptions, the benefit of which may be lost to universities over time. The relative priority of exemptions for universities also needs to be weighed up against the alternative of a 0.125% reduction in the general payroll tax rate to 5.375%, benefiting all taxpayers, or an equivalent dollar cut in other State taxes.

Further Payroll Tax Concessions for Costs of Training and Engaging Apprentices

The preliminary general findings above apply.

Hypothecation of Payroll Tax Revenue for Training Initiatives

The preliminary general findings above apply.

Concessions for Independent Schools

There is not a strong case in terms of the State Tax Review principles for supporting this proposal.

Tax Incentives and Rewards for Environmental Purposes

Conservation and Protection of Land

There does not seem to be a strong case for changing the valuation of land to a site value basis, to the extent that the Valuer General already takes into account the impact of conservation covenants on unimproved land values for land tax purposes.

While the case for further land tax and stamp duty concessions for the conservation and protection of land is limited, relevant issues will be considered in current separate inter-departmental work on the removal of financial disincentives for conservation activities.

- The primary focus of this work will be land tax, and developing a framework for ensuring a consistent and permanent conservation zoning by local government.

Sustainable Housing

While further analysis could be undertaken in Stage 2 of the Review, this should be undertaken in conjunction with the Department of Housing and Works (DHW), and there do not appear to be strong arguments for providing targeted assistance through the tax system.

Motor Vehicle Duty

While further analysis could be undertaken in Stage 2 of the Review, there do not appear to be strong arguments for providing targeted assistance to encourage the use of more fuel efficient vehicles through the tax system.

Pollution Taxes

The Western Australian Government is involved in an inter-jurisdictional working group on establishing an emissions trading regime, which, like taxing pollution, should have the effect of reducing greenhouse gas emissions in the future. No further work on the merits of pollution taxes is proposed as part of the State Tax Review at this stage.

Payroll Tax (Chapter 7)

Impact on Competitiveness, Employment and Economic Growth

Reducing payroll tax is not currently considered a high priority on the basis of the Review principles of competitiveness (unless a greater competitive advantage over other States is sought) or efficiency, and replacing payroll tax is impractical in the absence of further major reform of Commonwealth-State financial relations.

- Reductions in other State taxes are likely to generate larger economic welfare gains, except to the extent that adverse perceptions about payroll tax (because of its direct incidence on wages) impact on businesses behaviour significantly more than economic theory suggests.

Impact on Specific Industries and Capacity to Pay Issues

Providing special exemptions or concessionary arrangements for labour intensive or regional firms is unlikely to enhance the payroll tax system in terms of the State Tax Review principles. Furthermore, turnover is not necessarily a better indicator of a firm's capacity to pay, and there is uncertainty as to whether the High Court would permit the States to use turnover for taxation purposes.

Small Business Exemption Threshold

Increasing the small business exemption threshold would reduce the payroll tax base and should have a lower priority than reducing the payroll tax rate (which itself is not considered a high priority on the basis of the Review principles at this time). However, this matter should be further considered in the context of examination of indexation issues in Stage 2 of the Review.

Payroll Tax Consistency – Interstate and Within Western Australia

The areas of interstate inconsistency in payroll tax arrangements vary widely from simple administrative issues to complex matters such as the definition of 'wages'. The preferred approach is to examine these matters in consultation with other States and develop an agreed program for national convergence.

- This will be further progressed in Stage 2 of the Review, either as part of a national payroll tax consistency project with other States or, if required, by Western Australia conducting its own examination of areas where greater consistency with other States (and with certain Commonwealth taxes) could be implemented.

Definition of Wages

The payroll tax base has only relatively recently been expanded to include wider forms of remuneration, and it would be in keeping with the Review principles for these to be retained. Nonetheless, the proposed payroll tax consistency project with other States should seek to identify 'best practice' in this area.

Contractors

The current payroll tax system provides flexibility to adapt to modern employment practices. While the alternative legislative approach would be more definitive, it may not necessarily provide the clarity sought by business, as demonstrated by ongoing difficulties experienced in the other States and Territories.

The concern expressed by business about clarity may highlight a requirement for enhanced, on-going employer education by the Office of State Revenue (OSR).

The difficulties that arise in this area relate partly to the existence of a payroll tax threshold. The absence of a payroll tax threshold, or a lower threshold, would reduce the incentive for business to minimise payroll tax liabilities by restructuring employment relationships (e.g. to ensure that their total payroll is below the exemption threshold).

Difficulties in this area could also be addressed (but almost certainly at the expense of creating new ones) by broadening the payroll tax base to include all payments for labour services, whether made to employees or contractors.

Grouping Issues

The application of the existing grouping provisions can be complex and differs slightly in each State and Territory. Despite the potential complexity of these provisions when applied to certain business structure and practices, their application is considered to be transparent and straightforward for the majority of employers.

It is considered that submissions have not provided sufficient evidence at this stage to support changes to the existing grouping arrangements that would constitute improvements in the context of the State Tax Review principles. Nonetheless, the proposed payroll tax consistency project with other States should seek to ensure ‘best practice’ in this area.

Labour Services Tax

While there would seem to be merit in extending payroll tax to a tax on payments for all labour services on efficiency and equity grounds, there would be major practical issues and it is unlikely that such a proposal could be fully developed in the timetable for the Review.

Conveyance Duty (Chapter 8)

General Concerns over Tax Burden

While conveyance duty is a relatively undesirable transaction tax, it will need to remain an important revenue source for the State on the basis of affordability, and constitutional and other constraints on alternative sources of revenue.

More work on the impact of conveyance duty cuts on economic efficiency and home affordability in an environment of tight supply constraints, as in the present market, would be desirable in Stage 2 of the Review.

In regard to the appropriate mechanism for providing any further conveyance duty relief, the sheer extent of bracket creep over the last 20 years suggests that threshold increases could be given some priority over rate reductions.

Housing-Specific Issues

First Home Buyers and Principal Places of Residence Concessions

There is a sound case for increasing the thresholds for the first homebuyer stamp duty concession scheme in terms of maintaining the value of the concession. However, given the uncertainties surrounding whether this would be offset by higher prices in the current strong property market, the timing should be further considered in Stage 2 of the Review.

The respective merits of enhancing or abolishing the PPR stamp duty concession scheme (which is currently available to all home buyers, first or otherwise, up to a relatively low value limit) should be evaluated in Stage 2 of the Review.

Principal Places of Residence Technical Issues

The recent policy decision to provide a window of opportunity for taxpayers to obtain a rebate of the stamp duty on unwinding company and trust structures (subject to meeting the eligibility criteria), so as to obtain the PPR land tax exemption, is considered to have adequately addressed taxpayer concerns in this area.

While differences in the definition of a PPR for various tax purposes exist both between and within jurisdictions, the extent of the compliance costs and difficulties associated with this, and therefore the priority that should be given to remedial action, is currently unclear. This should be examined further in Stage 2.

Shared Equity Arrangements

The first homebuyer stamp duty concession should be extended to purchases of shared equity from the DHW, if the person received the concession on the initial purchase.

House and Land Issues

Any further consideration of the proposals canvassed in this section, aimed at addressing the different stamp duty outcomes for the purchase of house and land packages vis a vis ‘contract built housing’, will be subject to submissions received in Stage 2 of the Review.

Housing Tax Incentive Zones

Similar considerations apply here as in relation to the proposals for using the State tax system to assist the disadvantaged, or provide incentives and rewards for environmental and educational and training purposes (see Chapter 6).

In all these areas, the Government is required to make an assessment of whether its broader economic, social and environmental objectives are best addressed through tax concessions or other policy tools such as targeted expenditure programmes.

In this case, affordable housing issues are being assessed in a more integrated way by the DHW.

Link to Housing Strategy

The objective of an integrated, whole of government approach to affordable housing and State tax reform is strongly supported, and is currently being addressed through interdepartmental consultation between DTF and DHW.

Alignment Of Duty Treatment Of Entities And General Land-Rich Issues

The differing stamp duty treatment of acquisitions of land depending on the type of entity involved is inequitable and has no clear policy basis. An alternative ‘land holder’ regime would achieve greater consistency of treatment and should be further investigated in Stage 2 of the Review, including in consultation with the mining industry, which has expressed particular concern about the existing ‘land-rich’ company provisions.

- Further work in Stage 2 should include analysis of impacts on different business types or industry sectors, the appropriate thresholds for excluded transactions, and the extent of rate reductions that may be facilitated by 'reinvesting' any additional revenue from this broadening of the base into the stamp duty scale.

Examination of proposals to index or increase the $1 million property value threshold in the existing land-rich company provisions should be postponed until a decision on the proposed 'land holder' regime is made.

Pooled Investment Trusts and Provisional Public Trusts

The parameters of any new 'land holder' regime would impact on whether the pooled investment trust and provisional public trust provisions of the *Stamp Act* are still required. Issues raised in submissions should be re-examined in this context in Stage 2 of the Review.

Land-rich Provisions

Mining and Exploration Tenements

Mining and exploration tenements should continue to be defined as land for the purposes of the 'land-rich' stamp duty provisions, as holders of these tenements have certain proprietary rights in relation to the land, and favourable tax treatment would otherwise apply to the acquiring of an interest in tenements through indirect means.

Back-Door Listings

The proposed exemption is not supported as it would not take into account the fact that substantial land holdings are being acquired in Western Australia through back-door listings, and such an exemption is not currently available to unit trusts.

Other Issues

Recommendations on the list of excluded assets, on the definition of 'acquire', and on the time for lodgement of a land-rich statement should be re-examined once a policy decision is made in relation to the adoption of a 'land holder' regime in Stage 2 of the Review.

Application of Stamp Duty to Petroleum Titles

Increasing the current transfer fee and broadening the fee base to include indirect transfers of petroleum titles, consistent with the current conveyance duty provisions, should be further examined in consultation with other jurisdictions as part of Stage 2 of the Review.

- This will require testing the appetite of the Commonwealth for this reform, and estimating the revenue impact in the context of what scope may be provided for lowering overall conveyance duty rates.

Farm-in Arrangements

The policy issues surrounding the proposal that the farm-in concession be extended to a right to extract minerals should be further examined in Stage 2 of the Review.

Family Farm Exemption Issues

While no substantive changes are proposed to the family farm exemption provisions, consideration should be given to whether a 'Commissioner's practice' would clarify the allowance of a reduction in stamp duty when a family company is liquidated and the farm assets are transferred to its shareholders.

The proposal for stamp duty to be levied on a net basis for certain primary producers is not supported as it would provide lower stamp duty costs only to potential purchasers engaging in land consolidation, and would be difficult to administer.

Corporate Reconstruction Issues

The appropriate scope and policy basis for the corporate reconstruction stamp duty relief provisions should be further investigated in Stage 2 of the Review, taking into account any move to replace the current disparate treatments of transfers of indirect interests in property with a new 'land holder' regime.

Family Law, Superannuation and Trust Issues

The following policy issues should be considered further in Stage 2 of the Review.

- Whether an exemption should be available for transfers of property from a trustee to the parties to a marriage or defacto relationship or their children, reflecting that it is now common practice for property to be held in trust structures.

- Whether an exemption should be provided for transfers to trustees, where a party to the marriage or de facto relationship, or child of that party, is a beneficiary.

- Whether an exemption should be provided for certain transfers of superannuation property upon the dissolution of a marriage or de facto relationship.

The following technical amendments to clarify the operation of Part IVD of the *Stamp Act* should be progressed in the rewrite of the *Stamp Act*.

- Amendments to reflect new terminology used in the *Family Law Act* and *Family Court Act*.

- The provisions relating to the concessional treatment of trust property should be updated, as the concessions for the creation and termination of a trust, or certain trust acquisitions and surrenders, lack consistency.

- The provisions relating to the concessional treatment of superannuation property should be updated, as the *Stamp Act* does not contain a specific exemption for transfers to and from superannuation funds (unlike in most other jurisdictions).

The proposal to abolish nominal duty on Family Court orders for the transfer of property is not supported. The levying of nominal duty serves as a useful compliance tool given that some maintenance agreements and orders, and agreements and orders to sell property, attract normal conveyance duty rates.

In regard to the proposal that transfers of property to custodial parents and children be exempt from duty, it is noted that maintenance agreements and Court order transfers are already subject to only nominal duty provided certain eligibility criteria are met.

Stamp Duty on Goodwill (Legal Practices)

The Government has announced that conveyance duty on non-real business property (including goodwill) will be abolished on 1 July 2010. However, dialogue between the Law Society and OSR on the valuation of goodwill under the current law should continue, as this issue still needs to be addressed up until the date of abolition.

Unsecured Loans and Mortgage Duty Issues

There appears to be no policy rationale for the different conveyance duty treatment of mortgages and unsecured loans, and there is a case for extending nominal duty treatment to the latter. However, further analysis is required, including on the prevalence of assignments of unsecured loans and the commercial reasons for them.

In light of the Government's announcement that mortgage duty will be abolished, appropriate mechanisms will need to be put in place to prevent avoidance of conveyance duty through the use of electronic mortgages, and for the transfer of property by way of security, default or foreclosure.

It is recommended that further analysis of these issues be undertaken as part of the *Stamp Act* rewrite.

Duty on Deeds and on Assignments of Lease

Further work should be undertaken in Stage 2 of the Review on the case for abolishing nominal stamp duty on the 'nuisance' deeds identified by the Reference Group Technical Committee.

Lodgement and Payment Provisions

Stamp Duty Liability to Arise at the Date of Settlement

The proposal for stamp duty liabilities to only arise at settlement is not supported in light of avoidance and recovery concerns. However, consultation with industry (including financiers) should occur on ways of alleviating the financial burden on property purchasers of paying duty prior to settlement.

- A late submission that has been received on this matter will be examined as part of Stage 2 of the Review.

Stamp Duty Payable at Date of Settlement

The proposal for stamp duty to be payable only on the date of settlement is not supported in view of the tax administration and avoidance concerns.

Lodgement and Payment Provisions for Conditional Contracts

The OSR should continue its education strategy for the conditional contract provisions and investigate whether more flexible penalty provisions are desirable for genuine lodgement errors.

Consistent with the policy intent of the conditional contract provisions, which provide alternative lodgement and payment periods which are more in line with commercial practices, the definition of an “eligible conditional contract” should be extended to all transactions that are liable for conveyance duty (including agreements to pay lease premiums).

The proposal to align the conditional contract provisions with time periods that apply commercially to due diligence and approval periods is not supported, as the provisions already make allowance for contracts conditional on due diligence (to an extent), and it may put the State’s revenue at risk.

A proposal to replace the conditional contract provisions with a requirement for all contracts (whether conditional or not) to be lodged for assessment within two months of execution (but with the stamp duty payment date linked to completion of the contract) to simplify the current arrangements, is also not supported.

- It is considered that certain changes to the conditional contract provisions have already reduced administration and compliance costs. Less requests are now made for extension of time to pay duty, and conditional contracts that do not proceed do not have to be presented to the OSR for cancellation.

Commercial requirements may make impractical a proposal for duty on conditional contracts to be payable within one month of assessment if possession is taken or the contract completed before this time, or within seven days of taking possession or completing the contract thereafter (i.e. financial institutions are unlikely to accept an unstamped document for settlement purposes).

Proposals generally for substantially extending the payment period for eligible conditional contracts are not supported as they could put the State’s revenue at risk.

Put and Call Options

The proposal for put and call option arrangements to be treated as a form of conditional contract is not supported as it would defer duty on an effective contract for sale, and the conditional contract provisions should remove the requirement to enter into put and call option arrangements.

Stamp Duty Treatment of Lease for Life Arrangements for Retirement Villages

The Reference Group Technical Committee’s conclusion that the OSR should improve education in relation to this matter is supported.

Gifts to Donees

The liable party on conveyances and transfers executed as gifts should be changed from the donor to the donee.

Relief for Property Transfers to Creditors Upon Bankruptcy

A retrospective amendment should be made to the *Stamp Act* so that transfers from a bankrupt to creditors are not subject to ad valorem duty.

Other Base Issues

General Base Issues

Any proposals for further broadening the conveyance duty base, to provide scope for lowering the rates, should be submitted as part of Stage 2 of the Review.

Transfer of Special Motor Vehicle Registration Plates

Stamp duty on the transfer of special motor vehicle registration plates should be abolished, on the basis of the relatively high administration costs vis a vis revenue raised.

Exemption for Farm Sales

This proposal cannot be supported on the basis of the State Tax Review principles.

Land Tax and Metropolitan Region Improvement Tax (Chapter 9)

Abolishing or Reducing Land Tax

Proposals to abolish or reduce land tax should have a relatively low priority on the basis of the State Tax Review principles.

However, while an immediate move to a single rate of land tax is not considered practical as it would involve a major redistribution of the tax burden, it would be desirable to reduce the degree of progressivity in the land tax scale over time (including so as to reduce concern about, and incentives to circumvent, aggregation provisions), using growth in land values to offset the revenue cost.

- Options for achieving this objective (or for addressing bracket creep in other ways), possibility in conjunction with the introduction of a single marginal rate land tax scale (similar to the payroll tax scale), should be further considered in Stage 2 of the Review.

While adjustments to the land tax scale as part of the annual budget process in the last five years have effectively capped growth in total land tax revenue at less than half the growth in the Perth median house price, growth in taxable land values in certain parts of Perth or regional areas has been much stronger than average, including in relation to non-income generating land such as holiday homes (see also below).

- Adjustments to the land tax scale alone cannot effectively target relief in these cases. If other 'solutions' can be found, there may be a case for the Government to increase its relative reliance on land tax revenue (by allowing revenue to grow more in line with land values), in favour of less efficient or equitable taxes such as stamp duty on property transactions. This should also be the subject of further examination in Stage 2.

Aggregation

No changes are proposed to the land tax aggregation provisions, primarily on the grounds of equity and revenue protection. However, the inequity and inefficiency of the incentive for taxpayers to create artificial ownership structures to defeat the aggregation provisions should be addressed through a new anti-avoidance provision (see also below).

The introduction of separate assessments for jointly owned property is not supported, for reasons set out in Chapter 6(b) of the Technical Appendices.

Exemptions

On balance, it is considered that there are no significant land tax base broadening opportunities (e.g. extension of the base to principal places of residence) that would unambiguously add to the efficiency and/or equity of the overall tax system.

Any further consideration of increasing the caravan park land tax concession should wait until the outcome of the Ministerial taskforce investigation of the use of specific tourism zoning to reduce land tax impacts on low-key tourist operations.

An extension of the current one-year land tax concession for building new residences is considered a high priority. The exemption should only apply to the period of construction, up to a maximum of two land tax assessment years.

Capacity to Pay

Land tax exemptions for 'family' or non-income producing property (e.g. holiday homes) are not supported on equity grounds. However, further work should be undertaken in Stage 2 of the Review on deferral options for owners of such land, including by having regard to the effectiveness of any similar provisions in other jurisdictions.

Capping arrangements for individual land tax assessments are not supported due to both equity and tax administration concerns. Nor is a deferral option for land tax for businesses in financial hardship supported, on the basis that existing short–term extensions and instalment arrangements adequately cater for these circumstances.

Land Valuation

No changes are proposed to the methodology of valuing land for land tax purposes.

Land Development

A stronger, evidenced-backed case for relaxing claw back arrangements for the development of rural land or reinstating concessions for subdivided land would be required in Stage 2 of the Review to justify these proposals.

The issue of the timeliness of the processing of development applications by local government authorities could be referred to the DHW.

Heritage Property

The issues raised should be considered further, in consultation with the Valuer General's Office (VGO) and other jurisdictions as appropriate, as part of Stage 2 of the Review.

Liability to Land Tax After Land is Sold

Potential inequities reflect the annual nature of land tax and essentially arise only where there is a difference in the land tax liability status of the buyer and seller of land. Unfortunately, it is not considered practical to apportion land tax even in just these cases.

Anti Avoidance Provision

Introducing a land tax anti-avoidance measure targeted at people avoiding a higher 'aggregated' land tax rate by transferring a small portion of properties to different ownership is considered a high priority.

MRIT

Further consideration, in consultation with the WAPC and Department of Planning and Infrastructure (DPI), should be given to incorporating MRIT into the land tax scale and funding the WAPC solely from general revenue, as part of Stage 2 of the Review.

Motor Vehicle Taxes (Chapter 10)

Stamp Duty on Motor Vehicle Licence Transfers

Competitiveness and Distortions to Transaction Activity

Western Australia's motor vehicle stamp duty rates are significantly higher than other States for light passenger vehicles valued above the current bottom threshold of $15,000. However, there is currently little evidence of any negative impact on motor vehicle sales or (relative to other State taxes) the community. This may partly reflect ongoing improvements in the overall affordability of motor vehicles.

Nonetheless, if the Government were to support the view (expressed by a majority but not all Reference Group members) that Western Australians are simply over-taxed, then cuts to motor vehicle stamp duty should be 'in the mix', given the sheer extent to which rates for other than low value vehicles currently exceed those in other States (and the potential for future 'leakage' of sales, even if not readily apparent to date).

In view of the substantial revenue cost to significantly close the inter-State differential, there may be a need to target any relief, as proposed by the RAC in its submission to the Review.

List Price, Market Value and Demonstration Vehicle Issues

The list price regime has improved the transparency and certainty of the stamp duty treatment of new vehicles. However, the operation of the regime should be examined further in Stage 2 of the Review to confirm that it is the most appropriate model for imposing stamp duty in this regard.

- Subject to this, further consultation should be held with the motor trades industry on options for improving the operation of the list price regime, including the option to include a kilometre test for determining whether a demonstration or loan vehicle is new or used for stamp duty purposes.

General Business Concessions

Enhancing concessions for commercial vehicles is not supported, as it would narrow the tax base and have a lower priority than the provision of general rate reductions for transfers of light vehicles (including both commercial and passenger vehicles).

However, the impact of stamp duty on the competitiveness of specialised heavy vehicles, such as certain mobile articulated cranes, should be further examined in Stage 2.

Concessions for Dealer Vehicles

Based on the Reference Group Technical Committee's findings, changes to the dealer's exemption (and associated Revenue Ruling) are not considered necessary.

Linking Concessions to Licence Fee Exemptions

This is essentially an internal matter within Government over which agency is responsible for administering eligibility for motor vehicle stamp duty exemptions. At this stage, no changes to the current eligibility criteria for stamp duty exemptions are proposed, but administration issues should be further considered by the OSR and DPI.

Concessions for Caravan Purchases

Levying stamp duty on caravans and other non-motorised 'vehicles' required to be registered for road-use is consistent with the principle of a broad and equitable revenue base. Although most other States provide a stamp duty exemption for caravans, there is little evidence of a detrimental impact on registrations in Western Australia. However, this should be further examined in Stage 2 of the Review.

Stamp Duty Rebate for Safer Vehicles

In view of the potential inequity and high administration costs of the proposed rebate scheme, supporting evidence of a positive impact on the incentive to purchase safer vehicles would be required in Stage 2 of the Review. The proposal could then be considered by the Government in the context of its overall funding priorities for road safety and the relative cost effectiveness of alternative road and driver safety programs.

Concession for Written-off/Stolen Vehicles

This proposal would eliminate the double payment of duty in unfortunate circumstances where a relatively recently acquired vehicle needs to be replaced.

Subject to further examination by the OSR (in consultation with the DPI) of the parameters for the concession (such as an appropriate time limit for a new vehicle and other issues discussed in the Technical Appendices), this proposal should be allocated a high priority.

Anti-Avoidance Provision

To the extent that affordability considerations and other priorities prevent a reduction in motor vehicle stamp duty rates to significantly closer to other States for relatively expensive vehicles, an anti-avoidance provision should be considered to protect Western Australian dealerships from a leakage of sales to other States.

Motor Vehicle Licence Fees

Neither reductions in motor vehicle licence fees, nor phasing-out the differential fees for family vehicles vis a vis commercial vehicles, are considered priorities on the basis of the State Tax Review principles.

Broader Reform Options for Motor Vehicle Taxes

Replacing stamp duty on motor vehicles with higher motor vehicle licence fees may risk imposing a greater tax burden on those people with lesser capacity to pay. No further work is proposed on this reform proposal unless there is community support for it in Stage 2 consultation.

Insurance Taxes (Chapter 11)

Reducing the Insurance Duty Burden

Abolition or phasing out of insurance duty would be difficult to afford, particularly if this only occurred in Western Australia such that there was little offsetting GST gain, and would compromise the State's budget flexibility.

However, a reduction in the insurance duty rate would be a relatively high priority on economic efficiency grounds, although not currently on interstate competitiveness or administrative efficiency grounds.

Further research should be undertaken in Stage 2 of the Review on equity aspects of insurance duty, and its impact on the take-up of insurance cover by the community.

Insurance Concessions for Households or Businesses

Differential tax treatment for insurance taken out by households and businesses would be difficult to support on the basis of the State Tax Review principles. Furthermore, other measures have already been implemented by the Government to directly address public liability and professional indemnity insurance affordability issues.

Foreign Insurance and Discretionary Mutual Funds

Consideration of broadening the insurance duty tax base to Discretionary Mutual Funds and Direct Offshore Foreign Insurers should await the outcome of the Commonwealth Government's response to the Potts Review.

In the meantime, there may be value in State governments approaching the Commonwealth to support the Australian Prudential Regulation Authority (APRA) taking on a data collection role in relation to DOFIs and sharing this data with the States, so that stamp duty implications can be assessed.

Levying Insurance Duty on Gross Margin

The simplicity and revenue stability benefits of basing stamp duty on gross premiums are considered to outweigh the benefits of moving to a gross margin basis.

Other Issues (Chapter 12)

Perth Parking Levy

An independent review of the effectiveness of the levy in contributing to a reduction in traffic congestion and pollution in Perth may be warranted, now that the levy has been in place for about seven years, and in view of concerns expressed about the levy by the business community.

- In the meantime, reporting of levy revenue and expenditure could be made more transparent, while issues concerning the income tax treatment of churches if they collect parking fees to pay for the levy should be referred to the Commonwealth.

Emergency Services Levy

The new levy is considered fairer than the previous funding arrangements. Abolition of the levy, and funding emergency services from general revenue, would be costly and require a stronger case in terms of the State Tax Review principles than has so far been made. However, further submissions should be accepted as part of Stage 2 of the Review.

Gambling Taxation

Hypothecating gambling taxation revenue to specific expenditure purposes is not supported as it reduces budget scrutiny and flexibility, and potentially distorts resource allocation between competing programs. At this stage, no further examination of gambling tax reform options is proposed.

On-road Diesel Subsidy

The on-road diesel fuel subsidy should be abolished on the basis of the uncertain benefit to users, and compliance concerns. The revenue raised from this subsidy could be more appropriately used for revenue relief elsewhere in the State tax system. However, any decision to abolish the on-road diesel subsidy will need to be negotiated with the Commonwealth.

Tax Administration Issues (Chapter 13)

Assessments

Reductions in Consideration

The proposal to allow stamp duty to be reassessed where the consideration paid for the purchase of property is reduced prior to settlement is supported and should be further considered in Stage 2.

Valuations – Transactions for Nil Consideration (Particularly Goodwill)

The proposal to not levy stamp duty on ‘arms length’ transactions for nil consideration is not supported is it would create significant opportunities for avoidance by structuring transactions.

Time Limits on Valuations

The proposal for time limits to be placed on valuations of property (for stamp duty purposes) by the Commissioner is not supported, as valuations are often highly complex and it may be impractical for deadlines to be placed on the services of external valuers.

However, it is acknowledged that in some cases there have been lengthy delays in obtaining valuations. The Commissioner is currently discussing this situation with the Valuer General in order to identify ways in which these delays could be minimised.

Time Limits on Routine Assessments

While all instruments should ideally be assessed in a timely manner, delays are sometimes outside the control of the Commissioner and can be the result of obtaining further information from taxpayers, or legal advice or valuations. Furthermore, a recent impediment in relation to complex matters has been the requirements of the State Administrative Tribunal concerning the onus of proof. On this basis, a statutory limit on the time the Commissioner is allowed to make an assessment is not supported.

Providing Expanded Grounds of Assessment

Any requirement for the OSR to provide additional information on the grounds for even basic tax assessments could lead to lengthy delays and additional administration costs, and is therefore not supported.

Time Limits on Retrospective Adjustments

The proposal for the period for reassessments of tax by the Commissioner to be reduced from five years is not supported, as five years is consistent with the time allowed for an application for refunds by taxpayers, and with record-keeping requirements. A five year period for reassessment also aligns with several other jurisdictions, including the ACT, Queensland and South Australia.

Compromise Assessments

Providing the Commissioner with the power to make compromise tax assessments would help both taxpayers and the OSR settle certain complex tax cases, and should be further considered in Stage 2 of the Review.

Tax Avoidance Issues

General Anti-Avoidance Provision

A general anti-avoidance provision would help deter blatant tax avoidance. An approach that recognises and seeks to address concerns about the uncertainty that may be created by the introduction of such a provision should be further examined as part of Stage 2 of the Review.

Disclosure Rules of Tax Avoidance Schemes

There would be benefits from introducing a 'notification regime' in relation to tax avoidance schemes to help detect and deter such schemes, and ensure a level playing field for all taxpayers. This matter should be further considered as part of Stage 2 of the Review (including through examination of similar regimes elsewhere).

Removing Right to Sue Lawyers for not Providing Unsolicited Tax Avoidance Advice

The proposal to remove the rights of clients to sue lawyers for not giving tax avoidance advice should be further examined in Stage 2 of the Review, including in consultation with the Law Society.

Binding Rulings

Further consideration should be given in Stage 2 of the Review to the policy merits and possible design of a private binding ruling system.

Objections and Appeals

Extension of Time for Payment Arrangements where Objection/Appeal Lodged

The proposal to provide a general extension for the time to pay an assessment subject to an objection is not supported, as current arrangements are considered to provide a sufficient degree of flexibility.

Use of Legally Qualified People in Determining Objections

No changes are considered necessary to OSR's current arrangements for consulting with the State Solicitor's Office on objections.

Expansion of the Jurisdiction of the State Administrative Tribunal

The proposal to expand the jurisdiction of the SAT to cover general administrative law issues is not supported as the SAT is considered to provide (or soon will provide) sufficient scope to review the Commissioner's decisions.

Onus of Proof on Appeals to the State Administrative Tribunal

A high priority should be attached to reinstating the onus of proof on taxpayers for appeals under the TAA, subject to further consultation with the SAT in Stage 2 of the Review.

Penalty Provisions

The review of Commissioner's Practices on penalty provisions already being undertaken by the Commissioner should consider issues raised in public submissions to the State Tax Review.

Other Issues

Unlodged Transfers

The requirement for a practitioner who has control over an unstamped instrument that has passed its due date (for lodgement) to lodge that document with the Commissioner (or notify the Commissioner of its existence) is not considered to impose a large compliance burden. Accordingly, proposals for changing these arrangements are not supported.

Lodging Memorials on Mining Tenements

The Commissioner should have the capacity to place a memorial on mining tenements (as well as other 'land'), on grounds of revenue protection and administrative efficiency. Amendments to the TAA to facilitate this should be considered further in Stage 2 of the Review.

Lodging Memorials for Increasing Amounts of Land Tax

Amendments should be made to the TAA to clarify that a single memorial should suffice for both the original amount of land tax that remains unpaid and for subsequent liabilities incurred after the lodgement of the original memorial.

Small Tax Credits

Mechanisms to improve the administration and refund of small amounts to taxpayers when they cannot be located, including through the use of the *Unclaimed Money Act*, and the writing off of amounts of less than $5, should be further considered in Stage 2 of the Review.

Unproclaimed Section 34(4) of the Taxation Administration Act

Amendments should be made to the TAA and SAT Regulations to ensure that the current process of providing verbal approval of requests for extensions of one month or less to pay land tax can continue.

1. Taxation Reform

Reform of the State tax system essentially means improving how it rates against the principles identified in the Terms of Reference, including competitiveness, efficiency (in both an economic and administrative sense), equity (in terms of both ‘equality of treatment’ and recognition of ‘capacity to pay’) and robustness or adequacy.

Fundamental reform could involve replacing the ‘worst’ State taxes with new taxes that rate more highly against the Review principles. Alternatively, it could mean increasing reliance on the ‘best’ existing State taxes to pay for reductions in other State taxes, or (less fundamentally) amending those other taxes to improve their rating against the principles.

In the context of the State Tax Review objective of providing genuine, aggregate tax relief, reform also means reducing the ‘worst’ of the State taxes. As emphasised in the terms of reference, such reform still needs to be balanced against meeting community priorities for services, and prudent financial management targets.

Nonetheless, there are significant constraints in the Australian federal system on reforming State taxes. These include constitutional constraints that have contributed to an effective Commonwealth monopoly on broad based income and consumption taxes, and left the States heavily dependent on Commonwealth grant funding.

- The mis-match between the revenue raising powers and expenditure responsibilities of the States vis a vis the Commonwealth Government is popularly termed ‘vertical fiscal imbalance’ (VFI).

Furthermore, reform of the State tax system cannot be considered in isolation from the national system of taxes and charges (including those at both the Commonwealth and local government level), or the social welfare system.

What Submissions Said

Taxation Principles

Submission comments on the principles for tax reform were generally consistent with the objectives of the Review as set out in the Terms of Reference.

- The CCI (81) identified five key principles for taxation policy - equity, efficiency, competitiveness, adequacy, and transparency.

- CPA Australia (69) set out five key positions on tax reform: State taxes should be broad-based, simple and few; State taxes should meet the criteria of simplicity and efficiency; equity should be achieved via the social security system; there is a need for tax harmonisation with other States where possible; and there is a need to minimise compliance costs for all taxpayers (particularly for individuals and small businesses).

- The Property Council of Australia (PCA) (113) considered that the tax system should be competitive, efficient, transparent, simple and equitable.

- The Council on the Ageing Western Australia (COTAWA) (40) highlighted the importance of equity (including intergenerational equity); simplicity and transparency; consistency between the Commonwealth, State and local levels of taxation; and compliance costs, value for money and cost effectiveness.

- The Council on the Ageing National Seniors Partnership (CNSP) (50) argued that the progressive elements of Australia's tax system should be maintained; tax reform should be of social and economic benefit to all Western Australians; and no seniors in the low to middle income groups should be worse off under any tax reform proposals.

- Western Australian Council of Social Services (WACOSS) (114) outlined the principles that it considered should be applied for a ‘good’ tax system, including: low administration and compliance costs; utilising tax bases that minimise the scope for tax evasion; achieving horizontal and vertical equity; applying progressive taxes; transparency; concessions and benefits for those on low incomes; using the tax system to support broader policy objectives; not entering into mutually destructive bidding wars with other States to reduce taxation or provide incentives to businesses; consider the overall impact of Commonwealth, State and Local Government taxation; and be stable and predictable enough for businesses and government to make long term plans.

Several submissions also made general comments about the current tax system in relation to tax principles, including (but not limited to) the following:

- The Western Australian Farmers Federation (WAFF) (75) considered that the tax system (including GST and income tax) is complex and results in high compliance costs.

- The Housing Industry Association (HIA) (86) considered that the current tax system results in inefficiencies, inequities, reduces housing affordability, increases red tape and discourages building activity.

- The Small Business Development Corporation (SBDC) (94) considered that the level of tax and complexity of the tax system is a major concern for the small business sector.

The Tax Mix

Several submissions made recommendations on the appropriate tax mix.

The strong growth and increasing reliance on property taxation was highlighted by the Real Estate Institute of Western Australia (REIWA) (84) and the PCA (113).

- The PCA considered that the focus of the tax system should be on broad based taxes (such as income and consumption style taxes), and that taxes on sectors where capital is highly mobile and where demand is elastic should be reduced.
  - The PCA also recommended that econometric modelling should be undertaken by 'independent' economists to ascertain the extent of increased revenues that would result from the reduction in property taxes and to calculate the economic effects of an altered taxation base.
- REIWA (84) recommended that the Government commit to the establishment of a truly broad based tax system over the long term underpinned by the GST and the elimination of single sector taxes (specifically property taxes).

CPA Australia (69) suggested that the State tax system should be characterised by payroll tax, land tax, residential conveyance duty, motor vehicle charges and gambling taxation, with all taxes listed under the GST Agreement and stamp duties on insurance being abolished.

Taxation Relief

Submissions also commented on the appropriate aggregate level of taxation and tax relief. A large number of submissions made reference to GST revenues and the strong budgetary position making tax relief more affordable. Other comments included the following.

- The CCI (81) considered that taxation should be adequate to finance 'appropriate' levels of government expenditure, and recommended that tax relief of at least $300 million in 2006-07 be targeted, with larger reductions in the out-years on the basis of tight expenditure controls.
- WACOSS (114) considered that the Government needs to first ensure community infrastructure and services are adequately funded, before considering tax cuts. The CNSP (50) and the COTAWA (30) shared similar views, while Warwick Boardman (15) did not consider that there was excessive taxation.
- CPA Australia (69) recognised that CGC decisions may impact on the capacity to provide tax relief, but would like the Government to do its upmost to reform the tax system subject to this constraint.

Various submissions also made general recommendations for tax relief to be targeted to a particular sector. In addition to various proposals outlined in tax specific chapters, recommendations included (but were not limited to) the following.

- In light of strong growth in property taxation, REIWA (84) and the PCA (113) recommended that tax relief should be targeted to the property sector.

- The Western Australian Fishing Industry Council (WAFIC) (73) proposed that rather than considering increases in taxes in the future, the Government should recognise the significant financial pressure that the professional fishing industry is under, and consider other revenue generating strategies to reduce taxes.

- The Pastoralists and Graziers Association of Western Australia (PGA) (71) recommended that the agricultural industry should be the focal point for tax relief given the benefits it provides to the Western Australian economy, and this would allow primary producers to allocate more expenditure to increase efficiency and production.

- The Western Australian Small Business and Enterprise Association (SBEA) (85) recommended taxation and tariff relief for small and medium sized businesses.

Consistency and Adequacy of Concessions and Exemptions

The CCI (81) and WACOSS (114) both recommended a review of all tax exemptions and concessions, including to ensure consistency across tax bases.

- CCI (81) argued that as a policy principle, exemptions and concessions should be kept to a minimum as they narrow the tax base and reduce the number of taxpayers and tax revenue. However, it recognised that exemptions and concessions may be appropriate in some cases, such as where the revenue foregone is less than administration and compliance costs. It also raised concerns that exemptions for not for profit organisations could provide them with a competitive advantage relative to commercial businesses.

- In contrast, WACOSS (114) argued that State tax concessions are an integral part of the range of support needed by disadvantaged individuals and their families, and that the level of concessions currently available to the Western Australian community is inadequate and should be increased.

The COTAWA (30) highlighted the need to consider fees, charges and other imposts (including fines and penalties) alongside the various tax concessions and benefits, arguing that it is unrealistic to only consider the most obvious taxes in the Review.

Vertical Fiscal Imbalance

The submission from CCI (81) recommended that the State Government commit to advancing the debate surrounding VFI nationally, as it is only through a national approach that VFI issues can be addressed and wide-ranging taxation reform will be possible.

- The CCI noted that the degree of imbalance is greater in Australia compared to other federations, and that the extent of VFI has progressively increased (including as a result of the introduction of the GST).

- The CCI also outline the advantages and disadvantages of various reform options to address VFI, including centralising taxing and spending, and tax sharing (for example, a guaranteed share for the States of the Commonwealth’s tax base).

- Options for reducing VFI without transferring spending responsibilities to the Commonwealth were also considered, including raising existing taxes, introducing new State taxes, or passing Commonwealth income tax powers back to the States.

The CNSP (50) considered that there should be improved revenue sharing between the Commonwealth and the States (and that this should occur without transfers of tax powers).

Analysis of Issues and Options

Taxation Principles

As a general rule, and consistent with comments in a number of submissions, it is considered that the broader the tax base (including the fewer the number of exemptions or concessions), and therefore the lower the tax rate/s needed to meet the government's funding requirements, the higher the tax (or tax system) will rate against the State Tax Review principles.

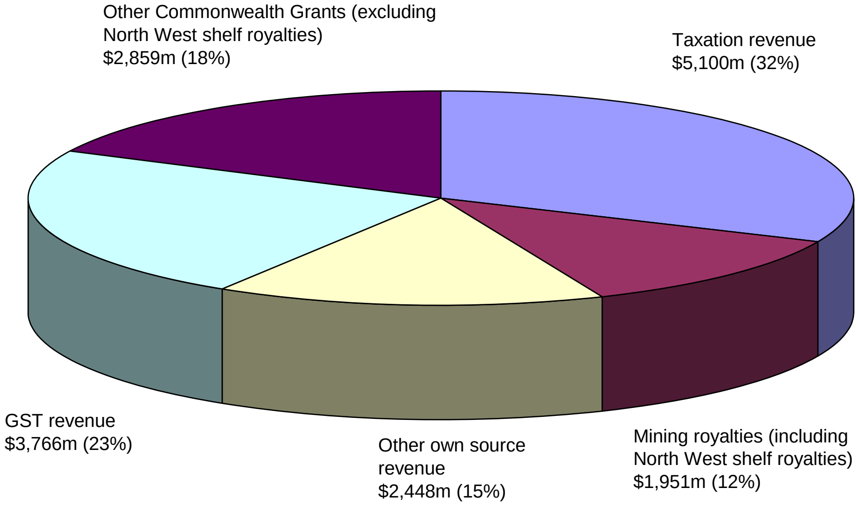
In terms of economic efficiency, taxes on relatively price sensitive transactions (which are most likely to cause changes in taxpayer behaviour) are generally considered to be the most damaging. In terms of equity, it is notable that the two objectives of 'equality of treatment' and 'recognising capacity to pay' can sometimes be conflicting.

The principle of transparency was not explicitly identified in the terms of reference for the State Tax Review, but is nonetheless important. Further consideration will be given to Reference Group members' concerns that the extent to which tax scales are reviewed (and how tax policy decisions are made) in the Budget process is not always transparent.

Figure 1

OPERATING REVENUE IN WESTERN AUSTRALIA

Components of Total Operating Revenue (2005-06)[a]



(a) 2006-07 Budget estimates.

By way of background, tax revenue accounts for just over 30% of Western Australia's total budget revenue, the next biggest source of revenue after Commonwealth grants (including GST revenue). This is indicated in the preceding chart.

The composition of Western Australia's tax system, and rate of growth in the component taxes over the last five years, is shown in the following table.

Table 1

COMPONENTS OF TAXATION REVENUE

	2000-01 ($m)	2005-06 [(a)] ($m)	Annual average growth	2000-01 (% taxation revenue)	2005-06 (% taxation revenue)
Payroll tax	**833**	**1,351**	**10%**	**28.8%**	**26.5%**
Property taxes	**881**	**2,377**	**22%**	**30.5%**	**46.6%**
Land tax	221	320	8%	7.6%	6.3%
Conveyances and transfers	549	1,833	27%	19.0%	35.9%
Mortgages	75	171	18%	2.6%	3.4%
MRIT	36	54	8%	1.2%	1.1%
Motor vehicle taxes	**453**	**722**	**10%**	**15.7%**	**14.2%**
Stamp Duty on Vehicle Licences	161	351	17%	5.6%	6.9%
Motor Vehicle registrations	254	338	6%	8.8%	6.6%
Other	39	33	-3%	1.3%	0.6%
Insurance taxes	**218**	**326**	**8%**	**7.5%**	**6.4%**
Gambling taxes	**121**	**139**	**3%**	**4.2%**	**2.7%**
Other taxes	**386**	**185**	**-14%**	**13.3%**	**3.6%**
Emergency Services Levy	0	129	n.a.	n/a	2.5%
Financial Institutions Duty [(b)]	138	0	n.a.	4.8%	0.0%
Debits Tax [(c)]	100	8	-40%	3.5%	0.2%
Other stamp duties [(d)]	97	36	-18%	3.4%	0.7%
Other taxes [(e)]	51	12	-25%	1.8%	0.2%
Total	**2,892**	**5,100**	**12%**	**100%**	**100%**

(a) 2006-07 Budget estimates.

(b) Abolished 1 July 2001.

(c) Abolished 1 July 2005.

(d) Includes stamp duties on cheques, unlisted marketable securities and leases (all abolished 1 January 2004) and hiring duty (due to be abolished 1 January 2007).

(e) Loan guarantee fees, and revenue from franchise fees safety net arrangements ($42 million for 2000-01 only).

One feature that stands out is the rapid growth over this period in conveyance duty. While this initially incorporated increases in the stamp duty rates (and also includes the impact of a single, very large commercial property transaction in 2005-06), growth has continued unabated even since the Government began to effectively wind back these increases (commencing 1 July 2004), on the back of the booming State property market.

The following table compares Western Australia's relative reliance on tax revenue generally and on particular taxes, with other States. Stand out features are Western Australia's relatively low reliance on gambling taxes (reflecting that it is the only State to ban gaming machines in hotels and clubs) and relatively high reliance on conveyance duty (although this component would be volatile over time in each State).

Table 2

INTERSTATE COMPARISON OF STATE TAX SYSTEMS (2004-05 ACTUALS)

	Western Australia	New South Wales	Victoria	Queensland	South Australia	Tasmania
Taxation as a percentage of total revenue	**30%**	**39%**	**35%**	**26%**	**28%**	**20%**
Taxation sources as a percentage of taxation revenue						
Payroll tax	28%	32%	29%	24%	25%	28%
Conveyance Duty	28%	21%	22%	25%	19%	25%[(b)]
Land tax	7%	11%	8%	6%	9%	6%
Insurance taxes	7%	n.a.[(a)]	10%	4%	10%	5%
Motor vehicle taxes	16%	8%	12%	15%	13%	17%
Gambling taxes	3%	9%	13%	12%	14%	12%
Other	10%	19%[(a)]	6%	14%	10%	7%

(a) A separate breakdown of insurance taxes was not available in the NSW mid-year review, and these are included in the 'other' category.

(b) Total financial transactions taxes.

Source: Western Australia (2006-07 Budget), NSW (2005-06 Half-yearly Budget Review), Queensland (2005-06 Budget), Victoria (Financial Report 2004-05), South Australia (Final Budget Outcome 2004-05), and Tasmania (2004-05 Treasurer's Annual Financial Report).

If it were possible to start afresh and there were no constraints, it is considered that the tax mix that would produce the best outcomes against the State Tax Review principles may consistent of a broadly based (and low rate) income tax, consumption tax and wealth tax[2] (in very limited circumstances there may also be a role for taxes that help the government achieve broader policy objectives such as reducing smoking or problem gambling).

2 The Commonwealth's April 2006 International Benchmarking Study of Australia's tax system noted that Australia is one of only eight OECD countries that does not levy any wealth, estate, inheritance or gift taxes.

- The tax system would be distinguished from user charges, where the latter may provide more efficient and equitable means of funding services in some instances.

The fact that few such taxes exist at State level is largely a reflection of Commonwealth-State financial relations issues, which are described briefly below under 'Vertical Fiscal Imbalance'. Wealth taxes once existed in the form of estate and gift duties, but essentially became a 'victim' of interstate competition, highlighting that certain 'mobile' tax bases may not be well suited to the State level of Government.

However, it should also be noted that irrespective of how such taxes may rate against the State Tax Review principles, very few Stage 1 community submissions to the Review suggested that they be considered as part of any fundamental reform of the State tax system, and mixed views were expressed in Reference Group meetings. In light also of the major practical constraints, no further consideration is currently proposed in Stage 2.

Options that involve broadening existing State taxes to pay for rate reductions in relation to the 'worst' State taxes have also been identified in the Review and will be subject to further consideration in Stage 2 of the Review. These and other substantive reform proposals include the following.

- Introducing a 'land holder' regime for conveyance duty so that stamp duty is applied to a broader range of property transactions involving indirect acquisitions of land through partnerships, trusts and companies (refer to Chapter 8).

- The potential for payroll tax (which already shares some of the characteristics of a State Pay as You Go (PAYG) income tax) to be broadened into a 'labour services tax', although it is unlikely that such a proposal could be fully developed in the timetable for the Review.

  – Feedback from one Reference Group member included a proposal (effectively an alternative) that the payroll tax threshold be lowered to the administrative break-even point, thereby bringing wages paid to employees of contractors into the payroll tax 'net'.

- Improving the consistency between Western Australia and other States of various 'administrative' aspects of payroll tax, to reduce the compliance cost burden for the many taxpayers who operate in more than one State (refer to Chapter 7).

- Rationalisation of land tax and the MRIT (refer to Chapter 9).

Notably, there have essentially been no proposals from the community to broaden Western Australia's gambling tax base (to pay for cuts elsewhere), nor to review the various State tax expenditures reported in the annual budget papers - which include the small business payroll tax exemption, PPR land tax exemption and stamp duty exemption for health insurance policies.

- In the absence of evidence of a community 'appetite' for even 'revenue neutral' base broadening in these areas, and indeed only mixed evidence about the net benefits available (e.g. having regard for the social impacts of more gambling opportunities in the community, and the impact on the local government rating base of expanding the land tax base), it is not proposed that they be investigated further at this stage.

Despite the limitations on fundamental tax reform, where affordable (requiring consideration of financial projections beyond only the budget year), the abolition of 'nuisance taxes' and reductions in the rates of the most distortionary and least equitable State taxes also constitutes reform of the State tax system (and was the major focus of public submissions to the Review).

- In this regard, the Government has already announced the abolition of mortgage duty, hiring duty and stamp duty on the sale of non-real business property (such as goodwill, intellectual property and statutory licences) as a result of the State Tax Review (refer to Chapter 3). There appears little scope for abolishing any of the remaining State taxes (notwithstanding that stamp duty on the sale of real business property remains on the Commonwealth's agenda, under the GST Agreement).

- The relative merits of reductions in the remaining taxes are considered in the following tax-specific chapters. Overall, reductions in stamp duties on conveyances, motor vehicle license transfers and insurance premiums (broadly in that order) are considered to rank as the highest priorities against the competitiveness, efficiency, equity and robustness principles for the Review.

  – Reductions in stamp duty on conveyances should arguably be the highest priority, reflecting its impact on price-sensitive commercial investment, and the large extent of bracket creep that has occurred in recent years in an environment of declining home affordability. The volatility of this tax is also a financial management issue.

  – However, the timing of further reductions in conveyance duty is important, as a risk in the current property market environment of severe supply constraints is that stamp duty cuts may further fuel price growth rather than benefit buyers - although more research would be desirable[3].

    - Consistent with feedback from a Reference Group member, further research could include a review of previous work by the Productivity Commission, but resourcing for additional work to be commissioned for the State Tax Review is currently limited.

  – In addition, to the extent that the current very strong property market revenues include an unsustainable, one-off component, it may be appropriate for this (albeit difficult to identify) component to be invested in debt reduction rather than tax relief.

[3] Notably, this concern was shared by WACOSS, and a recent Curtin University study concluded *inter alia* that further research is required into whether stamp duty reductions are eventually capitalised into higher prices for cheaper housing, thus negating the initial policy objectives (in the context of first home buyer concessions introduced in 2004-05).

– Feedback from the Reference Group included a query about 'when' it would be a good time to reduce conveyance duty rates (i.e. presumably not when the market is in a slump and revenues declining). Easing of the current unusually tight supply constraints would be a factor, together with ongoing review of affordability and overall budget priorities.

– Notably, the announcement of the phased abolition of mortgage duty already ensures a measure of stamp duty relief for property purchasers, benefiting (in particular) lower income earners more dependent on borrowings.

Further refinement of the priorities for any further tax cuts, having regard for both the State Tax Review principles and community preferences, will be carried out in Stage 2. Community preferences do not necessarily fully accord with the priorities suggested by the principles (e.g. feedback from a Reference Group member indicated that payroll tax relief is a higher priority for the business community than cuts in stamp duty on insurance[4]), and the disparate nature of community groups means that a consensus is not always apparent.

- While a preliminary summary rating ('high', 'medium' and 'low') of a wide range of potential tax cut options against the State Tax Review principles, and a 'poll' of Reference Group members' views, was conducted early in Stage 1 of the Review, the outcomes are not published in this interim report. These will now be reviewed in the context of the detailed analysis in the tax specific chapters, and further community feedback, in Stage 2.

Quantum of Taxation Relief

While one of the aims of the State Tax Review is to provide genuine, aggregate tax relief to the Western Australian community, the appropriate quantum of tax relief is a decision for the Government to make on the basis of its budgetary position and the community's competing demand for services and infrastructure. The Review focuses on identifying priorities.

Nonetheless, the question of how much tax relief is affordable, or what preference should be given to further tax relief over service and infrastructure enhancement, was the subject of both submissions to the Review and some discussion and debate in Reference Group meetings.

- It was clear from these meetings that there is strong support for substantial further tax relief from the business community (including the property market and motor trades sectors), although not from the social welfare sector or trade unions.

Consistency and Adequacy of Concessions and Exemptions

It is considered that the recommendations from the CCI and WACOSS for a review of tax concessions and exemptions (including to address acknowledged inconsistencies) would be better addressed through a separate, dedicated process, reflecting the significant resources

[4] It should be noted that a cut in payroll tax would be much more 'expensive' than the same proportional cut in insurance duty', reflecting that the former is a much larger tax base.

required (e.g. for consultation and to analyse revenue and incidence impacts) and to ensure that they are addressed in a coordinated manner.

While the Review does not extend to Commonwealth taxes, local government rates or user-charges, where necessary it is recognised that the State tax system operates in the context of this wider system of taxes and charges, together with Australia's social welfare system, and requires various interactions to be taken into account.

- In particular, the targeting and consistency of State Government concessions for rates and utility charges is considered a substantial project in its own right. The Government has previously given a commitment to undertake such a review in its current term.

Vertical Fiscal Imbalance

Commonwealth-State financial relations are characterised by a high level of VFI. The Government has shown a commitment to advancing the debate surrounding VFI nationally, including through the recently released Treasury discussion paper *Commonwealth-State Relations: An Economic and Fiscal Assessment of how Western Australia Fares*.

This paper outlines the erosion of the State's revenue powers as a result of:

- the Australian Government's takeover of State income taxes in World War II, initially as a temporary wartime revenue raising measure; and

- expansive High Court interpretations of the Australian Government's exclusive 'excise' power under section 90 of the Constitution.

As the States only have a relatively narrow range of taxes available to them, the scope of tax reform that any State can undertake on its own is necessarily restricted, with more fundamental reform dependant to a large extent on further reform at the national level. Theoretical options at the national level (not currently proposed to be further investigated in Stage 2 of the Review) include the following.

- A broader based and/or higher rate GST to replace the 'worst' of the remaining State taxes. However, this would require the agreement of the Commonwealth and other States, and would further increase the States' dependence on Commonwealth funding (with a range of potentially adverse consequences, as set out in the discussion paper).

- A personal income tax surcharge imposed on the Commonwealth base (to replace some existing State taxes). However, this would require the Commonwealth Government to 'make room'.

- A new form of wealth tax (to replace at least some existing State taxes or fund a reduction in the 'worst' of these). However, past experience suggests that such taxes (at least in the guise of estate and gift duties) may be unsuited to the State level of government.

Preliminary Findings

Recommendations on the appropriate aggregate amount of tax relief are considered outside the scope of the Review, as this is an on-balance decision for Government to make in light of ensuring an adequate level of funding for community service and infrastructure priorities, while remaining fiscally responsible.

While there is scope for improving the composition of the State tax system through base broadening, nuisance tax abolition and reducing the rates of the State taxes that rate 'worst' against the Review principles, fundamental reform would require national leadership and collaboration with the Commonwealth and other States and Territories.

Reductions in the remaining stamp duties are considered to be the highest priorities for further tax relief on the basis of the State Tax Review principles. This appears to generally but not fully accord with community priorities, where the latter differ between (for example) the business and general community.

A full review of State tax concessions and exemptions (including to address inconsistencies) would be valuable but is considered to be a major project in its own right and could not be completed in the timeframe for the final report.

Recommendations to address the targeting and consistency of State Government concessions for rates, fees and charges are outside the scope of the Review, and would similarly justify a separate review project.

2. Tax Competitiveness Targets

An overarching objective of the State Tax Review is to enhance Western Australia's tax competitiveness. A competitive tax regime helps ensure that Western Australia attracts business investment, and moderates the burden of tax on the Western Australian community.

This chapter considers the merits of different tax competitiveness measures. The focus is on aggregate measures that provide an overview of the overall tax burden. Issues related to the competitiveness of individual tax heads will be covered in chapters for each head of tax.[5]

In recognition of the need to maintain a competitive tax environment, a tax competitiveness target has been part of the Government's ongoing fiscal strategy since it came to office in February 2001. The target is to maintain Western Australia's tax competitiveness by ensuring that general government tax revenue as a percentage of GSP remains below the average of other States.

- This measure of tax competitiveness was introduced in the 2005-06 State Budget. Prior to this, the measure of tax competitiveness was framed around maintaining Western Australia's interstate ranking in terms of tax revenue per capita.

There are various approaches used by other States to measure tax competitiveness.

- Victoria also uses tax revenue as a percentage of GSP.
- South Australia uses tax revenue per capita.
- Tasmania uses the 'tax effort' measure published by the CGC.
- Northern Territory uses both tax revenue per capita and the CGC's 'tax effort' measure.
- Queensland uses a combination of tax revenue per capita, 'tax effort' and tax as a percentage of GSP.
- New South Wales does not use an official tax competitiveness target.

What Submissions Said

Several submissions made recommendations on the appropriate measure of Western Australia's tax competitiveness.

[5] This includes examining the economic consequences of differences in tax rates or bases between States, which essentially depends on the impact on taxpayer behaviour. In this context, the consequences of relatively high tax rates are likely to be more deleterious in relation to 'mobile' tax bases.

CCI (81) and the Chamber of Minerals and Energy of Western Australia (CME) (82) both highlighted the importance of a tax environment that encourages business investment, with the CME also highlighting the importance of global tax competitiveness.

- CCI cautioned against competing with other States by offering specific tax concessions to industry, and suggests that "the focus of tax competition should be on ensuring the overall revenue burden is as low as possible and that revenue is raised in the most efficient and least distorting manner".

- The CME and CCI questioned the appropriateness of the Government's current measure of tax competitiveness, and recommended that the Government adopt a tax revenue per capita target (with the CCI arguing for a business tax per capita measure which excludes gambling taxes).

WACOSS (114) was concerned that an undue focus on tax competitiveness "for its own sake" may result in the State reducing spending on infrastructure and services. WACOSS suggested that competitiveness could instead be based on ensuring that the Government provides an adequate level of services and infrastructure.

- WACOSS also argued that the Western Australian taxation system is currently competitive with other States on the basis of tax revenue as a percentage of GSP and the overall level of taxes paid by representative businesses.

Analysis of Alternative Measures of Tax Competitiveness

Taxation Revenue as a Percentage of GSP

In the 2005-06 Budget, the Government adopted tax revenue as a percentage of GSP ('GSP target') as the basis for measuring compliance with its tax competitiveness target. Under this measure, tax competitiveness is assessed against the weighted average of other States' taxation revenue as a percentage of GSP.

- This measure of tax competitiveness was adopted at the time on the basis that it provides a more stable measure of tax competitiveness and one which better reflects the impact of government policy, than the previous per capita target (which was sensitive to the impact of economic growth).

- Notably, tax revenue as a proportion of economic output also appears to be the accepted international benchmark for comparing tax burdens (e.g. as recognised by the OECD and used in the Commonwealth's recent Warburton-Hendy international benchmarking study of Australia's tax system).

As illustrated in the following table, Western Australia has recorded one of the lowest tax to GSP ratios, and maintained a tax to GSP ratio below that of the weighted average of other States, over the last five years (although its ratio has increased significantly over that time).

Table 3

TAXATION REVENUE AS A PERCENTAGE OF GSP [(a)]

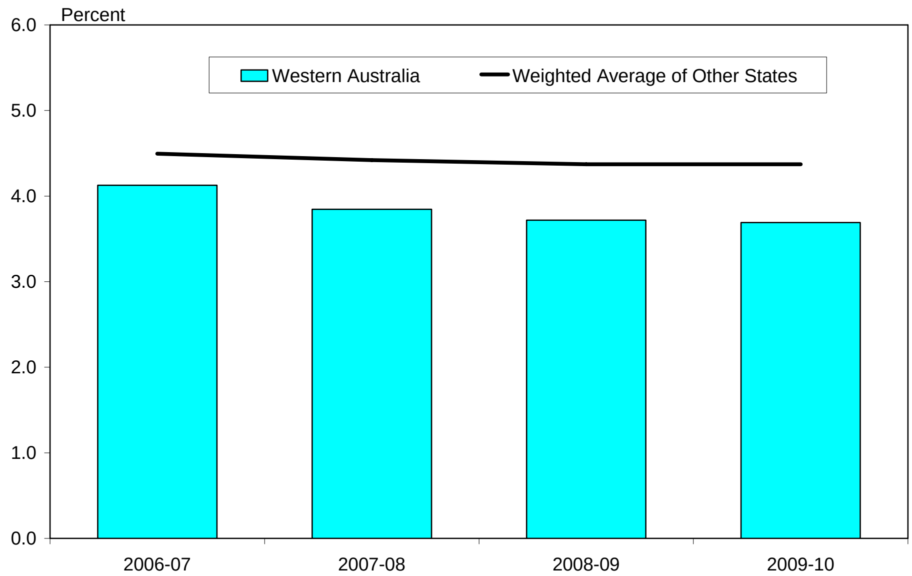
	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06
New South Wales	5.40	5.08	5.14	5.17	5.02	4.88
	(1)	(1)	(1)	(1)	(1)	(1)
Victoria	4.95	4.76	4.73	4.77	4.69	4.40
	(2)	(2)	(2)	(3)	(3)	(4)
Queensland	3.79	3.89	4.23	4.61	4.39	4.04
	(6)	(5)	(4)	(4)	(4)	(5)
South Australia	4.63	4.31	4.53	4.95	4.92	4.59
	(4)	(3)	(3)	(2)	(2)	(2)
Western Australia	3.86	3.71	3.96	4.46	4.28	4.47
	(5)	(6)	(6)	(5)	(5)	(3)
Tasmania	4.72	4.21	4.18	4.27	4.27	3.94
	(3)	(4)	(5)	(6)	(6)	(6)
Weighted Average of Other States	4.84	4.64	4.75	4.89	4.77	4.52

(a) Latest estimates of taxation revenue for other jurisdictions are based on State 2005-06 mid-year reviews, except Western Australia (2006-07 Budget estimates).

Based on 2006-07 Budget estimates, Western Australia is expected to maintain a tax to GSP ratio below the weighted average of the other States over the forward estimates (see chart below). However, the gap is estimated to be quite small in 2006-07.

Figure 2

TAXATION REVENUE AS A PERCENTAGE OF GSP[(a)]



(a) Latest estimates of taxation revenue for other jurisdictions are based on State 2005-06 mid-year reviews, except Western Australia (2006-07 Budget estimates).

As noted earlier, the CCI (81) and the CME (82) oppose the GSP target. These groups argue that:

- Western Australia's GSP growth is particularly volatile (given Western Australia's resources and export focus). Accordingly the ratio will more likely reflect economic conditions, rather than the tax raising effort.

- Taxes should not be allowed to rise with economic growth. Rather they should be contained at a level that does not impede economic growth.

- The CCI considered that growth in key drivers of GSP (consumption, business investment and exports) do not often correspond to growth in key components of the State's tax base (payrolls, property values and transactions).

- The CME argued that when the economy is performing particularly well, tax as a share of GSP conceals the tax burden per capita.

On the other hand WACOSS (114) notes that other States are using a GSP target as their preferred measure of tax competitiveness.

It is considered that the main advantages of a GSP target are that it is easily measured and understood (although not as easily as the tax revenue per capita target), consistent with the internationally accepted basis for comparisons, and less distorted by non-tax policy influences than the tax per capita measure.

Furthermore, there is also little evidence to suggest that GSP has been particularly volatile in recent times (see following table), or that the volatility in GSP would have had an over-riding influence on the tax competitiveness target.

Table 4

WA NOMINAL % GSP GROWTH

1996-97	3.47
1997-98	7.98
1998-99	3.25
1999-00	7.83
2000-01	7.17
2001-02	6.00
2002-03	7.64
2003-04	8.04
2004-05	9.27
2005-06 [(a)]	13.13

(a) 2006-07 Budget estimates.

Feedback from the Reference Group included the comment that the GSP target is not appropriate as the tax burden ultimately can only fall on the population. Notably, however, the tax incidence may fall on residents of other States or other countries (e.g. to the extent that it is borne by company shareholders).

Total Taxation Revenue Per Capita

As noted, the CCI (81) and CME (82) recommended that the Government adopt a tax revenue per capita target for assessing tax competitiveness.

However, WACOSS (114) argued that a per capita target may not be the most appropriate measure of tax competitiveness as it is not relative to the economic activity of the State.

To the extent that there can be a significant difference between the rate of economic growth and population growth, but a strong link between economic growth and revenue growth, tax revenue per capita can also fluctuate substantially even in the absence of changes to tax rate and base settings. This has particularly been the case recently in Western Australia, where strong growth in the State's economy has boosted taxation revenue without a commensurate increase in population.

- By way of illustration, conveyance duty collections in the first six months of 2005-06 grew by 34.5% (in underlying terms) compared to the same period in 2004-05 despite the tax rates having been significantly reduced (on 1 July and on or after 28 October 2004). Population growth over this period was less than 2%.

The chart below indicates that Western Australia's GSP per capita (and hence revenue base per capita) is much higher than any other State, suggesting that Western Australia's total potential tax base per capita (and thus tax revenue per capita, even if its tax rates are only about average) will also be higher.

Table 5

GSP PER CAPITA ($)

	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06
New South Wales	37,790	39,350	41,314	43,349	45,213	47,579
	(2)	(2)	(2)	(2)	(2)	(2)
Victoria	36,275	38,357	40,327	42,923	44,389	47,034
	(3)	(3)	(3)	(3)	(3)	(3)
Queensland	31,169	33,632	35,138	37,520	40,277	42,857
	(5)	(4)	(5)	(4)	(4)	(4)
South Australia	31,399	33,528	35,206	37,069	38,885	41,322
	(4)	(5)	(4)	(5)	(5)	(5)
Western Australia	39,599	41,430	44,066	46,922	50,492	56,221[(a)]
	(1)	(1)	(1)	(1)	(1)	(1)
Tasmania	24,638	26,588	28,405	30,772	33,278	35,793
	(6)	(6)	(6)	(6)	(6)	(6)
Weighted Average of Other States	35,013	36,973	38,800	41,052	43,008	45,507

(a) 2006-07 Budget estimates.

Business Taxation Revenue per Capita

As noted, the CCI recommended that a tax per capita target that only includes business taxes be adopted, to assess tax competitiveness. The CCI suggests that business taxation be defined as all State taxes other than gambling taxation.

However, business taxation per capita is not representative of the impact of taxation on the whole community. What this measure does highlight is that the Government's prohibition on gaming machines outside of the Burswood Casino means that Western Australia is relatively more reliant than other States on taxes other than on gambling.

Definitional issues also make adopting a business tax competitiveness target problematic. The CCI definition of business taxation (i.e. all taxes minus gambling taxes) is considered to overstate the tax burden on business as several tax bases have significant business and non-business components (for example, conveyance duty and motor vehicle duty). It would be difficult to separate out such business and non-business components in order to arrive at a definition of 'business' taxation

Commonwealth Grants Commission Measures of Taxation Effort

The CGC publishes 'tax effort' ratios for each State annually ('States' includes Territories). These ratios show the amount of tax revenue actually raised by a State, divided by the State's standardised tax revenue (i.e. the amount of tax revenue the CGC estimates the State would have raised had it applied national average tax rates). This measure incorporates very detailed assessments by the CGC of differences between States in tax rates and bases (with results published on a tax by tax as well as on an aggregate basis) and is utilised by Queensland, Tasmania and the Northern Territory in assessing tax competitiveness.

A major strength of the 'tax effort' measure (which is included in annual Grants Commission publications) is that it is produced independently. Furthermore, it focuses exclusively on tax policy differences between the States (whereas the other measures incorporate extraneous influences) and provides a dissection of areas in which Western Australia is a relatively high or low taxing State.

However, tax effort ratios are only updated by the CGC on an annual basis for the previous fiscal year (results for 2005-06 will be known in late February or early March 2007 - until then, the 2004-05 results are the latest available). Additionally, the ratios may not be as easily understood by the general public (although this is debateable), and are not as amenable to projections (as opposed to reporting historical outcomes).

Representative Taxpayer Models

Comparing the amount of tax payable in each State by 'representative' households and firms is another way of measuring tax competitiveness. However, it requires many assumptions to be made about the characteristics of these hypothetical taxpayers and substantially different results can be produced depending on these assumptions.

- For example, it might be assumed that a representative household purchases and pays stamp duty on a median-priced home every ten years. For payroll tax, it might be assumed that a representative firm pays an amount of payroll tax on the average number of employees employed per business, where each employee is paid the average weekly earnings.

In support of its contention that Western Australia is not a high taxing State, WACOSS (114) provided an example of a representative taxpayer model in their submission. This example provided a comparison of business taxation between States for businesses with 50 and 100 staff.

Representative taxpayer models have the advantage of providing comparisons that the community may be readily able to identify with (compared to measures based on aggregates). However, they also have the following limitations.

- They do not take into account how broadly the States apply taxes to a base. For example, it would be difficult to develop an indicator that would take into account all exemptions offered by jurisdictions across the various types of taxpayers.

- There is also considerable complexity in relation to a large number of assumptions required about the profile and behaviour of representative taxpayers. This could also raise doubts about the objectivity of the measure, as analysts could make ‘advantageous’ assumptions to suit their particular purposes.

An important issue raised in Reference Group feedback was whether Western Australia should aim to be the most competitive State, rather than just ‘average’. On the one hand, relatively low tax rates would be more conducive to business activity and economic growth. On the other hand, they may imply a lesser capacity to fund infrastructure services also needed to support economic growth, and expected by the community.

Although potentially out of scope of this Review, the capacity for fast growing States such as Western Australia to sustain a low tax regime and a AAA credit rating (another of the Government’s fiscal targets) at the same time could be a useful line of economic and financial research. It would need to have regard, among other things, for the effectiveness of the CGC in recognising expenditure as well as revenue capacity impacts of rapid growth, in the GST distribution.

Broader Measures of the Relative Impact of Governments on the Community

As noted in the Terms of Reference for this Review, reform of State taxes needs to be considered in the context of the wider system of taxes, fees and charges imposed by governments. Accordingly, tax competitiveness could be considered a narrow measure of the relative impact of governments on the community.

- By way of illustration, Chapter 10 of this report (‘Motor Vehicle Taxes’) highlights that although stamp duty on motor vehicles in Western Australia is high compared to other States (for other than lower value vehicles), annual charges such as licence fees and compulsory third party insurance premiums are substantially lower.

In practice, the overall impact of taxes, fees and charges on households and businesses may be a more important driver of Government policy than tax competitiveness alone.

Preliminary Findings

No single measure of tax competitiveness is considered entirely satisfactory on its own. However, the Government's current target based on tax revenues as a proportion of Gross State Product (GSP) is supported on the basis that it is an internationally recognised measure, and highlights the tax burden on the economy as a whole.

- The Commonwealth's April 2006 Warburton-Hendy International Benchmarking Study focussed on taxes as a proportion of GDP.

Nonetheless, the 'taxes per capita' measure and the CGC's 'tax effort' measure also have advantages (e.g. only the latter focuses on parameters that are fully within the Government's control). On the other hand, representative taxpayer models (whether for households or businesses) are not considered a practical measure of overall tax competitiveness (particularly given subjective judgements required in determining a representative entity).

In terms of where Western Australia currently sits, the GSP measure suggests that Western Australia is modestly below average. The CGC's measure seems likely to show Western Australia as about average once 2005-06 data (incorporating the full impact of tax cuts in Western Australia in the last two years) are available, while the tax per capita measure indicates that Western Australia is well above average (but reflecting the State's high economic output and associated tax capacity per capita).

However, tax competitiveness could be considered a narrow measure of the relative impact of governments on the community. It may differ substantially from and (appropriately) be a less important driver of Government policy than the relative impact of its overall taxes, fees and charges.

Additional Issues

In addition to any comments on the preliminary findings, feedback is invited on whether the Government should:

- aim for a tax regime that is the most competitive, rather than being around the 'average' of the other States; and
- focus more on the overall impact of its taxes, fees and charges on households and businesses, rather than tax competitiveness alone.

3. GST Agreement Taxes

This chapter firstly considers those submissions to the State Tax Review that made recommendations to abolish all the stamp duties listed for review under the *Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations* (the 'IGA', or 'GST Agreement'), as a group (being stamp duties on non-residential conveyances, leases, mortgages, hiring arrangements, cheques and unlisted marketable securities). Issues in relation to individual stamp duties are then discussed.

3.1. General Issues

What Submissions Said

The main reasons given in submissions for the abolition of the stamp duties listed under the IGA included the following.

- There was a clear understanding that the stamp duties would be abolished as GST revenues or the financial benefits of tax reform increased, or abolishing these taxes would be in the spirit of the IGA (2, 10, 16, 25, 69, 81, 84, 88, 102, 105, 129).
- CPA Australia (69) and CCI (81) considered that Western Australia is in a strong financial position to abolish the remaining IGA stamp duties, including without being fiscally irresponsible.
- Abolition of the IGA stamp duties is desirable on tax principle grounds.
  - They are widely recognised as inefficient (i.e. narrowly based and lead businesses and consumers to distort financing and investment decisions for tax reasons), their abolition would boost economic growth and increase job opportunities, and/or they are inequitable (2, 69, 81, 88, 102, 129).
  - It would enhance the competitiveness of Western Australia's tax system (as other States have committed to abolishing these taxes) (88).
  - It would improve the simplicity of the tax system and remove a compliance burden on taxpayers (2, 88).
- Abolition of the IGA stamp duties would remove a financial burden to taxpayers, including eliminating double taxation through the application of GST and stamp duties to certain transactions (2, 88).

- There is business support for abolishing the IGA stamp duties (69, 129).

Other comments in submissions included the following.

- Abolition of the IGA stamp duties should be the first priority of the Review (81, 88).
  - Some submissions supported the Commonwealth's schedule for abolishing the IGA stamp duties (66, 69, 88, 102, 129).
  - The Australian Institute of Company Directors (AICD) and the Business Coalition for Tax Reform (BCTR) (102, 129) recommended that the Commonwealth and States enter into a new agreement to abolish the remaining IGA stamp duties to the maximum extent permitted by the benefits of tax reform.
- There is a case for additional financial assistance from the Commonwealth to support the States in abolishing the IGA stamp duties given the removal of food from the GST base and/or the financial benefits accruing to the Commonwealth from the removal of the IGA stamp duties (69, 102, 129).
- Reducing the rates of the remaining IGA stamp duties, rather than abolition, would compromise the benefits from abolishing these stamp duties (2).
- The Commonwealth Government (88) argued that Western Australia has only abolished 5.3% of the IGA stamp duties recently reviewed by Ministerial Council (in value terms), and that there is no need to further review the stamp duties that remain in Western Australia (as they have already been found to be undesirable).
- Mr & Mrs Ansell (7) recommended that the Review consider that the GST was meant to remove stamp duty.
- The Printing Industries Association of Australia (101) considered that the GST was 'sold' on the basis of removing State taxes (and this has not eventuated).

Analysis of General Issues

The IGA

The IGA required that Ministerial Council review the need for retention of stamp duties on non-residential conveyances, leases, mortgages, rental arrangements, cheques and unlisted marketable securities by 2005.[6]

- Western Australia has already abolished stamp duty on leases, cheques and unquoted marketable securities, but not on non-residential conveyances, mortgages or rental arrangements (now known as hiring duty).

[6] In the original IGA signed prior to the removal of food from the GST base as a result of negotiations with the Democrats to ensure the passage of the GST legislation through the Senate, all of the stamp duties (excluding non-residential conveyances of real property, but including non-residential conveyances on non-real or intangible property) were due to be removed by 1 July 2001. The revised (current) IGA necessitated the States keeping these stamp duties and for them to be reviewed at a later date (as was originally going to be the case for non-residential conveyance duty).

At the March 2005 Ministerial Council of Treasurers meeting, the Commonwealth Treasurer had proposed a particular schedule for the removal of the IGA stamp duties. This involved all stamp duties (apart from stamp duty on non-residential conveyances) being abolished by 1 July 2006, and stamp duties on the non-real component of non-residential conveyances being abolished by 1 July 2007 (deferring the abolition of the real component of non-residential conveyances to an unspecified time).

In response to the Commonwealth proposal, on 1 April 2005 four States (Victoria, Queensland, South Australia, and Tasmania) and the two Territories put forward an elongated schedule for abolishing the remaining IGA taxes (excluding stamp duty on conveyances of real commercial property). On 21 March 2006, the Western Australian Government announced a similar schedule, as an early outcome of the State Tax Review.

- In a letter signed in advance of the March 2006 Ministerial Council of Treasurers meeting, these schedules were accepted by the Commonwealth Treasurer, although he did not agree that stamp duty on conveyances of real commercial property should be taken off the agenda indefinitely.

- New South Wales has also subsequently announced an abolition schedule, which is understood to have been accepted by the Commonwealth Treasurer.

The Western Australian Government had made it clear that it considered that it had met all the requirements of the IGA, by abolishing financial institutions duty and listed marketable securities duty (both from 1 July 2001) and debits tax (from 1 July 2005). The Public Accounts Committee of the Legislative Assembly had also found that Western Australia had met the requirements of the IGA (supported by an independent legal opinion from Malcolm McCusker QC).

In not acceding to the Commonwealth's schedule for the abolition of the IGA stamp duties, the State Government had indicated that it did not consider that the remaining IGA stamp duties in Western Australia were good taxes. However, it emphasised the limited alternatives, growing expenditure pressures in core service areas and a desire to continue along its own path of responsible financial management and reform, balancing all of the community's needs.

- Western Australia is arguably more exposed than other States to adverse community outcomes from Commonwealth Government centralism, due to its remoteness from Canberra and likely poorer Commonwealth Government understanding of the State's unique circumstances and needs.

- In essence, the State Government had taken a stand against encroaching Commonwealth Government centralism (i.e. the Commonwealth increasingly seeking to dictate policy in areas of State responsibility), where this was clearly not in the State or national interest.

Although the absence of a united front from all States, the community's natural dislike of stamp duties and the Commonwealth's dominant financial powers (under the High Court's interpretation of the Australian Constitution) made this a challenging case for the State

Government to ‘win’, the position it took was understandable in the context of the principles and precedent at stake.

Importantly, a core objective of the IGA was to improve the financial position of the States by giving them access to a robust and growing tax base to fund increasing expenditure pressures in areas such as health and education. The benefits from the GST were never intended to be allocated solely to abolishing the remaining stamp duties listed for review under the IGA.

- For this reason, it is not considered appropriate to simply compare the benefits of tax reform accruing to Western Australia against the revenue that would be foregone from removing the remaining IGA stamp duties.
- Furthermore, commonly-voiced claims of a GST ‘windfall’ for the States relative to the original projections appear to be exaggerated, at least to the extent that ongoing ‘windfalls’ are implied.

GST Revenues and the Benefits of the IGA

While actual GST revenue collections have been higher than originally estimated when the IGA was being negotiated, except in 2001-02, this difference diminishes in later years.

Table 6

ESTIMATES OF NATIONAL GST REVENUE COLLECTIONS

	Original Estimate Treasurers' Conference March 2000 $ million	Current Estimates Actual and Commonwealth MYEFO December 2005 $ million (a)	Difference $ million	Percentage Difference
2000-01	24,209	24,355	146	0.6%
2001-02	28,476	26,632	-1,844	-6.5%
2002-03	29,190	30,479	1,289	4.4%
2003-04	30,825	33,219	2,394	7.8%
2004-05	32,720	35,542	2,822	8.6%
2005-06	34,730	36,840	2,110	6.1%
2006-07	36,863	39,217	2,354	6.4%
2007-08	39,125	41,338	2,213	5.7%
2008-09	41,523	43,499	1,976	4.8%
2009-10	44,065	45,773 (b)	1,708	3.9%

(a) Includes GST deferral compensation. GST deferral compensation is paid to the States as a result of the Commonwealth's 2004-05 Budget measure to allow annual payment of GST by some taxpayers.

(b) Department of Treasury and Finance estimate.

At the same time, estimates of the funding that would have been received under a continuation of the pre-GST Commonwealth-State funding arrangements (known as the ‘guaranteed minimum amount’) have increased due to an upward revision to State revenues foregone (including financial assistance grants) and State costs incurred (including GST administration costs) under the IGA.

The following table shows the change in the estimated net financial benefits of the IGA to Western Australia. It indicates that that the State is actually expecting a lower net benefit in 2008-09 than originally projected at the time the GST was introduced.

Table 7

WESTERN AUSTRALIA'S ESTIMATED BENEFITS FROM TAX REFORM [(a)]

	2002-03 $m	2003-04 $m	2004-05 $m	2005-06 $m	2006-07 $m	2007-08 $m	2008-09 $m	2009-10 $m
Original estimates (1st Treasurers' Conference)								
March 2000	0	0	95	82	185	309	445	592
Current estimates [(b)]								
April 2006	-20	126	215	122	226	324	403	478
Difference to March 2000	-20	126	119	41	41	15	-41	-113

(a) Estimates based on 2006-07 State Budget estimates. Estimates of the benefits of tax reform have been reduced compared to Commonwealth estimates to take account of the Commonwealth's unilateral decision to cease CPI indexation of foregone petroleum revenue replacement payments (RRPs) at the 2002 Ministerial Council meeting.

(b) This table takes into account the abolition of debits tax from July 1 2005 but not the cost of abolishing stamp duties subject to review under the IGA.

It should be noted that these estimated benefits from the IGA (whether the original or current estimates) remain well below estimates of the revenue that would be foregone from the abolition of the IGA stamp duties that remain in Western Australia (as set out in the Table below). Even the Commonwealth has recognised this by not proposing any specific deadline for the abolition of stamp duty on real non-residential property transactions.

Table 8

ESTIMATED REVENUE FROM REMAINING IGA STAMP DUTIES

	2006-07 $m	2007-08 $m	2008-09 $m	2009-10 $m
Mortgages	174	166	169	175
Hiring	37	38	41	44
Non-residential non-real conveyances	122	110	113	121
Non-residential real conveyances	575	517	534	571
TOTAL (NON-REAL ONLY)	**333**	**313**	**323**	**340**
TOTAL (ALL NON RESIDENTIAL)	**697**	**627**	**648**	**692**

Source: Department of Treasury and Finance, 2006-07 Budget.

Financial Assistance from the Commonwealth

As noted, some submissions have suggested that there is a case for financial assistance from the Commonwealth to support the abolition of the IGA stamp duties on the basis that the Commonwealth will receive higher income tax collections - from the loss of income tax deductibility for businesses on these stamp duties and increased economic efficiency.

- Access Economics has estimated this income tax dividend to be $700 million per annum if all the IGA stamp duties were abolished, and suggested that the Commonwealth consider additional financial assistance to the States of at least this amount per annum.[7]

However, the Commonwealth has only offered to provide financial assistance to the States if they are worse off under the IGA as a result of abolishing the IGA stamp duties. Only New South Wales potentially qualifies on this basis, contrary to the understanding expressed in some submissions to the Review.

Analysis of IGA Stamp Duties Against General Tax Design Criteria

Specific issues related to each of the IGA stamp duties that remain in Western Australia are considered under each head of tax below. However, it is worth highlighting some general issues common to all of the IGA stamp duties.

Firstly, the inclusion of the various financial and transaction based stamp duties in the IGA reflects the generally held view that they are among the worst State taxes. They are considered relatively inefficient in that they distort economic decision-making, particularly where the tax base is mobile and there are substantial interstate differences in tax rates and bases.

- As noted in some submissions, the States and Territories played a major role in deciding on the listing of these stamp duties in the IGA.

Secondly, the abolition of IGA stamp duties in other States would have been likely to increase tax administration and compliance costs for the OSR and taxpayers respectively, had they been retained in Western Australia. Increased cross-border avoidance incentives and activity may have even led to some ‘natural’ erosion of the tax bases in Western Australia.

Failure to abolish these stamp duties in Western Australia may also have detracted from Western Australia’s tax competitiveness with the other States.

7 Access Economics (1994), *Axing the Alcabala: A Program for a 21st Century State Tax System*.

Preliminary Findings

The net financial benefits from the GST Agreement were not necessarily considered a suitable measure of the State's capacity to abolish the remaining stamp duties listed in the Agreement (as an improvement in the State's financial position was an explicit objective of the Agreement), nor was it considered to be in the interests of federalism for Western Australia to abolish these taxes solely because of pressure applied by the Commonwealth.

- However, abolition of stamp duties on hiring and mortgages (and to a lesser degree, stamp duty on non-real business property) rated highly on the basis of the State Tax Review principles, and was supported by significant sections of the community, including business and the accounting, legal and tax professions.

3.2. Mortgage Duty

Mortgage duty is payable on any instrument that evidences a mortgage or charge over property in Western Australia and under which an advance is made (by way of a loan or bill facility) and is charged at a rate of $0.40 per $100 or part thereof (a concessional rate of $0.25 per $100 or part thereof applies for owner-occupiers).

- Victoria, the ACT and the Northern Territory do not levy mortgage duty.
- Western Australia has announced a 50% reduction in mortgage duty rates from 1 July 2006, and full abolition from 1 July 2008.
- The scheduled abolition dates for other States are by 1 July 2007 (Tasmania), 1 January 2009 (Queensland), 1 July 2009 (South Australia) and 1 January 2011 (New South Wales). These jurisdictions are also phasing out mortgage duty over two or more years.

From 1 January 2006, mortgage duty was abolished for refinancing by small businesses and owner-occupiers.

What Submissions Said

The most common recommendation with regard to mortgage duty was for its abolition, including from the CCI (81), the REIWA (84), Taxpayers Australia (51), the Master Builders Association of Western Australia (MBA) (63), Grahame Young (99), the Australian Equipments Lessors Association (AELA) (116), and the Insurance Premium Finance Association of Australia (IPFA) (130). This is in addition to submissions that called for the abolition of all IGA stamp duties.

The main reasons put forward for abolishing mortgage duty included the following.

- Mortgage duty is inefficient, including because it is narrowly based, a barrier to investment and competition, a disincentive to refinancing given transaction costs, and it creates opportunities to avoid taxes and encourage relocation to States with lower duties (63, 81, 84, 116).
  - The AELA (116) recommends that if both mortgage and hiring duty are not abolished, they need to be levied in a way that does not distort the market, and the AELA would be concerned if the Review had the unintentional effect of reintroducing stamp duty distortions into the equipment financing market (through differential tax treatment between stamp duties on lease products subject to hiring duty and chattel mortgages).
- Mortgage duty is unfair and inequitable, including because it is selectively levied, is unfair because it targets borrowers rather than those with the ability to buy property outright, borrowers also have to pay GST, and retaining mortgage duty will be inequitable to Western Australian consumers when mortgage duty is abolished in other States (27, 51, 81, 86, 94, 116, 130).
- Mortgage duty has high administration and compliance costs and/or is a ‘nuisance tax’, including because of the small amount of revenue raised, and inconsistent rates and bases between States and Territories (51, 65, 81, 94, 99, 116, 130).
  - If mortgage duty was retained in Western Australia when abolished in other States, the AELA (116) considered that this would erode the reductions in compliance costs for businesses that operate nationally to the detriment of Western Australian consumers.
- There is general opposition to mortgage duty from the business community (84).

Analysis of Issues

Table 9

REVENUE COSTS OF RECOMMENDATIONS

	2006-07 $m	2007-08 $m	2008-09 $m	2009-10 $m
Abolish mortgage duty	174	166	169	175
2006-07 Budget measure (staged abolition: 50% from 1 July 2006 and remaining 50% from 1 July 2008)	73	83	162	175

The abolition of mortgage duty will help maintain/improve Western Australia’s tax competitiveness, given that only New South Wales will levy mortgage duty beyond 2009 (based on the abolition schedules put forward by the other States and Territories).

The abolition of mortgage duty will enhance efficiency, as mortgage duty impedes the turnover of property and prevents taxpayers accessing the most efficient finance. However, mortgage duty is already no longer an impediment to accessing the most efficient finance (through refinancings) for small business and owner-occupiers.

When mortgage duty is abolished in other jurisdictions, there would have been further incentives for businesses to structure arrangements to avoid mortgage duty in Western Australia. There is a concern that large businesses can often structure arrangements to avoid duty (which is both a horizontal inequity and an economic inefficiency concern).

The abolition of mortgage duty will also alleviate vertical equity concerns that it targets those who have to borrow more to buy property (i.e. those with less capacity to pay).

The current levying of mortgage duty does not necessarily raise significant tax administration issues. The abolition of mortgage duty in other States and Territories would have been unlikely to raise substantial tax administration issues where the property secured by a mortgage is located solely in Western Australia.

However, for mortgages that secure borrowings using both Western Australian property and property in other jurisdictions (multi-jurisdictional mortgages), there would have been further incentives for businesses to remove Western Australian property from these mortgages.

- There is anecdotal evidence of significant resources being expended by taxpayers to avoid mortgage duty, and there is ongoing evidence of new mortgage duty avoidance schemes continuing to emerge.

Other Issues Raised in Submissions

Given the priority attached to abolishing mortgage duty by the Review and the Government's 21 March 2006 announcement, it is not considered necessary to undertake detailed analysis of the following issues that were also raised in submissions (i.e. as they will no longer be issues once mortgage duty is abolished).

Exemption for Principal Place of Residence

The MBA (63) and HIA (86) recommended that mortgage duty be abolished (and not just taxed concessionally) for owner-occupiers.

- The MBA (63) argued that it is illogical to provide conveyance duty relief on the purchase of a home, but to levy mortgage duty on a purchaser who must borrow funds for this home.[8]

- The HIA (86) considers that this measure would improve equity and housing affordability.

[8] There are stamp duty concessions for homes purchased as a principal place of residence that are valued less than $200,000, or for homes purchased by first homebuyers under $350,000.

Small Business Refinancing Exemption Threshold

The SBDC (94) supports the refinancing exemption for small business introduced by the Government on 1 January 2006, and recommended that eligibility should be expanded from small businesses with payrolls up to $750,000 to those with payrolls up to $1 million.[9]

Business Tax Review Changes

Albany Finance (27) was concerned that the Business Tax Review (BTR) changes resulted in increased revenue being collected from a smaller section of the community through the abolition of duty on unsecured loan agreements and other miscellaneous agreements/guarantees, while increasing the rates for secured mortgages.

Assignment of Rights on Insurance Policies

The IPFA (130) supports abolition because of uncertainties about whether the assignment of rights on insurance policies to financiers is captured by mortgage duty, where the complexity and compliance risk of this uncertainty adds to the costs of insurance premiums.

Preliminary Findings

The abolition of mortgage duty should be a high priority on competitiveness, efficiency, equity, and tax administration and compliance costs grounds.

This measure could be considered the preferred form of stamp duty relief for property transactions, as it particularly benefits those buyers most reliant on borrowings.

3.3. Hiring Duty

Hiring duty is levied on ordinary hiring arrangements (at a rate of 1.5% of hiring income) when annual hiring income of the business exceeds the $50,000 exemption. For equipment financing arrangements, hiring duty is levied at a rate of 0.75% of all hiring income once annual hiring income exceeds $50,000.

The BTR extended the hiring duty base to hire purchase arrangements, with a commensurate reduction in the rate of duty.

Western Australia has announced the abolition of hiring duty from 1 January 2007. Tasmania does not levy hiring duty. The scheduled abolition dates for other States are 1 January 2007 (Victoria and Queensland), 1 July 2007 (NSW, the ACT and the Northern Territory), and by 1 July 2009 (South Australia). South Australia is the only jurisdiction proposing to phase out the abolition of hiring duty (over three years).

[9] While it was originally envisaged that eligibility for the mortgage duty refinancing exemption for small business was to be based on a businesses payroll, this eligibility requirement was changed to being based on mortgage refinancings of $5 million or less.

What Submissions Said

The abolition of hiring duty was the most common recommendation in submissions to the State Tax Review.

- There was a coordinated campaign from DVD/video/game hirers, including from the industry association, Western Australian DVD/Video/Game Stores (44) - attaching submissions from around 80 individual retailers, and separate submissions from 12 other stores (26, 29, 31, 33, 36, 47, 108, 110, 111, 112, 117, 126).

- Other submissions to recommend the abolition of hiring duty were the CCI (81), the Albany Chamber of Commerce and Industry (ACCI) (105), Taxpayers Australia (51), MBA (63), Terry Redman MLA (79), the SBDC (94), Grahame Young (99), and the AELA (116).

- This is in addition to submissions that called for the abolition of all IGA stamp duties.

The main reasons put forward for abolishing hiring duty were as follows.

- Hiring duty is inequitable and unfair (DVD/video/game hirers, 63, 105, 116).

  – Small businesses that are below the exemption threshold are offering rentals as a side-business (e.g. small delicatessens and service stations in regional areas and Perth suburbs) and some larger multinational companies such as PAY TV operators are offering movie rentals, but are not registered for hiring duty[10];

  – Hiring duty is an additional cost to small businesses that cannot acquire equipment outright, or only require equipment for a short period of time; and

  – DVD/video/game hirers have lost market share due to DVD format sales and internet downloads, and hiring duty is an additional burden on retailers that already have to pay GST on every rental, and when a product is sold.

- Hiring duty has high administration and compliance costs for hirers. (DVD/video game hirers, 51, 65, 79, 81 94, 99, 105, 116).

  – It is a ‘nuisance tax’, given the small amount of revenue raised.

  – Burdersome compliance requirements apply, including monthly or annual lodgement requirements, extensive bookkeeping (including keeping books for up to two years and monitoring hiring activities to ensure compliance).

  – The DVD/video/game hirers considered that if hiring duty is not abolished there should be mandatory compliance so that competition is fair and equal (with no exceptions, including for international companies), but questioned whether the State

[10] The Office of State Revenue is unaware of larger businesses not meeting their hiring duty obligations and competing with smaller businesses on an unfair basis (e.g. PAY TV operators).

Government has the infrastructure to effectively monitor all businesses to ensure full compliance.

- Hiring duty is inefficient, including because of the narrow tax base and because small businesses can avoid paying hiring duty (81, 105, 116).

- A competitiveness concern that Western Australia will levy hiring duty, when other jurisdictions do not (105).

Transitional Issues

The AELA and Australian Finance Conference (AFC) consider that the abolition of hiring duty should only apply to new contracts entered into on or after the abolition date, so that hiring duty would still remain payable for contracts entered into before the abolition date. The following reasons were provided in support of this.

- If hiring duty were removed for hiring contracts in existence on the abolition date (e.g. long-term equipment financing contracts where duty is paid on a monthly basis), this would necessitate the re-calculation of monthly repayments, including the incidence of GST, and potentially require the issuing of new GST tax invoices (i.e. increased compliance costs).

  – Changes in payment arrangements may also be required for the reduced stamp duty amounts, and the need to notify customers of reduced payment amounts (with legal ramifications if this does not occur).

- Other jurisdictions have implemented rate or like changes on a prospective basis in the past, and Western Australia only applied the new hire of goods regime to new contracts. Furthermore, the abolition of hiring duty in Tasmania, which occurred on a retrospective basis, involved significant costs for the equipment financing industry. It is also noted that South Australia only intends to abolish hiring duty on new contracts.

- Businesses and consumers are unlikely to have an expectation that hiring duty would be abolished on existing contracts given they entered into these contracts prior to the abolition of hiring duty.

  – Given the embedded nature of the tax and its insignificance, doubts were expressed whether there would be awareness among the business community about whether hiring duty should be removed on existing contracts.

- While consumers may pay less tax following the abolition of hiring duty, this saving may be eroded as the additional compliance expenditure of hiring companies is passed onto hiring costs.

This issue was considered by the Technical Committee to the Reference Group (refer to ‘Hiring Duty Abolition Transitional Issues’ chapter in the Technical Appendices).

Analysis of Issues

Table 10

REVENUE COSTS OF RECOMMENDATIONS

	2006-07 $m	2007-08 $m	2008-09 $m	2009-10 $m
Abolish hiring duty	37	38	41	44
2006-07 Budget measure (abolish from 1 January 2007)	15	38	41	44
Abolish on new contracts only from 1 January 2007 [(a)]	6	23	33	40

(a) Assumes average length of existing arrangements is three years.

On competitiveness and tax harmonisation grounds, the abolition of hiring duty is a high priority, given that only South Australia will levy this tax beyond 2007 (with South Australia to abolish in 2009).

- However, it is unlikely that competitiveness considerations will be an overriding factor in business location decisions, as the tax rates are low and the tax base is relatively immobile.

Hiring duty is also a narrowly applied tax on one section of the economy, and there is an underlying inefficiency and horizontal inequity in the hiring duty arrangements to the extent that they favour buying goods outright. This in particular is clearly a concern for the DVD/video/game hirers.

The nexus arrangements for hiring duty (goods used solely or predominantly in Western Australia during the return period are liable for duty) are relatively robust and are likely to prevent businesses and consumers from structuring arrangements to avoid hiring duty.

However, as noted in submissions, small businesses operating below the $50,000 exemption threshold for ordinary hiring arrangements may have an unfair competitive advantage over other businesses as they do not have to pay hiring duty or meet the compliance costs.

- The exemption threshold is nonetheless considered desirable on tax administration and compliance grounds given the resources that would be expended in meeting hiring duty requirements relative to revenue raised.

From a tax administration viewpoint, there are no significant issues with hiring duty. It is also unlikely that there would have been any significant additional tax administration issues when hiring duty is abolished in other States.

From a compliance perspective, submissions have highlighted that businesses consider meeting their hiring duty requirements a significant burden. There would be particularly high compliance costs for national businesses if they were only required to pay hiring duty in one jurisdiction.

Transitional Issues

Abolishing hiring duty only on new contracts could be considered unfair to those consumers who would continue to have hiring duty passed on in existing contracts, while other consumers hiring similar goods but under new contracts no longer incurred this cost.

Nonetheless, it has been agreed that the administrative and compliance cost issues will be discussed further with the industry.

Other Issues Raised in Submissions

Given the priority attached to abolishing hiring duty by the Review, and the Government's announcement on 21 March 2006, it is not considered necessary to undertake detailed analysis of the following issues that were also raised in submissions at this stage (i.e. they will no longer be issues once hiring duty is abolished).

On-Hire Arrangements

Coates Hire Belmont (38) and the Hire & Rental Industry Association WA (HRIA) (60) recommended that hiring duty should only be imposed for the last hiring arrangement to a consumer, and not be imposed for transactions between registered hiring businesses (on-hire arrangements). Both submissions note that prior to the BTR changes implemented on 1 July 2004, on-hire arrangements were previously only subject to duty once, rather than at every point something is hired (which also can double income to government).

Exemption Threshold

The DVD/Video/Game Stores (44) and Terry Redman MLA (79) recommended that the $50,000 exemption threshold for ordinary hiring arrangements should be abolished if hiring duty is not abolished in order to remove the competitive advantage of businesses below this threshold (including where hiring is not the principal trading activity).

The SBDC (94) also recommended that until hiring duty is abolished, the $50,000 threshold should also be allowed for equipment financing arrangements in order to ensure consistency with ordinary hiring arrangements and remove complexity for businesses that undertake both ordinary hiring and equipment financing.

Lodgement of Returns

The SBDC (94) recommended that until hiring duty is abolished, small businesses receiving less than $100,000 in annual hiring charges should be allowed to remit on a quarterly basis, as this would align reporting with Commonwealth Business Activity Statements.

Change to Levying Hiring Duty on a GST-Exclusive Basis

The ACCI (105) raised a concern that the change to levying of hiring duty on a GST-exclusive basis on 1 July 2004 has not reduced the taxation burden for business.

Preliminary Findings

The abolition of hiring duty should be a high priority on competitiveness, efficiency, equity, tax administration, harmonisation and affordability grounds.

Additional Issues

In addition to any comments on the preliminary findings, feedback is invited on whether hiring duty should be abolished for new contracts only, or for both existing and new contracts.

3.4. Conveyance Duty – Non-Residential Conveyances

The conveyance duty base includes residential and non-residential real property such as homes, buildings and land, and non-real property such as chattels (when conveyed with other dutiable property), goodwill, Commonwealth or State statutory licences or permissions and intellectual property (when conveyed with a ‘business asset’). Intellectual property includes such things as rights to use a business name/trade mark, system or process, and information or knowledge.[11]

What Submissions Said

Stamp Duty Conveyances on Non-Real Property

The CCI (81) recommended the abolition of duty on conveyances of non-real property, while CPA Australia (69) and the Australian Government (88) proposed the abolition of duty on conveyances of non-real business property in advance of the possible future abolition of duty on conveyances of non-residential real property.

- The CCI (81) notes that while the BTR included some forms of non-real property in the conveyance duty base, it is unclear how much additional revenue this has raised, and this has to be balanced against administration and compliance costs associated with trying to determine the value of non-real property and to ensure interjurisdictional harmonisation .

Stamp Duty on all Non-Residential Conveyances

Several submissions recommended the abolition of duty on conveyances of all non-residential property (i.e. real and non-real), including Tony Fowler (57), the MBA (63), CPA Australia (69), the PCA (113), and the BCTR and AICD (102, 129). REIWA (84) recommended a ‘full review’ of duty on conveyances of non-residential property as it is unaware that the BTR adequately considered this issue. Printing Industries Association of

[11] The recent BTR extended the conveyance duty base in Western Australia to intellectual property when conveyed with other ‘business assets’ and tightened the application of the *Stamp Act* to undocumented conveyances of business goodwill.

Australia (WA Region) (101) was also concerned over the levying of stamp duty on business.

The main reasons put forward for abolishing duty on all non-residential conveyances were as follows.

- Abolition would enhance efficiency, including because non-residential conveyance duty is widely recognised as one of the most inefficient State taxes (63, 84, 102, 113, 129).
  - Some submissions refer to modelling by Access Economics demonstrating that abolishing duty on conveyances of non-residential property would result in greater efficiency benefits than abolishing any other State tax (102, 113, 129).
  - This duty constrains the resale potential of small businesses, and as such small business would be a major beneficiary of abolition (84).
  - Stamp duty penalises business expansion and is an obstacle to business growth (101).
- On equity grounds, stamp duty on non-residential conveyances does not result in horizontal equity (as the incidence only arises where the dutiable transactions occur), or vertical equity (as the stamp duty payable is not necessarily a proportional share of the wealth of the taxpayer) (113).
- Stamp duties on non-residential conveyances are complex and/or abolition would ease the administrative burden on business (57,113).
- Abolition would benefit businesses and the community at large (57).

The CCI (81) does not support the abolition of all duty on non-residential conveyances as it would be very costly (the duty is estimated to represent around 40% of all conveyance duty revenues), nor does it support differential stamp duty treatment of residential and non-residential real property.

Analysis of Issues

Table 11

REVENUE COSTS OF RECOMMENDATIONS

	2006-07 $m	2007-08 $m	2008-09 $m	2009-10 $m
Abolish duty on all non-residential conveyances	697	627	648	692
Abolish duty on non-residential, non-real business conveyances	122	110	113	121
2006-07 Budget measure (abolish from 1 July 2010) [(a)]	0	0	0	0

(a) 2010-11 cost projected to be $119 million.

Stamp Duty on Conveyances of Non-Real Property

The abolition of duty on conveyances of non-real property will help improve tax competitiveness and ensure tax harmonisation in the medium term to the extent that this duty is scheduled for abolition in other States and Territories (and Victoria already exempts these conveyances).

- The planned abolition dates for other States are 1 July 2006 (the ACT), 1 July 2008 (Tasmania), 1 July 2009 (Northern Territory), 1 July 2010 (South Australia), by 1 January 2011 (Queensland), and by 1 July 2012 (New South Wales). The abolitions in South Australia and Queensland are phased over two years. Western Australia has announced full abolition from 1 July 2010.

While the imposition of this tax potentially impedes the turnover of non-real property, its abolition will result in different taxation treatment of real and non-real property, introducing a distortion into economic decision making in favour of non-real property. Its abolition may also reduce the equity in the conveyance duty base to the extent businesses that rely on a higher share of real property (such as the mining and farming sectors) will be disadvantaged compared to businesses that do not.

From a tax administration and compliance perspective, the abolition of duty on conveyances of non-real property will also re-open incentives for avoidance, whereby the value of non-real property could be artificially inflated for stamp duty purposes.

- For example, prior to the inclusion of business goodwill and intellectual property (when transferred with real property) in the conveyance duty base as a result of the BTR, some businesses engaged in such avoidance activity through artificially attributing a higher proportion of a businesses value to these types of property.

Nonetheless, following the abolition of stamp duty on conveyances of non-real property in other jurisdictions there would have been significant tax administration difficulties for the OSR. Given the intangible nature of most non-real property, it is likely that businesses would have sought to structure transfers so that duty was avoided in Western Australia.

- This has been evident in the past, where the lack of nexus to Western Australia resulted in no duty being payable in Western Australia. While this has been substantially addressed by the BTR amendments, scope would still have existed to avoid Western Australian duty in areas of the base where a nexus to Western Australia did not exist (such as partnership interests).[12]

In abolishing stamp duty on conveyances of non-real property, there is a risk that different jurisdictions will take different approaches to specifically what should be excluded from the conveyance duty base. The OSR is taking part in other jurisdictions' analysis of these issues (i.e. the need for base adjustments to ensure consistent definitions of non-real property and any need for improved anti-avoidance arrangements).

[12] The status of 'land' in the conveyance duty base needs careful examination to ensure that current inconsistencies in the conveyance duty base in relation to the indirect acquisition of land via companies, unit trusts and partnerships are not perpetuated once duty on non-real property is abolished.

Stamp Duty on Conveyances of all Non-Residential Property

While it is recognised that duty on conveyances of non-residential real property is among the most inefficient of the remaining State taxes, affordability is a major constraint to abolishing this tax. It is estimated to represent as much as $700 million in annual revenue to the State (around $580 million once non-real property is removed from the base). In addition, tax harmonisation and competitiveness considerations do not support abolishing duty on all conveyances of non-residential real property, as it is not being abolished in other States.

From a tax administration perspective, further consideration would also need to be given to the stamp duty treatment of land and buildings that have mixed uses (such as a business operating from a home), and whether to apply a ‘predominant use’ test versus proportional duty on the residential components. Either way, this would increase the complexity of tax administration.

From an equity perspective, it is also not obvious that conveyances of non-residential real property should receive favourable tax treatment over residential property. In this regard, the existing stamp duty concessions for residential property (first home buyer and principal place of residence concessions) and land tax concessions for primary residences indicate a Government policy preference towards providing favourable tax treatment to residential property.

- The equity considerations cited by the PCA (113) for abolishing duty on non-residential conveyances also apply equally to residential property (i.e. stamp duty liability does not necessarily reflect capacity to pay (although it is likely to be a good proxy in most cases) and duty is only applicable when transactions occur).

Other Issues Raised in Submissions

Fishing Leases and Licences

The WAFIC (73) recommended that a stamp duty exemption should be given to fishing industry leases and licences, as other types of non-fishing industry related leases and licenses were granted such an exemption from 1 January 2004.

Notwithstanding the nature of fishing leases and licences are substantially different from leases of realty upon which duty was abolished on 1 January 2004, it is expected that duty on these licences will be included in the definition of non-real commercial property for the abolition of stamp duty on non-real commercial property from 1 July 2010.

Preliminary Findings

The abolition of stamp duty on non-real business conveyances (accounting for roughly 17% of non-residential conveyances) does not rate as highly as mortgage or hiring duty on efficiency, equity or administration grounds. Nonetheless, retention of the duty would have needed to be reviewed again as other States removed this duty over time.

While it is recognised that stamp duty on conveyances of non-residential real property is among the most inefficient of the remaining State taxes, its abolition is not supported on affordability, tax administration or competitiveness grounds, and to ensure that there is no differential tax treatment vis a vis real residential property.

4. Stamp Duty on a GST-Exclusive Basis

4.1. General Issues

A large number of submissions to the State Tax Review have proposed levying stamp duty on a GST-exclusive basis.

With the exception of stamp duty on the hire of goods (which the Government has announced will be abolished on 1 January 2007), all stamp duties are currently levied on prices or values inclusive of GST. This includes stamp duties on motor vehicle transfers, conveyances and insurance premiums.

The administration and compliance issues associated with levying stamp duty on an alternative GST-exclusive basis are addressed in Chapter 1 (‘Stamp Duty - GST-exclusive Tax Bases’) of the Technical Appendices.

What Submissions Said

The Technical Appendices chapter lists submissions that proposed levying stamp duty on GST-exclusive prices. The main reasons cited included the following.

- Levying stamp duty on a GST-inclusive basis is a ‘tax on a tax’ or ‘double taxation’. This places a burden on taxpayers, is unfair and inequitable, and has increased Government revenue.

- The GST was supposed to remove all stamp duties (or stamp duties on commercial transfers) and removing GST from the stamp duty base would maintain the status quo that existed prior to the introduction of the GST.

- Stamp duty should be applied to the true economic value of transactions (which is the GST-exclusive value for business to business transfers).

Additional points were also made with regard to the levying of stamp duty on a GST-inclusive basis for conveyances.

- It is inequitable, as some property purchasers can acquire property on a GST-free basis through acquiring property as a ‘going concern’ or under the ‘margin scheme’.

- It further favours the purchase of existing property, as GST is only levied on new property and is penalising builders selling house and land packages.
- It is having a detrimental impact on housing affordability and property acquisitions.
- It would improve the competitiveness of the Western Australian tax system.
- Abolishing stamp duty on GST for property purchases would be affordable.

Analysis of General Issues

The application of stamp duty to GST-inclusive prices or values is actually consistent with the pre-GST arrangements, where stamp duties were applied to values inclusive (directly or indirectly) of the wholesale sales tax (WST) that the GST (inter alia) replaced. In some cases the net effect was an increase in the price or value for stamp duty purposes (e.g. some insurance policies and property transactions) and in other cases it was a decrease (e.g. motor vehicles).

Stamp duty on GST-inclusive prices is not the only example of 'tax on tax'. Another is the application of the GST to fuel prices inclusive of Commonwealth excise. Furthermore, manufacturers of, say, motor vehicles incur 'input taxes' such as payroll tax and land tax which are then at least partly passed on in higher prices and therefore reflected in higher GST and stamp duty.

However, stamp duty on GST-inclusive prices is clearly the most visible form of 'tax on tax', especially as the GST component is identified on receipts or GST tax invoices for taxable transactions, and both GST and stamp duty impact on the final transaction involving the consumer.

It does not necessarily follow that 'tax on tax' places an additional burden on taxpayers or provides windfall revenue to governments, in an overall sense. Indeed, in the absence of the 'cascading' effects, tax rates would need to be higher to raise the same amount of revenue to fund government services and infrastructure at the same level.

Nonetheless, it is clear that there is a strong community perception that 'tax on tax' is inherently unfair or otherwise inappropriate, perhaps partly fuelled by the inefficiency of having two or more taxes applying to the one transaction when in principle one could 'do the job'. In this respect, stamp duty on GST-inclusive prices is a consequence of Australia's federal system, and the fact that the GST agreement struck by the Commonwealth with the States at no stage envisaged that the GST would replace stamp duties on motor vehicles, insurance or all property transactions (in the case of non-residential property transactions, the need to retain stamp duty was to be reviewed after several years).

Notably, if the objective of levying stamp duty on GST-exclusive values was solely to provide tax relief, this could be more transparently provided through stamp duty rate reductions and threshold increases. However, a key question for the State Tax Review is how much weight should be attached to the adverse community perceptions that would remain.

As other States also apply stamp duty on GST-inclusive values, excluding the GST in Western Australia would detract from tax base consistency across Australia, possibly raising compliance costs for businesses operating nationally. Administration and compliance issues generally are addressed further below (as well as in the Technical Appendices chapter), in relation to each stamp duty.

The Technical Committee considered that levying stamp duty on a GST-exclusive basis was workable from an administration and compliance perspective, but that (in some cases) further work would be required on implementation issues.

Reference Group members generally supported removing GST from stamp duty bases. They agreed that offering equivalent rate reductions would not address unfavourable community perceptions about levying stamp duty on a GST-inclusive basis (a perception that many shared), and generally preferred the exclusion of GST from all stamp duty bases, rather than a more selective approach.

Preliminary Findings

Stamp duty on GST-inclusive prices/values is arguably more of a 'problem' of perception rather than tax burden. However, although reductions in stamp duty rates (or increases in thresholds) would be a simpler alternative to removing the GST from prices/values for stamp duty purposes, adverse community perceptions would remain (including where the GST is an input tax credit in some cases but not others).

Accordingly, subject to resolution of administrative issues, changing the basis of stamp duty to GST-exclusive prices could be given a similar priority to the equivalent rate reduction.

4.2. Stamp Duty on Motor Vehicle Transfers

Stamp duty is levied on the GST-inclusive value of new or used motor vehicles sold by a dealer (GST does not apply to private sales of used vehicles).

Analysis of Issues

Table 12

REVENUE COSTS OF RECOMMENDATIONS

	2006-07 $m	2007-08 $m	2008-09 $m	2009-10 $m
Applying stamp duty on a GST-exclusive basis	34	35	37	38

Prior to the introduction of the GST, WST on cars was levied at a significantly higher rate than the GST (more than offsetting the lower 'wholesale' base to which the WST applied).

Accordingly, the replacement of the WST by the GST reduced the price and therefore the amount of stamp duty payable on most cars.

As noted in the relevant chapter of the Technical Appendices, levying stamp duty on a GST-exclusive basis would be inconsistent with the ‘list price regime’ for calculating motor vehicle stamp duty. Under this regime, stamp duty on all new vehicles is based on the retail selling price fixed by the manufacturer (which includes GST, but excludes the value of non-standard accessories).

- It is considered that the list price regime significantly reduces compliance costs for taxpayers and the OSR alike.
- Excluding GST from stamp duty calculations would also raise questions about whether Luxury Car Tax should continue to be included in the assessable stamp duty value.

Preliminary Findings

The case against levying stamp duty on GST-inclusive motor vehicle prices may be less to the extent that motor vehicle prices generally fell as a result of the GST replacing the higher WST. There are also administrative issues (i.e. consistency with the current ‘list price’ stamp duty regime) that would require further consideration if the Government were attracted to changing to a GST-exclusive approach.

4.3. Stamp Duty on Property Conveyances

Sales of established residential property are not subject to GST, while new residential property and some vacant land sales are subject to GST. Businesses are entitled to input tax credits that can be used to offset GST payable or may be able to acquire property on a GST-free basis through acquiring a business as a going concern.

Analysis of Issues

Table 13

REVENUE COSTS OF RECOMMENDATIONS

	2006-07 $m	2007-08 $m	2008-09 $m	2009-10 $m
Applying stamp duty on a GST-exclusive basis	34	30	31	33

As GST is only applied directly to a small proportion of property conveyances, levying stamp duty on a GST-exclusive basis would provide only limited community benefits. Purchasers of established homes would not benefit even though the GST is generally acknowledged to have pushed up the price of all homes, not just new house and land packages.[13]

Thus, while the proposal would be relatively affordable, the overall equity benefits are less clear. An equivalent amount of broader-based conveyance duty relief (such as through rate cuts or threshold increases) may even be fairer.

As noted in the relevant chapter of the Technical Appendices, there are also a number of compliance and administration issues that would need to be resolved in order to levy stamp duty on a GST-exclusive basis for conveyances, particularly in relation to the more complex conveyance duty transactions and those not involving REIWA forms.

Nonetheless, one equity issue that stands out is the application of stamp duty to GST-inclusive values in the case of commercial property transactions. In this regard, where a transfer of business assets occurs that satisfies the GST 'going concern' provisions, no GST is levied (and hence there is no stamp duty on GST). However, other business asset transfers are subject to GST, and stamp duty is levied on the GST component even though the GST is an input tax credit.

Preliminary Findings

Further analysis of administration and compliance issues would be required if any change to a GST-exclusive basis were to be contemplated.

4.4. Stamp Duty on Insurance Premiums

Stamp duty is currently levied on the GST-inclusive value of all insurance premiums.

Analysis of Issues

Table 14

REVENUE COSTS OF RECOMMENDATIONS

	2006-07 $m	2007-08 $m	2008-09 $m	2009-10 $m
Applying stamp duty on a GST-exclusive basis	29	30	31	33

Unlike new motor vehicle prices, the GST arrangements are understood to have marginally increased the price of insurance policies.

As all insurance premiums are subject to the GST, a change to a GST-exclusive basis would be equivalent to the tax relief that could be provided through a general reduction in the

13 The FHOG introduced as part of the GST-arrangements is available to both new and established residential property as it was expected that the GST would push up the price of both new and established homes (even though sales of residential homes are GST-free).

insurance duty rate, from 10% to 9.1%. The relative merits of a cut in insurance stamp duty rates vis a vis a cut in other State taxes is addressed separately in Chapter 11 ('Insurance Taxes').

However, levying insurance stamp duty on a GST-exclusive basis for insurance premiums would not involve any significant change to administration costs. Furthermore, although this proposal could be expected to increase compliance costs for insurers who operate nationally (unless other States followed Western Australia's 'lead'), the Insurance Council of Australia (ICA) has advised that it would still support the proposal.

Some Reference Group members accepted that levying stamp duty on a GST-exclusive basis for insurance premiums could be a higher priority than for property and motor vehicle transfers in the event of funding constraints, particularly as this may benefit the widest cross-section of the community.

Preliminary Findings

Levying stamp duty on a GST-exclusive basis would appear to pose few administrative or compliance issues.

Additional Issues

In addition to any comments on the preliminary findings, feedback is invited on whether removing stamp duty on GST should be more of a priority for some stamp duties (e.g. insurance) than others (e.g. motor vehicles or commercial property).

5. Indexation of Tax Scale Thresholds

5.1. General Issues

What Submissions Said

Indexation of tax scale and concession thresholds was a theme in public submissions, usually raised in the specific context of the payroll tax, conveyance stamp duty or land tax thresholds (discussed further below under each head of tax revenue).

The CCI (81) recommended the indexation of tax thresholds as a general reform to be applied across the tax system.

The general arguments in favour of indexation were to ensure that the overall burden of taxation did not increase over time due to ‘bracket creep’, to preserve the value of concessions, or to avoid unintended broadening of the tax base.

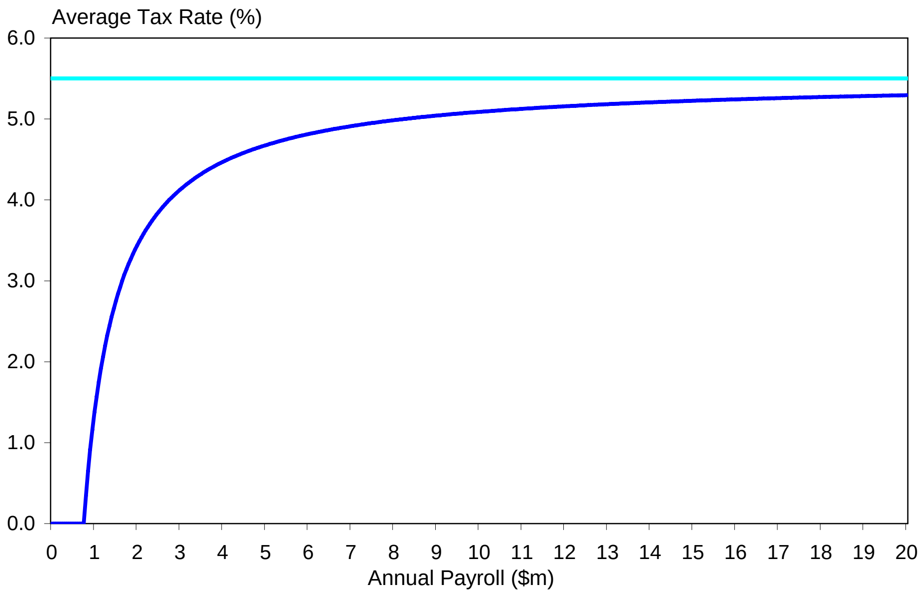
This chapter will consider the broad policy arguments for and against indexation, with further analysis of the cost and impact of specific indexation options to be considered in separate chapters for each head of tax.

Analysis of General Issues

Indexation of **tax scale thresholds** is an issue for progressive tax scales, where the **average tax rate** increases as the taxable value increases. Payroll tax is an example of a progressive tax, as shown in the graph below. It is not an issue for proportional tax scales, such as which applies in the case of stamp duty on insurance (i.e. 10% of the premium).

Figure 3

PROGRESSIVE TAX SCALE – PAYROLL TAX



Notably, progressive tax scales are not essential to achieve equity in the sense of 'capacity to pay', as this can be achieved by proportional tax scales (i.e. where the tax increases in proportion to value). The impact of progressive scales is to redistribute the tax burden in favour of lower valued activities, transactions or assets.

- However, it is arguable that redistributive objectives are better left to the Commonwealth's income tax and social security systems, while the States should instead focus on simple, efficient proportional tax structures (which reduce the incentive for equity-defeating avoidance efforts).

Furthermore, in the case of business taxes, equity needs to have regard for the final incidence of the tax. If businesses are able to pass on the cost of, say, land tax in the price of goods and services, the impact is likely to be regressive (relative to household income) irrespective of the tax scale structure.

- And as noted in one submission, 'capacity to pay' in the case of payroll tax may be better measured by profitability rather than the size of the payroll, again raising question marks about the value of progressive tax rate structures at the State level.

There is some evidence of States moving from proportional to increasingly progressive tax scales when they have identified a need to increase their taxing effort, whether because of increasing community expectations for services, tax growth not keeping pace with the economy, or Commonwealth funding cuts.

- Motor vehicle stamp duty in Western Australia is a (relatively recent) prime example, but the same was also evident in relation to payroll tax in the 1970s. The overall 'odium' of a tax increase is less if targeted more towards the relatively fewer taxpayers at the upper end of the value distribution.

With progressive State tax structures now a fact of life, an over-riding issue is whether the 'natural' increase in average tax rates that occurs over time is more or less objectionable from an equity or efficiency perspective than the likelihood of higher discretionary tax rate increases, or smaller discretionary tax reductions (resulting from the loss of budget flexibility).

- One of the consequences of not indexing progressive State tax scales is that over time the tax gravitates back towards a broader based and less progressive structure that may better meet good tax design principles.
- For example, leaving the payroll tax exemption threshold untouched means that as wages and employment grow over time, more employers become taxable and there is more capacity to keep the rate down.

On the other hand, it could be argued that reducing the 'natural' growth in tax revenue from progressive tax scales (by introducing indexation) would enforce more discipline on government expenditure decisions, and require more transparency and accountability for any tax increases.

- In addition, as noted in one public submission, in practice, governments may respond to the extra growth in tax revenue (from 'bracket creep') by introducing complex and costly targeted concessions, rather than keeping the overall tax rates down.
- Furthermore, maintaining the progressiveness of tax scales may be conducive to equity if the value of the taxed transaction (e.g. house or car purchase) typically represents a higher proportion of a low-income earner's income than a high income earner's income (and relates to a 'necessity').

However, indexation of thresholds also raises significant technical and administrative issues, particularly in relation to the choice of indexation factor/s. For example, suggestions in relation to conveyance duty ranged from the CPI to the median house price to average mortgage levels to a home building index.

- Clearly no one index factor can capture growth in values across all components of a tax base, and some would be more resource intensive/costly to administer than others.

Other issues include the frequency (and prospective or retrospective application) of indexation, the need for legislation/new regulations each time, compliance costs for taxpayers or agents (e.g. updating computer systems) and potential distortions to market behaviour (i.e. ahead of indexation adjustments).

Notably, in the case of land tax, it has become the norm for State governments in Western Australia to review and adjust land tax scale thresholds (and rates) as part of the annual budget process. This has resulted in aggregate land tax revenues rising (in proportional terms) by substantially less than average land values in recent years.

- Similar annual reviews could be an alternative to indexation in the case of other progressive State tax scales, although the data availability for modelling purposes would not be as good as for land tax, and there was some concern among Reference Group members about this becoming part of the political process, with uncertain outcomes.

Similar issues also arise in relation to thresholds applying to specific concessions (e.g. stamp duty concessions for first home buyers) or transaction types (e.g. stamp duty on land-rich company share acquisitions), although arguably to a lesser degree (e.g. the choice of indexation factor may be more obvious).

- Failure to index can mean that the value of a concession to the target group may be eroded over time, or the impact of a specific tax measure broadened beyond its original intent.

- While discretionary adjustments remain an option for governments, further comment and analysis in Stage 2 of the Review of the relative merits of indexation in these circumstances appears warranted.

Notably, there are few precedents anywhere in Australia at any level of government for indexation of tax thresholds. However, New South Wales is understood to have introduced indexation of its land tax exemption threshold to the estimated average increase in land values for commercial, industrial, business and residential properties (as determined by the Valuer-General in the year preceding the land tax year), while the ACT indexes its first homebuyer stamp duty concession thresholds.[14]

- Only two, relatively narrow examples were quoted in submissions, involving the Commonwealth's luxury car tax and bona fide redundancy provisions.

Reference Group members generally expressed strong support for indexation and/or the regular review of progressive tax scales to alleviate bracket creep, while acknowledging the need for further examination of technical and administrative issues in Stage 2 of the Review.

Preliminary Findings

Indexation of tax thresholds would involve costs as well as benefits, and not all of the benefits are as clear-cut as may appear at first glance. Reviews of thresholds as part of the annual budget process (taking into account movements in values, and pre-budget submissions from the community) may offer a viable alternative in at least some cases.

Nonetheless, further analysis in Stage 2 of the Review, including of the technical and administrative issues, and whether there may be a stronger case for indexation of specific concession and transaction type thresholds vis a vis general tax scale thresholds, would assist a more fully informed decision by the Government.

14 The ACT first home buyer stamp duty concession thresholds are set with reference to property sale prices, and adjusted on a six-monthly basis. The threshold for a full stamp duty exemption is set at the highest sale price of the lowest 25% of all sale prices for residential properties, and the threshold for the full phasing out of the stamp duty concession is set at the highest sale price for the lowest 65% of all sale prices of residential properties. As such, the thresholds will move with increases in property values over time.

5.2. Payroll Tax Exemption Threshold

Payroll tax is levied at a rate of 5.5% on the taxable wages of an employer above the current $750,000 exemption threshold. There are no legislative provisions to index the exemption threshold, and the payroll tax threshold has been adjusted on an irregular basis in the past.

Table 15

CHANGES IN PAYROLL TAX EXEMPTION THRESHOLD

	Exemption Threshold
1 January 1994	450,000
1 July 1994	550,000
1 July 1995	600,000
1 July 1996	625,000
1 July 1997	675,000
1 July 2003	750,000

Although a single tax rate applies, the tax scale is progressive rather than proportional because the tax rate only applies to the amount of the payroll that exceeds the exemption threshold. The average tax rate steadily increases from zero at $750,000 to nearly 5.5% for very large payrolls.

What Submissions Said

A number of submissions have suggested that the payroll tax exemption threshold should be indexed, although there were varying views on the appropriate indexation factor.

- The WAFIC (73) recommended indexing by the CPI.
- Other submissions recommended indexing to inflation or wages growth.
  - Taxpayers Australia (51) and the SBDC (94) recommended indexing by the CPI or Average Weekly Ordinary Time Earnings (AWOTE).
  - John Fitti (4) recommended more generally that the payroll tax exemption threshold be reviewed to reflect inflation and wages.
- The CCI (81) recommended indexing by Average Weekly Earnings (AWE).

Other submissions suggested that the payroll tax exemption threshold should just be increased.

- The WAFIC (73), the SBDC (94) and the PGA (71) recommended increasing the payroll tax exemption threshold to $1 million.

- The MBA (63), Submission no. 68, the Motor Trade Association of Western Australia (MTA) (78), the SBEA (85) and HIA (86) recommended unspecified increases in the exemption threshold.

The main reasons advanced in support of indexing or increasing the payroll tax exemption threshold included the following.

- Guarding against bracket creep, including so that employers do not become liable to payroll tax due to paying increased wages if their number of employees does not change (4, 51, 81).
  - The SBDC (94) notes that a $1 million threshold would be equivalent to around 20 employees on AWOTE, while a $750,000 threshold is only equivalent to 14 employees on AWOTE.
  - The CCI (81) argues that indexation would ensure that the overall burden of taxation does not increase over time.
- On the basis of strong wage pressures in Western Australia, to assist in addressing skill shortages and to provide relief for small business (4, 68, 78, 86, 94).
  - The SBEA (85) argues that an increase in the exemption threshold will benefit small business more than a reduction in the payroll tax rate.
  - The PGA (71) notes that less agricultural businesses would be liable for payroll tax if the exemption threshold was increased.
- To make the Western Australia payroll tax regime attractive to new business and competitive with Queensland (63).

Analysis of Issues

The general issues concerning indexation are addressed in the introductory section on 'Indexation of Tax Scale Thresholds'.

In terms of choice of any indexation factor in this instance, wages growth typically exceeds inflation, particularly in the current economic environment. Thus an inflation-based measure would not prevent some bracket creep, or from another perspective, would allow some base broadening over time.

Increasing the exemption threshold to $1 million would result in a narrowing of the tax base and a significant cost. Rate relief or reductions in other taxes may be a preferred means of recognising wage pressures arising from skills shortages, from an economic perspective.

Maintaining or increasing the payroll tax advantage for smaller businesses raises broader issues about the benefits of smaller businesses versus larger businesses to the economy and society, which were not generally addressed in submissions to the Review and have not been the subject of analysis at this point.[15]

In terms of competitiveness, Western Australia's threshold is around the average of the other States, no other State indexes its threshold and it is notable that employers with annual payrolls in the range of approximately $2 – 5 million already pay less payroll tax in Western Australia than in Queensland.

As noted in the introductory section, further analysis of the cost and impact of changes in the payroll tax scale (including the indexation or increase of thresholds) will be considered along with other tax scale issues in Chapter 7 ('Payroll Tax').

Preliminary Findings

See general preliminary findings above.

Additional Issues

In addition to any comments on the preliminary findings, feedback is invited on the merits of targeting tax benefits more towards small businesses than larger businesses.

5.3. Conveyance Duty Thresholds – General Thresholds

The conveyance duty thresholds have remained unchanged since 1982. At the same time, the marginal tax rates applied above each of these thresholds have increased, as shown.

Table 16

MARGINAL TAX RATE (%)

Value $'000	From 1 Nov 1983	From 1 July 1998	From 1 July 2002	From 1 July 2003	From 1 July 2004	From 29 Oct 2004
Less than 80	1.75	1.95	2.00	2.30	2.20	2.00
80 – 100	2.50	2.85	3.00	3.45	3.30	3.00
100 – 250	3.25	3.70	4.15	4.75	4.50	4.00
250 – 500	4.00	4.55	5.15	5.90	5.60	5.00
Above 500	4.25	4.85	5.50	6.30	6.00	5.40

Concessional conveyance duty thresholds for small businesses and owner-occupiers, and for first homebuyers, have been adjusted on an ad hoc basis.

15 Previous published research has indicated, for example, that smaller firms may be more innovative than larger businesses to the extent that they are less bureaucratic and risk averse, but that this may be offset by lack of economies of scale in their research and development activities

- The value limit for the 1.5% concessional duty rate for the transfer of owner occupied residences and small businesses was increased from $50,000 to $100,000 on 1 July 1998 (with a gradual phasing out to $135,000). On 1 July 2004, the phase out value was extended to $200,000.

- The stamp duty exemption for first homeowners offered for property values up to $250,000 (phasing out to $350,000) introduced on 29 October 2004 was increased from the $220,000 exemption threshold (and the phase-out threshold from $300,000) introduced on 1 July 2004.

  – The first homebuyer exemption for the purchase of vacant land (when a house is built on the land) was increased from $100,000 to $150,000 (with the phase out threshold increased from $150,000 to $200,000).

What Submissions Said

A number of submissions called for the general indexation and/or increase of conveyance duty thresholds.

- Most submissions recommended indexing to property prices.

  – The CCI (81) recommended that the thresholds be increased significantly and indexed to reflect increases in property prices.

  – The REIWA (84) recommended that stamp duty costs should be aligned to real changes in property prices and suggested that stamp duty levels could be indexed to the median price of established house sales.

  – The Urban Development Institute of Australia (UDIA) (125) recommended that tax brackets be urgently reviewed and adjusted to reflect current market conditions, and suggested that the tax thresholds should have been increased in line with increases in median house prices.

  – The HIA (86) recommended that an index should be developed and adjusted to determine the real value of benefits received by property purchasers. It suggests that the index would monitor the change in the cost of land and/or housing (for example, based on average mortgage level data, VGO data, and/or ABS data - such as the project home building index or the established home index).

- The SBDC (94) recommended indexing to the CPI.

- Taxpayers Australia (51) recommended indexing to the median house price or the CPI.

- Alcock-Brown-Neaves (65) was concerned that increases in stamp duty were often larger than increases in land values.

A number of submissions made particular recommendations with respect to the concessional stamp duty thresholds for first homebuyers, the principal place of residence for owner-occupiers, and small businesses.

- The MBA (63) recommended that concessional thresholds be automatically indexed to the CPI or a residential property index to be calculated and published by the OSR.

- The UDIA (125) suggested that the first homebuyer stamp duty thresholds be indexed to the Western Australian median house price.

- The HIA (86) recommended that an index should be developed to maintain the real value of concessional thresholds.

A range of reasons were given in support of increases or indexation of conveyance duty thresholds.

- In order to prevent bracket creep (51, 81, 86, 94, 125). Some submissions note that as a result of bracket creep, stamp duty costs have increased much faster than property prices since 1982 (124, 125) and 2001 (84).

  – The CCI (81) also argued that indexation would ensure that the overall burden of taxation does not increase over time.

- Some submissions noted that the conveyance duty thresholds had not increased since 1982 (81, 123, 125).

  – The Law Society of WA (123) noted that the top $500,000 threshold was more than 12 times the median house price in 1982, and now is only double the median house price, with many homes also now selling for over $500,000.

  – The UDIA (125) noted that rapidly increasing property prices have resulted in a higher proportion of property transactions being taxed at the higher end of the stamp duty scale, and argued that as a result of leaving thresholds unchanged, the government is making windfall gains from the collection of stamp duty at the expense of the general public and industry.

- The PGA (71) and MBA (63) noted that there are existing mechanisms in Federal income tax law for indexing thresholds (the MBA cited the luxury car tax and bona fide redundancy provisions).

- Some submissions also raised equity as a reason for indexing conveyance duty thresholds.

  – The HIA (86) considers that the current system results in inequities between purchasers over time as property prices increase and less people are able to benefit to the same extent from the exemption thresholds (including the first homebuyer and concessional thresholds).

– The MBA (63) considers that the indexation of concessional and first homebuyer thresholds would improve equity and flexibility.

Analysis of Issues

The general issues concerning bracket creep and concession thresholds, addressed in the introductory section of this chapter, are applicable here.

The lack of increase in the general tax scale thresholds over time, as opposed to the concession thresholds, stands out. At the same time, the growth in the marginal tax rates has been modest compared to the other major stamp duties - on motor vehicles and insurance.

Further analysis of the cost and impact of changes in the conveyance duty scale (including the indexation or increase of thresholds) are considered along with other tax scale issues in the 'Conveyance Duty' chapter (Chapter 8).

Preliminary Findings

See general preliminary findings above.

5.4. Conveyance Duty Thresholds – Land-Rich Thresholds

What Submissions Said

A number of submissions have called for the general increase and indexation of the land-rich thresholds.

- The SBDC (94), PGA (71) ICAA (124), recommended that the land-rich threshold be indexed to inflation, with the ICAA and PGA recommending that it be increased to no less than $2 million (as in New South Wales) and $10 million respectively.
- Other submissions recommended indexing to inflation or property prices.
  - Taxpayers Australia (51) recommended that the land-rich threshold should be indexed to the median house price or the CPI.
  - The MBA (63) recommended that the land rich threshold should be increased and be automatically indexed to the CPI or a residential property index to be calculated and published by the OSR.
- CCI (81) recommended that the land-rich thresholds be indexed to property prices and increased to $10 million.

The main reasons quoted in support of increasing and indexing the land-rich threshold were as follows.

- To help prevent bracket creep (51, 81, 94). These submissions also noted that the threshold has not increased since 1987, and argued that an increase in the land-rich threshold is required to better reflect what a land-rich company would be in 2005 and to ensure that businesses are not unintentionally captured by the land-rich provisions.

- The base broadening of the land-rich provisions through the reduction in the land-rich ratio to 60% in the Business Tax Review was not accompanied by an increase in the $1 million threshold (81).

- The combination of a low land-rich threshold and the 'low' 60% percentage for a land-rich company is unfair on agricultural industries as land is the main and critical asset of the business (71).

- There are existing mechanisms in Federal law for indexing thresholds to inflation (71).

Analysis of Issues

The general issues concerning bracket creep and base broadening, addressed in the introductory section, are applicable here. In addition, a more general overhaul of the land-rich conveyance duty provisions is provided as part of the 'Conveyance Duty' chapter (Chapter 8).

Preliminary Findings

See general preliminary findings above.

5.5. Land Tax Thresholds

While the land tax scale thresholds are not indexed, the thresholds and rates in the land tax scale have been adjusted on a regular basis in the budget process in most years to take account of bracket creep. A summary of these changes over the last five years is provided as an attachment to Chapter 9 ('Land Tax and Metropolitan Region Improvement Tax').

What Submissions Said

A number of submissions have called for indexation or a general increase in the land tax scale thresholds.

- Some submissions called for the indexation to property prices.
  - G.M. Miocevich (1) suggests that the bottom threshold of $130,000 could be indexed to average land prices or a percentage of the average increases in land prices.
  - The CCI (81) recommended that the minimum threshold for land tax should be indexed to property values (having also proposed a single marginal rate of land tax).

- The MBA (63) recommended the annual indexation of the land tax thresholds to the CPI or a Residential Property Index calculated and published by the OSR.

- Taxpayers Australia (51) and the SBDC (94) recommended that all land tax thresholds should be indexed annually to the CPI or GSP.
  - Taxpayers Australia (51) also suggests that reducing the number of thresholds would help reduce bracket creep.
  - The SBDC (94) also recommended that the minimum land tax threshold should be increased to $200,000.

- CPA Australia (69) suggested that bracket creep could be minimised by regular adjustments to the land tax thresholds (and a further reduction in the number of rates and brackets).

The main reasons given in support of indexing or increasing the land tax thresholds are as follows.

- To address bracket creep (51, 63, 69, 81, 94).
  - To ensure that the tax effort does not expand over time (81).
  - G.M. Miocevich (1) was concerned that recent tax cuts have been balanced out by valuation increases.
  - Michelle Zimmel (10) raised a concern that land values have increased, while the “rating values in the dollar have persisted at or near the same amounts”.
  - The SBDC (94) noted that while the tax free threshold has increased from $10,000 in 2001-02 to $130,000 currently, this has not reflected increases in property values in recent years, especially for coastal land and commercial properties in residential areas. It also expressed a concern that even though land is being used for the same purposes, many small landowners have been hit by increased land tax assessments as a result of property pressures associated with the surging economy.

- For building companies, Alcock Brown-Neaves (65) expressed a concern that the amount of land tax payable on average land holdings of the average building company has increased significantly due to bracket creep. It suggested that this was unfair on short-term owners of land for display home purposes because they are not necessarily benefiting from long-term increases in land values.

Analysis of Issues

The general issues concerning bracket creep, addressed in the introductory section of this chapter, are applicable here.

However, land tax currently stands out on the basis of the particularly high degree of progressiveness in the tax scale, and the fact that the tax scale is already adjusted as part of the budget process in most years to reduce the overall impact on taxpayers (and revenue) of growth in land values combined with bracket creep (often there are both threshold increases and rate cuts).

Notably, reducing the number of thresholds would not in itself reduce the degree of progressiveness in the land tax scale. Reducing the top rate/s and/or stretching out the thresholds above which the higher rates apply would be necessary. This, and the issue of 'capacity to pay' for non-income generating properties, is discussed in Chapter 9 ('Land Tax and Metropolitan Region Improvement Tax').

In relation to building companies, it was not clearly established that land tax costs could not be recouped from home buyers.

Further analysis of the cost and impact of changes in the land tax scale (including the indexation or increase of thresholds) will be considered along with other tax scale issues in Chapter 9.

Preliminary Findings

See general preliminary findings above.

6. Using the Tax System to Achieve Broader Policy Objectives

6.1. Tax Relief/Reform for the Disadvantaged

General Issues

Taxation relief and/or reform to help the most disadvantaged sections of the Western Australian community was a theme in public submissions. Disadvantaged groups were considered to include pensioners, seniors, self-funded retirees, people with disabilities and low-income earners generally.

- The WACOSS (114) suggested that in considering tax relief, the Government needs to ensure that vital services and infrastructure are adequately funded (including targeted assistance to the poorest members of the community).
  - However, if any tax cuts were to be provided, WACOSS considers that they should be directed to low-income earners and those faced with financial pressures to meet basic needs, in the first instance. In general, WACOSS also suggested that a good tax system should include concessions and benefits to enable people on low incomes to participate fully in society.
- Various submissions suggested that the Review should aim to minimise the tax burden on seniors through various tax concessions (proposals considered separately below), including from the CNSP (50). Mr B Walker (17) requested a fairer taxation system for semi-retired taxpayers doing voluntary work.
  - The main arguments presented in favour of minimising the taxation burden on pensioners, seniors and self-funded retirees were that many rely on inflexible fixed or limited incomes, are asset rich but cash poor, and have less capacity to absorb rising tax liabilities.
- A number of submissions called for the provision of taxation relief for parents caring for people with disabilities (primarily land tax and stamp duties). This issue is addressed separately at the end of this chapter. The technical aspects of this issue are also addressed in Chapter 6(a) of the Technical Appendices ('Issues Relating to Taxation Barriers for People With Disabilities').

Analysis of General Issues

The Terms of Reference for the Review note that the State tax system needs to be considered in the context of the wider system of taxes and charges, and the social welfare system, that operates nationally.

Assistance to the disadvantaged is currently provided primarily through the Commonwealth's progressive personal income tax system, and a large range of Commonwealth welfare payments. This is consistent with the Commonwealth's generally recognised primary responsibility for social welfare within the Australian federation, and its much greater fiscal capacity to pay for it.

Notably, Western Australia is dependent on Commonwealth grants (funded primarily from Commonwealth taxes) for nearly 50% of its total budget revenues. Commonwealth taxes (including the GST) paid by Western Australians amount to about $12,000 per person, compared to State taxes paid by Western Australians of about $2,000 per person.

- This would suggest that the greatest opportunities and capacities for minimising the tax burden on disadvantaged groups exists at the Federal rather than State level.

Furthermore, the State Government already provides a large range of social concessions, including on motor vehicle licence fees, local government rates, and rates or charges for essential services such as power, water and transport. Its tax scales are also structured to recognise 'capacity to pay', and it helps fund and deliver certain services that specifically benefit the disadvantaged.

- Accordingly, there is a question as to what priority should be given to further assistance to disadvantaged people through the State tax system as part of this Review, versus broader relief that would benefit all taxpayers. There are also issues of relative effectiveness and administration costs to consider.

- Feedback from the Reference Group suggested that there may be value in reviewing the targeting of the State Government's social concessions, including the lack of eligibility of some low-income sole parents for certain benefits, and the consistency of State tax exemptions and concessions.

  – It is considered that other existing or new review forums may be more suitable for these purposes. Indeed, the Government has previously given a commitment to undertake a review of social concessions, in its current term.

In general, it is considered that State assistance to the disadvantaged can be more effectively targeted through expenditure programs such as public housing, disability services, home and community care, and supported accommodation assistance, funded from the broadest-based State taxes possible (and other State revenues) and Commonwealth grants.

- Unmet need in these service areas is appropriately addressed through the State budget process and negotiations with the Commonwealth on the relevant specific purpose grants.

State taxes may be too small and 'spasmodic' in their application for exemptions and concessions to be able to deliver effective and equitable assistance to the disadvantaged, and the administrative costs of targeting any such assistance to the disadvantaged high relative to the amount of revenue raised by the taxes.

- Concentrating tax relief in the lower value ranges of State tax bases would exacerbate the avoidance incentives and need for complex aggregation and grouping provisions currently seen in progressive State tax structures.

- Nonetheless, consistent with feedback from Reference Group members, a balance of targeted tax concessions and services may be appropriate for addressing disadvantage in certain circumstances.

Another issue is whether pensioners should be treated the same as self-funded retirees or other seniors. From a 'capacity to pay' perspective, there would appear to be less of a case to assist the latter (who less clearly fall into the category of 'disadvantaged').

- From a budget management perspective, a concern is that the future ageing of the population would lead to the cost of non-means tested State concessions increasing rapidly as a proportion of State expenditures.

In terms of competitiveness, information from other States suggests that they are similar to Western Australia in providing relatively few concessions through the State tax system to welfare recipients, older people and low-income earners.

The issue of what priority should be given to general State tax relief versus increased expenditure on State social services is considered to be outside the scope of the Review (although not all Reference Group members agreed).

General Preliminary Findings

In general, it is considered that broadly based State tax relief, benefiting all taxpayers, should be a higher priority than targeted tax relief for disadvantaged or older people, particularly having regard for the State's social welfare expenditure programs, various concessions on everyday charges, and the Commonwealth's over-arching responsibility for social welfare.

Tax Relief For Seniors, Pensioners and Self Funded Retirees

As noted earlier, various submissions suggested that the Review should aim to minimise the tax burden on pensioners, seniors, and self-funded retirees through various tax concessions.

What Submissions Said

Land Tax

Submissions from Mair and Co (6), submission no. 46, John McCarney (107), J.C. Hanrahan (100) and Kerry Carroll (133) expressed concern about the impact of recent increases in land tax assessments on self-funded retirees and seniors on fixed incomes.

The main reasons advanced specifically in support of land tax exemptions or relief for pensioners, seniors, self-funded retirees were as follows.

- Many self-funded retirees were unable to meet recent increases in land tax and are having to sell off their property, including holiday/retirement homes (6, 100, 107, 133).

- Land tax increases are undermining the financial situation of self-funded retirees who are dependent on rental income (6, 46, 100, 107).

Other more targeted recommendations included the below:

- Mair and Co (6) recommended that persons over the age of 55 be free of any land tax assessments on any rural or residential property that they owned jointly as a husband and wife as they cannot afford land tax on a second ‘holiday’ property.

- The Aged Care Association of Western Australia (43) called for the introduction of a land tax exemption for privately owned aged care facilities that operate under the *Commonwealth Aged Care Act 1997.*

  – The level of subsidies that approved aged care providers receive, and what they are able to charge their residents, is the same irrespective of whether the provider is not-for-profit (and thereby already exempt from land tax) or private/commercial. Furthermore, private aged care providers are exempt from land tax in New South Wales and Victoria.

Stamp Duties

A number of submissions made recommendations specifically for stamp duty exemptions or relief for pensioners, seniors, and self-funded retirees.

Some submissions simply called for a reduction in the tax burden for seniors through rate reductions or targeted relief.

- Ken Waters (20) recommended a reduction in conveyance duty for seniors aged 65 years and over, and the abolition of stamp duty for seniors above 70 years of age on the purchase of homes and cars.

- Trinity School for Seniors (59) recommended a reduction in or the abolition of conveyance duty for seniors.

- The CNSP (50) recommended the abolition of stamp duty on home and home contents insurance for seniors.

- Submission no. 5 suggested that the recently introduced $25 car registration reduction should be replaced with a reduction in stamp duties for pensioners (as pensioners do not pay car registration).

- Mr & Mrs Ansell (7) recommended that the Review consider that stamp duty disadvantages the elderly who may need to switch homes for health reasons.
- Mr B Walker (17) recommended that pensioners should only pay a nominal stamp duty fee on home purchases to cover costs.

Other more targeted recommendations from submissions to benefit seniors included the following.

- The CNSP (50) recommended that seniors who move out of a retirement village unit they own into a single dwelling (which is to be a primary home) should receive a stamp duty exemption (if it is within one year of entry to the retirement village and the person is in receipt of a Commonwealth pension).
- Shelter WA (115) recommended a stamp duty exemption for strata titled units contained within retirement villages to reduce the financial burden on seniors.
- The ICAA (124) recommended stamp duty relief on transactions involving aged care centres and nursing homes as businesses will pass on these costs to the residents, who are least able to afford it.

The main arguments presented specifically in favour of minimising the stamp duty burden on seniors included the below.

- Stamp duties pose a significant cost to the elderly, as they were more likely to downsize their dwellings (and motor vehicles) than other groups for financial or health reasons.
- The stamp duty costs associated with relocating to a smaller dwelling discouraged some seniors from independent living and forced them into retirement villages, which may increase Government expenditure in the long-run.

Payroll Tax

The CNSP (50) recommended the introduction of an exemption from payroll tax for wages paid to mature aged employees (aged 58 years and over). They argued that mature aged workers are currently underemployed or unemployed, and tax incentives and strategies are required for the recruitment and retention of mature aged workers. It is suggested that this exemption could be provided in the same manner as the exemption for wages paid to apprentices.

Analysis of Issues

Land Tax

The issue of land tax accounting for a rising proportion of rental income for self-funded retirees is considered to be one of optimal portfolio management. The same persons would be benefiting from capital gains, which they have the option of realising and reinvesting in other income generating assets.

The issue of rising land tax bills on holiday homes and other non-income generating residential properties, as land values increase, is considered to warrant further examination of options for land owners to defer paying land tax increases (e.g. until the property sold).

- This issue is more fully considered in Chapter 9 ('Land Tax'), and will be progressed as part of Stage 2 of the Review.

The arguments for a land tax exemption for private aged care providers are considered to carry some weight in terms of equity vis a vis already exempt not-for-profit providers, and competitiveness vis a vis other States already providing the broader exemption.

- Nonetheless, further examination is required of any precedents that might be set to exempt other commercial businesses, and any relevant findings from other inquiries into inequities between different providers of aged care facilities (e.g. Productivity Commission; Commonwealth's Hogan Inquiry).

Stamp Duties

The issues are considered to be a microcosm of those discussed in the introductory section on 'Tax Relief/Reform for the Disadvantaged'. For example, it could be considered a Commonwealth responsibility to ensure that pensions are set at sufficient level to enable all reasonable costs of living, including stamp duty transactions costs, to be met.

Payroll Tax

The issues here differ in that the proposal is not aimed at providing an individual tax/cost of living benefit to the target population, but rather the benefit of an improved chance of employment (with employers liable to payroll tax – estimated to account for about 50% of all employment).

- One issue is the extent to which the effective 5.5% discount on wage costs for employers would be big enough to sway them to retain or take on a mature aged worker that they would not otherwise have done. This would depend on the employee's productivity vis a vis the balance of their wage cost.

- A related issue is the lack of cost-effectiveness of such a scheme to the extent that it could not easily be targeted to wages of employees who would not otherwise have been employed (rather it would need to be provided in respect of all employees above the threshold age).

- Another related issue is whether the cost/funding of such a scheme could be better directed to skills training for mature aged employees through the State education and training sector, to boost their productivity and hence value to employers and the economy.

Further, more general discussion of issues concerning the use of the State tax system to achieve broader economic, social and environmental objectives is included elsewhere in this report.

Preliminary findings

Land Tax

Options for owners of non-income producing properties to defer paying land tax, and the merits of a land tax exemption for private aged care providers, should be further examined as part of Stage 2 of the Review. Otherwise, the general preliminary findings above apply.

Stamp Duties

See general preliminary findings above.

Payroll Tax

It is not clear that the proposal for a payroll tax exemption in respect of mature aged workers would be cost-effective in achieving the objective of increased employment opportunities for these workers. Refer also to the general preliminary findings above.

Removing Taxation Barriers for People with Disabilities

Several submissions expressed concerns about taxation barriers for family funded support for people with disabilities.

- The Nulsen Haven Association (3), People With Disabilities Western Australia (PWDWA) (74), Barry MacKinnon (121), and Kevin Guhl (54) considered the tax system should support families providing accommodation for other disabled family members, including in order to reduce the financial burden on, and to complement, Government services and to improve the quality of life of the family members with disabilities.
  - The Nulsen Haven Association (3) recommended the adoption of the recommendations of the ‘Removing Barriers to Family Funded Support for People with Disabilities Advocacy Group’). These recommendations address taxation and subsidy barriers and disincentives for family funded support for people with disabilities. These recommendations were also directly supported by Eric Moxham (109) and Brian O’Hart (37).

Specific recommendations made with regard to land tax, and rates and charges, stamp duty and the FHOG are considered on a case by case basis below, and supporting information on the technical design and analysis of each of these proposals is provided in Chapter 6(a) of the Technical Appendices (‘Issues Relating to Taxation Barriers for People with Disabilities’).

What Submissions Said

Land Tax, Rates and Charges

The submissions from the Nulsen Haven Association (3), Eric Moxham (109) and submission no. 8 seek the provision of exemptions from land tax where a disabled beneficiary occupies trust property as their principal place of residence.

The submissions from Mr O'Hart (37), the Developmental Disability Council of WA (Inc) (53), the Taxation Institute of Australia (TIA) (93), Kevin Guhl (54) and Eric Moxham (109) seek to extend the exemption from land tax for property held in trust for a disabled beneficiary, to property held by parents for their intellectually impaired child who occupies the property as their principal place of residence. In addition, an extension of the current rates and charges concession is also sought in the same circumstances.

- Mr O'Hart (37) also seeks to provide an opportunity for short-term leases to be exempt from land tax and be eligible for concessional rates and charges treatment.

The main arguments and comments presented in favour of land tax relief and concessions from rates and charges to parents caring for children with disabilities included the following.

- There are uncertainties as to the circumstances in which trust property occupied by a disabled beneficiary already qualify for an exemption from land tax.

- It is inequitable and/or unfair to levy land tax in these circumstances, including for the following reasons.

  – The financial burden of land tax in these circumstances is unfair, including when parents are already making large sacrifices to look after their children.

  – Land tax concessions have been introduced for pensioners and seniors living under lease for life and other long-term arrangements when they do not own the property in their own right, but are still considered to meet the ownership criterion for accessing concessions.

  – If a person was not disabled and owned and resided in a home in their own name, land tax would not be payable. Similarly, if the disabled person resided in government or charitable housing, land tax would not be payable.

  – Land tax concessions and/or rebates on council rates and water rates are granted to Western Australian Seniors, Pensioners, legally able Disability Support Pensioners and Commonwealth Card Holders.

- Independent accommodation provided by parents enhances the quality of life of the disabled person and removes a financial 'burden' from the State.

Stamp Duty Relief

Submissions from the Nulsen Haven Association (3), PWDWA (74) and Eric Moxham (109) recommended stamp duty relief on trusts established for the benefit of a family member with a disability or for housing built for disabled people. These submissions generally consider that levying stamp duty in these circumstances is a significant disincentive for families providing support, and relief should be provided given the purpose of the trust and the lack of benefit to the gifting family.

PWDWA (74) and the CNSP (50) recommended stamp duty relief/rebates for housing that meets universal design principles. Some of the main reasons for providing this relief included the following.

- To ensure that there is a suitable housing pool for the growing seniors and disabled population (which would also enhance equity), especially given new housing stock is driven by the project home market (i.e. large and expensive homes unsuitable for the ageing population).

- It would recognise that the needs of occupants of a dwelling change over its lifetime, and that a dwelling may have many occupants over its lifetime.

- It would place less demand on institutional care arrangements and provide for the more appropriate and efficient use of acute care hospitals and rehabilitation facilities. This would provide recurrent expenditure savings for the Government.

- It would provide significant benefits for groups beyond people with disabilities and seniors, who may also benefit from housing that meets universal design principles. It would also help ensure older people and people with disabilities remain within communities, and that people maintain their networks within communities.

First Home Owner Grant

The Nulsen Haven Association (3) and submission no. 8 made the following comments and recommendations in relation to the FHOG.

- The FHOG should be accessible where property is bought in trust for a person with a disability.

The lack of capacity for some people with disabilities to enter into a contract prevents them from purchasing a home in their own name and qualifying for the FHOG.

Deferment of Tax Payable

The submissions from Nulsen Haven Association (3) and Eric Moxham (109) seek amendment to revenue legislation so that land tax and stamp duty incurred by the establishment of a trust, where the trust is solely to benefit the person with a disability during their lifetime, can be deferred until the trust is wound up.

Analysis of Issues

The technical aspects of these issues are considered in Chapter 6(a) of the Technical Appendices.

Land Tax, and Rates and Charges

An exemption from land tax, and local government and water rates rebates, is currently available for parents who provide accommodation for children with disabilities.

- However, at present, to be eligible for the land tax exemption the land must be held in a trust for one or more disabled beneficiaries and used by at least one disabled beneficiary as their primary place of residence. The requirement for the land to be held in a trust is intended to counter any unintended exploitation of the exemption.
- Similarly, a person with a disability is able to access rates and charges concessions if they hold a ‘relevant interest’ in the property they reside in. A ‘relevant interest’ includes the situation where an eligible person by reason of ill-health or frailty is dependent for care on others, and occupies a property under the terms of a deed or trust.

As was noted in some submissions and by the Technical Committee, in setting up the necessary trust structure, parents of children with disabilities may be faced with capital gains and stamp duty costs that negate the future benefits of land tax and rates concessions.

Accordingly, a proposal was developed during the course of the Review to extend the land tax exemption and rates and charges concession in circumstances where a property is occupied by an adult child with disabilities as their principal place of residence, but is in the parents’, grandparents’ or siblings’ name. This was considered workable by the Technical Committee and was supported by those Reference Group members who commented on it.

- The proposed measure is consistent with the policy intention of the current land tax, and rates and charges legislation.
- Consistent with other residential land tax exemptions and rebates, the extended concessions would be conditional on no rental income being derived from the property.
- The proposed measure is expected to have a negligible impact on land tax revenue or on the cost of local government and water rates concessions.
- The administrative and compliance costs of this proposal should be low.

The proposed measure also addresses concerns expressed in submissions about the existing land tax exemption, by removing the requirement for the home to be held in trust for the disabled beneficiary.

Stamp Duty Relief

As indicated in the land tax section above, trusts established for the benefit of a family member with a disability may give rise to stamp duty implications.

As noted by the Technical Committee, the Commonwealth is proposing amendments to the Commonwealth gifting provisions to enable families with a son or daughter with disabilities to establish a trust which will be exempt from the income and assets test for the purposes of the Age Pension. The family will also be able to contribute funds without any impact on the son or daughter's income support payments.

- The Technical Committee considered stamp duty relief could be provided where a specific trust is established solely to provide for the care and accommodation needs of a person with disabilities and property is conveyed or transferred to the trust.

However, there is also an argument for delaying consideration of this issue until the new Commonwealth gifting provisions are implemented, so that the provision of any possible stamp duty relief in these circumstances could be linked to these provisions. We understand that the Commonwealth intends to implement these provisions around September.

- Furthermore, it should also be noted that the above proposals for land tax and rates and charges concessions would remove the requirement to enter into a trust arrangement and then incur the resulting stamp duty liability.

Nonetheless, the general findings in the introductory section to this chapter also apply. In the case of stamp duty relief for 'universally designed housing', it is considered that high administration costs (from defining and monitoring stamp duty relief) and the desire to keep the conveyance duty base on residential housing as broad as possible are important considerations that would not support the proposed concessions.

First Home Owner Grant

As noted by the Technical Committee, the current FHOG legislation already provides access to the grant where a person has a legal disability (and the interest in the property is held by a 'guardian' on trust).

In providing feedback on this issue, one Reference Group member suggested that consideration be given to extending FHOG eligibility to those who have not owned a house for more than five years.

- While this is considered to have some merit, the eligibility criteria for these grants are derived from the GST Agreement, and changes generally require the agreement of the Commonwealth (and other States).

Deferment of Tax Payable

If the proposal to extend the land tax exemption and rates and charges concession were adopted, the above land tax concerns would be addressed. In addition, although worthy of further consideration, deferral arrangements would require the OSR to keep records for an unidentifiable period of time, and expose tax revenues to default risk.

Preliminary Findings

Land Tax, and Rates and Charges

An exemption from land tax, and rates and charges concessions should be provided in circumstances where a property is occupied by an adult child with a disability as their PPR, but is held in the parents'or grandparents' or siblings' name (subject to the qualifications noted above).

Stamp Duty Relief

Further consideration should be given in Stage 2 of the Review to the possible provision of stamp duty relief for trusts established for the benefit of a family member with a disability.

First Home Owner Grant

The FHOG Act already provides access to the grant where a home is acquired in trust for a person with a disability.

Deferment of Tax Payable

If the proposal to extend the land tax exemption and rates and charges concession were adopted, this proposal would be unnecessary.

'Out of Scope' Issues

The submissions from Nulsen Haven Association (3), Brian O'Hart (37), Kevin Guhl (45) and Eric Moxham (109) also raised concerns and made recommendations related to income tax, social security and capital gains tax. This Review will not be considering these matters, as responsibility resides with the Commonwealth Government.

6.2. Tax Incentives or Rewards for Educational and Training Purposes

General Issues

Several public submissions recommended the introduction of tax incentives and concessions to promote education and training. Payroll tax exemptions or concessions were sought for universities and for vocational training initiatives, while general tax exemptions were sought by the independent schools sector.

Analysis of General Issues

Similar arguments apply as outlined in section 6.1 on providing tax incentives/concessions to assist the disadvantaged. In all these areas, the Government is required to make an assessment of whether the Government's broader economic, social and environmental objectives are best addressed through targeted tax concessions or other policy options such as expenditure programs.

In general, it is considered that State assistance to education providers and for training can be more effectively targeted through expenditure programs, such as grants to universities or TAFEs, as this allows for greater scope and flexibility to target specific areas.

- For example, in the 2005-06 Budget, the Government provided an additional $46.9 million over four years to fund the appointment of 280 additional staff and the development of new education and training programs to successfully meet the vocational education needs of 16 and 17 year olds.

In comparison, using the tax system to achieve educational and training objectives would necessitate a 'one size fits all' approach. The open-ended nature of tax concessions could also expose the Government to higher costs than anticipated.

Nonetheless, submissions from universities and independent schools to the State Tax Review have also highlighted the existence of inconsistencies in the application of State taxes in Western Australia. The universities have noted that they are subject to payroll taxes while primary and secondary education providers are exempt. Similarly, the University of Notre Dame (66) has noted that it is exempt from all other State taxes except payroll tax and stamp duty on motor vehicles.

However, these inconsistencies largely reflect historical factors. It should also be recognised that they could be addressed either by extending or removing exemptions (the latter may be equally defensible on equity and economic efficiency grounds).

General Preliminary Findings

In general, it is considered that financial assistance to promote educational and training objectives should be provided through expenditure programs. It is also considered that broadly based State tax relief, benefiting all taxpayers (including education providers), should be a higher priority than targeted State tax relief for education providers or training purposes.

While inconsistencies in the provision of State tax concessions (which extend beyond universities and other examples quoted in submissions to the Review) are an issue, they may be better addressed through a separate dedicated process (refer also to the preliminary finding under 'Taxation Reform').

Payroll Tax Concessions or Compensation for Universities

What Submissions Said

The public universities of Western Australia (the University of Western Australia, Curtin University, Murdoch University and Edith Cowan University) (104) and the University of Notre Dame (66) recommended that universities should be exempt from payroll tax. The main reasons for this were as follows.

- Western Australian universities contribute proportionally more in payroll tax, compared with government funding received, than the universities of any other State.
- There is an inconsistency and inequity in the application of payroll tax, which taxes tertiary education institutions, including TAFEs, and not primary and secondary education institutions. In many instances, these institutions now undertake similar activities as universities.
- Many activities undertaken by universities could be classified under the 'charities' exemption for payroll tax.
- Investing in universities "is an investment in the State with clear economic, social and financial benefits" and would highlight the continued commitment of the State to education.
- Universities are labour-intensive workplaces and significant employers. The high level of payroll tax in Western Australia reduces the capacity of universities to provide teaching and research for Western Australian students.
- The value to universities of a payroll tax exemption would be greater than the actual payroll tax amount as it also removes payroll tax administration costs.

As an alternative, the public universities of Western Australia (104) recommended that public universities could be compensated for payroll tax paid through untied grants from the State.

The University of Notre Dame (66) recommended as an alternative that public universities be partially exempt from payroll tax, either through levying a lower rate, or by exempting from the payroll tax assessment all payments made to academic staff. In addition, the University argues that it has an additional claim to exemption for the following reasons.

- It could be considered a religious institution under section 40(2)(b) of the *Payroll Tax Assessment Act 2002*.
- It is exempt from all other State taxes except stamp duty on motor vehicles.
- It makes a significant contribution to the State's economy with no recurrent funding from the State Government.

- It is constrained by Commonwealth funding guidelines for fee levels, without the offsetting capacity to receive Commonwealth funding (as received by public universities).

The University of Notre Dame also argues that the State Government has received "significant windfall gains" as a result of the GST.

Analysis of Issues

While education, in general, tends to provide social benefits that exceed private benefits, the findings of the introductory section generally apply to these proposals.

Based on payroll tax data contained in the relevant submissions, it is estimated that it would cost approximately $37 million per year (2003 data) in revenue forgone to exempt universities (including the University of Notre Dame) from payroll tax[16].

While universities tend to be more labour-intensive than other workplaces, a decision to exempt universities on this basis may lead other labour-intensive industries to seek a similar exemption. Furthermore, exempting businesses on the basis of labour-intensity raises definitional and 'boundary' issues.

The justification of lower administrative costs from a payroll tax exemption would not be exclusive to universities and could apply to any business that pays payroll tax.

In relation to the assertion that the 'high rate' of payroll tax in Western Australia reduced the capacity of universities to provide teaching and research to Western Australian students, an interstate comparison of payroll tax rates and thresholds show that Western Australia's payroll tax rates and thresholds are competitive. Furthermore, no jurisdiction provides an exemption to universities from payroll tax.

In relation to the contention that Western Australian universities contribute proportionally more in payroll tax compared with government funding received, the following points are noted.

- The Appendix to the relevant submission actually shows that, unlike in other jurisdictions, Western Australian public universities receive more money from the State Government in financial assistance than they pay to the State Government in payroll tax. It also shows that Western Australian universities have the highest proportion of State Government financial assistance to payroll tax of all the States.

- The assertion may be true in the case of the University of Notre Dame, which receives little financial assistance from the State Government or the Commonwealth Government (the University of Notre Dame paid the State Government $915,968 in payroll tax in 2004). However, this would reflect the 'private'/commercial nature of this university.

[16] DTF is yet to fully cost this proposal, or the cost of also extending a payroll tax exemption to TAFE colleges.

Furthermore, there is a risk that exempting universities from payroll tax may lead to reduced funding for student places from the Commonwealth over time, given the resulting reduced cost base of universities.

On the issue of inconsistency in the payroll tax treatment of education providers, section 40(2)(f) of the *Pay-roll Tax Assessment Act 2002* provides an exemption for wages paid or payable:

> "by a school or college (except a college under the *Vocational Education and Training Act 1996*) that is carried on by a non-profit organisation that provides education at or below, but not above, the secondary level of education, for doing work of a kind ordinarily performed in connection with the conduct of such schools or colleges."

Sections 40(2)(n) and 41 of the *Pay-roll Tax Assessment Act 2002* provide for charities to be exempt from payroll tax. However, the Act has defined "charitable body or organisation" to exclude bodies or organisations "whose sole or principle purpose is the provision of tertiary education".

This would seem to have a historical basis. Universities were required to pay payroll tax under the Commonwealth's payroll tax legislation, prior to payroll tax being transferred to the States in 1971. As suggested in the introductory section, it may be best to consider 'inconsistencies' in a future dedicated project covering the many inconsistencies across all State taxes.

Similarly, the University of Notre Dame has noted that it could be exempt from payroll tax as the result of being a religious institution under section 40(2)(b) of the *Pay-roll Tax Assessment Act 2002*. However, there is no provision for a religious institution to seek an exemption and the payroll tax legislation only provides that the wages paid by a religious institution for doing the 'religious work' of the institution are exempt.

Preliminary Findings

Additional State grant assistance for worthy university projects would be preferable to payroll tax exemptions, the benefit of which may be lost to universities over time. The relative priority of exemptions for universities also needs to be weighed up against the alternative of a 0.125% reduction in the general payroll tax rate to 5.375%, benefiting all taxpayers, or an equivalent dollar cut in other State taxes.

Further Payroll Tax Concessions for Costs of Training and Engaging Apprentices

What Submissions Said

Submission no. 68 recommended that "a mechanism should be developed by which employers providing training or engaging apprentices are provided with an incentive via payroll tax relief". The submission suggested deducting the value of training or engaging an apprentice from the total payroll upon which payroll tax is calculated.

The submission notes that payroll tax is a major cost burden to businesses in Western Australia and payroll tax impedes employment growth. In addition to implementing payroll tax rate reductions and threshold increases, the submission believes that the training concessions may be a possible means to help alleviate the skills shortage in the industry.

Tourism Western Australia (98) supports payroll tax concessions for staff training and apprentices. Tourism Western Australia notes that the tourism industry is labour-intensive, and that higher payroll taxes create a disincentive to maintain high service levels. Providing payroll tax relief for training is expected to help address the current employment and skills shortages experienced by the industry.

Analysis of Issues

Payroll tax relief is already provided to those businesses that employ apprentices and trainees. Payments to apprentices within the meaning of the *Industrial Training Act 1975* and payments to trainees employed under a training agreement as part of the Australian traineeship system established by the Commonwealth and the State are not taxable. The exemption for apprentices and trainees was estimated to cost the State $15.0 million in revenue forgone in 2004-05. The State Government does not provide tax relief for any further training costs.

Providing employers with further payroll tax concessions for training employees may not be the best mechanism to increase training in the State. It may only have a limited effect on training behaviour, possibly compensating those businesses that would have undertaken training efforts anyway. Furthermore, small businesses under the exemption threshold, charities, education providers and other entities that are exempt from payroll tax will not benefit from the effective reduction in training costs.

From an implementation perspective, it may be difficult to define and measure training costs (if these are not ‘wages’). It also involves a move away from the use of ‘wages’ as the basis for payroll tax, which is effective from an administrative and compliance perspective.

In general, it is considered that State assistance to encourage training may be more effectively targeted through expenditure programs than narrowing the tax base through exemptions. In the 2005-06 Budget, $24.1 million was provided over four years to tackle skills shortages in Western Australia. The package will provide:

- $14.0 million over four years to partner with industry to train 30,000 apprentice and trainees, with special emphasis on areas of skill shortage;
- $2.0 million over four years to subsidise the cost of training young people who have no formally recognised qualifications;
- $400,000 to establish a Master Class of Trades for apprentices and young tradespersons;
- $4.2 million for rapid-response training to address immediate or imminent skills shortages; and

- $800,000 to establish a voluntary mentor program to enable senior tradespeople to transfer knowledge and skill sets to younger workers.

Apart from similar concessions for wages paid to apprentices and trainees, no other State provides any further tax relief for ‘training’. All other States also link their concessions to the relevant legislative or departmental framework that establishes apprenticeships or traineeships (presumably for effective tax administration purposes).

Preliminary Findings

The preliminary general findings above apply.

Hypothecation of Payroll Tax Revenue for Training Initiatives

What Submissions Said

The Department of Education and Training (DET) (127) has noted that Western Australia is experiencing a “persistent and severe shortage of skilled labour”. Skills shortages are expected to continue into the future with the ageing of the population. These current and future skills shortages are a critical issue for the States and may detract from economic growth, State revenues and the cost of the State’s infrastructure program.

DET considers that an additional $20-$30 million per annum is required to fund apprenticeships, traineeships and institutional training in areas of skill shortages. It has recommended that payroll tax revenue be used to promote additional funding to address skill shortages. More specifically, it has recommended that:

- rather than a reduction in payroll tax, it would be more advantageous for employers and industry if a percentage of this revenue was redirected to addressing skill shortages; and
- DET should work with DTF to model and design this proposal.

According to DET, the proposal would improve the State’s competitiveness, improve equity and enhance efficiency. The State’s competitiveness will be improved through:

- providing tax relief to businesses;
- reducing the cost of employment; and,
- addressing the skills shortage (improving the supply of skilled workers, reducing cost increases due to rising wages and removing skills shortages as an impediment to new projects).

In addition, equity would be enhanced because a highly educated workforce benefits everyone, whilst the benefit of changing payroll tax is limited to those businesses that pay payroll tax. Efficiency may be enhanced through greater competition between training providers and this would be consistent with the obligation under the *Commonwealth-State Agreement for Skilling Australia's Workforce 2005-2008* to increase user choice by 5.0%.

Analysis of Issues

As noted above, the Western Australian Government already provides payroll tax concessions to those businesses that employ apprentices and trainees.

In general, hypothecating revenue to expenditure purposes is not supported as it reduces budget scrutiny and flexibility, and distorts resource allocation between competing programs.

Preliminary Findings

The preliminary general findings above apply.

Concessions for Independent Schools

What Submissions Said

Land Tax

The Association of Independent Schools (AIS) of Western Australia (45) recommended that land tax for independent schools be waived in all circumstances.

- The AIS notes that while the *Land Tax Assessment Act 2002* provides an exemption from land tax for land owned by, vested in, or held in trust for educational institutions, land tax is required to be paid or 'clawed back' if the land is used for any other (non-educational) purpose or is sold.
  - The AIS considers that there may be situations where land is bequeathed to a school and the school is unable to use land for educational purposes or develop the land, and the best use of the land may be to sell the land to fund educational activities. They also consider that a school is unlikely to sell land unless there is no other means of funding its activities.
  - The AIS notes that in Victoria, a land tax exemption is provided to charitable organisations, where the land is used exclusively for charitable purposes. A school is defined as a charitable organisation.

Conveyance Duty

The AIS (45) sought relief from conveyance duty for the purchase of property on the basis that the money saved could be directed to other capital or recurrent expenditure. The AIS notes that exemptions or rebates from stamp duty can be claimed in New South Wales, Victoria, Queensland, Tasmania, the ACT and the Northern Territory.

Motor Vehicle Stamp Duty

The AIS (45) and the Catholic Education Office of Western Australia (28) both recommended that independent schools/the Catholic Education Office should be exempt from stamp duty (on vehicles purchased by the office for educational purposes in the case of the Catholic Education Office). The main reasons provided to support this exemption were as follows.

- Less money is available to fund capital investment or recurrent expenditure for educational purposes.

- Exemptions or rebates are provided in Victoria, New South Wales, Queensland, the ACT, and the Northern Territory.

The Catholic Education Office of Western Australia (28) made the following additional points.

- Motor vehicle stamp duty is the only tax paid by the office (the office is also classified as an 'income exempt' charity for income tax purposes.)

- It is inconsistent that the Western Australian Government pays grants to the Catholic Education System but recoups the money back through motor vehicle stamp duty.

- Stamp duty costs are inequitable for remote schools, as they are required to pay higher stamp duty for more expensive four-wheel drive vehicles.

Analysis of Issues

As a general rule, exemptions and concessions that provide targeted assistance are not supported as they can narrow the tax base and possibly cause the tax burden to increase on the remaining taxpayers in the base, lead to other inequities, and increase tax administration and compliance costs.

Land Tax

As noted by the AIS, the *Land Tax Assessment Act 2002* provides an exemption from land tax for land owned by, vested in, or held in trust for an educational institution where it is in good faith used or reserved as a site for the purpose of providing facilities necessary for or conductive to the attainment of the objects of the institution and the performance of its functions.

This exemption extends to educational institutions not carried on for the purposes of profit or gain. However, it can be 'clawed back' for up to five years if the reserved land is used for any other (non-educational purpose) or is sold.

It is common for exemptions and concessions provided by the tax system to be subject to provisions that protect the integrity of the revenue base. The requirement for land being held for the "purpose of providing facilities necessary for or conductive to the attainment of the objects of the institution and the performance of its functions" is considered necessary to ensure the proper targeting of this concession.

- This provision also reduces incentives for educational facilities to hold onto valuable land when it could be used for more productive purposes. For example, the levying of land tax ensures that educational institutions are on an equal footing to business for land used for non-educational purposes.

In the case of land being bequeathed to educational institutions, it is also generally considered that land tax liabilities would be a relatively minor disincentive to holding onto land, given the possible realisation of future capital gains.

Conveyance Duty

Section 75A of the *Stamp Act* contains an exemption from conveyance duty for instruments made for 'charitable or similar public purposes'. Independent schools may be able to access this concession as the common law definition of 'charitable' purposes includes the advancement of education.

Motor Vehicle Stamp Duty

A vehicle registration fees concession is available to a number of groups including educational, charitable, religious and youth organisations, hospitals and consulates. Where a one hundred percent concession is issued by the DPI, a stamp duty exemption on the grant or transfer of the motor vehicle licence is available.

DPI grants registration fee concessions based on established guidelines. Educational bodies would need to meet the criteria for a 'charitable concession licence' set by the Director General in order to access the concession, and therefore the exemption from stamp duty.

- These criteria include certifying that the organisation is a registered Charitable or Public Benevolent Institution, and that the vehicle will be specifically used for providing aid to persons in need.

It is considered desirable to continue to link the stamp duty exemption for motor vehicle licences to a one hundred percent concession from registration fees as this ensures consistent treatment of exemptions and concessions between registration fees and stamp duty. This is also desirable from the viewpoint of administrative simplicity, and reduces compliance costs for taxpayers by requiring them to deal with only one agency.

There are likely to be many cases where the Government pays grants to the same bodies that it collects taxes from. While this 'churning' may seem undesirable, it has some 'transparency' advantages and could be considered preferable to a tax system characterised by a large number of exemptions and concessions.

It is also common for other businesses located in rural areas to face higher stamp duty costs for more expensive and 'durable' vehicles, and so there would not seem to be a strong argument to provide tax relief to schools in particular on these grounds.

Preliminary Findings

There is not a strong case in terms of the State Tax Review principles for supporting this proposal

6.3. Tax Incentives and Rewards for Environmental Purposes

General Issues

Several public submissions recommended the introduction of tax incentives and concessions to support environmental and sustainability objectives. The conservation or protection of land, the design and construction of sustainable housing and the purchase of energy efficient motor vehicles were identified as the main areas where taxation incentives could be provided (following the consideration of general issues, these proposals are considered in turn below).

More generally, the COTAWA (40) recommended that taxation reform should be linked to long-term policies for the attainment of sustainability goals. Cipri Martinez (13) recommended increased taxation of goods and services with "negative externalities" (e.g. fuel, cars, new land development, plastics, packaging and paper, water, energy, new homes, fast food, alcohol and tobacco), and using revenue to combat the underlying policy issues and to subsidise the consumption of goods and services with "positive externalities".

Analysis of General Issues

There are links here with the arguments for providing tax incentives/concessions to assist the disadvantaged (section 6.1) and promote education and training (section 6.2). Key questions in all cases where it is proposed to use the tax system to help achieve broader economic, social or environmental objectives include:

- is there a 'market failure' that justifies Government intervention (e.g. are there costs or benefits to the community that are likely to be under-valued in decisions made by individuals on the basis of private costs and benefits)?; and
- if so, are tax incentives the best 'tool' to address it?

In the case of the conservation and protection of land, there may be benefits for the whole community (i.e. a positive externality) that are not adequately (or easily) valued by the market. Accordingly, there may be a case for compensation from the Government to landholders for the costs they incur (including opportunity costs) in providing these public benefits.

However, the Western Australian Government already has a number of other policy mechanisms in place or available to promote environmental outcomes. These include direct grants and subsidies, user charges and environmental regulation and standards, as well as taxation-based measures.

As a general rule, it is considered that environmental objectives can be better targeted through expenditure programs and regulation that result in identifiable outcomes, rather than through tax exemptions and concessions.

- The use of grants and subsidies to implement the Government's environmental policy allows for greater scope and flexibility to target specific areas. Examples include the Sustainability Strategy, the New Living Program, the Liveable Neighbourhood's Policy and the Waterwise program.

Nonetheless, there may be cases where the tax system is the appropriate mechanism for addressing market failures of an environmental nature, particularly where there is a direct link between the application of a tax and the environment (e.g. land tax). A case-by-case evaluation is warranted, with the following additional questions being used to inform decisions.

- Will the tax incentive be sufficient to change taxpayer's behaviour in the way intended, or will it be 'swamped' by other influences?

- Can the tax incentive be targeted to the intended recipients and actions without creating excessive administration or compliance costs, or opening up opportunities for abuse?

- Will the tax incentive create a precedent that could lead to the long-term erosion of the revenue base, contributing to higher tax rates being applied to a narrower tax base?

- Can the tax incentive be restricted to taxpayers who would not otherwise have changed their behaviour in the desired way in any event?

  – If not, would the tax concession be more costly than other economic, financial or regulatory 'tools'?

  – If so, would it still produce equitable outcomes for taxpayers generally?

- Are any unintended consequences likely?

- Should a tax penalty for environmentally damaging behaviour be considered as an alternative to a tax 'break' for refraining from such behaviour?

  – While neither tax incentives nor penalties may be effective in changing behaviour, penalties may at least raise revenue that could be invested by the Government in addressing the problem. Furthermore, a penalty would seem more appropriate if the 'externality' that the intervention is seeking to address is a negative rather than a positive one.

Similar questions would also apply in evaluating alternative Government interventions, which should be weighed up against the tax-based options in determining the most cost-effective means of encouraging the desired outcomes.

In addition, it is generally agreed that all levels of government have an interest in and responsibility to develop environmental policies and standards. Thus, in some cases the most appropriate intervention may be at the Commonwealth or joint Commonwealth-State-Local level (e.g. where there are ‘cross-border’ impacts). This is seen in intergovernmental agreements such as the National Action Plan for Salinity and Water Quality and the Natural Heritage Trust.

Tax concessions for environmental purposes appear to be rare among the States. Western Australia, Queensland and Tasmania are the only States to offer land tax exemptions for land under a conservation or covenant agreement. Further work would be required to identify the extent of any other tax concessions provided for environmental purposes in other jurisdictions.

Feedback from the Reference Group included the point that tax incentives or penalties to encourage ‘environmentally friendly behaviour’ could potentially be inequitable, in that incentives may disproportionately benefit higher income earners, or penalties could disproportionately impact on lower income earners.

Conservation and Protection Of Land

What Submissions Said

Using the tax system to encourage the conservation and protection of land, particularly privately owned bushland was identified in several public submissions as a priority for the Review.

The Minister for the Environment (132) suggested that the Review should consider the removal of financial disincentives to private landowners managing their property for the protection and conservation of biodiversity values.

The Minister considered that this would be consistent with a range of Government policy commitments in this area (including policy statements from 2001, the Government’s response to the Salinity Taskforce Report, the State Sustainability Strategy Action Plan, and the National Objectives and Targets for Biodiversity Conservation).

Greening Australia and the Australian Bush Heritage Fund (128) considered that the taxation system impeded their conservation work (purchasing, managing, re-vegetating and re-selling land), and that it is appropriate to provide significant support for private sector conservation work, particularly through readily available taxation exemptions and improved valuation methods. These should be underpinned by a clear Government policy that supports privately based conservation work.

- Along with the Conservation Council of Western Australia (80), they considered that the practice of providing exemptions and subsidies to assist and encourage economic development should be extended to the environment, including to protect biodiversity.

Land Tax

The Minister for the Environment (132) recommended an extension of the current land tax exemption on covenanted land to ‘conservation zoned’ land as this would encourage landowners to commit to conservation zoning arrangements and protect the biodiversity values of bushland.

- The Minister suggests that stakeholder consultation has shown that land tax on ‘conservation zoned’ land is still a significant impediment to protecting the biodiversity values of bushland. Landholders are also more likely to commit to managing ‘conservation zoned’ land to achieve environmental outcomes than under protective covenants.

- It is suggested that this exemption would encourage landowners to identify bush blocks for inclusion in this zoning. For farmland, it is suggested that the current primary production land tax exemption could be converted to a conservation zoned exemption to encourage landholders to manage land for conservation purposes (but with no resultant loss in revenue).

The PGA (71) suggested that landholders should be compensated for the protection of land and proposed that the requirement to obtain a conservation covenant[17] to obtain an exemption from land tax be removed.

- Farmers are bearing the cost of a government ban on land clearing for the benefit of the whole community and should be compensated for any lost potential for land covered by native vegetation.

- A land tax exemption for land zoned for non-agricultural uses by the WAPC is also recommended, as farmers are being forced to sacrifice the efficiency of their business to achieve a public benefit.

Greening Australia and the Australian Bush Heritage Fund (128) suggested that land be valued on the basis of site value for land tax and rates purposes, and not unimproved value. The use of unimproved values:

- is a disincentive to conservation and the sustainable management of land, as it encourages intensification of land use when the use of nearby land changes;

- is inequitable and acts as a perverse incentive against conservation and the sustainable management of productive land; and

  – does not tax land use changes such as tree clearing, draining and filling.

[17] A conservation covenant is a legally binding agreement between a landowner and a covenanting body designed to ensure the protection of the conservation values of a property.

Stamp Duty

Proposals for stamp duty incentives for the protection and conservation of land included the following.

- Greening Australia and the Australian Bush Heritage Fund (128) recommended that ‘conservation transactions’ (which would result in readily identifiable environmental outcomes) or the sale of properties for the purchase of securing “significant environmental improvements” be exempt from stamp duty, and that exemptions should be based on the merits of particular transactions (and not the status of organisations making transactions).

- The Conservation Council of Western Australia (80) recommended a stamp duty exemption for land covered by a conservation covenant, while the Minister for the Environment (132) recommended a partial exemption for the purchase of covenanted properties.

The main reasons given for providing stamp duty relief for such transactions were as follows.

- Greening Australia and the Australian Bush Heritage Fund (128) argued that stamp duty is a significant impost on the purchase of degraded land for restorative projects and can threaten the viability of private sector projects to restore degraded farmland.
  - Stamp duty exemptions should not be restricted to ‘covenanted land’, but be extended to transactions that secured environmental benefits.
  - It is “absurd” for the Government to provide funding to alleviate temporary environmental problems, while stamp duty is a significant impost on private sector efforts to provide permanent relief.

The Conservation Council of Western Australia (80) and the Minister for the Environment (132) argued that stamp duty exemptions or concessions would help increase and maintain the biodiversity of private land and be consistent with Government commitments in this area.

- The Minister for the Environment (132) suggested that a partial exemption (possibly 30%) would recognise that property may also be purchased as a principal place of residence, while at the same time recognising that a high level of ‘public good’ is obtained as a result of individuals contributing to biodiversity.

- The Conservation Council of Western Australia (80) also noted that private land holders incurred a financial cost to help protect the State’s biodiversity.

Analysis of Conservation and Protection of Land Issues

As noted under ‘Analysis of General Issues’, while the use of the tax system to achieve environmental outcomes could be considered on a case by case basis, in many instances the tax system may not be the appropriate vehicle.

Land Tax Valuation Issues

By way of background, land tax is levied upon the aggregated unimproved value of taxable land owned at midnight on the 30 June preceding the year of assessment and is payable annually by the landowner. The Valuer General updates the unimproved value of land on an annual basis.

While it is generally agreed that a land tax system based on unimproved values may discourage holding vacant land for conservation purposes (as it may provide an incentive to develop land to its most financially beneficial use), it should be noted that the Valuer General's Office takes into account the impact of legally enforceable conservation restrictions on unimproved land values.

Where it can be demonstrated that a conservation restriction is enforceable (including conservation zoning by local government) and has an adverse effect on the value of the land, the Valuer General will reduce the unimproved value of land, which will result in a lower land tax liability.

Land Tax Exemptions

As part of the 2004-05 Budget, the Government announced the introduction of a land tax exemption for private land protected and managed for nature conservation under a permanent and approved conservation covenant issued by the Department of Conservation and Land Management or the National Trust of Australia. The cost of this measure was estimated at up to $50,000 per annum.

Land only zoned for conservation purposes was excluded from the land tax exemption for the following reasons.

- Zoning restrictions were not considered to be a sufficiently permanent and secure basis for granting land tax exemptions, given the potential for amendments to zoning schemes, and for inconsistent use of conservation zoning across local government areas.

- Zoning restrictions only apply to future land use change and do not apply to existing land uses. As a result, the existing uses of land may not be 'environmental' in nature.

Any application (and possible broadening) of land tax exemptions and concessions to encourage landowners to hold land for conservation purposes (and compensate those already doing so, as suggested by the PGA) may also not be able to be effectively targeted. For example, property owners may be able to access concessions when they never intended to compromise the conservation qualities of land (for example, it may be uneconomic to do so).

- If not based on consistent eligibility criteria across local governments, equity concerns may also arise. Furthermore, the complexity of the tax system, and associated administration and compliance costs, would increase.

In contrast, conservation covenants are registered on the title of a property and are permanently binding (and therefore provide greater certainty to the Government that the land will be managed for conservation in perpetuity).

However, a final position on this issue will be informed by work being undertaken by the Department of the Environment (DoE) on the removal of financial disincentives for the conservation of privately owned land. Land tax will be a primary focus of this work, including developing a possible framework for ensuring consistent and permanent conservation zoning by local government.

The proposal to compensate primary producers who have been affected by land clearing restrictions by removing the requirement to obtain a conservation covenant to obtain an exemption from land tax is not supported. An exemption already exists for land used solely or principally for primary production, and a broadening of this exemption would potentially diminish the efficiency and equity of the tax base.

Stamp Duty

Stamp duty on conveyances is paid by the purchaser of property on the basis of the total value of property transferred. At present there are no stamp duty exemptions and/or concessions for transactions of property for conservation or environmental purposes, including for covenanted land.

It is not considered that the tax system is the appropriate mechanism to provide financial assistance for the conveyance duty costs involved in 'conservation transactions' for similar reasons as given in the land tax section above. However, a final position on this will be informed by the DoE's ongoing work in this area.

- It is also considered unnecessary to apply a stamp duty exemption (or partial exemption) for the purchase of covenanted land, as this type of land already has legal protection that purchasers are required to respect.[18] In addition, the land value is also likely to reflect the fact that a conservation covenant is placed on the land (or part there of).

Preliminary Findings

There does not seem to be a strong case for changing the valuation of land to a site value basis, to the extent that the Valuer General already takes into account the impact of conservation covenants on unimproved land values for land tax purposes.

While the case for further land tax and stamp duty concessions for the conservation and protection of land is limited, relevant issues will be considered in current separate inter-departmental work on the removal of financial disincentives for conservation activities.

- The primary focus of this work will be land tax and developing a framework for ensuring a consistent and permanent conservation zoning by local government.

[18] A permanent covenant may only be revoked with the approval of both the landowner and the covenanting organisation, and this would only be considered if the conservation values of the land were destroyed.

Sustainable Housing

What Submissions Said

The following comments and recommendations were made in relation to the provision of tax incentives, concessions and relief to encourage the design, development and purchase of sustainable housing.

- The HIA (86), and the UIDA (125) recommended the introduction of tax cuts, exemptions or rebates to the residential building industry to encourage ‘green’ or ‘sustainable development’.
  - Alternatively, the UDIA (125) suggested that greater government recognition of costs faced by developers was needed, through contributions to the provision of infrastructure, or payments to developers.
- The CNSP (50) and the MBA (63) recommended the introduction of a stamp duty concession for the transfer of energy efficient buildings.
  - The HIA (86) and MBA (63) suggested that these could be based on the ‘star’ ratings of the Building Code of Australia, with the MBA (63) suggesting that the concession be based on a percentage of stamp duty payable.
- Warren Spencer (135) recommended that any reductions of stamp duty should be linked to a sustainability outcome.
  - In order to help reduce greenhouse gas emissions, he proposes that stamp duty reductions could be provided to the purchasers of property if they can demonstrate that their house is insulated to a suitable standard (or will be within six months of purchase). It is suggested that a team of “insulation auditors” could undertake random compliance checks.
- John Hyde MLA (89) recommended a stamp duty reduction for “passive solar, recyclable-water real estate”.

The main arguments advanced in favour of the provision of tax incentives, concessions and relief to encourage the design, development and purchase of sustainable housing were as follows.

- This would encourage or improve the affordability of sustainable and energy efficient housing (89, 96, 125).
  - The UDIA (125) also considers that it would provide recognition of the reduced infrastructure and service costs associated with building sustainable housing developments.
  - John Hyde MLA (89) considers that “low-sustainable” housing construction in inner city areas will cause inner-city social problems.

- It would ensure that the tax system is consistent with other broader policy objectives (50, 86, 125)
  - The UDIA (125) considers that incentives would be consistent with the Liveable Neighbourhoods policy of the DPI to promote sustainable urban development. Alternatively, providing financial assistance to developers would be consistent with the infrastructure contributions that developers have to make in subdividing land.
  - The HIA (86) considers that incentives would be consistent with other Federal and State policy developments in this area. For example, State regulations to address residential water conservation and energy use, and the findings of a House of Representatives Standing Committee that recommended an increase in the FHOG for sustainable construction.

Analysis of Sustainable Housing Issues

While there may be a market failure case for providing financial assistance to encourage sustainable housing outcomes that will benefit the broader community, it is considered that State assistance to encourage 'sustainable housing' can be more effectively targeted through expenditure programs rather than tax concessions.

- In this regard, the Government has implemented a Solar Water Heater Subsidy Program that provides rebates of up to $700 for gas-boosted solar water heaters. It has also implemented a Waterwise Rebate Program that offers rebates for a variety of water efficient products that can reduce domestic water use.
- The State-sponsored Keystart lending facility offers an incentive of up to $1,000 (through an increased loan amount), for individuals who build a house that meets the HIA GreenSmart design and construction benchmarks. These include specific environmental sustainability criteria.

It is also unclear whether tax concessions would be the most effective means of achieving desired outcomes. Given the one-off nature of stamp duty, and the (arguably) relatively low proportion of stamp duty costs to home values, differential stamp duty treatment or rebates may not be a deciding factor in purchasing a particular house.

It may also be more effective to provide direct financial assistance to the new owner of the home, rather than run the risk of the financial benefit of a stamp duty concession being captured by the seller through an inflated sales price for the property.

The administration costs of targeting any such assistance are also likely to be relatively high.

Another concern is that the increased recognition of sustainability issues and the higher proportion of dwellings that would become eligible for such assistance would contribute to the long-term erosion of the residential conveyance duty base, which is an important source of funding for community services and infrastructure.

The UDIA's (125) proposals for reduced infrastructure contributions, or payments for developers for the provision of 'public land' are considered to be out of scope of the State Tax Review.

Preliminary Findings

While further analysis could be undertaken in Stage 2 of the Review, this should be undertaken in conjunction with the Department of Housing and Works (DHW), and there do not appear to be strong arguments for providing targeted assistance through the tax system.

Motor Vehicle Duty

What Submissions Said

Submissions also made recommendations for the provision of stamp duty relief to encourage the purchase of energy efficient vehicles.

- John Hyde MLA (89) recommended larger reductions in stamp duty on more fuel efficient motor vehicles (a nil rate for electric hybrid cars, a medium cut for 4 cylinder cars and a minimum reduction for 6-8 cylinder cars).

- The RAC (97) recommended the introduction of a stamp duty rebate of $500 for vehicles with a fuel consumption of less than 8 litres per 100km (at an estimated cost of around $8.5 million per annum).

Both submissions argued that providing stamp duty relief for more fuel efficient vehicles would encourage the replacement of older and inefficient vehicles, including in light of high fuel prices.

The RAC (97) also noted that it would reduce greenhouse emissions and be consistent with the aims of the Air Quality Management Plan and the State's Transport Energy Strategy.

- John Hyde MLA (89) also considers that it would stimulate car sale growth, business turnover and economic growth.

Analysis of Issues

As in the case for homes, given the one-off nature of motor vehicle stamp duty, and the (arguably) relatively low proportion of stamp duty costs to vehicle values, it is not clear to what extend differential stamp duty treatment or rebates would be a deciding factor in purchasing a fuel efficient vehicle.

Furthermore, the progressive nature of the stamp duty scale already generally helps ensure that smaller (hence cheaper), more fuel efficient cars are taxed at lower rates. Fuel cost savings would also already be an influential 'market' incentive for the purchase of these vehicles.

As noted previously, the preferred option for achieving environmental outcomes would involve targeted grant schemes, such as the Government's $500 LPG subsidy scheme for encouraging consumers to either buy dedicated LPG passenger vehicles or convert their existing passenger vehicles from petrol to LPG.

The proposed measures would also add complexity to the existing motor vehicle stamp duty regime, and may increase the associated compliance and administration costs.

Providing assistance for relatively expensive 'hybrid' vehicles may not produce equitable outcomes to the extent that these vehicles are available mainly to higher income earners. However, such targeted assistance would be preferable to wide-ranging concessions for 'normal' more fuel efficient vehicles (e.g. four cylinder vehicles), and was supported by some Reference Group members.

Nonetheless, concerns about the effectiveness of stamp duty concessions in these instances would still apply, as would concerns about increasing erosion of the revenue base over time if the new technology takes hold.

Preliminary Findings

While further analysis could be undertaken in Stage 2 of the Review, there do not appear to be strong arguments for providing targeted assistance to encourage the use of more fuel efficient vehicles through the tax system

Pollution Taxes

Warwick Boardman (15) recommended the introduction of pollution taxes to cover the costs of enforcement and the costs of pollution to the environment. Such taxes should be set at a rate to discourage pollution and should not be used to fund recurrent expenditure.

Preliminary Findings

The Western Australian Government is involved in an inter-jurisdictional working group on establishing an emissions trading regime, which, like taxing pollution, should have the effect of reducing greenhouse gas emissions in the future. No further work on the merits of pollution taxes is proposed as part of the State Tax Review at this stage.

7. Payroll Tax

Payroll tax is paid by employers on the basis of total wages (including employer-funded superannuation benefits and other fringe benefits) paid or payable to employees. The following tax scale applies to employers, based on the employer's Australia wide wages, although the rate so determined is only applied to the taxable component of Western Australian wages.

Table 17

Annual Payroll	Marginal Tax Rate
$0 -$750,000	Nil
Over $750,000	5.5% on excess

Most charitable organisations and budget-funded government agencies are exempt from payroll tax. Wages paid to all apprentices and trainees employed under approved training schemes are also exempt, along with certain prescribed fringe benefits paid to employees in remote areas.

7.1. Impact on Competitiveness, Employment and Economic Growth

Payroll tax is a direct and highly visible imposition on wages paid by businesses. Accordingly, there are legitimate questions as to whether it is a disincentive to the employment of additional workers and, consequently, the expansion of firms and overall economic growth.

However, economic research on the final incidence of payroll tax has consistently found that it should have less damaging long-term impacts on employment or economic development than most other State taxes raising the same amount of revenue for spending on public services and infrastructure (particularly if distortions introduced into payroll tax structures by State governments were removed).

- In fact, the impact of payroll tax is potentially similar to that of a broad based GST or income tax, with firms either passing on the cost to customers in higher prices or reducing real wages paid to employees (depending on the 'elasticity' of demand and supply in product and labour markets, and the flexibility of wage fixing institutions and practices).

- Nonetheless, because of its direct incidence on wages, payroll tax will continue to carry the stigma that it is a ‘tax on employment’ (a view that was shared by some members of the Reference Group). Perhaps more significantly, to the extent that perceptions influence actions (including businesses perceptions that the cost of payroll tax is hard to pass on), the impact may be greater than economic theory suggests.

What Submissions Said

A number of submissions recommended that payroll tax be abolished or reduced on the basis that it has significant negative impacts on business competitiveness (including export competitiveness) and employment.

- CCI (81) argued that Western Australia is the second highest payroll taxing State on a per capita basis. The CCI (81) and MBA (63) propose that the payroll tax rate be reduced to 4.75%, to match the maximum rate in Queensland (the lowest of the States).

- The PGA (71) argued that the tax is anti-competitive and taxes those businesses that are expanding.

- CPA Australia (69), the ICAA (2), Fehily Loaring Pty Ltd (48) and the NIA (77) suggested that payroll tax could be abolished in favour of a more broadly-based tax (such as an expansion of the GST base), or by allowing the States access to income tax or a turnover tax.

- The WAFIC (73) argued that the tax is ‘onerous’ and recommended that payroll tax be phased out over five years, if not immediately.

- The NIA (77) recommended that the tax be abolished over the longer term and argues that the abolition “if managed over a period of time will ameliorate the impact on government revenue and may in fact improve government revenue”.

- Fehily Loaring (48), Taxpayers Australia (51), Alcock Brown-Neaves (65), the WAFIC (73), CCI (81) and the SBEA (85) all argued against the general application of taxes on payrolls because of the impact on employment.

- The ICAA (2) argues that it is seen to be a disincentive to employ by small and medium sized firms, while the SBDC (94) argued that payroll tax can be a disincentive to employ additional workers.

- Taxpayers Australia (51) notes that the payroll tax liability of a business with annual labour costs of $1.5 million is $41,250, which would pay for an additional employee, or possibly two apprentices or graduates.

On the other hand, WACOSS (114) opposes any reduction in payroll tax, citing that Western Australia’s payroll tax scale is competitive with other States and low taxing by international standards. WACOSS (114) also noted that research shows that payroll tax is unlikely to have a significant effect on employment.

Analysis of Issues

Competitiveness

There is little justification for reducing Western Australia's payroll tax rate due to a lack of competitiveness with other jurisdictions. As shown in the following table:

- the tax rate of 5.5% is the equal third lowest of the States;
- the exemption threshold of $750,000 is higher than thresholds in three other States; and
- of the four States that have higher exemption thresholds, all but one (Queensland) have higher maximum rates of payroll tax.

Table 18

PAYROLL TAX SCALES

	WA	NSW	VIC	QLD	SA	TAS	NT	ACT
Exemption Threshold $	750,000	600,000	550,000	850,000	504,000	1,010,000	1,000,000	1,250,000
Max Rate %	5.50	6.00	5.25	4.75	5.50	6.10	6.20	6.85
Tax Scale	Marginal rate of 5.50% of payroll in excess of $750,000	Marginal rate of 6.00% of payroll in excess of $600,000	Marginal rate of 5.25% of payroll in excess of $550,000	Average rate slides from 0% at $850,000 to 4.75%at $3.4m	Marginal rate of 5.50% of payroll in excess of $504,000	Marginal rate of 6.10% of payroll in excess of $1.01m	Marginal rate of 6.20% of payroll in excess of $1m	Marginal rate of 6.85% of payroll in excess of $1.25m

This is further highlighted in the following table and chart comparing payroll tax payable on selected annual payrolls and average tax rates across a range of payrolls in each State. Notably, firms in the payroll range of $1.5 million to $5.5 million per annum actually pay less payroll tax in Western Australia than they would in Queensland (the popularly quoted low benchmark in payroll tax because of its low maximum rate).

Table 19

TAX PAYABLE AT SELECTED PAYROLLS

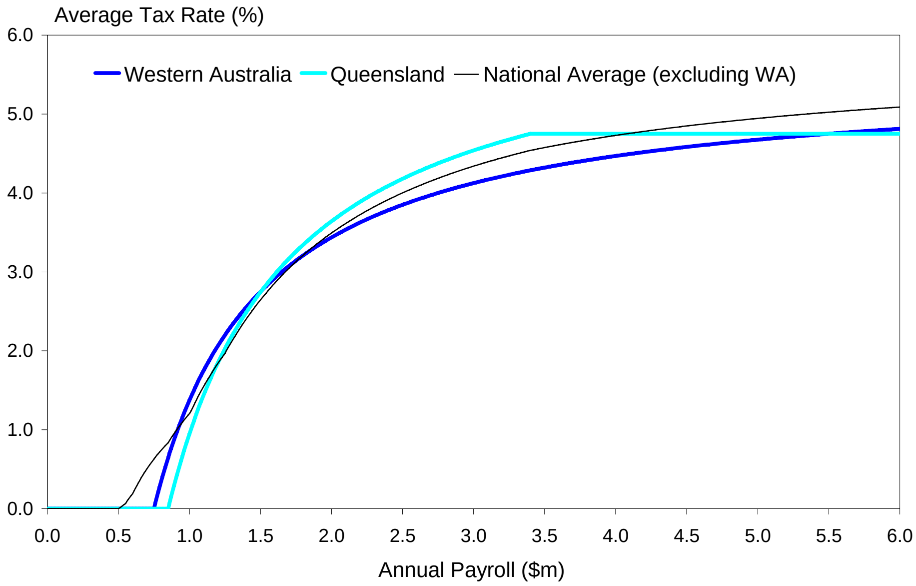
Annual Payroll	WA	NSW	VIC	QLD	SA	TAS	NT	ACT
$	$	$	$	$	$	$	$	$
700,000	-	6,000	7,875	-	10,870	-	-	-
1,000,000	13,750	24,000	23,625	9,500	27,280	-	-	-
2,000,000	68,750	84,000	76,125	72,833	82,280	60,390	62,000	51,375
3,000,000	123,750	144,000	128,625	136,167	137,280	121,390	124,000	119,875
5,000,000	233,750	264,000	233,625	237,500	247,280	243,390	248,000	256,875
10,000,000	508,750	564,000	496,125	475,000	522,280	548,390	558,000	599,375

Source: Overview of State Taxes Western Australia 2005-06, p. 4.

Figure 4

INTERSTATE COMPARISON

Western Australia and Queensland



In an international context, it is the norm for OECD countries to apply payroll tax-like levies to fund social security programs (primarily pension schemes) and sometimes at rates higher than levied in Australia (although Australia's federally imposed 9% per annum superannuation 'guarantee' should arguably be added to State payroll tax rates for comparability).

In this regard, the OECD (*Taxing Wages, 2004*) noted that employer social security contributions are 11.9% of total remuneration in Japan (excluding contributions for work injury and family allowance), 12.8% in the United Kingdom and 20.4% in Poland. Overall, it is not clear that payroll tax is placing Western Australia's generally capital-intensive exporters at a significant competitive disadvantage.

- Other influences, including the Federal government's corporate taxation regime, are likely to be more important considerations than payroll tax in assessing the international competitiveness of industry.

Reference Group feedback included the argument that on a per capita basis Western Australia is the second least competitive State in relation to payroll tax. However, this may at least partly reflect the fact that the labour force participation rate in Western Australia is the highest of all States, and Western Australia's unemployment rate is the lowest of all States.

Impact on Employment

The employment impacts of payroll tax were examined as part of the BTR. It was noted that there is a reasonably large amount of literature on the economic incidence of payroll tax, including its likely impact on employment.

As indicated, in terms of the ultimate incidence of payroll tax, there is general consensus in the literature that this is little different to the incidence of a personal income tax or a broad based consumption tax, and that payroll tax has no significant impact on employment relative to other taxes.

While there is little empirical literature to assist in the estimation of payroll tax impacts on employment, the prevailing view is that the burden of payroll tax:

- falls fully on employers in the short term (in the form of reduced profits);
- can cause moderate increases in unemployment in the medium term where markets are not competitive or flexible; and
- is shared equally between employees and consumers in the long term (in the form of reduced real wages and higher prices), not impacting upon employment (except to the extent that any tax reduces economic activity and therefore employment).

Cost of Abolishing or Reducing Payroll Tax

Payroll tax is currently the second largest source of tax revenue for the State, estimated to raise $1,351 million in 2005-06. As noted in some submissions, it would not be possible to abolish payroll tax without a replacement revenue stream (even if payroll tax were phased-out over an extended period) or substantially reducing the level of investment in community services and infrastructure.

- The preceding analysis highlights that replacing payroll tax with greater reliance on other State taxes is likely to lower the overall efficiency of the tax system, as payroll tax is one of the least distortionary taxes at the Government's disposal.
- Other theoretical options for replacing payroll tax, such as through an increase in the GST (by raising the tax rate or including food in the base) or the introduction of a State

income tax, are also problematic (this is addressed in more detail in Chapter 1 of this report).

Reducing the payroll tax rate would also involve a significant revenue cost and reduce the scope available for tax reductions in priority areas. As shown in the table below, each 0.25% reduction in the payroll tax rate would cost around $65 million in 2006-07, increasing to over $75 million by 2009-10.

- Matching the lowest payroll tax rate of the other States (the 4.75% maximum rate in Queensland, although that State has much higher marginal rates below its maximum annual wages threshold of $3.4 million and allows no deduction above that threshold) would cost around $200 million per anum.

Reference Group members had mixed views on the priority that should be attached to payroll tax relief.

Table 20

REVENUE COSTS OF RECOMMENDATIONS

	2006-07 $m	2007-08 $m	2008-09 $m	2009-10 $m
Abolish payroll tax	1,428	1,530	1,621	1,717
Decrease the rate 0.25 percentage points	65	70	74	78
Reduce payroll tax rate to 4.75%	195	209	221	234

Preliminary Findings

Reducing payroll tax is not currently considered a high priority on the basis of the Review principles of competitiveness (unless a greater competitive advantage over other States is sought) or efficiency, and replacing payroll tax is impractical in the absence of further major reform of Commonwealth-State financial relations.

- Reductions in other State taxes are likely to generate larger economic welfare gains, except to the extent that adverse perceptions about payroll tax (because of its direct incidence on wages) impact on businesses behaviour significantly more than economic theory suggests.

7.2. Impact on Specific Industries and Capacity to Pay Issues

As a general rule, firms with larger payrolls could be expected to have a greater capacity to pay tax. However, some industries may be exceptions to the extent that they are labour intensive or located in regional areas where premiums apply to attract or retain employees. In this regard, it is often suggested that turnover would be a better measure of capacity to pay payroll tax.

Issues that need to be considered include whether labour-intensive firms are any more constrained in ‘passing on’ payroll taxes, whether they compete against each other rather than less labour intensive firms, whether turnover is a superior measure of capacity to pay, constitutional constraints on a turnover tax, other policy tools for supporting regional development, and definitional issues.

What Submissions Said

A number of submissions have argued that payroll tax is biased against high labour cost and labour intensive industries.

- Taxpayers Australia (51), SBDC (94) and Building Service Contractors Association of Australia (Western Australia) (90 and 91) have submitted that payroll tax discriminates against employers with high labour costs, particularly small businesses and those in regional areas.
  - Taxpayers Australia (51) suggested that a tax-free threshold based on payroll and turnover will relieve the burden on business generally, especially those who operate in labour intensive industries but are essentially small businesses.
  - SBDC (94) argues that it is no longer the case that businesses with high labour costs and employee numbers are necessarily more profitable.
  - The Building Service Contractors Association of Australia (Western Australia) (90 and 91) submitted that cleaning businesses should have a payroll tax threshold of $1.6 million and/or should pay a discounted payroll tax rate.
  - Tourism Western Australia (98) notes that tourism is also a labour intensive industry and that there is a close link between service levels and number of employees.

The Printing Industries Association of Australia (101) suggests that payroll tax is not equitable because it does not treat businesses in similar circumstances in a similar manner.

Analysis of Issues

Impact on Firms in Labour Intensive Industries and Regional Areas

Applying payroll tax to the broadest base is consistent with equity (i.e. all firms are subject to broadly the same taxation treatment), simplicity and ensuring that a lower overall tax rate can be applied. Accordingly, proposals for new exemptions or concessions for individual industries or regions need to be justified by evidence that payroll tax is having a significant adverse impact on the competitiveness or the growth of an industry.

In the preceding section it was noted that there is little evidence to support the view that payroll tax has more adverse impacts on the growth of firms than other taxes. Furthermore, it is not readily apparent that the ability of labour-intensive firms to pass on the cost of payroll tax to customers, or to employees in lower real wages, is more constrained than for other firms – in each case it is largely dependent on market elasticities and flexibility.

The argument that labour intensive firms are placed at competitive disadvantage by payroll tax is also difficult to sustain in industries where these firms are essentially operating in competition with each other (such as in the cleaning industry), and not in competition with other less labour-intensive firms.

The premiums that may be paid to hire and retain staff in regional areas are also a reflection of market conditions, including factors that reduce the attraction of living in regional areas. Any 'market failures' in recruiting and retaining workforces in regional areas may more effectively be addressed in the framework of the Government's regional development strategies, including improving the provision of services in these communities.

Capacity to Pay Issues

Given the Commonwealth's effective monopoly over the taxation of corporate profits, only very limited alternatives for taxing businesses are available to a State. It is not immediately apparent that turnover would be a better proxy for profitability than a firm's payroll, and it would also be subject to Constitutional uncertainties.

- Section 90 of the Constitution gives the Commonwealth exclusive power to impose duties of 'excise' and the High Court has a record of striking down State taxes on turnover (such as business franchise fees on tobacco, fuel and liquor) on grounds that they are effectively excises.
  - This risk may not be removed by only using turnover as a benchmark for determining whether a firm should pay a concessionary rate of payroll tax. The High Court may opt to 'look through' this arrangement and consider any link to turnover as introducing the character of an excise.
- Incorporating turnover (or a direct measure of profitability) into the payroll tax system would also involve an increase in complexity and compliance burden for business and the OSR, which would be contrary to the STR principles.

Preliminary Findings

Providing special exemptions or concessionary arrangements for labour intensive or regional firms is unlikely to enhance the payroll tax system in terms of the State Tax Review principles. Furthermore, turnover is not necessarily a better indicator of a firm's capacity to pay, and there is uncertainty as to whether the High Court would permit the States to use turnover for taxation purposes.

7.3. Small Business Exemption Threshold

The small business exemption threshold was increased from $675,000 to $750,000 on 1 July 2003, as part of the BTR reform package (which included replacing the previous multiple rate scale with a single marginal rate of tax above the threshold). Prior to these reforms, the exemption threshold had been unchanged at $675,000 since 1 July 1997.

Payroll tax was transferred from the Commonwealth to the States in 1971. At the time, the rate scale consisted of a low single marginal rate on wages that exceeded a threshold broadly equivalent to three times average weekly earnings. In subsequently raising the payroll tax rate/s, States have generally sought to 'protect' small businesses by also increasing the exemption threshold.

- In Western Australia, the threshold currently stands at about 15 times average weekly earnings.

What Submissions Said

The SBDC (94), the CCI (81) and Tourism Western Australia (98) explicitly supported the retention of a payroll tax threshold.

- While the CCI (81) noted that the payroll tax threshold provides a competitive advantage to those businesses below the threshold, it does not support removing the threshold as there would be relatively high compliance costs for small business in meeting payroll tax obligations.

A number of submissions (4, 63, 68, 71, 75, 77, 78, 81, 86, 98) have argued for an increase in the threshold.

- The PGA (71), the WAFIC (73) and the SBDC (94) supported increasing the threshold to $1 million.
  - The SBDC supported a $1 million threshold on the basis that this would be more consistent with the understood definition for small business (employing fewer than 20 employees).
- The PGA (71) and the SBEA (85) indicated a preference for an increase in the threshold rather than a reduction in the tax rate.

Submissions also suggested that the payroll tax exemption threshold be indexed, albeit with varying views on an appropriate indexation factor. These proposals are further detailed in Chapter 5 ('Indexation of Tax Scale Thresholds').

Analysis of Issues

Economic and Administrative Efficiency

The economic and public finance literature indicates that the exemption threshold is one aspect of payroll tax that can cause significant economic distortions, discouraging firms from growing beyond the threshold. However, this disincentive is lessened under a single marginal rate system as compared to a system that 'claws back' the threshold as payrolls increase.

- This (together with simplicity) was the main rationale for the 'single marginal payroll tax rate' initiative in Western Australia's BTR. Notably, only Queensland still retains a more distortionary multi-rate, multi-threshold payroll tax system, including high marginal rates between its exemption threshold and upper threshold.

The small business exemption threshold for payroll tax is understood to be partly the historical product of sensitivities when payroll tax rates were increased, and partly aimed at achieving the following objectives.

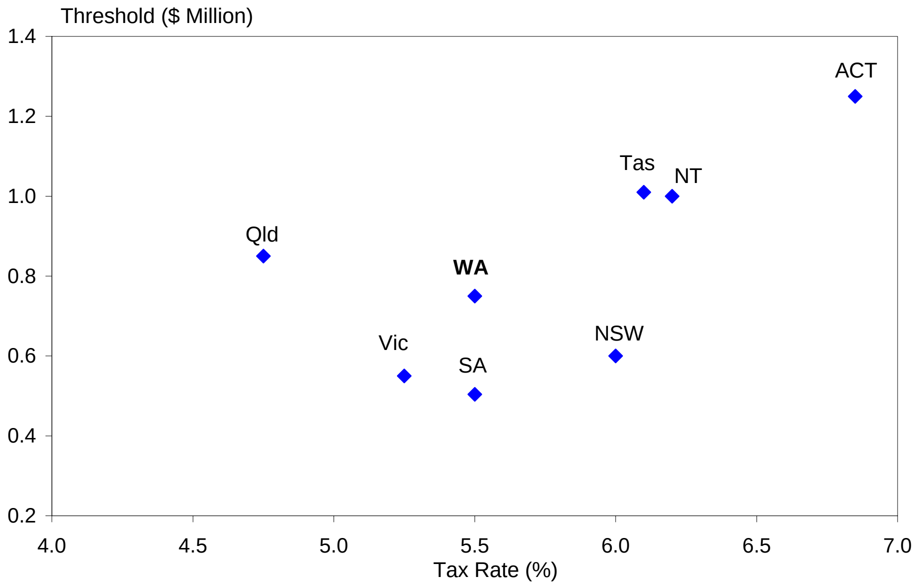
- Cost effective compliance and administration, weighing up the small amount of payroll tax revenue that may be collected vis a vis the costs incurred by both small businesses and the OSR.
  - On its own, this criterion would not justify an exemption threshold anywhere near as high as the $750,000 that currently applies in Western Australia.
- To provide small businesses with the capacity to grow and develop before entering the payroll tax base.
- One Reference Group member recognised both of the above aspects, however, considered that the compliance aspects of payroll tax for small business should not be underestimated.

These objectives represent a trade-off with the principle of applying a tax to the broadest possible base, so as to keep the tax rate as low as possible and minimise inequities and distortions to economic behaviour. The chart below indicates the outcome of analysis to test whether jurisdictions with high exemption thresholds also tend to have higher payroll tax rates.

- While there is some evidence of such a pattern, Queensland (relatively high exemption threshold and low maximum rate) and New South Wales (relatively low threshold and high marginal rate) are exceptions.

Figure 5

INTERSTATE COMPARISON OF PAYROLL TAX



In Western Australia, it is estimated that around 40% of the private sector workforce is employed by firms that operate below the current exemption threshold for payroll tax[19], although accounting for only 35% of total private sector wages paid.

The Victorian Review of State Business Taxes estimated that a revenue neutral elimination of its then $515,000 threshold would enable the rate of tax (then 5.75% in Victoria) to be reduced to around 3.7%. A similar cut of about one third to Western Australia's 5.5% rate is estimated to be possible, under this clearly extreme scenario.

Competitiveness

Most submissions that proposed an increase in the threshold (whether through indexation or one-off adjustments) did so on the basis that this would prevent small businesses (which may have limited capacity to pay payroll tax) from re-entering the base. As indicated earlier in this chapter, an interstate comparison does not provide strong support for increasing the exemption threshold in Western Australia.

Nonetheless, the table below shows the revenue cost of increasing the payroll tax threshold by $100,000 (to $850,000) and by $250,000 (to $1 million).

[19] Based on firms with 20 employees or less and extrapolated using the latest available data (2000-01) published by the ABS.

Table 21

COST OF INCREASING PAYROLL TAX THRESHOLD

	2006-07 $m	2007-08 $m	2008-09 $m	2009-10 $m
Increase threshold by $100,000 (to $850,000)	23	25	26	28
Increase threshold by $250,000 (to $1.0 million)	55	58	62	65

The estimated cost of increasing the threshold to $1 million ($55 million in 2006-07) would be equivalent to reducing the payroll tax rate from 5.5% to 5.3%. Such an increase would also be well above the average growth in wages that has occurred since the threshold was set at $750,000 on 1 July 2003 (indexation on the basis of growth in average weekly earnings over this period (11.9%) would imply an increase in the threshold to around $840,000).

There were divergent views among Reference Group members as to whether any further payroll tax relief should be provided primarily by increasing the threshold or primarily by reducing the tax rate.

Preliminary Findings

Increasing the small business exemption threshold would reduce the payroll tax base and should have a lower priority than reducing the payroll tax rate (which itself is not considered a high priority on the basis of the Review principles at this time). However, this matter should be further considered in the context of examination of indexation issues in Stage 2 of the Review.

7.4. Payroll Tax Consistency – Interstate and Within Western Australia

The Commonwealth transferred a nationally uniform payroll tax system to the States in 1971. However, the States have since diverged in a number of areas that include rates and thresholds, administration (such as the monthly payment date), definitions of wages (such as treatment of employee share schemes) and grouping provisions. Different statutes within a jurisdiction may also contain different definitions (as for payroll tax versus workers' compensation insurance).

These inconsistencies impose compliance costs on businesses that may be required to meet payroll tax obligations in a number of jurisdictions, and raise questions as to whether there is scope to improve the payroll tax system in Western Australia by pursuing a greater level of consistency with other jurisdictions. The analysis in this section does not generally address payroll tax rates and thresholds, where consistency between States would also deliver compliance cost savings but at the expense of a significant loss of State budget flexibility.

What Submissions Said

- The ICAA (2) proposed that:
  - States and Territories work together to produce uniform payroll tax legislation. This process would standardise all the definitions and administrative provisions, but would allow jurisdictions to have different thresholds and rates;
  - specific definitions be consistent within a jurisdiction, with other jurisdictions and the Commonwealth. For example, 'salaries' and 'wages' are the basis for payroll tax, workers' compensation insurance, pay as you go (PAYG) and superannuation, yet different definitions tend to apply for each of these purposes, both within a State and outside the State. Standard definitions should be provided for 'wages' and 'salaries', 'employer' and 'employee', 'contractors' and 'deemed contractors', exclusion categories (e.g. apprentices and owner-drivers), 'fringe benefits' and 'superannuation benefits' and their calculation methods, and for payments included and excluded from the base;
  - payroll tax time limits be standardised for adjustments and refunds. Time limits for underpayments and overpayments should be uniform and limited to 'exactly four years'; and
  - penalties for late lodgement be standardised.
- Fehily Loaring Pty Ltd (48) recommended that 'employee' be defined and aligned with other statutes, such as workers' compensation and the superannuation guarantee. Furthermore, retrospective assessments should be limited to three years plus the current year.
- Taxpayers Australia (51) argued that Commonwealth and State definitions for employees and contractors and control of a discretionary trust (part of the grouping provisions) should be aligned.
- CPA Australia (69) sought greater harmonisation of State and Territory payroll tax regimes, but noted that it may need to be pursued through a national forum, such as Council of Australian Governments (COAG). In particular, CPA Australia argued that Western Australia should adopt contractor provisions similar to other jurisdictions, inter-jurisdictional harmonisation of grouping provisions and reducing the audit period to three years plus the current year.
- CCI (81) argued that the audit period should be reduced to three years plus the current year. CCI has also argued that the Western Australian Government should "take the lead" to achieve uniform definitions and exemptions across jurisdictions. Travel allowances, accommodation allowances, residual threshold amounts and voluntary disclosures were highlighted as possible areas for reform.
- The SBDC (94) recommended that the lodgement timeframe for monthly payroll tax be shifted to the 21st of the month, in line with the Commonwealth Business Activity

Statement, and that State and Commonwealth legislative definitions should be aligned (including for employee/contractor provisions and control of a discretionary trust).

Analysis of Issues

These issues are also considered in Chapter 3 of the Technical Appendices ('Payroll Tax Consistency Issues'). This chapter specifically considers issues in relation to employee share acquisition schemes, lodgement periods, grouping, and consistency between the definition of 'employee' used for workers' compensation and superannuation guarantee purposes.

The interstate inconsistencies in payroll tax arrangements that have been identified in submissions range from largely administrative issues (such as the timing of monthly payments) to complex definitional matters (such as grouping provisions and employee/contractor provisions). Accordingly, there would be significant variations in the additional compliance cost burden for business associated with each inconsistency.

It is open to Western Australia to examine the arrangements in other States and independently modify its payroll tax arrangements to be more consistent with other States. However, as noted in several of the submissions, the preferred approach would be a national consultation process between the States and business to identify 'best practice' in each area of payroll tax inconsistency and reach an agreed program for convergence.

For some minor administrative inconsistencies, a national approach may be quickly agreed and implemented. However, inconsistencies in complex definitional areas will require careful consideration of the 'best practice' amongst the States and whether there are any significant revenue implications if a jurisdiction alters its current approach.

Within Western Australia, the DTF acknowledges that it would also be desirable to have consistency between payroll tax definitions and those used in other statutes. Discussions will be progressed with other agencies in this area (including with WorkCover in relation to the definitions of wages for workers' compensation purposes). Any changes in these areas would need to incorporate the outcome of consultation with other States on nationally consistent definitions for payroll tax purposes.

The Technical Committee also supported this approach.

Preliminary Findings

The areas of interstate inconsistency in payroll tax arrangements vary widely from simple administrative issues to complex matters such as the definition of 'wages'. The preferred approach is to examine these matters in consultation with other States and develop an agreed program for national convergence.

- This will be further progressed in Stage 2 of the Review, either as part of a national payroll tax consistency project with other States or, if required, by Western Australia conducting its own examination of areas where greater consistency with other States (and with certain Commonwealth taxes) could be implemented.

7.5. Definition of Wages

The Pay-roll Tax Assessment Act 2002 broadly defines ‘wages’ as wages, salaries, commissions, bonuses and allowances; director’s fees; employer superannuation contributions; fringe benefits; eligible termination payments and prescribed benefits (industry redundancy fund payments, portable long service leave scheme payments and employee share acquisition scheme arrangements).

What Submissions Said

Exempt Compulsory Superannuation Contributions From Base

Taxpayers Australia (51) sought the removal of compulsory superannuation contributions made on behalf of employees from the definition of ‘wages’. It argued that:

- including compulsory superannuation contributions in the definition increases the on-costs of hiring additional staff and constitutes a ‘tax on a tax’ and;

- removing these contributions from the tax base would be consistent with the State Government’s removal of insurance duty on compulsory workers’ compensation insurance policies.

Exempt Eligible Termination Payments From Base

Taxpayers Australia (51) and the SBDC (94) submitted that eligible termination payments should be exempt from the definition of ‘wages’. They argued that including these payments:

- unfairly taxes employers who are obliged to pay large termination payments to employees who have provided many years of service;

- exacerbates the problems of struggling businesses that may need to shed staff; and

- may result in an employer temporarily entering the payroll tax system.

Analysis of Issues

Efficiency and Equity

Ideally, the definition used for wages for payroll tax purposes should be broad enough to cover all forms of remuneration to employees. A broad definition of wages is non-distortionary and fair, whereas restricting wages to cash paid to an employee would enable some employers to minimise their payroll tax liability by increasing the non-cash component of the remuneration mix. The broader definitions also facilitate a lower tax rate.

This was the basis for the definition of wages being expanded to a wide range of employee benefits in 1997-98, including superannuation benefits and non-cash fringe benefits as defined and valued in the *Commonwealth Fringe Benefits Tax Act 1986* (excluding the major remote area fringe benefits). This was further expanded to include the grossed up value of taxable fringe benefits (from 1 January 2002) and eligible termination payments (from 1 July 2003).

- These benefits were included in the payroll tax base on a revenue neutral basis, with reductions in the payroll tax rates included as part of the package. The then Government also argued that this would minimise tax base erosion as increases in these benefits dampened future wage increases.[20]
  - This approach is now consistent across all jurisdictions, though not all jurisdictions currently use the same rates.
- Eligible termination payments were include in the payroll tax base as a part of the BTR, also as part of an overall revenue neutral package. The measure was also consistent with similar reforms in Victoria, Queensland and South Australia.

Apart from the loss of equity and efficiency, excluding these benefits from the payroll tax base would be very expensive, likely to be well in excess of 10% of current payroll tax revenues (or more than $130 million per annum).

Preliminary Findings

The payroll tax base has only relatively recently been expanded to include wider forms of remuneration, and it would be in keeping with the Review principles for these to be retained. Nonetheless, the proposed payroll tax consistency project with other States should seek to identify ‘best practice’ in this area.

7.6. Contractors

Under Western Australia’s current payroll tax legislation, the Commissioner may determine payments made to a contractor to be wages for the purposes of the *Pay-roll Tax Assessment Act 2002,* where it is considered that an employer/employee relationship exists between the contractor and the employer. Where it is considered that the relationship is one of principal/independent contractor then the contractor payments remains outside the payroll tax system, except to the extent that the contracting firm itself exceeds the payroll tax threshold.

Western Australia currently relies on the common law to determine whether a contractor is in an employer/employee relationship or not. The Commissioner previously issued Revenue Ruling PT6 and a subsequent addendum to assist employers with the treatment of subcontracting arrangements for payroll tax purposes. PT6 was followed up with a voluntary disclosure opportunity for employers that included a partial amnesty on penalties. Compliance and consumer education activities are still conducted as required by the OSR.

[20] At the time the Commonwealth Government was progressively increasing up its superannuation guarantee charge, from 6% to 9% (over several years).

What Submissions Said

Oppose/Concern over Extension to Contractors

The MBA (63) and Alcock Brown-Neaves (65) oppose any expansion of the payroll tax net to include ‘genuine’ contractors.

The TIA (93) recommended that independent contractors should be excluded from the payroll tax base.

The CCI (81) noted the basis for including ‘employee-like’ contractors in the payroll tax base.

The PGA (71) said that the current payroll tax provisions for contractors impact negatively on the agricultural industry.

Clarify/Review Provisions

A number of submissions (63, 78, 81, 82) argued that the current arrangements for determining whether an individual is an employee or a contractor lack clarity. Clarity could be provided through:

- revising the law (63, 81);
- engaging in further consultation and review with industry (78, 82); and
- extending the rules that apply to the shipbuilding industry to other industries (82).

Align Provisions with the Commonwealth and/or other States’ Provisions

Several submissions (51, 86, 93 and 94) argued that the *Payroll Tax Assessment Act 2002* should adopt the Commonwealth Government’s Alienation of Personal Services Income (APSI) legislation to determine whether an individual is an employee or a contractor.

- In this regard, the HIA (86) argued that the current PT6 Revenue Ruling does not cater for those genuine contractors who have entered into various forms of contracts that are legitimately used in the residential housing industry.

CPA Australia (69) noted that Western Australia has not adopted ‘relevant contract and employment agent provisions’ for contractors and other labour hire arrangements. In order to achieve consistency with the other States and prevent the erosion of the tax base, CPA Australia has recommended that Western Australia introduce appropriate contract and other related provisions along the lines of the other States.

Analysis of Issues

Oppose/Concern over Extension to Contractors

Genuine or independent contractors are currently outside the payroll tax net, unless the contractor itself pays wages that exceed the payroll tax threshold. However, contractors that are considered to be engaged under an employer/employee relationship will have payments made to them determined to be wages in the hands of the employer (e.g. if a contractor works solely for a single employer, and is paid an hourly rate for performing services similar to work carried out by an employee, payments made to the contractor may be determined to be wages). The purpose of the current provisions is to ‘see through’ complicated business arrangements to determine if an effective employment relationship exists.

Clarify/Review Provisions

In the 2001-02 Budget, the Government sought to expand the payroll tax base to include payments under contracts that were wholly or principally for the labour of employee-like contractors. It was considered that expanding the base would improve the equity and efficiency of payroll tax and limit the erosion of the base from common law employees converting to contractors.

In the 2002-03 Budget, the Government decided to not proceed with these amendments. As a result of an extensive consultation process, it was found that these amendments would increase the compliance costs of employers, and that this outcome would be inconsistent with the BTR objectives.

- Instead, it was decided that the OSR would implement further strategies to increase taxpayer awareness of the existing legislative framework. These strategies included an educational campaign and the previously mentioned payroll tax amnesty.

Align Provisions with Commonwealth and/or other States’ Provisions

New South Wales, Victoria, South Australia, Tasmania and the Australian Capital Territory have defined wages for payroll tax purposes to include payments made under certain ‘relevant contracts’. The remaining States, including Western Australia, rely on common law interpretations and assessments of whether an employee/employer relationship exists.

It is understood that those States that have introduced legislative tests for employee-like contractors have not provided the certainty sought by business.

The Commonwealth Government’s APSI legislation was effectively developed as an anti-avoidance measure to prevent contractors from minimising income tax liabilities through the use of an interposed entity. The legislation introduced four tests – the results test, the unrelated clients test, the business premises test and the employment test – of which an individual or entity must pass one to be considered unaffected by the legislation.

- However, the ICAA has notably argued that the APSI tests could not be applied for payroll tax purposes. In this regard, it is significant that the Commonwealth’s overall tax net is sufficiently wide to capture tax on payments for labour services irrespective of whether these services are provided by contractors or employees, and thus the Commonwealth may have less incentive to close any loopholes in this area (although there may be more scope for contractors to minimise tax).

- Western Australia has special arrangements for shipbuilders which involve a Revenue Ruling (PT5.1) to specify the types of contracts that are for labour services in that industry and the proportion (80%) that is attributable to the labour services component.

- However, this arrangement would be cumbersome and complicated to extend to other industries and their particular contractual arrangements. Conceivably, this may require a Revenue Ruling to be developed for nearly every industry.

- Since the original provisions dealing with contracts relating to the shipbuilding industry were introduced in 1998, there has been some evidence that industry practice may have shifted from the contractor arrangements to employer/employee relationships.

Accordingly, there are advantages in retaining existing arrangements, based on common law assessments of who is an employee, the OSR's Revenue Ruling PT6 and the compliance support and taxpayer education services provided by the OSR.

A broad range of complex employment arrangements exists across different industries. The existing legislative provisions leave the potential need for an examination of whether an employer/employee relationship exists on a case-by-case basis. However, the 'relevant contract' provisions of other States are understood not to have alleviated the need for a detailed examination of specific arrangements in complex circumstances.

Preliminary Findings

The current payroll tax system provides flexibility to adapt to modern employment practices. While the alternative legislative approach would be more definitive, it may not necessarily provide the clarity sought by business, as demonstrated by ongoing difficulties experienced in the other States and Territories.

The concern expressed by business about clarity may highlight a requirement for enhanced, on-going employer education by the OSR.

The difficulties that arise in this area relate partly to the existence of a payroll tax threshold. The absence of a payroll tax threshold, or a lower threshold, would reduce the incentive for business to minimise payroll tax liabilities by restructuring employment relationships (e.g. to ensure that their total payroll is below the exemption threshold).

Difficulties in this area could also be addressed (but almost certainly at the expense of creating new ones) by broadening the payroll tax base to include all payments for labour services, whether made to employees or contractors.

7.7. Grouping Issues

The original objective of the grouping provisions was to minimise the potential erosion of the payroll tax base from business entities restructuring their affairs to be below the payroll tax threshold (or to access a lower average payroll tax rate under the progressive payroll tax scale). However, later changes to the legislation which required a greater than 50% ownership/control in commonly controlled entities before grouping occurred resulted in the provision of having more emphasis on ownership and control than the original provision, thereby moving away from the original emphasis on anti-avoidance. The following general principles apply across all jurisdictions in determining grouping of employers:

- related companies – companies will be grouped where they are owned by the same parent, the board of one company is controlled by another, more than half of a company's voting rights are controlled by another, or more than half of a company's share capital is controlled by another;
- commonly controlled business – businesses will be grouped if the same person(s):
  - has/have the right to instruct directors on how to vote when they have a majority in voting power at directors' meetings;
  - exercise control over more than 50% of the voting rights of a corporation;
  - own(s) more than 50% of the partnership capital or is/are entitled to more than 50% of the profits;
  - is/are beneficiary (beneficiaries) of more than 50% of the value of the interests in the trust;
  - is/are the sole proprietor(s); and
- common employees in an associated business – an employer and any other person will be grouped if:
  - any employee carries out duties solely or mainly for, or in connection with a business or businesses carried on by the employer and/or the other person;
  - an employee is employed solely or mainly to perform duties for or in connection with a business carried on by the other person; and
  - an agreement exists between the employer and the other person for the common use of employees.

Furthermore, in Western Australia, two businesses constitute a group where:

- one of the businesses is the head or parent business;
- the second business is a branch, agency or subsidiary of the head or parent business; and
- the head or parent business exercises managerial control, whether administrative, financial or procedural over the branch, agency or subsidiary.

The Western Australian legislation provides for the Commissioner of State Revenue to be able to exclude in certain circumstances a member from a group, except if members are deemed to be related under the Corporations Act or in certain situations where ownership/controlling interest is more than 50%.

What Submissions Said

Removing Grouping Provisions for 'Stand-Alone' Small Businesses

Tom Barrett (23) submitted that it was very easy to demonstrate that certain businesses were being run genuinely as stand alone entities and therefore should be treated as a separate group or class of business.

Concern Over 'Adding' Controlled Entities to Payroll Tax Base

The WAFF (75) argued that the existence of grouping provisions nullifies the capacity of business to utilise tax planning to minimise tax liabilities.

Concern Over Basing on National Payroll

The Printing Industries Association of Australia (101) submitted that Western Australia is the only jurisdiction to apply payroll tax (rates) based on national payrolls.

Exclude Independent Contractors From Grouping Provisions

The TIA (93) recommended that contractors deemed 'independent' under the contractor provisions should be considered independent under the grouping provisions.

Replace Current Grouping Provisions With a General Anti-Avoidance Provision

Fehily Loaring Pty. Ltd. (48) and the CCI (81) sought the replacement of specific grouping provisions, which could apply broadly and capture arrangements not aimed at avoiding payroll tax, with a general anti-avoidance provision similar to Part IVA of the *Commonwealth's Income Tax Assessment Act*.

Analysis of Issues

Removing Grouping Provisions for 'Stand-Alone' Small Businesses

It appears that the relevant submission relates to the wages of a single employer, rather than entities being brought together under the payroll tax grouping provisions. If this is the case, payroll tax would continue to apply to total wages irrespective of the existence of the grouping provisions.

- Exempting 'stand-alone' small businesses from the single employer and/or grouping provisions would raise definitional issues and increase the administration costs of the payroll tax system.

Concern Over 'Adding' Controlled Entities to Payroll Tax Base

An equitable tax system should minimise the capacity of entities to avoid or lower taxes through 'tax planning' arrangements. Grouping provisions in payroll tax serve this function.

Concern Over Basing Payroll Tax on National Payroll

All States take into account national wages to test whether a payroll tax liability exists and what rate should apply under progressive tax scales. However, once determined on this national basis, the rate is only applied to wages paid within the State. This ensures equal payroll tax treatment of similar size firms, irrespective of whether they are single or multiple State operators.

Exclude Independent Contractors From Grouping Provisions

Independent contractors who pay wages must be considered under the grouping provisions in the same manner as other employers. To do otherwise would create an inequitable situation and leave the tax base open to avoidance.

Replace Current Grouping Provisions With a General Anti-Avoidance Provision

As mentioned earlier in this chapter, the purpose of the grouping provisions has moved away from being an anti-avoidance arrangement to a common ownership and control provision. To replace these provisions with an anti-avoidance provision is therefore inconsistent with the intended operation of the provisions.

In addition, it is also widely acknowledged that where possible, clearly defined provisions provide a better basis for taxing legislation. The replacement of the definitive grouping rules with a general anti-avoidance provision would provide far less clarity for taxpayers, with the potential to increase the level of uncertainty for taxpayers in trying to understand their payroll tax obligations.

The adoption of this approach unilaterally by Western Australia would also put it out of step with other States and Territories, and therefore potentially exacerbate compliance costs for taxpayers in this respect.

Preliminary Findings

The application of the existing grouping provisions can be complex and differs slightly in each State and Territory. Despite the potential complexity of these provisions when applied to certain business structure and practices, their application is considered to be transparent and straightforward for the majority of employers.

It is considered that submissions have not provided sufficient evidence at this stage to support changes to the existing grouping arrangements that would constitute improvements in the context of the State Tax Review principles. Nonetheless, the proposed payroll tax consistency project with other States should seek to ensure ‘best practice’ in this area.

7.8. Labour Services Tax

Some submissions and the Chair of the State Tax Review Reference Group suggested more fundamental reforms to payroll tax, including expanding it to remuneration for all labour services.

What Submissions Said

Fehily Loaring Pty Ltd. (48) raised the possibility of extending payroll tax to a tax on all labour. It was argued that such a system would remove the need to distinguish between employees and contractors.

Analysis of Issues

Extend Payroll Tax to a Tax on All Labour

This proposal would bring independent contractors into the payroll tax base, removing the current distortion in the system that treats payments to employees differently to other payments for labour. It would also remove compliance concerns related to determining who is classified as an employee or a contractor. In addition, the broader base would enable the tax rate to be lower. However, like any significant tax base broadening, there are also likely to be large incidence shifts, resulting in taxpayers who are not currently liable to payroll tax having to factor this tax into their cost base.

However, other administration and compliance costs would increase. Businesses would be required to develop new accounting systems to record labour payments, and service providers would be required to estimate and quote the labour component of all services provided.

Aside from these issues, there would need to be specific nexus rules that distinguish Western Australian payments from those made to other jurisdictions. Such rules would need to be consistent across all States and Territories, so that double duty or avoidance issues did not arise. In the absence of agreement and cooperation from all jurisdictions, such a proposal would be extremely difficult to progress unilaterally.

Even if such a proposal was to progress unilaterally, definitional issues may still arise, particularly for the tax treatment of the labour component of mixed goods and services. However, some of these costs would be likely to be ‘once-off’.

In many respects (i.e. in terms of economic incidence), extending payroll tax to all labour would emulate a State PAYG personal income tax system. However, a similar base broadening effect might be achieved by lowering the payroll tax threshold. Setting the payroll tax threshold sufficiently low would ensure that contracting firms that pay wages were brought into the payroll tax net, without the need to develop new definitions or accounting systems.

A significant amount of work and industry consultation would be required to develop this proposal further. It is unlikely that this could be completed before the implementation of the final recommendations in the 2007-08 Budget. Some members of the Reference Group were also opposed to this proposal, including due to the interstate inconsistencies that would arise.

Preliminary Findings

While there would seem to be merit in extending payroll tax to a tax on payments for all labour services on efficiency and equity grounds, there would be major practical issues and it is unlikely that such a proposal could be fully developed in the timetable for the Review.

8. Conveyance Duty

Stamp duty applies to the conveyance (i.e. purchase or other transfer of ownership) of property (primarily land, buildings, mining tenements and certain intangible assets such as business goodwill), according to the following scale.

Table 22

2005-06 SCALE

Property value $'000	Base Duty at Threshold	Marginal Rate on Excess
0 – 80	Nil	2.0%
80 – 100	$1,600	3.0%
100 – 250	$2,200	4.0%
250 – 500	$8,200	5.0%
Over 500	$20,700	5.4%

Exemptions from conveyance duty are available to first home buyers (subject to certain property value limits), designated government authorities, universities (in certain circumstances), charities, certain superannuation schemes and spouses transferring a PPR from single to joint ownership (includes de-facto spouses).

Conveyance duty includes both residential and non-residential (i.e. business) components. Proposals to abolish conveyance duty on non-residential transactions are considered in Chapter 3 ('GST-Agreement Taxes').

8.1. General Concerns Over Tax Burden

Conveyance duty revenues increased by 183% between 2001-02 ($647 million) and 2005-06 ($1,833 million), or from 22% of total taxation revenue to 36%. These increases were primarily the result of stellar growth in the property market, together with bracket creep and a small net increase in tax rates (after allowing for the introduction of a capped exemption for first home buyers).

What Submissions Said

A number of submissions raised concerns over the general burden of conveyance duty and recommended that it be significantly reduced or abolished.

Abolition

The Trinity School for Seniors (59), the PCA (113) and REIWA (84) recommended that stamp duty be abolished.

- The PCA (113) recommended the phased reduction of stamp duty on all property transactions following the immediate abolition of stamp duty on non-residential conveyances.

- REIWA (84) recommended that the Government commit to long-term tax reform underpinned by the GST and through eliminating single sector taxes.

Reduction in Rates

The CCI (81), REIWA (84), Grahame Young (99), and the ACCI (105) recommended a reduction in conveyance duty rates.

- REIWA recommended that rates be reduced by 6% (to around average 2001 levels).

Thresholds

Several submissions made recommendations to increase or index thresholds. These proposals are considered more fully in Chapter 5 ('Indexation of Tax Scale Thresholds'). The main argument for increasing or indexing tax thresholds was to address bracket creep. Some submissions cited the fact that thresholds have remained unchanged since the early 1980s (even though property prices have increased by multiple amounts since then).

The CCI (81) also raised the possibility of simplifying the scale by reducing the number of tax brackets.

Other

The Australian Institute of Conveyancers Western Australian Division (AIC) (106), Mr & Mrs Ansell (7), and Kim Bonser (39) raised general concerns over conveyance duty costs, without making specific recommendations.

Property Values and Recent Increases in Revenue

The main argument advanced for reducing the conveyance duty burden was that conveyance duty revenues have significantly increased over recent years, reflecting higher property values and higher tax rates (not withstanding recent reductions). Other more specific comments included the following.

- REIWA (84), the ICAA (124) and the UDIA (125) noted that the growth in stamp duty revenue has been greater than the growth in house prices. REIWA (84) also highlighted that stamp duty costs represent a growing proportion of house purchase prices.

- CCI (81), REIWA (84) and the PCA (113) also highlighted the high and increasing proportion of total tax revenue made up by conveyance duty and other property taxes.

- CCI (81) was also concerned that this proportion was higher than in other States, and that Western Australia collects the second highest amount of conveyance duty on a per capita basis.

- The PCA (113) and REIWA (84) were concerned over the sustainability of the reliance on conveyance duty or property taxes. REIWA (84) argued that when collections are strong this encourages inefficiencies in other revenue areas and unsustainable government expenditure commitments (when the property market stabilises tax increases may also result).

REIWA (84), the CME (82), UDIA (125) and the AIC (106) also considered that increases in conveyance duty rates had contributed to growth in conveyance duty revenue and costs.

- REIWA (84) argued that rate increases since 2001 have not been warranted and that recent reversals of stamp duty increases have proven this.

- The UDIA (125) considered that there is no justification for maintaining tax brackets and raising stamp duty rates at the same time, and highlighted that the largest increases in rates between 1982 and 2005 were for $100,000 to $250,000 properties (i.e. the value range for most median-priced properties for most of this period).

Housing Affordability

Several submissions considered that reductions in conveyance duty costs would improve housing affordability (or that high costs were compromising housing affordability). This included Michelle Zimmel (10), K.Ridley (22), ACCI (105), the AIC (106), and the following submissions.

- REIWA (84) and the UDIA (125) highlighted the deterioration in affordability as measured by monthly home loan repayments, by the proportion of family income devoted to meeting the average home loan, and/or by comparing higher increases in the annual income required to purchase a median priced home to lower increases in earnings.

- Shelter WA (115) considered that people on lower incomes were having more difficulty in finding affordable accommodation, and stamp duty costs add to these difficulties.

- Going forward, the MBA (63) was opposed to tax measures that detrimentally impact on housing and land affordability.

Efficiency

A number of submissions questioned the economic impact of stamp duty on conveyances and/or considered that a reduction in stamp duty costs would improve economic outcomes. This included the PCA (113), REIWA (84), Grahame Young (99), AIC (106), ACCI (105). The main reasons for this included the following.

- Stamp duty on property transactions impedes the turnover of property or was detrimental to investors and businesses (113, 105, 106, 22).

- A high rate of duty on property and business transactions inhibits the efficient allocation of resources, resulting in the retention of unsuitable premises and a dampening of the "velocity" of transactions. The Queensland model of low rates and a broad base is preferable from an equity and efficiency perspective (99).

- Property prices do not reflect their economic value or conveyance duty has a distorting influence on the real estate market (the PCA considered that property taxes lower the capital values of land and increase the rental returns sought from tenants) (84, 113).

- Access Economics modelling has found that reducing stamp duties on property (especially non-residential conveyances) would result in greater gains in economic welfare than reducing payroll taxes by a similar amount (84, 113).

- Several years of property growth will be required to compensate for total purchase costs, especially in a weak property market or low inflation environment (84, 99).

Equity

Submissions also considered that the equity of the tax system could be improved by reducing conveyance duty costs, including the Trinity School for Seniors (59) and the following submissions.

- REIWA (84) considered a more equitable tax system would be achieved by constraining increases in stamp duty costs to the capacity of buyers to meet these costs.

- The PCA (113) argued that stamp duties are narrowly-based as they only affect selected transactions, with renters only contributing indirectly to stamp duty costs.

Competitiveness

Several submissions raised competitiveness concerns over the level of property taxes and conveyance duty.

- The PCA (113) considered that property taxes reduce competitiveness and that Western Australia needs an efficient tax system to attract capital and investment. It was also argued that the high level of gearing in many property transactions exacerbates the impact of tax increases.

- The Trinity School for Seniors (59) argued that stamp duty on a median priced home is higher than in every other State (except Victoria).

- The AIC (106) argued that investors are investing interstate (particularly Queensland) because of high stamp duty costs.

- REIWA (84) argued that Australia is the fifth most reliant OECD country on property taxes.

Analysis of Issues

Budget Impact

The revenue costs of the recommendations made in submissions are provided below, including indicative costs for rate reductions and threshold changes.

Table 23

REVENUE COSTS OF RECOMMENDATIONS

	2006-07 $m	**2007-08 $m**	**2008-09 $m**	**2009-10 $m**
Abolition	1,741	1,568	1,619	1,729
Rate reductions				
Indicative rate reduction of 5%	77	69	72	77
Revert to 2001 conveyance duty scale	109	98	102	109
Threshold increases				
Indexation: Indicative 10% increase in general conveyance duty thresholds across the board	32	29	30	32

Recommendations in submissions for conveyance duty to be abolished or phased out would not be affordable. In addition, State governments have only limited alternative tax bases to draw upon.

- Maintaining a variety of revenue sources is also important in order to take account of strengths and weaknesses in particular revenue streams at different times.

- Replacing conveyance duty with the GST would require a large increase in the GST and the agreement of the Commonwealth and all other States. It would also significantly reduce the State's budget autonomy and flexibility.

Efficiency

Conveyance duty is considered inefficient in a number of ways.

- It distorts investment decision-making against a particular asset class (property), versus other asset classes such as shares (this is also a horizontal inequity).

- In relation to business property (as well as investment property generally), it is a disincentive to transactions that help maximise the land's productive potential by placing it in the hands of those who can put it to best use.

- The relative price sensitivity of capital transactions is such that conveyance duty is potentially more damaging to the economy than, say, taxes on labour (where supply is relatively unresponsive to changes in real wages).

In this respect, to the extent that there is sustainable capacity for tax relief, reductions in conveyance duty should be a relatively high priority. However, timing is a potential issue in the current market environment in Western Australia of strong demand and severe supply constraints (particularly as a result of labour and material shortages in the construction industry).

- In these circumstances, stamp duty reductions may be largely swallowed up in price increases, rather than providing significant efficiency gains or relief for property purchasers. This is considered to require further investigation.

- Consistent with feedback from one Reference Group member, further investigation could include a review of previous work in this area by the Productivity Commission, but resourcing to commission additional work is currently limited.

Furthermore, conveyance duty also needs to be considered in the context of the broader national tax system. To a degree, it could be seen as counteracting Commonwealth tax 'distortions' that work in the favour of property, namely capital gains tax exemptions for PPRs and 'negative gearing' concessions for investors.

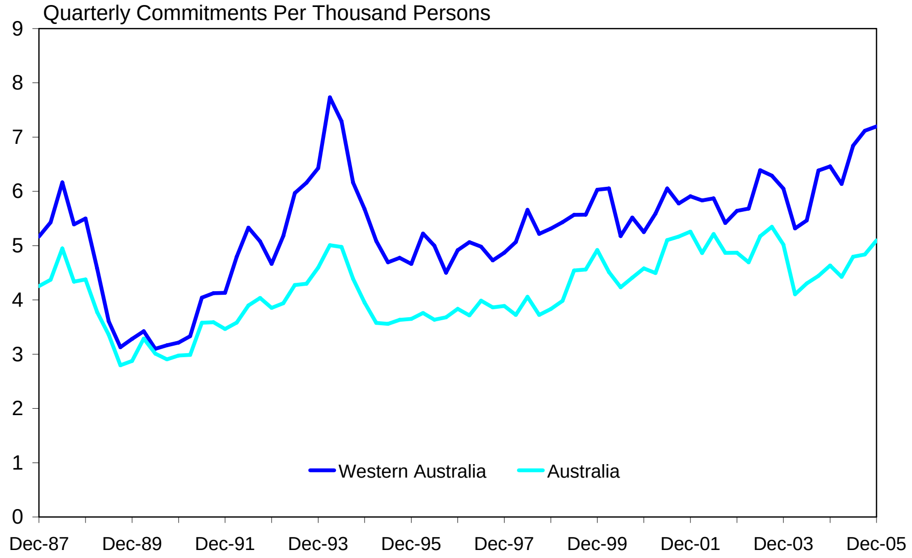
There is little empirical evidence that relatively high conveyance duty rates in Western Australia in the recent past have caused a reduction in the number or 'velocity' of transactions compared to other States. The following chart indicates that there has consistently been greater turnover in finance commitments for established houses for every 1,000 persons in Western Australia than nationally.

- Even when Western Australia's top rate was the most uncompetitive of all States (but lower than the ACT) in 2003-04, the number of transfers per 1,000 persons was higher in Western Australia than it was nationally.

Figure 6

FINANCE COMMITMENTS

Quarterly commitments per 1,000 persons



Equity

The progressive tax scale generally ensures that taxpayers with a higher capacity to pay (to the extent that they are purchasing more valuable property) pay a higher effective rate of conveyance duty.

- Notably, however, the absence of increases in thresholds over time diminishes this redistributional impact of the conveyance duty scale, as a larger proportion of all taxpayers are pushed into higher tax brackets. This impact is considered in more detail below.

Conveyance duty may be considered to be an unfair burden on taxpayers who move and buy property more frequently, although these taxpayers may also purchase lower value property.

While both conveyance duty and mortgage duty are generally applicable at the time of a property transaction, mortgage duty is only levied if borrowings are required to finance a transaction. To the extent that borrowers have a lower capacity to pay, mortgage duty can be considered less equitable than conveyance duty.

Competitiveness

Western Australia's conveyance duty scale is 'middle of the range' in comparison with other States. New South Wales, Queensland, Tasmania and the ACT generally have lower conveyance duty rates for most property values, while Victoria, South Australia and Northern Territory generally have higher conveyance duty rates for most property values.

Table 24

AVERAGE TAX RATES

Property Value	WA	NSW	VIC	QLD[(a)]	SA	TAS	NT[(a)]	ACT
$'000	%	%	%	%	%	%	%	%
100	2.20	1.99	2.20	2.35	2.83	2.43	2.75	2.00
150	2.80	2.49	3.11	2.65	3.22	2.62	3.08	2.50
250	3.28	2.90	4.26	2.89	3.58	3.02	3.73	3.00
300	3.57	3.00	4.55	2.99	3.78	3.18	4.05	3.17
400	3.93	3.37	4.92	3.12	4.08	3.39	4.70	3.75
500	4.14	3.60	5.13	3.20	4.27	3.51	5.35	4.10
1,000	4.77	4.05	5.50	3.47	4.88	3.76	5.40	4.93
5,000	5.27	5.21	5.50	3.69	5.38	3.95	5.40	6.39

(a) Like Western Australia, Queensland and the Northern Territory have a concessional stamp duty scale for principal places of residence. Most States have first home buyer concessions.

Source: Overview of State Taxes Western Australia 2005-06.

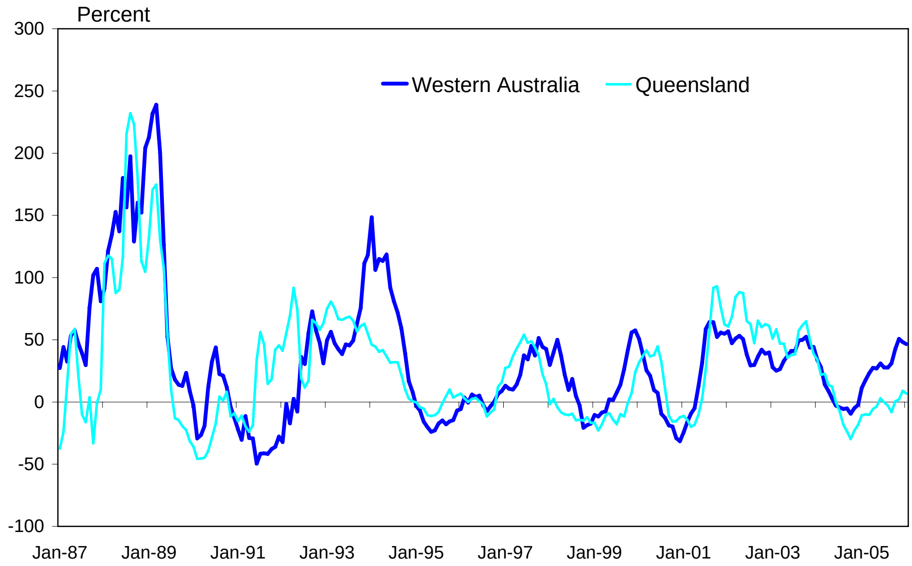
Competitiveness seems unlikely to be an important factor for most property purchases, given the immobility of real property (real property is estimated to make up over 90% of the conveyance duty base). It is only likely to be important for businesses that have the option of locating interstate, or for investors that are considering buying property interstate.

In regard to the claim in submissions that investors are investing interstate, particularly in Queensland, as a result of higher stamp duty rates in Western Australia, the following chart shows that in fact there has typically not been a significant difference between growth in housing finance commitments by investors in these two States (with Western Australia outstripping Queensland recently).

Figure 7

INVESTOR FINANCE COMMITMENTS

Growth in Value



Stamp duty payable on the median house price in Western Australia is also in the middle of the range of other States, and is significantly less than stamp duty payable on the median house price in Sydney and Melbourne.

Table 25

CONVEYANCE DUTY ON MEDIAN HOUSE PRICES

	Sydney	Melbourne	Brisbane[a]	Perth	Adelaide	Hobart
Median house price (Dec qtr 2005)	$518,000	$375,000	$320,000	$335,000	$270,000	$276,500
Stamp duty payable	$18,800	$18,160	$9,675	$12,450	$9,905	$8,610

(a) Stamp duty payable on a Principal Place of Residence in Brisbane is $3,700.

Notably, on a per capita basis, Western Australia collects more conveyance duty than any other State. However, this would reflect, at least in part, the higher rate of turnover of property in Western Australia.

Table 26

CONVEYANCE DUTY PER CAPITA (2004-05)

	WA	NSW	VIC	QLD [(a)]	SA	TAS [(b)]
Conveyance duty per capita ($)	$610	$486	$467	$441	$365	$349

(a) 2005-06 Queensland Budget estimate.

(b) Total financial transactions taxes.

Provide Conveyance Duty Relief on the Basis of Recent Increases in Revenue

As indicated in several submissions, conveyance duty revenues in Western Australia have increased strongly over recent years (as shown in the following table, in non-policy adjusted terms) and as a proportion of total taxation revenue.

Table 27

CONVEYANCE DUTY REVENUE

	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06 [(a)]
Conveyance duty ($ million)	549	647	833	1,207	1,218	1,833
Growth on previous year	6.3%	17.9%	28.7%	44.9%	0.9%	50.4%
% Total Taxation Revenue	19.0%	22.0%	24.6%	29.3%	28.2%	35.9%

(a) 2006-07 Budget estimate.

However, if looked at over a longer period, significant volatility is likely to be apparent.

In principle, concerns over the growing dependence on conveyance duty revenue, including the threat that this could pose to Government finances when the property market weakens, can be addressed through the Government's overall fiscal strategy, including ensuring that its operating surplus is sufficiently robust to withstand cyclical fluctuations.

- To the extent that current very strong property market revenues include an unsustainable, one-off component, it may be appropriate for this component to be invested in debt reduction or capital works funding rather than increased recurrent expenditure or tax reduction programs. Unfortunately, identifying or measuring the one-off component is difficult.

Provide Conveyance Duty Relief on the Basis of Increasing Property Prices

The following table shows how the growth in Perth's median house price has accelerated over the last five years.

Table 28

GROWTH IN PERTH MEDIAN HOUSE PRICE (YEAR ON YEAR)

	Dec-96	Dec-97	Dec-98	Dec-99	Dec-00	Dec-01	Dec-02	Dec-03	Dec-04	Dec-05
Price ($'000s)	128.0	136.6	142.5	149.9	158.2	171.8	194.4	236.3	275.0	335.0
Growth on previous year		6.7%	4.3%	5.2%	5.5%	8.6%	13.2%	21.6%	16.4%	21.8%

The progressive nature of the conveyance duty scale has the effect that as prices increase, property transactions are subject to higher average rates of conveyance duty as they are pushed into higher tax brackets (i.e. 'bracket creep'), if no adjustments are made to the property value thresholds.

- The following table shows that between the December quarters of 2000 and 2005, the Perth median house price increased by 112%, while stamp duty costs increased by 191%. Similarly, stamp duty costs increased from 2.7% of the purchase price of a median-priced home to 3.7% of the purchase price.

Table 29

GROWTH IN PERTH MEDIAN HOUSE PRICES AND CORRESPONDING STAMP DUTY

	Dec 2000	Dec 2001	Dec 2002	Dec 2003	Dec 2004	Dec 2005
Median house price ($'000s)	158.2	171.8	194.4	236.3	275.0	335.0
Growth since Dec 2000		8.6%	22.9%	49.4%	73.8%	111.8%
Stamp duty ($)	4,283	4,787	6,118	9,004	9,450	12,450
Growth since Dec 2000		11.7%	42.8%	110.2%	120.6%	190.7%
% of median house price	2.7%	2.8%	3.1%	3.8%	3.4%	3.7%

As a result of the increases in property values, there has been a steady increase in the percentage of residential property sales in higher tax brackets (as shown in the following table).

Table 30

PROPORTION OF RESIDENTIAL PROPERTY SALES WITHIN EACH TAX BRACKET

	$0 – $80,000	$80,000 – $100,000	$100,000 – $250,000	$250,000 – $500,000	Over $500,000
2000-01	12%	10%	61%	15%	3%
2001-02	8%	8%	61%	19%	4%
2002-03	5%	5%	60%	24%	5%
2003-04	5%	3%	53%	31%	7%
2004-05 [(a)]	3%	2%	46%	40%	9%

(a) July 2004 to April 2005.

Source: Valuer General's Office data.

As noted, in order to alleviate this bracket creep, a number of submissions suggested the indexation of conveyance duty thresholds to help ensure that stamp duty costs increase more in line with property prices. The policy arguments for and against indexation, both generally and in relation to conveyance duty specifically, are considered in Chapter 5.

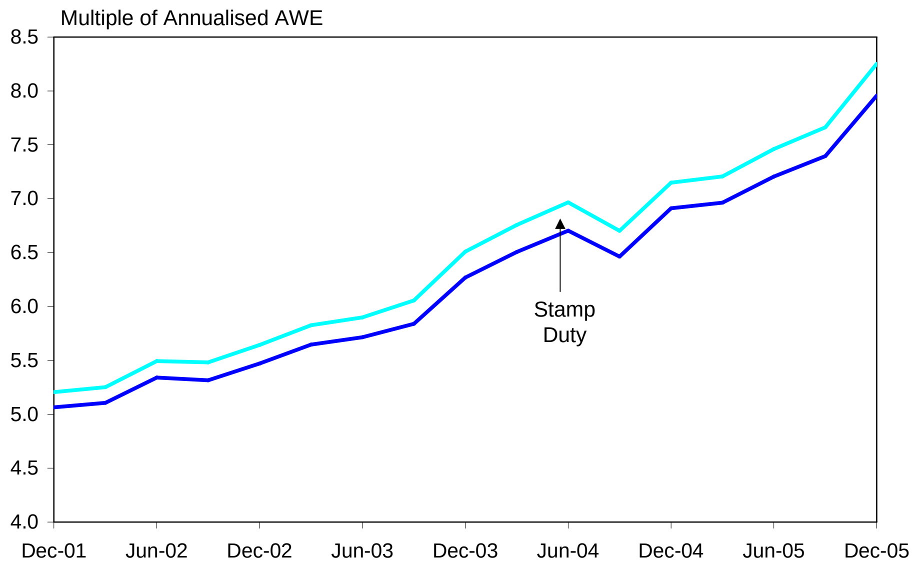
Provide Conveyance Duty Relief to Improve Housing Affordability

Based on the standard affordability measure of the median house price as a proportion of average annual income, it is recognised that housing affordability in Western Australia has reduced considerably over recent years. This is shown by the following chart, which compares house prices to (annualised) average weekly wages.

Figure 8

HOUSING AFFORDABILITY

Perth Median House Price (Including and Excluding stamp duty)
As a Multiple of Average Weekly Earnings (AWE)



Housing affordability in Western Australia also compares favourably with other capital cities, based on December quarter 2005 house price data.

Table 31

INTERSTATE COMPARISON OF HOUSING AFFORDABILITY

	Sydney	Melbourne	Brisbane	Perth	Adelaide	Hobart
Median house price (Dec qtr 2005)	$518,000	$375,000	$320,000	$335,000	$270,000	$276,500
Median house price as a multiple of annualised average weekly earnings	11.5	8.9	8.3	8.0	7.5	7.5

As noted in Chapter 10 ('Motor Vehicle Taxes'), affordability considerations could be considered a relevant factor in determining a priority ranking for tax relief. In this regard, it was found that conveyance duty relief would be ahead of stamp duty relief for motor vehicle transactions, reflecting that housing prices have increased much faster than vehicle prices recently.

However, it is doubtful that reducing stamp duty costs would improve general housing affordability to a significant extent.

- Firstly, increases in regular mortgage repayments resulting from increased property prices would be a more significant factor than upfront increases in stamp duty costs in reducing housing affordability.

- Secondly, as noted, reductions in stamp duty costs may largely be 'captured' by sellers of property, rather than being passed onto purchasers in the current property market environment.

Apart from general reductions in conveyance duty rates or threshold adjustments, it would also be preferable for any specific measures to address housing affordability to be considered in conjunction with the DHW.

Provide Conveyance Duty Relief on the Basis of Past Increases in Rates

The following table shows changes in conveyance duty rates since the early 1980s (thresholds have been unchanged in this period), and is relevant in the context of arguments that conveyance duty rate reductions should be a priority on a 'first in - first out' basis (i.e. tax rates that were increased previously should be the first to be reduced when fiscal capacity permits).

Table 32

CHANGES TO CONVEYANCE DUTY RATES

Marginal Tax Rate (%)

Value$'000	From 1 Nov 1983	From 1 July 1998	From 1 July 2002	From 1 July 2003	From 1 July 2004	From 29 Oct 2004
Less than 80	1.75	1.95	2.00	2.30	2.20	2.00
80 – 100	2.50	2.85	3.00	3.45	3.30	3.00
100 – 250	3.25	3.70	4.15	4.75	4.50	4.00
250 – 500	4.00	4.55	5.15	5.90	5.60	5.00
Above 500	4.25	4.85	5.50	6.30	6.00	5.40

Notably, two reductions in conveyance duty rates in the second half of 2004 have unwound a significant component of rate increases in 2002 and 2003. In addition, first homeowner stamp duty concessions have been introduced which provide that no stamp duty is payable by first homeowners on properties valued up to $250,000, with a partial exemption for properties valued up to $350,000.

- Based on the original costings, these concessions were equivalent to around a 5% reduction in conveyance duty rates. This leaves only a relatively small net increase in rates over the last five years.

Preliminary Findings

While conveyance duty is a relatively undesirable transaction tax, it will need to remain an important revenue source for the State on the basis of affordability, and constitutional and other constraints on alternative sources of revenue.

More work on the impact of conveyance duty cuts on economic efficiency and home affordability in an environment of tight supply constraints, as in the present market, would be desirable in Stage 2 of the State Tax Review.

In regard to the appropriate mechanism for providing any further conveyance duty relief, the sheer extent of bracket creep over the last 20 years suggests that threshold increases could be given some priority over rate reductions.

8.2. Housing-Specific Issues

Specific proposals were made in submissions in relation to conveyance duty concessions for first home buyers and owner-occupiers, the sale of house and land packages, and shared equity arrangements.

First Home Buyers and Principal Places of Residence Concessions

The first home buyer conveyance duty exemption was introduced on 1 July 2004 for homes valued up to $220,000 (phasing out at $300,000) and vacant land valued up to $100,000 (phasing out at $150,000). On 29 October 2004, these thresholds were increased to $250,000 (phasing out at $350,000) and $150,000 (phasing out at $200,000) respectively.[21]

The purchase of a PPR or small business valued below $100,000 is subject to a concessional rate of duty of 1.5%. This concession phases out for properties valued between $100,000 and $200,000. The PPR and small business concessions were only estimated to cost $1.6 million in 2004-05.

What Submissions Said

Concessions Generally

Grahame Young (99) argued that conveyance duty concessions (e.g. for home buyers and small businesses) may not be required if the threshold at which the top rate becomes payable is substantially increased and other thresholds carefully chosen. He also argued that the effect of bracket creep has necessitated concessions and exemptions that are expensive to administer and impose additional compliance burdens on taxpayers.

First Homebuyers

Several submissions made recommendations to increase stamp duty concessions for first homebuyers. The UDIA (125), ACCI (105) and submission no. 134 recommended that stamp duty be waived for all first homebuyers. The UDIA (125) raised the option of a top threshold for the concession of $500,000.

The MBA (63) recommended that house and land packages should have higher first homebuyer exemption/concession thresholds (as an alternative proposal if their proposal that stamp duty only be levied on the land component of house and land packages is not accepted).

The main reasons provided for these recommendations included the following.

- The median house price has reached $300,000, so most first homebuyers would no longer qualify for a full rebate from stamp duty. First homebuyers willing to buy a "decent home within close proximity to Perth" would require $350,000 to $400,000 (125).
- Stamp duty costs are cancelling out the FHOG (125, 105).
- The number of first homebuyers has been decreasing while the number of non-first homebuyers has been increasing (125).

[21] These measures replaced a capped $500 conveyance duty refund paid to first home buyers for properties valued up to $135,000.

- The first homebuyer concession is discriminatory and does not take account of different house prices in different localities. In particular, a concern was expressed about the unavailability of homes in Broome for less than $250,000 (134).

Alternatively, the HIA (86), UDIA (125) and MBA (63) recommended the indexation of first homebuyer thresholds (and concessional thresholds in the case of the MBA). Further information on these proposals is provided in Chapter 7 ('Indexation of Tax Scale Thresholds').

In relation to the FHOG, the UDIA (125) recommended increasing the level of the grant for new house and land packages (and for low-income households), on the basis that this would better target the scheme to homebuyers adversely impacted by the GST.

Other Housing Issues

The MBA (63) recommended that duty be abolished on conveyances for purchaser's PPR. It was argued that this would be consistent with Federal capital gains tax provisions and the objectives of the FHOG.

John Hyde MLA (89) recommended higher conveyance duty cuts for the lower end of the housing market and for regional Western Australia. He also raised concerns about the amount of 'cheap' investment in the inner city.

Analysis of Issues

Budget Impact

The existing first home buyer concession is estimated to cost around $73 million in 2005-06. The following table shows the estimated costs of increasing the thresholds, together with the cost of abolishing duty on PPRs.

Table 33

REVENUE COSTS OF RECOMMENDATIONS

	2006-07 $m	2007-08 $m	2008-09 $m	2009-10 $m
Increase first homebuyer threshold to $300,000	23	21	21	23
Increase first homebuyer threshold to $335,000 (price of Perth median priced home in December quarter of 2005)	35	31	32	35
Increase first homebuyer threshold to $500,000	58	52	54	57
Stamp duty exemption for principal place of residence	651	586	605	647

Concessions Generally

As noted in the previous section, the lack of increase in conveyance duty scale thresholds has meant that a larger number of properties are being assessed at higher conveyance duty rates. The various homebuyer concessions could at least partly be a response by governments to this impact.

- This implies a preference of governments to target any relief to this component of the taxpayer base, the merits of which are considered against the State Tax Review criteria below.

First Home Buyer Conveyance Duty Concessions

Stamp duty and FHOG assistance totalling $14,200 is currently available to first homebuyers purchasing a $250,000 home in Western Australia, with this assistance gradually phasing down to the FHOG grant of $7,000 at $350,000. Apart from offsetting transaction costs, this could be viewed as helping the first homebuyer build the deposit required for the purchase of a home.

Equity is understood to be the main basis for first homebuyer concessions, with first homebuyers assumed to have a lower capacity to pay stamp duty than other property purchasers. This would follow from the likelihood that, on average, they would be younger people on lower incomes than trade-up homebuyers or investors.

- Furthermore, in a rising property market, first homebuyers would not benefit like other homebuyers from an increase in the value of an existing home (similar to the rationale for the FHOG scheme, where it was mainly first homebuyers who suffered a net adverse impact from the GST on homes).

The capacity to 'piggyback' the first homebuyers stamp duty concession scheme off the existing FHOG scheme substantially reduces its administration and compliance costs. It is also relevant that most other States also provide substantial stamp duty concessions for first homebuyers.

Erosion of 'Value' of Concession

The following table compares median house prices in Perth and the value of the first homebuyer conveyance duty exemption at these price levels (i.e. the conveyance duty paid by first homebuyers as a percentage of the amount payable under the general conveyance duty scale) over the last 18 months.

Table 34

MEDIAN HOUSE PRICE AND FIRST HOME BUYER (FHB) STAMP DUTY EXEMPTION

	Median house price	Conveyance duty		Value of FHB concession	
		General	FHB	$/% of general duty	
July 2004	$253,000	$9,338	$4,937	$4,401	47%
October 2004	$275,000	$9,450	$3,300	$6,150	65%
December 2005	$335,000	$12,450	$11,220	$1,230	10%

When first introduced, Western Australia's first home buyer exemption was one of the most generous in comparison to other States, on this basis. However, the 'value' of Western Australia's stamp duty concession is now relatively low, reflecting strong growth in the Perth median house price.

Table 35

STAMP DUTY CONCESSIONS FOR FIRST HOMEBUYERS (DEC QTR 2005)

	Sydney	Melbourne[(a)]	Brisbane	Perth	Adelaide	Hobart
Median house price	$518,000	$375,000	$320,000	$335,000	$270,000	$276,500
Stamp duty for non-first homebuyers	$18,800	$18,160	$3,700	$12,450	$9,905	$8,610
Stamp duty for first homebuyers	$4,048	$15,160	$1,900	$11,220	$9,905	$4,610
Concession	$14,752	$3,000	$1,800	$1,230	$0	$4,000
% Concession	78%	17%	49%	10%	0%	46%

(a) A flat $3,000 grant for first homebuyers unrelated to stamp duty is provided in Victoria.

Based on FHOG data, the median price of established homes purchased by first home buyers in the December quarter 2005 of $256,5000 was only 77% of the median price of all Perth homes sold during this period. Nonetheless, the proportion of first home buyers receiving the full exemption has been steadily decreasing over time.

- In the December quarter 2005, an estimated 48% of first home buyers received the full exemption (with 83% receiving a full or partial exemption).

- In comparison, for the March quarter 2005, 65% of first homebuyers received the full exemption (with 90% receiving a full or partial exemption).

While this erosion of the value of the first homebuyer concession suggests that there is an equity case for increasing the eligibility thresholds, an important consideration in the current strong property market (with severe supply constraints) is whether this may further fuel house prices, offsetting the benefits of the assistance.

- As is the case of any general rate cuts in the current market environment, more investigation of this issue would be desirable in Stage 2 of the Review.

Appropriate Value Thresholds for First Home Buyer Concessions

The eligibility caps for the first home buyer stamp duty exemption and concession are considered to be equitable on the basis that purchasers of high value homes are unlikely to warrant assistance on capacity to pay grounds. Thus, proposals in submissions for stamp duty to be waived for all first homebuyers are not supported.

Nor is it considered that the exemption threshold needs to be set as high as the full median house price, as it would be reasonable to assume a lower entry point for first homebuyers (as is seen in practice in the FHOG data). Thus, the proposal in submissions to increase the stamp duty threshold to $500,000 (well above the current median price) is also not supported.

Nonetheless, an increase in the exemption threshold to $300,000 (and the concession threshold to $420,000) would broadly restore the value of the scheme to its level when the thresholds were last adjusted in October 2004. At these levels, the proportion of first homebuyers receiving a stamp duty concession would increase to 92%, with 70% receiving the full exemption.

Differentiation Of Concession Thresholds

Several submissions proposed that the eligibility thresholds for the stamp duty concession scheme should be higher in regions that generally have higher property values than the Perth median house price (e.g. inner city Perth and Broome).

By implication, this also suggests that thresholds should be lower in regions where property values are lower. Unfortunately, however, regional differentiation along these lines would substantially complicate the scheme and add significantly to administration costs. A single ‘generous’ threshold that is relevant to most regions is considered the best on-balance policy choice.

- Notably, the FHOG scheme is even less targeted to reflect property value differentials, presumably to help ensure its administrative practicality.

It is considered that the proposal for higher first home buyer stamp duty concession thresholds for house and land packages would introduce a distortion vis a vis the purchase of established houses, prices of which are equally affected (albeit less directly) by the GST.

- This also applies in respect of another proposal for a higher FHOG for house and land packages, which is outside the scope of the State Tax Review. The FHOG is a national scheme and any changes to the scheme require the agreement of the Commonwealth and all States and Territories.

Principal Place of Residence Concessions

Exempting all owner-occupier purchasers from conveyance duty is estimated to cost around $650 million in 2006-07 (or around 37% of the conveyance duty base). Apart from being unaffordable, untargeted assistance of this nature would also be difficult to justify on equity grounds.

Furthermore, on economic efficiency grounds, conveyance duty on non-residential property transactions is considered to be more damaging than it is on residential property transactions. After taking into account all of the State Tax Review principles, it would seem preferable to provide any conveyance duty relief on a broader basis.

Nonetheless, given recent growth in property prices, the current PPR concession has little relevance in the current property market. Furthermore, most other States and Territories do not offer stamp duty concessions for PPRs. The exceptions are Queensland (concessions on the first $300,000 of home purchases) and Northern Territory (a flat rebate on stamp duty paid of up to $2,500).

While one option is to consider increasing the PPR exemption thresholds, another may be to abolish the scheme (including in the interest of a streamlined, simplified tax structure) and plough the additional revenue (although less than $2 million per annum) back into general rate reductions. This is considered to warrant further examination in Stage 2 of the Review.

Other Issues

As indicated elsewhere in this report, it is generally considered that policy tools other than the State tax system are better suited to achieving the Government’s broader economic, social and environmental objectives. This applies equally to the proposal for lower stamp duty in regional areas.

The proposal for higher conveyance duty cuts for the lower end of the housing market seems unnecessary in view of the existing progressive rate scale and concession scheme for first home buyers.

Preliminary Findings

There is a sound case for increasing the thresholds for the first homebuyer stamp duty concession scheme in terms of maintaining the value of the concession. However, given the uncertainties surrounding whether this would be offset by higher prices in the current strong property market, the timing should be further considered in Stage 2 of the Review.

The respective merits of enhancing or abolishing the PPR stamp duty concession scheme (which is currently available to all home buyers, first or otherwise, up to a relatively low value limit) should be evaluated in Stage 2 of the Review.

Principal Places of Residence Technical Issues

What Submissions Said

Companies and Trusts

Mr & Mrs Ansell (7) submitted that stamp duty can create unexpected difficulties for regularising home ownership within families (e.g. conversion of the ownership of a PPR from a company or trust structure).

Definitional Issues

The ICAA (2) recommended that the PPR definition be standardised across Federal and State jurisdictions. Differences occur both within a jurisdiction for different tax bases and between jurisdictions. It is claimed that there are insufficient policy reasons to justify these differences, which create an administrative burden on business.

Analysis of Issues

Companies and Trusts

A land tax exemption is provided for land owned and occupied as a PPR. However, in September 2001, this land tax exemption was removed where a property is held under a company or trust structure.

- The stated rationale for the removal of this exemption was that while individuals should be free to place their family home in a company or trust structure and gain the associated commercial benefits (including asset protection), they should not expect to enjoy the same land tax treatment provided to natural persons who own and occupy their home, and as a result forego those other benefits.

On 8 September 2005, the Government announced that it would compensate those individuals who chose to transfer their properties into direct ownership to access the land tax exemption for a PPR through the introduction of a stamp duty rebate on these transfers. This applies to those individuals who held their family home in a company or trust structure on 13 September 2001, and transfer their property on or after 1 November 2005 and before 1 November 2006.

Definitional Issues

Addressing differences in the PPR definition between jurisdictions would require support from other jurisdictions. Furthermore, the claim that lack of consistency (both within and between jurisdictions) is causing significant compliance difficulties for taxpayers and practitioners would require further substantiation before any further action was considered justified.

Preliminary Findings

The recent policy decision to provide a window of opportunity for taxpayers to obtain a rebate of the stamp duty on unwinding company and trust structures (subject to meeting the eligibility criteria), so as to obtain the PPR land tax exemption, is considered to have adequately addressed taxpayer concerns in this area.

While differences in the definition of a PPR for various tax purposes exist both between and within jurisdictions, the extent of the compliance costs and difficulties associated with this, and therefore the priority that should be given to remedial action, is currently unclear. This should be examined further in Stage 2.

Shared Equity Arrangements

DHW currently assists low income persons to purchase a home by buying equity in the property and selling that equity to the homebuyer when they can afford it.

What Submissions Said

DHW (96) proposed on fairness grounds that the current stamp duty arrangements be amended so that first homebuyers can take full advantage of the concessions available to other first homebuyers who are able to buy their property outright.

DHW argued that stamp duty on shared equity purchases discourages borrowers from purchasing additional equity from DHW, is a disincentive to the accumulation of wealth for retirement, and effectively reduces the funds available to DHW to enter into more shared equity arrangements.

Analysis of Issues

Chapter 4(a) of the Technical Appendices on ‘Shared Equity Home Purchases‘, confirms that purchasers of additional equity from the DHW are not eligible to receive the first homebuyer stamp duty concession, even if they received this concession on the purchase of their original interest in the property. This clearly seems unfair.

- Not only are these homebuyers unable to avail themselves of the maximum benefit of the first homebuyer stamp duty exemption, they will also be subject to conveyance duty on the market value of the additional equity at the time that it is purchased.

The Technical Committee considered it workable to extend the full first homebuyer stamp duty concession to additional purchases of equity from DHW (if the person received the first homebuyer stamp duty concession on the initial purchase). Further information on the possible design of this measure is contained in the Technical Appendicies.

This proposal is estimated to have a negligible impact on revenue.

Preliminary Findings

The first homebuyer stamp duty concession should be extended to purchases of shared equity from the DHW, if the person received the concession on the initial purchase.

House and Land Issues

Submissions to the Review raised various concerns about the levying of stamp duty on newly built housing. Analysis of these issues is also included in Chapter 4(b) of the Technical Appendices to this report (‘House and Land Packages/Spec Homes’).

What Submissions Said

Several submissions, including submission no. 35 and Alcock Brown-Neaves (65), expressed concern that purchases of house and land packages are subject to stamp duty on the value of the house and land, while ‘contract built housing’ (where a person buys land and separately contracts to build a house) is only subject to stamp duty on the land component.

- The MBA (63) and UDIA (125) recommended that stamp duty should only be paid on the land component of house and land packages.
- DHW (96) recommended that a stamp duty exemption be introduced for the housing component of house and land packages under $250,000, or of no more than 170m^2 in area.

The main reasons advanced in support of these proposal included the following.

- The differential stamp duty treatment for house and land packages compared to contract built housing is inequitable and is an economic distortion (63, 86, 96, 125).
- To provide the Government opportunities to promote policies on sustainable housing and/or urban infill, as it is implicitly argued that house and land packages/large scale developments are more likely to be consistent with these policies (63, 96, 125).
- To encourage job growth in the building and construction industry (63).
- To reduce the price of new homes (estimated at 4%) through removing the cascading impact of stamp duty (125).

DHW argued that its proposal would support affordable housing and those not generally well served by the established home market (due to a lack of smaller, lower priced dwellings). It would counter the trend towards increased dwelling size, resulting in lower housing costs and environmental impacts.

The UDIA (125) raised concerns over the general level of taxes, fees and charges on new housing developments. It argued that stamp duty and land tax are 'nuisance taxes' that are having a major impact on property development and housing affordability.

Deferral of Stamp Duty

The HIA (86) recommended that stamp duty incurred by a builder when initially acquiring vacant land should be deferred until the house and land package is sold to a consumer.

The UDIA (125) suggested that a refund mechanism be provided for the developer's/builder's stamp duty costs, involving either a reduction in the homeowner's stamp duty costs or a refund to the developer. It argued that this would provide recognition of the multiple layers of stamp duty and that land acquired by builders or developers is trading stock.

Exemption From Aggregation Provisions

The HIA (86) recommended that builders who purchase lots for the purpose of selling them separately to consumers as house and land packages be exempted from the aggregation provisions in section 75AF of the *Stamp Act*. It claimed that this would help foster and promote business activity in the residential building industry.

Exemption from Put and Call Options

The HIA (86) recommended that builders who enter into a put and call arrangement in order to secure land on which to build a dwelling, and who find a consumer to purchase the house and land package, be exempted from the put and call option provisions of the *Stamp Act.*

- HIA argues that these arrangements are not a sub-sale of land. It claims that the builder's legal rights in relation to land fall short of the rights as owner of the land and at no stage does the builder intend or want to buy the land before finding a purchaser.

Infrastructure Provision

The UDIA (125) also raised concerns that new homebuyers are unfairly paying for infrastructure provision, which is contributing to pricing some of them out of the market. As the infrastructure benefits a wide section of the community and future residents, it recommended an equitable cost sharing arrangement that avoids the cost burden falling on purchases of new land.

Analysis of Issues

The potential double impact of stamp duty is recognised on new housing developments – on the land when it is sold by the land developer to the builder and on the land and house package when it is sold by the builder to the home buyer. It is also recognised that the original stamp duty cost on the land may be reflected in the ultimate purchase price of the home.

- However, the proposal to apply stamp duty only on the land component of the house and land package, to align with the duty treatment of contract built homes, would potentially lead to another inequity - between house and land packages and established homes (a distortion may be introduced in favour of the purchaser of the house and land package).

- The current duty treatment reflects an underlying principle of the *Stamp Act* that duty is levied on the value of property purchased, whenever this occurs. In the above case, the apparent inequity is lessened by the fact that the builder may well accrue a capital gain on the land by the time of the final sale of the house and land package.

Another option for dealing with the ‘trading stock’ nature of land purchased by builders for construction of house and land packages would be to exempt the purchase of the land by the builder (subject to ‘claw-back’ if certain conditions are not met), or provide a rebate of that stamp duty if the property is completed and sold within a certain period (similar to the ‘deferral’ options raised by the HIA and UDIA).

However, it is uncertain if reduced stamp duty costs (in whatever form provided) would be passed on to consumers through lower prices for house and land packages (e.g. if the cost of new housing is relatively cheaper compared to established housing because of lower stamp duty costs, increased demand could result for new housing, pushing up the price of house and land packages).

Furthermore, no other State is known to provide any of the alternative stamp duty treatments canvassed in this section, all would involve additional administration and compliance costs, and the issue arises as to whether (in terms of overall tax reform priorities) the revenue costs could be better invested in broader based rate cuts or other relief.

In relation to the broader arguments for stamp duty relief in this area, the State tax system may not be the most appropriate vehicle for furthering objectives such as urban infill. Nor could encouraging further job growth in the construction industry be considered a priority at this time.

Due to data constraints, these proposals have not been costed at this stage.

Exemption from Aggregation Provisions

As outlined in the chapter prepared in consultation with the Technical Committee, the aggregation provisions are an important anti-avoidance tool, as they address risks to revenue from contract splitting (to take advantage of lower rates of conveyance duty on the ‘split’ properties). On policy grounds it may also be preferable to consider a less progressive conveyance duty scale to discourage incentives to split property contracts (although this may be costly to achieve).

Exemption from Put and Call Options

A call option is a right to buy a property during a certain period at a fixed price, while a put option is a right to sell a property during a certain period at a fixed price. Currently, where a put and call option exist at the same time over the same property for a given consideration, duty is payable on the call option as if it is an agreement to convey the property.

- As noted in the Technical Appendices chapter, the use of put and call options that are in existence over a property at the same time is virtually identical to a contract for the sale of the property, and as such should be subject to conveyance duty. Only genuine arrangements have been excluded from the operation of the put and call option provisions. The use of put and call arrangements by builders and developers is considered to give builders and developers a level of control over the property that is akin to a purchase contract, and should therefore be subject to duty as if the property had been acquired under a contract of sale.

Infrastructure Provision

Issues related to the burden of infrastructure provision falling on new housing are considered outside the scope of the Review.

Preliminary Findings

Any further consideration of the proposals canvassed in this section, aimed at addressing the different stamp duty outcomes for the purchase of house and land packages vis a vis ‘contract built housing’, will be subject to submissions received in Stage 2 of the Review.

Housing Tax Incentive Zones

What Submissions Said

Shelter WA (115) recommended that ‘Housing Tax Incentive Zones’ be established to encourage affordable and appropriate housing stock for Western Australians. The proposal involves developers receiving tax concessions in exchange for providing affordable and appropriate housing (e.g. housing that meets universal access principles) and for funding the provision of infrastructure.

Preliminary Findings

Similar considerations apply here as in relation to the proposals for using the State tax system to assist the disadvantaged, or provide incentives and rewards for environmental and educational and training purposes (see Chapter 6).

In all these areas, the Government is required to make an assessment of whether its broader economic, social and environmental objectives are best addressed through tax concessions or other policy tools such as targeted expenditure programmes.

In this case, affordable housing issues are being assessed in a more integrated way by the DHW.

Link to Housing Strategy

Shelter WA (115) recommended that a joint committee of the State Tax Review and Housing Strategy WA task forces be established to investigate tax incentives and reforms to achieve affordable and appropriate housing outcomes. It argued that this will help ensure that any proposed tax reforms are not counter to the provision of affordable and appropriate housing, help ensure the cost effective implementation of the Housing Strategy WA, and ensure a coordinated approach between government departments.

Preliminary Findings

The objective of an integrated, whole of government approach to affordable housing and State tax reform is strongly supported, and is currently being addressed through interdepartmental consultation between DTF and DHW.

8.3. Alignment of Duty Treatment of Entities and General Land-Rich Issues

Transfers of interests in different types of entities (i.e. different business structures) are currently subject to different conveyance duty treatment, as summarised in the following table.

Table 36

CRITERIA FOR DUTY TO APPLY TO INDIRECT ACQUISITIONS OF PROPERTY

	Listed land-rich company	Unlisted land-rich company	Public unit trust	Private unit trusts	Partnership
% Acquisition	Equal or greater than 90%	Greater than 50%	N/A (unless causes the trust to convert to private)	Any (unless the trust is converting to a public unit trust)	Any
Land value	Equal or greater than $1m	Equal or greater than $1m	N/A	Any	Any
Land to total assets value	60%	60%	N/A	Any	Any
Duty payable on	Land and chattels	Land and chattels	N/A	Land, chattels and residual net value	Land, chattels and residual net value

What Submissions Said

A number of submissions suggested that there should be greater consistency in the stamp duty treatment of transfers of interests in different types of business structures (e.g. companies, trusts and partnerships), and also with the stamp duty treatment of a direct purchase of property.

Some submissions also expressed concern that the ‘land-rich’ provisions of the *Stamp Act* unfairly target certain industries due to the relative importance of land in these industries. A recommendation was also made for the listed ‘land-rich’ company provisions to be repealed.

These issues, including further information on the relevant submissions, are considered in Chapter 4(c) of the Technical Appendices (‘Alignment of Duty Treatment of Entities’).

Recommendations from submissions for the increase or indexation of the $1 million land-rich threshold are outlined in Chapter 5 (‘Indexation of Tax Scale Thresholds’).

Analysis of Issues

The Technical Appendices chapter examines the possible development of a ‘land holder’ regime, which would treat transfers of interests in property holding entities with greater consistency for stamp duty purposes.

- There would be no requirement that land comprise more than a specified threshold proportion of an entity’s total assets before duty could apply, removing a major source of additional compliance and administration costs in relation to the ‘land-rich’ company provisions.
- However, thresholds would still apply in relation to the value of Western Australian land held by the entity, and the proportional ownership that changes hands in a transaction. No duty would apply unless these thresholds were exceeded.
- Additional duty raised would be ‘reinvested’ in lower overall tax rates.

Most Reference Group feedback supported further work on this proposal. While some concern was expressed about compliance costs, these would depend significantly on where the thresholds were struck.

The impact on the mining industry was also queried, including in the context of an extension of the land-rich company provisions to listed companies in the BTR, which it was argued effectively targeted the mining industry and had raised much more than the original revenue estimate.

- Notably, however, cumulative additional revenue from the BTR measure has yet to exceed the original annual revenue estimate, although one large transaction could quickly change this.

Preliminary Findings

The differing stamp duty treatment of acquisitions of land depending on the type of entity involved is inequitable and has no clear policy basis. An alternative ‘land holder’ regime would achieve greater consistency of treatment and should be further investigated in Stage 2 of the Review, including in consultation with the mining industry, which has expressed particular concern about the existing ‘land- rich’ company provisions.

- Further work in Stage 2 should include analysis of impacts on different business types or industry sectors, the appropriate thresholds for excluded transactions, and the extent of rate reductions that may be facilitated by ‘reinvesting’ any additional revenue from this broadening of the base into the stamp duty scale.

Examination of proposals to index or increase the $1 million property value threshold in the existing land-rich company provisions should be postponed until a decision on the proposed ‘land holder’ regime is made.

8.4. Preliminary Findings of Issues Considered in Technical Appendices and Prepared in Consultation with the Technical Committee

This section presents preliminary findings on other issues considered by the Technical Committee. The Technical Appendices to this report should be referred to for background on issues raised in submissions and detailed analysis of issues.

Pooled Investment Trusts and Provisional Public Trusts

Pooled investment trusts and provisional public trusts are excluded from the operation of the private unit trust provisions of the *Stamp Act*. The rationale for excluding pooled investment trusts from the private unit trust provisions is that even though such trusts have a small number of unit holders, they operate in the funds management industry as a vehicle for allowing other funds to diversify into real property-backed managed funds.

In relation to provisional public trusts, relief is provided where a private unit trust is intending to become a public unit trust. In the absence of such relief, a private unit trust would be subject to duty on the dispositions that take place until the trust has sufficient spread of ownership to be considered a public unit trust.

Submissions raised concerns that the provisional public trust and pooled investment trust provisions are inconsistent with other Australian jurisdictions.

These issues are considered in Chapter 4(d) of the Technical Appendices (‘Pooled Investment Trusts and Provisional Public Trusts‘).

Preliminary Findings

The parameters of a ‘land holder’ regime would impact on whether the pooled investment trust and provisional public trust provisions of the *Stamp Act* are still required. Issues raised in submissions should be re-examined in this context in Stage 2 of the Review.

Land-Rich Provisions

The land-rich provisions operate so that conveyance duty is payable on the land and chattels acquired in certain ‘land-rich’ companies.

These issues are considered in Chapter 4(e) of the Technical Appendices (‘Land-Rich Provisions‘).

Submissions made the following specific recommendations in relation to the land-rich provisions.

- Mining and exploration tenements should not be treated as land for the purposes of the land-rich provisions.
- An exemption should be introduced for the 'back-door' listing of land-rich companies.
- The list of excluded assets for the purposes of the land-rich provisions should be aligned with other jurisdictions.
- The definition of 'acquire' in relation to the liquidation of land-rich companies should be amended to exclude acquisitions of land-rich companies that have been exempted from stamp duty.
- The time for lodgement of a land-rich statement should be extended to six months.

Feedback from the Reference Group included the suggestion that both direct and indirect transfers of exploration licences be exempted from stamp duty, on the basis that they were unlikely to comprise an interest in land at common law, and to promote exploration activity. However, this was not considered to be well supported by equity or efficiency arguments.

Preliminary Findings

Mining and Exploration Tenements

Mining and exploration tenements should continue to be defined as land for the purposes of the 'land-rich' stamp duty provisions, as holders of these tenements have certain proprietary rights in relation to the land, and favourable tax treatment would otherwise apply to the acquiring of an interest in tenements through indirect means.

Back-Door Listings

The proposed exemption is not supported as it would not take into account the fact that substantial land holdings are being acquired in Western Australia through back-door listings, and such an exemption is not currently available to unit trusts.

Other Issues

Recommendations on the list of excluded assets, on the definition of 'acquire', and on the time for lodgement of a land-rich statement should be re-examined once a policy decision is made in relation to the adoption of a 'land holder' regime in Stage 2 of the Review.

Application of Stamp Duty to Petroleum Titles

Transfers of petroleum titles are subject to a 1.5% fee (significantly less than the 5.4% maximum conveyance duty rate) for transfers of changes in the direct registration of a petroleum title (i.e. indirect changes in ownership are not taxed).

These issues are considered in Chapter 4(f) of the Technical Appendices to this report (‘Application of Stamp Duty to Petroleum Titles‘).

Preliminary Findings

Increasing the current transfer fee and broadening the fee base to include indirect transfers of petroleum titles, consistent with the current conveyance duty provisions, should be further examined in consultation with other jurisdictions as part of Stage 2 of the Review.

- This will require testing the appetite of the Commonwealth for this reform, and estimating the revenue impact in the context of what scope may be provided for lowering overall conveyance duty rates.

Farm-In Arrangements

A farm-in agreement is an agreement between the owner of a mining tenement and another person, where the other person earns a right to acquire an interest in the tenement through expenditure of an agreed amount on future exploration and development of the tenement. These arrangements are subject to nominal duty.

One submission suggested that the sale of an interest or an agreement to farm-in to a right to extract minerals should also be assessed with nominal duty because it is essentially similar to a farm-in to a mining tenement.

This issue is considered in Chapter 4(g) of the Technical Appendices to this report (‘Farm-in Arrangements‘).

Analysis of Issues

While the Technical Committee did not see any difficulty in subjecting farm-in agreements for the right to extract minerals to nominal duty, further examination of the policy issues is required. This would include examining the extent of these farm-in arrangements and how the expenditure obligations may differ from the mostly (exploration) commitments for farm-in agreements to mining tenements.

Preliminary Findings

The policy issues surrounding the proposal that the farm-in concession be extended to a right to extract minerals should be further examined in Stage 2 of the Review.

Family Farm Exemption Issues

Several submissions suggested amendments to the current arrangements that provide an exemption from conveyance duty for transfers of farming property between defined family members. Recommendations from submissions included the following.

- The family farm exemption should be extended to all businesses.
- Stamp duty relief should be provided in relation to the transfer of a family farm from a company structure to individual family shareholders.
- The family farm exemption should be extended to transfers between 'related' discretionary trusts.
- Concessions for the transfer of company shares should be less restrictive through allowing 'associated family entities' to farm the land.
- The requirement that a transferee continue to farm the land for an exemption to be granted should be extended from the transferee to a 'related entity'.

A recommendation was also made to assess stamp duty on a net basis for land being transferred by primary producers with assets below $15 million (i.e. the net value of any land sold and bought at the same time) in order to promote land consolidation and more efficient businesses.

These above issues are considered in Chapter 4(h) of the Technical Appendices ('Family Farm Exemption Issues').

The PGA (71) also recommended that all existing stamp duty concessions for the transfer of a farming business should remain, and that other stamp duty imposts that result from the transfer of a farming enterprise within a family be reviewed.

Preliminary Findings

While no substantive changes are proposed to the family farm exemption provisions, consideration should be given to whether a 'Commissioner's practice' would clarify the allowance of a reduction in stamp duty when a family company is liquidated and the farm assets are transferred to its shareholders.

The proposal for stamp duty to be levied on a net basis for certain primary producers is not supported as it would provide lower stamp duty costs only to potential purchasers engaging in land consolidation, and would be difficult to administer.

Corporate Reconstruction Issues

A number of submissions suggested that the exemptions provided for corporate reconstructions should be broadened and/or aligned with provisions in other jurisdictions. The following recommendations were made in submissions.

- A degree of flexibility should be adopted in the pre-association test so that the length of the test may be reduced where a corporate group would need to undertake a series of transactions to qualify for the corporate reconstruction exemption.
- The length of the post-association test should be aligned with the NSW provisions, which has a one-year post-association test.
- The claw-back provisions should be not triggered when the post-association test is broken because of a public float.
- The corporate reconstruction provisions should be consistent with capital gains tax rollover provisions.
- The corporate reconstruction concessions for companies should be extended to all businesses.

These issues are addressed in Chapter 4(i) of the Technical Appendices (‘Corporate Reconstruction Issues’).

Preliminary Findings

The appropriate scope and policy basis for the corporate reconstruction stamp duty relief provisions should be further investigated in Stage 2 of the Review, taking into account any move to replace the current disparate treatments of transfers of indirect interests in property with a new ‘land holder’ regime.

Family Law, Superannuation and Trust Issues

Several submissions to the State Tax Review made recommendations in relation to Part IVD of the *Stamp Act*, which provides for nominal duty treatment for certain transfers of property between spouses or defacto partners upon the breakdown of a marriage or a defacto relationship, where the transfer is made pursuant to a maintenance agreement or Court order. The following recommendations were made in submissions.

- Certain transfers to and from family trusts and superannuation funds upon a marriage or defacto relationship breakdown should be assessed with only nominal duty.
- All Family Court order documents should be assessed with only nominal duty.
- A stamp duty exemption should be provided for the transfer of ownership to main custodial parents in cases of divorce.

These issues are considered in Chapter 4(j) of the Technical Appendices (‘Family Law, Superannuation and Trust Issues’).

Preliminary Findings

The following policy issues should be considered further in Stage 2 of the Review.

- Whether an exemption should be available for transfers of property from a trustee to the parties to a marriage or defacto relationship or their children, reflecting that it is now common practice for property to be held in trust structures.
- Whether an exemption should be provided for transfers to trustees, where a party to the marriage or de facto relationship, or child of that party, is a beneficiary.
- Whether an exemption should be provided for certain transfers of superannuation property upon the dissolution of a marriage or de facto relationship.

The following technical amendments to clarify the operation of Part IVD of the *Stamp Act* should be progressed in the rewrite of the *Stamp Act*.

- Amendments to reflect new terminology used in the *Family Law Act* and *Family Court Act*.
- The provisions relating to the concessional treatment of trust property should be updated, as the concessions for the creation and termination of a trust, or certain trust acquisitions and surrenders, lack consistency.
- The provisions relating to the concessional treatment of superannuation property should be updated, as the *Stamp Act* does not contain a specific exemption for transfers to and from superannuation funds (unlike in most other jurisdictions).

The proposal to abolish nominal duty on Family Court orders for the transfer of property is not supported. The levying of nominal duty serves as a useful compliance tool given that some maintenance agreements and orders, and agreements and orders to sell property, attract normal conveyance duty rates.

In regard to the proposal that transfers of property to custodial parents and children be exempt from duty, it is noted that maintenance agreements and Court order transfers are already subject to only nominal duty provided certain eligibility criteria are met.

Stamp Duty on Goodwill (Legal Practices)

The Law Society of WA (123) recommended that the previous provisions of the *Stamp Act* relating to the treatment of goodwill in the incorporation of legal practices be reinstated.

This issue is considered in Chapter 4(k) of the Technical Appendices (‘Incorporation of Legal Practices’).

Preliminary Findings

The Government has announced that conveyance duty on non-real business property (including goodwill) will be abolished on 1 July 2010. However, dialogue between the Law Society and OSR on the valuation of goodwill under the current law should continue, as this issue still needs to be addressed up until the date of abolition.

Unsecured Loans and Mortgage Duty Issues

As a result of the abolition of mortgage duty on unsecured loans in the BTR, the transfer of unsecured loans was excluded from nominal duty treatment, and become subject to normal conveyance duty rates.

A submission queried the policy rationale for charging a transfer or assignment of a lender's interest in an unsecured loan with conveyance duty, while the transfer or assignment of a mortgage is charged with nominal duty.

These issues are considered in Chapter 4(l) of the Technical Appendices ('Unsecured Loans and Mortgage Duty Issues'). This chapter also considers related issues surrounding the transfer of property by way of default or foreclosure, and by way of security (in order to ensure that avoidance concerns are adequately dealt with following the abolition of mortgage duty). The chapter also identified some peripheral issues surrounding recent changes to the Consumer Credit Code in relation to electronic mortgages.

Preliminary Findings

There appears to be no policy rationale for the different conveyance duty treatment of mortgages and unsecured loans, and there is a case for extending nominal duty treatment to the latter. However, further analysis is required, including on the prevalence of assignments of unsecured loans and the commercial reasons for them.

In light of the Government's announcement that mortgage duty will be abolished, appropriate mechanisms will need to be put in place to prevent the avoidance of conveyance duty through the use of electronic mortgages, and for the transfer of property by way of security, default or foreclosure.

It is recommended that further analysis of these issues be undertaken as part of the *Stamp Act* rewrite.

Duty on Deeds and on Assignments of Lease

The *Stamp Act* charges nominal duty of $20 on certain deeds and assignments of lease.

Submissions made recommendations for deed duty and duty on an assignment of lease to be abolished.

These issues are considered in Chapter 5 of the Technical Appendices (‘Abolition of Duty on Deeds and on Assignments of Lease‘).

Preliminary Findings

Further work should be undertaken in Stage 2 of the Review on the case for abolishing nominal stamp duty on the ‘nuisance’ deeds identified by the Reference Group Technical Committee.

Lodgement and Payment Provisions

Various submissions have made recommendations to amend the lodgement and payment provisions of the *Stamp Act*, including in relation to conditional contracts. This includes a late submission that has been received from the AIC (106), which will be considered in Stage 2 of the Review.

These issues are considered in Chapter 4(m) of the Technical Appendices (‘Lodgement and Payment Provisions‘).

Preliminary Findings

Stamp Duty Liability to Arise at the Date of Settlement

The proposal for stamp duty liabilities to only arise at settlement is not supported in light of avoidance and recovery concerns. However, consultation with industry (including financiers) should occur on ways of alleviating the financial burden on property purchasers of paying duty prior to settlement.

- A late submission that has been received on this matter will be examined as part of Stage 2 of the Review.

Stamp Duty Payable at Date of Settlement

The proposal for stamp duty to be payable only on the date of settlement is not supported in view of the tax administration and avoidance concerns.

Lodgement and Payment Provisions of Conditional Contracts

The OSR should continue its education strategy for the conditional contract provisions and investigate whether more flexible penalty provisions are desirable for genuine lodgement errors.

Consistent with the policy intent of the conditional contract provisions, which provide alternative lodgement and payment periods which are more in line with commercial practices, the definition of an “eligible conditional contract” should be extended to all transactions that are liable for conveyance duty (including agreements to pay lease premiums).

The proposal to align the conditional contract provisions with time periods that apply commercially to due diligence and approval periods is not supported, as the provisions already make allowance for contracts conditional on due diligence (to an extent), and it may put the State's revenue at risk.

A proposal to replace the conditional contract provisions with a requirement for all contracts (whether conditional or not) to be lodged for assessment within two months of execution (but with the stamp duty payment date linked to completion of the contract) to simplify the current arrangements, is also not supported.

- It is considered that certain changes to the conditional contract provisions have already reduced administration and compliance costs. Less requests are now made for extension of time to pay duty, and conditional contracts that do not proceed do not have to be presented to the OSR for cancellation.

Commercial requirements may make impractical a proposal for duty on conditional contracts to be payable within one month of assessment if possession is taken or the contract completed before this time, or within seven days of taking possession or completing the contract thereafter (i.e. financial institutions are unlikely to accept an unstamped document for settlement purposes).

Proposals generally for substantially extending the payment period for eligible conditional contracts are not supported as they could put the State's revenue at risk.

Put and Call Options

The proposal for put and call option arrangements to be treated as a form of conditional contract is not supported as it would defer duty on an effective contract for sale, and the conditional contract provisions should remove the requirement to enter into put and call option arrangements.

Stamp Duty Treatment of Lease for Life Arrangements for Retirement Villages

Instruments that evidence leases for life and unsecured loans in relation to retirement villages are generally no longer subject to conveyance duty (as a result of the abolition of stamp duty on leases and unsecured loans in the BTR). An accompanying exemption is also provided for deed duty for the above arrangements.

The MBA (63) recommended that the administrative practice in relation to the stamp duty treatment of a lease for life and accompanying loan arrangements should be made law to create certainty for taxpayers.

This issue is considered in the Chapter 4(n) of the Technical Appendices ('Lease for Life Arrangements for Retirement Villages').

Preliminary Findings

The Reference Group Technical Committee's conclusion that OSR should improve education in relation to this matter is supported.

Gifts to Donees

Unlike traditional property conveyances where the liable party is the purchaser or transferee, the liable party in relation to a gift of property is currently the donor. The DTF suggests that the liable party should be changed to the donee.

This issue is considered in Chapter 4(o) of the Technical Appendices ('Administrative Issues').

Preliminary Findings

The liable party on conveyances and transfers executed as gifts should be changed from the donor to the donee.

Relief for Property Transfers to Creditors Upon Bankruptcy

Upon a declaration of bankruptcy, the beneficial ownership of the property of a bankrupt vests in the Official Trustee under section 58(1) of the *Commonwealth Bankruptcy Act 1966*. Section 31B of the *Stamp Act* was amended from 1 January 2004 so as to no longer require there to be a 'transaction' for stamp duty to apply. An unintended consequence of this amendment was that transfers of the beneficial ownership of property from a bankrupt to creditors were captured by provisions requiring a dutiable statement to be prepared and duty paid on the transfer.

The Department of Treasury and Finance proposes retrospective amendments, with effect from 1 January 2004, to ensure that no transfers from a bankrupt to the creditors upon bankruptcy are subject to ad valorem conveyance duty.

This issue is considered in Chapter 4(o) of the Technical Appendices ('Administrative Issues').

Preliminary Findings

A retrospective amendment should be made to the *Stamp Act* so that transfers from a bankrupt to creditors are not subject to ad valorem duty.

8.5. Other Base Issues

General Base Issues

What Submissions Said

Two submissions also raised general concerns, or made general recommendations on the conveyance duty base.

- Grahame Young (99) recommended that a broader conveyance duty base be introduced (in conjunction with a lower rate). It was not specified what additional items could be taxable beyond noting that not all exemptions from conveyance duty seem to be justified (e.g. the exemption for boats should be restricted to working boats).

- The MBA (63) considered that there is a lack of a "philosophical or cohesive" policy on what is subject to stamp duty, producing anomalous situations. No further information was provided.

Preliminary Findings

Any proposals for further broadening the conveyance duty base, to provide scope for lowering the rates, should be submitted as part of Stage 2 of the Review.

Transfer of Special Motor Vehicle Registration Plates

What Submissions Said

The CCI (81) recommended that duty on the transfer of special motor vehicle registration plates be abolished as it is most likely to cost more to administer than the revenue raised.

Analysis of Issues

The transfer of the right to display special motor vehicle registration plates is currently subject to conveyance duty. The special registration plate is considered to fall within the common law meaning of property.

With the exception of single digit plates, few special motor vehicle plates have any significant value. In many instances, a taxpayer acquires the right to display a special motor vehicle registration plate as a result of acquiring the vehicle to which it is attached. Accordingly, nominal consideration (e.g. $100) is applied to the transfer, which attracts minimal duty of $2.

When assessed as a gift under section 75 of the *Stamp Act*, a nominal value is generally assigned to the transfer, which again attracts minimal duty of $2.

In accordance with Commissioner's Practice TAA 7.0, duty is waived where as a result of a delayed assessment, the duty assessed is under $5, whereas if the taxpayer attended the office for an immediate assessment, the duty would not be waived. This practice is administratively burdensome on the OSR, especially when considered in light of the revenue it collects.

An exemption from conveyance duty on the transfer of the right to display special motor vehicle registration plates could be implemented by inserting an exemption in the Third Schedule of the *Stamp Act*. This would remove the requirement for these instruments to be lodged for assessment of duty and reduce the compliance costs of taxpayers and the administration costs incurred by the OSR.

This proposal would have a negligible impact on State revenue.

Preliminary Findings

Stamp duty on the transfer of special motor vehicle registration plates should be abolished, on the basis of the relatively high administration costs vis a vis revenue raised.

Exemption For Farm Sales

What Submissions Said

The WAFF (75) proposed a stamp duty exemption for farm sales in order to improve the viability of farms, and help farmers in selling their farms. It also proposed that new farm buyers be exempt from stamp duty for farms above a certain acreage, including to help alleviate the increase in the median age of the farming sector.

Analysis of Issues

The farming sector already has access to significant concessions relative to other industries, such as a land tax exemption and a stamp duty exemption for intergenerational transfers. The proposals would narrow the conveyance duty base, effectively leading to a higher burden being placed on other taxpayers.

Furthermore, insufficient evidence was presented in support of the argument that the proposed additional stamp duty exemptions would result in increased activity in the farming sector, or that the current stamp duty rates are a significant barrier to the purchase of farms by younger farmers.

This proposal has not been costed at this stage.

Preliminary Findings

This proposal cannot be supported on the basis of the State Tax Review principles.

8.6. List of Issues Considered in Other Chapters

Additional issues are addressed in the following chapters.

GST-Agreement Taxes (Chapter 3)

Proposals to abolish non-real and non-residential conveyance duty, including a proposal from the WAFIC (73) for a stamp duty exemption for fishing industry leases and licences.

Levying duty on a GST-exclusive basis (Chapter 4)

Various submissions suggested that conveyance duty should be levied on a GST-exclusive basis.

Indexation of Tax Scale Thresholds (Chapter 5)

Proposals to index conveyance duty tax scale thresholds, including first home buyer, concessional and land-rich thresholds.

Tax relief/Reform for the Disadvantaged (Chapter 6.1)

Several submissions made recommendations for stamp duty relief for seniors, pensioners, or self-funded retirees, and for transactions involving retirement villages, aged care centres, or nursing homes.

Several submissions suggested conveyance duty relief to remove taxation barriers to people with disabilities.

Tax incentives and rewards for educational and training purposes (Chapter 6.2)

The AIS (45) recommended that independent schools should be exempt from conveyance duty on the purchase of property.

Tax Incentives and Rewards for Environmental Purposes (Chapter 6.3)

Greening Australia and the Australian Bush Heritage Fund (128), the Conservation Council of Western Australia (80) and the Minister for the Environment (132) recommended various conveyance duty exemptions for the conservation and protection of land.

9. Land Tax and Metropolitan Region Improvement Tax

Land tax is levied on the unimproved value of taxable land owned at midnight on the 30th June immediately preceding the year of assessment and is payable annually by the owner. Estimated revenue in 2006-07 is $342 million, or about 7% of total State taxation revenue. There are about 108,000 tax payers.

Land tax is levied according to the following progressive scale, which was announced in the 2006-07 Budget.

Table 37

2006-07 SCALE

Unimproved Value of Land $'000	Base Value at Threshold	Marginal Rate on Excess
0 – 150	Nil	Nil
150 – 390	Nil	0.15%
390 - 875	$360	0.45%
875 – 2,000	$2,543	1.62%
2,000 – 5,000	$20,768	2.30%
Over 5,000	$89,768	2.50%

The main exemptions from land tax are for owner-occupied residential properties and properties used for primary production (including mining tenements, land used for grazing stock, agriculture, silviculture, horticulture, apiculture and poultry farming).

- Other important exemptions include land owned by governments, charitable institutions, religious bodies, public hospitals, non-profit associations, and educational institutions. Land held under an approved conservation covenant is also exempt from land tax.

- A number of concessional arrangements are also available, including a 50% exemption for caravan parks and land owned by a society, club or non-profit association. The principal place of residence exemption is also available to purchasers of homes who own two residences in certain transitional circumstances.

9.1. Abolishing or Reducing Land Tax

The literature suggests that land tax, along with payroll tax, is the State's potentially broadest, most efficient and equitable tax base. However, there appears to be significant community sensitivity to the tax, despite aggregate land tax revenue effectively being capped in recent years at well below the average growth in property values in Western Australia.

The major issues include strong bracket creep, and the taxing of properties traditionally held for other than full commercial income generating purposes, in areas of exceptional land value growth (including certain regional areas). This is notwithstanding the fact that increases in land tax assessments in these areas only fractionally offsets the wealth gain to the owner.

What Submissions Said

A large number of submissions made recommendations to provide land tax relief. Proposals included abolishing land tax, reducing rates, increasing thresholds, and placing a cap on land tax revenue. Other submissions suggested fundamental reform of the land tax scale, such as introducing a single rate of land tax.

Recommendations/Proposals

Abolish Land Tax

The PCA (113), J.C. Hanrahan (100) and the WAFF (75) recommended that land tax be abolished (over ten years in the case of the PCA). The former two recognised that this is unlikely to occur. The WAFF (75) recommendation was on the basis that land tax is sometimes levied on primary producers when they have other value adding enterprises on their land or off-farm investment land.

On the other hand, WACOSS (114) and Warwick Boardman (15) opposed providing land tax relief as revenue raised from land tax was an important source of funding for government expenditure. WACOSS (114) was concerned that land tax relief will result in windfall gains to current property owners, particularly property owners in the metropolitan area.

Reduce Rates

A number of submissions considered the current land tax rates to be too high and/or recommended that rates be reduced (6, 34, 78, 84, 100, 113, 63).

Increase or Index Thresholds

A number of submissions recommended the indexation or general increase of land tax scale thresholds. These proposals are more fully described in Chapter 5 ('Indexation of Tax Thresholds'). The main reason for these proposals was to address bracket creep.

- The SBDC (94) also recommended that the minimum land tax threshold should be increased to $200,000 (up from $130,000).

Flatten Tax Scale or Reduce Number of Tax Brackets

Several submissions recommended the introduction of a single rate of land tax (6, 81, 100, 113), with WACOSS being the principal opponent of such a measure if it meant reducing the degree of progressivity in the tax scale.

- G. Coplin (9) and CPA Australia (69) proposed that that the tax scale should be smoothed out.

CPA Australia (69) and Taxpayers Australia (51) suggested a reduction in the number of tax brackets/rates and/or the regular adjustment to thresholds in order to minimise bracket creep and/or simplify land tax.

Place a Cap on Land Tax Revenues

The PCA (113) and the REIWA (84) recommended the introduction of a cap on total annual land tax revenue, with regular adjustments being made to the tax scale to achieve this target.

Impact on Taxpayers of Growth in Land Tax Assessments and Property Values

Specific comments included the following.

- Property owners are having serious difficulties meeting their land tax assessments, with those most seriously affected including retirees, self-funded retirees, owners of non-income producing property and those on fixed incomes (6, 100, 107, 113).

- Some people are being forced to sell their properties as a result of increased land tax liabilities (6, 56, 100, 107).

- Significant land tax increases were placing a burden on business (21, 46, 75, 78, 98).

Comments on the actual extent of property growth and land tax increases included the following.

- Rental incomes and inflation have not increased at the same rate as land tax assessments, or land tax does not reflect rental returns that can be achieved (6, 46, 84, 113).

- Increases in land values have provided the State Government with considerable growth in land tax revenue (6, 84, 113).

- Annual revaluations and/or bracket creep have led to instances of land tax growth substantially exceeding the growth in property values (65, 84).

- Land tax assessments have increased faster than the CPI and/or property values (6, 84).

Several submissions also expressed concerns that the current method of valuation is unfair and/or can lead to significant increases/variations in land values/land tax bills from year to year. Further information is provided in the ‘Land Valuation‘ section of this chapter.

Land Tax Scale Issues

The main concern raised in submissions about the land tax scale was the impact the progressivity of the scale was having on land tax assessments, as property values grow (6, 9, 10, 34, 56, 58, 69, 78, 81, 100, 113).

The reasons provided in submissions for introducing a single rate of land tax rate or flattening the land tax scale included the following.

- A flat scale would address problems associated with aggregation (113).
- Greater equity, reduced distortion and simplification (ease the calculation of liabilities) (81, 100, 113).
- Multiple rate structures are generally more complex and encourage avoidance activity (69, 113).

Some other concerns expressed about the land tax scale included the following.

- Mair & Co (6) highlighted that land tax rates have recently been increased at the upper end of the land tax scale.
- Michelle Zimmel (10) was concerned that land tax rates have remained at around the same level while property values have grown.
- The SBDC (94) argued that recent increases in the tax-free threshold have been small compared to increases in property values (especially for coastal areas and commercial properties within residential areas).
- N. Lennox (34) raised concerns that increasing thresholds has little impact on reducing land tax assessments and that rate reductions are preferable, including because threshold changes are eroded by revaluations.
- The Motor Trade Association of Western Australia (MTA) (78) recommended that rates be subject to constant review and reduced when budgetary circumstances permit.
- Submission no. 58 was concerned that the Review will reduce the land tax payable at the lower end of the scale and increase the amount payable at the middle and higher ends.

Equity Concerns

In addition to the general concern that property owners are having difficulty meeting their land tax liabilities, several submissions considered land tax unfair and/or discriminatory for some of the following reasons.

- Land tax was eroding investor returns and/or wealth for retirement purposes (46, 84, 100, 113).
- Land tax affects many modest income earners (83).

- The PCA (113) considered that there should be symmetry between those who pay land tax and those that receive the benefits of infrastructure amenities. In this regard, the narrow tax base and the numerous exemptions means that the burden of land tax mainly falls on commercial property owners and residential property investors. Other concerns included the following.

  – Land tax neglects to take account of the mortgage financing of property investment, and as a result investors may not have the cash to pay land tax (113).

  – Large increases and uncertainties over land tax liabilities are a major source of inequity.

  – The lack of transparency involved in the passing on of increased land tax costs to the price of goods and services is inequitable.

- Assets are also subject to capital gains tax when sold (100, 133).

Several submissions considered the aggregation provisions inequitable (refer to ‘Aggregation’ section of this chapter).

Efficiency Concerns

Several submissions considered land tax inefficient because the burden of land tax was causing investors to move into other forms of investment such as shares (6, 100, 107, 113, 133).

- The PCA (113) also considered that land tax exacerbates the stamp duty advantages of shares and bonds over property (i.e. shares and bonds are also not generally subject to stamp duty).

A large number of submissions considered the aggregation provisions inefficient (refer to ‘Aggregation’ section of this chapter).

On the other hand, WACOSS (114) considered land tax an efficient tax.

Competitiveness Concerns

Some submissions expressed a concern over the impact of land tax on competitiveness and/or considered land tax relief would improve competitiveness.

- The PCA (113) suggested that Queensland has a much more investor friendly land tax environment than Western Australia due to lower rates and a broader base.

- REIWA (84) argued that the high reliance on property taxes relative to other OECD countries reduces Western Australia’s competitive standing, and attractiveness for investment.

- The MBA (63) suggested that a ‘phase in’ of the highest land tax rates be introduced as in Queensland to make Western Australia more attractive to new business (however, Queensland recently abandoned this gradual phase in of the highest marginal tax rates – 19 tax brackets were reduced to 6).

Other Concerns

Some other general comments about land tax included the following.

- Land tax was compromising the availability of property for rental purposes, and this may place a financial burden on government if it has to provide this housing instead (34, 46, 107, 133).
- There are wide variations between States on what is subject to land tax, and how tax is levied (46).
- The reluctance of the Government to cut taxes (including land taxes) is unjustified given higher than expected GST revenues (46).
- The fact that land is immobile and avoidance is difficult is not a conceptual rationale for land tax, rather, it is an administrative rationale (113).
- Land tax lacks simplicity, is one of the costliest taxes to administer, and/or has a costly and complex appeals process (113, 114). However, WACOSS (114) noted that land valuations are required for other purposes as well.
- While property owners have the ability to pass on land tax costs, this is limited by the ability of tenants to afford land tax increases (133).
- The fact that landowners can achieve capital growth is not a defence against land tax as the owner needs to sell the property to realise this growth (133).

Analysis of Issues

Abolition or General Reduction in Land Tax

Proposals to abolish or reduce land tax need to be evaluated in terms of the key State Tax Review principles of equity, efficiency, competitiveness and administration and compliance costs. It should also be noted that land tax was never listed for abolition or review under the GST agreement with the Commonwealth.

Land tax is one of the few forms of wealth tax in Australia. In terms of equity, although arguably not as direct an indicator of ‘capacity to pay’ as income, land value nonetheless generally reflects actual and potential future earnings capacity of the land (although not all taxable land is used for full, commercial income generating purposes in practice), and can ultimately be converted to cash by sale.

On the other hand, land tax is a selective wealth tax, only targeting land, and has no regard for differences in owners’ level of equity in the land (i.e. the extent to which a property is mortgaged). It also impacts unequally on different classes of property owner. This is further considered in the ‘Exemptions’ section of this chapter.

The progressive land tax scale assumes that land owners' 'capacity to pay' increases with the value of their land holdings. As discussed in Chapter 5 ('Indexation of Tax Scale Thresholds'), a single (proportional) tax rate may be sufficient to ensure equity in this regard, while progressive tax scales have re-distributional impacts which are not necessarily appropriate objectives for State taxes.

- Furthermore, the ability of some owners of large land holdings to pass on the burden of the tax to consumers (through higher prices), tenants (through higher rents), or members of superannuation funds (through lower returns) means that the final incidence of land tax may actually be on those with limited capacity to pay in some circumstances.

Aggregation provisions help achieve horizontal equity between taxpayers by ensuring that they pay the same tax rate on the same total value of land holdings irrespective of the number of separate parcels of land held (although partial ownership interests may 'escape' aggregation). This issue is further considered in the 'Aggregation' section of this chapter.

In terms of **economic efficiency**, land tax is considered to be one of the better taxes available to States due to its immobility and relatively non-damaging impact on land owners' behaviour. Efficiency is enhanced by levying the tax on unimproved values, as this increases the incentive to invest in improvements to the land to ensure its optimal use.

However, land tax may discourage optimal investment in property vis a vis other (untaxed) asset classes. The exemption for the primary production sector also favours that sector over other business activity, while the progressive tax scale may encourage property owners to develop artificial ownership structures to avoid the land tax aggregation provisions.

In terms of **competitiveness**, land tax is levied in all States and Territories with the exception of the Northern Territory. All States employ a progressive tax scale, including a tax-free threshold.

While land is immobile, interstate land tax differentials may impact on the attractiveness of investment in a State (including business location decisions), although land affordability and potential for value growth are likely to be over-riding considerations.

As shown in the following tables and chart, there is significant variation among States in tax-free thresholds and average tax rates. However, overall Western Australia's land tax scale is considered to be broadly competitive with the other States, even after Metropolitan Region Improvement Tax[22] is taken into account.

[22] Metropolitan Region Improvement Tax MRIT is levied at the rate of 0.15% of the unimproved value of land liable for land tax in the Perth metropolitan region, and the proceeds hypothecated to the Western Australian Planning Commission for the acquisition of land for purposes such as future transport corridors and public open space. Only Victoria is understood to levy a similar impost.

Table 38

LAND TAX SCALES

	WA [(a)]	NSW	NSW [(b)]	VIC	QLD	QLD [(c)]	SA	TAS [(b)]
Min Threshold	$150,000	$352,000	na	$200,000	$450,000	$300,000	$110,000	$25,000
Max Threshold	$5,000,000	$352,000	na	$2,700,000	$3,000,000	$2,000,000	$1,000,000	$750,000
Min Tax Rate	0.15%	1.70%	1.70%	0.20%	0.70%	0.15%	0.30%	0.55%
Max Tax Rate	2.50%	1.70%	1.70%	3.50%	1.25%	0.15%	3.70%	2.50%

(a) 2006-07 land tax scale.
(b) Special trusts and non-concessionary companies.
(c) Companies and trusts.

Table 39

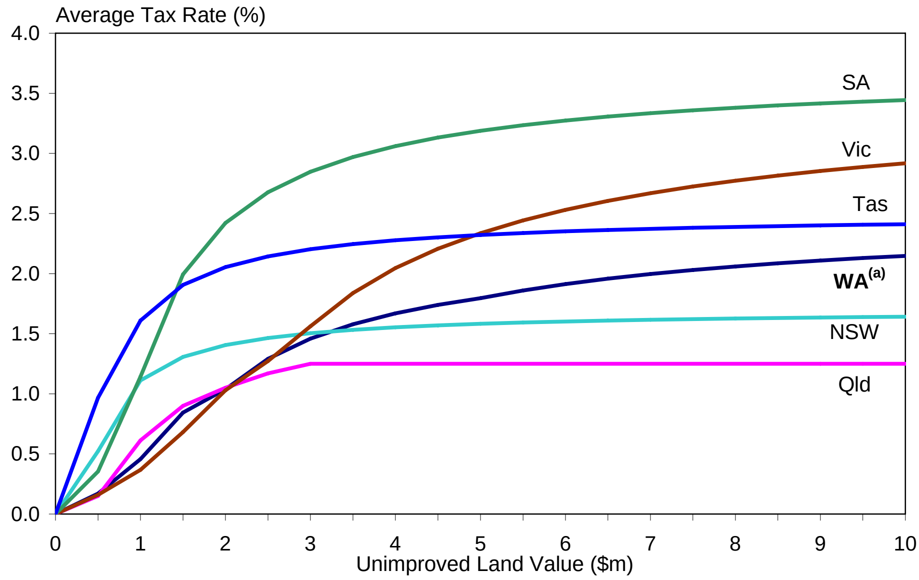
LAND TAX PAYABLE

Land Value	WA [(a)] $	NSW $	NSW [(b)] $	VIC $	QLD $	QLD [(c)] $	SA $	TAS [(b)] $
20,000	-	-	340	-	-	-	-	-
50,000	-	-	850	-	-	-	-	188
100,000	-	-	1,700	-	-	-	-	463
200,000	75	-	3,400	200	-	-	270	1,013
300,000	225	-	5,100	400	-	1,500	570	1,563
500,000	855	2,616	8,500	800	750	4,500	1,770	4,838
1,000,000	4,568	11,116	17,000	3,680	6,125	12,375	11,420	16,088
5,000,000	89,768	79,116	85,000	116,830	62,500	75,000	159,420	116,088

(a) 2006-07 land tax scale.
(b) Special trusts and non-concessionary companies.
(c) Companies and trusts.

Figure 9

INTERSTATE COMPARISON OF AVERAGE LAND TAX RATES



(a) 2006-07 land tax scale.

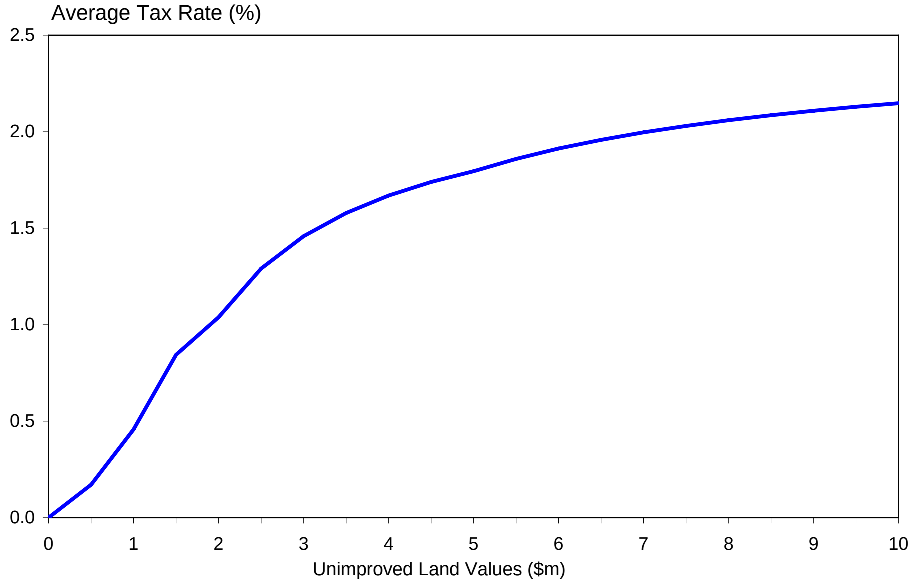
In terms of **administration and compliance costs**, land tax is one of the costlier taxes for the State Government, due mainly to the operational costs of the annual land valuation process. However, land tax causes few general compliance difficulties for taxpayers, who do not need to undertake self-assessments or lodge returns, but rather are issued with assessments each year.

Specific Proposals to Amend the Land Tax Scale

The land tax scale is currently the most highly progressive of State tax scales, with the average tax rate increasing relatively steeply as the taxable value of land increases.

Figure 10

PROGRESSIVITY OF LAND TAX SCALE [(a)]



(a) 2006-07 land tax scale.

The land tax scale was simplified as part of the BTR, by reducing the number of thresholds from ten to six, but with no reduction in the maximum tax rate or increase in the threshold above which that rate applied. Although this increased the value growth required for land to move into the next tax bracket, the jump in marginal tax rates at these points became higher.

- While the average tax rate increases throughout the land tax scale, bracket creep is a particular issue for taxpayers moving above the current second ($390,000) and third ($875,000) land value thresholds. At these points, the marginal tax rates increase from 0.15% to 0.45% and from 0.45% to 1.62% respectively.

Introduce a Single Rate or Reduce the Progressivity of the Land Tax Scale

A single rate of land tax would eliminate bracket creep altogether if the tax-free threshold were also abolished. Such a scale would remove the need for aggregation provisions and the incentives for owners of multiple properties to develop complex ownership structures to circumvent these provisions.

- Several interstate taxation reviews have concluded that a proportional rate structure (i.e. a single rate with no exemption threshold) would be preferable to a progressive scale.[23]

However, a tax scale of this nature would involve either substantial revenue costs or a redistribution of the land tax burden from taxpayers with larger, higher value land holdings towards smaller land owners. It is presumably for this reason that it has not been introduced in any State.

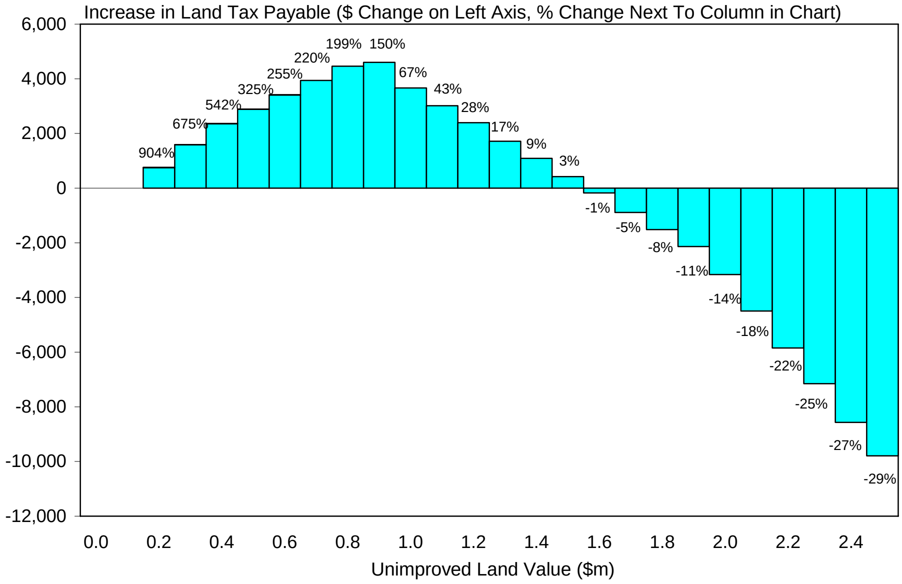
[23] In the Victorian State Review of Business Taxes (2001), the Committee found that a move towards a single rate of land tax on all business property, regardless of its value, was superior to the progressive scale. Similar findings were present in the Tasmanian Review of State Taxes and Charges (1993) and the NSW Government White Paper on Land Tax (1993).

A less extreme reform option would involve retention of the current tax-free threshold and introduction of a single marginal tax rate above that threshold, similar to the scale which applies in New South Wales and for payroll tax purposes in Western Australia. However, even this would have substantial redistributional consequences, if introduced on a revenue neutral basis.

It is estimated that in Western Australia a single marginal tax rate of around 1% (above a land value exemption threshold of $150,000) would raise the same revenue as the recently announced 2006-07 scale. However, around 102,000 land taxpayers (94%) would pay more land tax. These are taxpayers that currently pay an average tax rate of less than 1% (i.e. those with unimproved land holdings up to $1.525 million).

Figure 11

IMPACT OF A 1% SINGLE MARGINAL LAND TAX RATE



Alternatively, introducing a single rate of land tax without making smaller land owners worse-off would involve a substantial revenue cost. For example, a single marginal tax rate set at the current minimum rate of 0.015% (combined with the tax free threshold) would cost around $275 million per annum (or around 81% of total land tax revenue).

Nonetheless, it is considered that a move to a less progressive, 'flatter' land tax scale that reduced the extent to which growth in tax bills exceeded (in proportional terms) growth in land values would be a desirable outcome for the Review. This could involve a staged approach, taking advantage of growth in property values over time to (for example) 'stretch out' the thresholds above which the mid and upper tax rates apply.

Indexation/Increasing Thresholds and Rate Reductions

The general policy arguments for and against indexation were considered in Chapter 5 ('Indexation of Tax Scale Thresholds'). The preliminary findings of this chapter also apply to land tax, in that indexation should be further explored as part of Stage 2 of the Review. Along with proposals for rate reductions, this could be considered in conjunction with a possible strategy for 'flattening' the land tax scale over time.

At present, only New South Wales indexes its land tax-free threshold - on the basis of movements in the estimated average land values for commercial, industrial, business and residential properties (as determined by the Valuer-General in the year preceding the land tax year). However, even this would not cater for the often wide disparity in growth in land values by land value range and regional area.

Possible changes to the threshold/s and rates (as raised in submissions) have been costed below.

Table 40

REVENUE COSTS OF RECOMMENDATIONS

Threshold and Rate Changes	2006-07 $m	2007-08 $m	2008-09 $m	2009-10 $m
Increase tax-free threshold to $200,000	9	10	10	10
Indexation of all thresholds: indicative 5% increase	9	9	10	11
Rate reduction: indicative average 5% decrease	17	18	20	21

Recommendations to Cap Land Tax Revenues or Provide Relief on the Basis of Growth in Revenue

Land tax revenue for the forthcoming budget/financial year can be estimated with a much higher degree of accuracy than for other taxes, on the basis of data provided by the VGO in March each year on land ownership and valuations as at the previous 31 December. This database can also be used for assessing the distribution of prospective growth in land tax bills in the budget year both by land value range and local government area.

- The land ownership data as at 31 December does not pick up any change in the number of taxable landowners (an estimate is built into the revenue estimates by the DTF) or changes in ownership structure (such as a property that is in an aggregated land holding being sold to a single property owner) by the following 30 June.

- Nonetheless, this data provides the Government with the modelling capacity to adjust the land tax scale annually, if it wishes, to target land tax relief to land value ranges where growth in tax bills would otherwise be highest (in either dollar and/or percentage terms), and to operate an effective cap on land tax revenue through regular adjustments to the land tax scale as part of the budget process.

Most recently, strong growth in land valuations would have resulted in land tax revenue exceeding the forward estimate by around $54 million (or 17%) in 2005-06 and by $32 million (or 9%) in 2006-07, if not for the adjustments to the land tax scale implemented in the past two budgets (which targeted land tax relief to owners of taxable land in the lower and middle value ranges).

Growth in land tax collections in recent years has effectively been capped at well below the rate of growth in property values. Between 2000-01 and 2005-06, land tax collections increased by 45% (from $221 million to $320 million). Over the same period (December quarter 2000 to December quarter 2005), the Perth median house price grew by 112% (from $158,200 to $335,000).

- Some regional areas have experienced higher levels of growth, for example the median house price has increased by 137% in Busselton, 156% in Bunbury, 128% in Collie, 119% in Dunsborough, 112% in Port Hedland, and 116% in Broome.
- However, from year to year, there will always be instances where individual property owners experience substantially higher growth in land tax assessments than the overall growth in land tax revenue as a result of particular large revaluations and bracket creep.

Table 41

LAND TAX COLLECIONS

	Revenue Collections $m	Change (Nominal) %
1995-96	158.6	-
1996-97	165.3	4.3
1997-98	170.6	3.2
1998-99[(a)]	178.4	4.6
1999-00	195.5	9.6
2000-01	220.7	12.9
2001-02	225.7	2.3
2002-03	259.6	15.0
2003-04	279.7	7.7
2004-05	315.5	12.8
2005-06[(b)]	319.7	1.3
2006-07[(b)]	342.0	7.0

(a) Revenue on accrual basis from 1998-99 onwards. Previous data are on a cash basis.
(b) 2006-07 Budget estimates.

Land tax collections have also remained relatively constant as a proportion of total taxation revenue over recent years (at around 7-8%).

Preliminary Findings

Proposals to abolish or reduce land tax should have a relatively low priority on the basis of the State Tax Review principles.

However, while an immediate move to a single rate of land tax is not considered practical as it would involve a major redistribution of the tax burden, it would be desirable to reduce the degree of progressivity in the land tax scale over time (including so as to reduce concern about, and incentives to circumvent, aggregation provisions), using growth in land values to offset the revenue cost.

- Options for achieving this objective (or for addressing bracket creep in other ways), possibly in conjunction with the introduction of a single marginal rate land tax scale (similar to the payroll tax scale), should be further considered in Stage 2 of the Review.

While adjustments to the land tax scale as part of the annual budget process in the last five years have effectively capped growth in total land tax revenue at less than half the growth in the Perth median house price, growth in taxable land values in certain parts of Perth or regional areas has been much stronger than average, including in relation to non-income generating land such as holiday homes (see also below).

- Adjustments to the land tax scale alone cannot effectively target relief in these cases. If other ‘solutions’ can be found, there may be a case for the Government to increase its relative reliance on land tax revenue (by allowing revenue to grow more in line with land values), in favour of less efficient or equitable taxes such as stamp duty on property transactions. This should also be the subject of further examination in Stage 2.

9.2. Aggregation

If a person owns two or more lots or parcels of taxable land, land tax is payable on the aggregated unimproved value. However, land tax on land owned jointly is assessed separately from any land owned solely (for example if a property owner held two parcels of land, one solely and one with another person, then these individual property interests would not be aggregated).

What Submissions Said

A large number of submissions were opposed to the current practice of aggregation for land tax purposes and/or recommended its abolition (Mair & Co (6), N. Lennox (34), submission no. 46, submission no. 58, REIWA (84), J.C. Hanrahan (100), PCA (113), Kerry Carroll (133)).

Concerns about the equity of the aggregation provisions were as follows.

- They discriminate against multiple property owners, including due to the once-only application of the exemption threshold (6, 34, 46, 58, 84, 100, 113, 133).

  - Recent changes to the land tax scale have provided little relief to multiple property owners (34, 46).

  - The jump in land tax rates from 0.15% to (as much as) 2.5% has a massive impact on landowners with more than one property (58).

  - Property value increases have forced multiple land owners into high tax brackets (133).

- Taxpayers who own identical properties with identical values can pay different amounts of land tax due to the structure of their property portfolio, violating the principle of horizontal equity (58, 113).

- The aggregation principle discriminates against certain classes of small business, as the cost of artificial ownership structures can outweigh land tax savings (58).

- Property owners and tenants of the property face cost disadvantages that smaller competitors on similar sites do not (58, 113).

- As standard industrial leases state that tenants only reimburse the landlord the amount that would have been assessed if the premises were the only land owned by the lessor, the amount of land tax tenants reimburse to a landlord can be widely divergent, depending on if a property is owned by a multiple property owner or not (58).

- The administrative cost of running a number of small properties is higher than that for a single larger property (58).

- A tenant renting more than one property is not subject to aggregation (58).

Concerns about the efficiency of the aggregation provisions were as follows.

- It discourages people to invest in property (6, 34, 58, 84, 113).

- It encourages artificial ownership structures in order to avoid being subject to aggregation (6, 46, 58, 100).

- It stifles jobs and business growth (113).

- It creates an artificial premium that is being taxed (133).

- The abolition of aggregation would stimulate investment in the residential property market (84).

Other comments in relation to aggregation included the following.

- The aggregation provisions are artificial as they target the legal entity owning a property rather than the beneficial owners (e.g. not taxing the beneficial owners of a trust separately) (58).

- The PCA (113) suggested that abolishing aggregation would improve competitiveness.
- The aggregation provisions are difficult to understand and comply with (113).
- Submission no. 58 recommended that the Review investigate how much extra revenue is generated through aggregation.
- Alcock Brown-Neaves (65) expressed concern that grouping provisions would be introduced for related companies, as this would discriminate against property groups that require many display homes.
- G.M. Miocevich (1) suggested that for jointly owned property, land tax assessments should be separated (at least for self-funded retirees). It was argued that this proposal would not be difficult to administer, as such distinctions are made for personal tax, pension and other purposes.

Analysis of Issues

A detailed analysis of aggregation is provided in Chapter 6(b) of the Technical Appendices ('Removal of Aggregation/Separate Assessments for Jointly Owned Property').

From a general perspective, the concerns expressed in submissions about aggregation are likely to be mainly driven by the high degree of progressivity in the land tax scale that pushes owners of multiple properties into higher tax brackets. Thus, any flattening of the land tax scale over time (as proposed in the earlier section) would to some degree alleviate these concerns.

Affordability

The removal of aggregation provisions would represent a substantial cost to the Budget, estimated at $128 million in 2005-06, or over one third of the land tax base. Accordingly, and reflecting the preliminary finding that further aggregate land tax relief should not be a priority, significant offsetting increases in land tax rates or broadening of the land tax base would be required.

Equity Considerations

Equity is the overriding policy basis for the aggregation provisions. In the absence of aggregation, a taxpayer with one property valued at $900,000 (for example) would have a greater land tax liability ($2,948) than a tax payer with three properties valued at $300,000 each ($675).

It is considered that these equity considerations over-ride concerns outlined in submissions that property owners pay different levels of land tax on similar types of property (depending on if they are the owner of a single property or multiple properties).

Efficiency Considerations

Removal of the aggregation provisions may distort economic behaviour by providing an incentive to invest in smaller pieces of land, or even to subdivide land into smaller, separate parcels of land.

The absence of 'grouping' provisions to counter taxpayers creating artificial ownership structures to minimise their land tax is a clear in-principle deficiency in the current land tax system. A land tax anti-avoidance provision is proposed later in this chapter, and Chapter 6(e) of the Technical Appendicies, as the most pragmatic way to address this problem.

The claim that the removal of the aggregation provisions would encourage further property investment or economic activity is partly based on the assumption that land holders would be subject to a lower overall tax burden. However, this would not be the case if the removal of aggregation were funded by an increase in the general land tax rates.

Preliminary Findings

No changes are proposed to the land tax aggregation provisions, primarily on the grounds of equity and revenue protection. However, the inequity and inefficiency of the incentive for taxpayers to create artificial ownership structures to defeat the aggregation provisions should be addressed through a new anti-avoidance provision (see also below).

The introduction of separate assessments for jointly owned property is not supported, for reasons set out in Chapter 6(b) of the Technical Appendices.

9.3. Exemptions

Several submissions made recommendations concerning the exemptions provided from land tax for primary production land and principal places of residence (including the removal of the exemption for property held by companies and trusts, and extending the 12 month exemption for new homes), and the 50% exemption for caravan parks.

What Submissions Said

General issues

The PCA (113) argued that it was necessary to broaden the current "narrow" base of land tax so that all land (other than a land owner's principal place of residence) is liable for land tax.

- All land holders benefit from amenities supplied by the Government and should share the burden of paying land tax.

- The current base discriminates against investment property, forcing office, retail, industrial and residential property investors to pay more than their fair share of land tax, thus subsidising other property and asset classes.

- Businesses on crown land and rural land, hospitals, educational institutions, and sporting facilities directly compete with land tax paying businesses.

On the other hand, J.C. Hanrahan (100) recommended the retention of all present land tax exemptions.

Land Tax Exemption for All Businesses

Taxpayers Australia (51), Tom's Cranes (21) and the SBDC (94) recommended the introduction of a land tax exemption for all businesses.

- Taxpayers Australia (51) and the SBDC suggested that the proposed exemption would apply where businesses are operated from land owned by the business owner, or their "associate".
  - The SBDC (94) argued that the associate exemption is required as many small businesses use separate entities to run and own a business for asset protection purposes.
  - The SBDC also argued that current exemptions for certain items of land (e.g. mining and primary production industries) give an unfair advantage at the expense of business operators in other areas, such as retail and service industries.
- Tom's Cranes (21) expressed concerns that it is unfair to levy land tax on a "tool of trade" or on land from which income is not derived, and that it is unfair that competitors are subject to less land tax because they are located in different property zonings.

Submission no. 11 proposed the removal of the primary producers exemption for horse breeders and flower growers, arguing that the exemption should only be allowed where the produce is for human consumption.

Principal Places of Residence Issues

WACOSS (114) recommended the removal of the PPR exemption for high-value properties as this would ensure that those who have the greatest capacity to pay make an additional contribution to community services.

REIWA (84) and the PCA (113) recommended that the PPR exemption should be retained.

Companies or Trusts

Mair & Co (6), Michelle Zimmel (10) and the MBA (63) recommended that the land tax exemption for a family home held in a trust should be reinstated, on the following basis.

- The removal of the land tax exemption in 2001 was unfair, given that individuals place their homes in family trusts to protect family assets.
- Families that had never before paid land tax on their homes are being unfairly expected to meet land tax assessments.

Full Exemption for Land Used by Caravan Parks

The Caravan Industry Association WA (CIAWA) (64) and Tourism WA (98) recommended a 100% land tax exemption for caravan parks (with the maintenance of the existing clawback provision), on the following basis.

- The 50% exemption provided in the 2005-06 Budget did not provide the necessary extent of relief.
- Considerable increases in land values and the method of assessment have seen major increases in the tax burden on caravan parks, particularly in coastal areas. This is on top of significant increases in local government rates, the cost of water and sewerage charges, and fuel.
- Caravan parks provide affordable accommodation for family holidays and low-cost permanent accommodation for people that that are unable to afford other rental options, or who enjoy the social environment of a caravan park.
- Demand for low-cost tourist accommodation is expected to increase with the ageing of the population, and it is inequitable for caravan parks to be penalised for upgrading facilities through higher taxes and charges for providing these amenities.
- An exemption has been introduced in Victoria and South Australia.
- If caravan parks do not exist, specific towns may be bypassed, or visitors will resort to bush camping.

12 Month Exemption For New Residences

John Quigley MLA (40) considered the current land tax provisions that allow for an exemption for a period of one assessment year for persons constructing or renovating a PPR to be inadequate in the current economic environment. He suggested that it is unfair for such people to incur land tax as they are not holding land for investment purposes.

Similarly, the MBA (63) recommended the extension of the existing provision for up to three years for landowners who are holding land on which they intend to construct their residence. It argued that this would provide relief for first home buyers and would be consistent with capital gains tax relief for a main residence during the period of construction.

Analysis of Issues

As noted earlier, the efficiency and equity of land tax is potentially diminished by the presence of a number of exemptions that narrow the base and can impact adversely on the allocation of resources (through providing favourable tax treatment to some land uses). Nonetheless, land tax, like other State taxes, needs to be seen in the context of the national system of taxes and charges at all levels of government.

Principal Places of Residence and Primary Production

By far the largest land tax exemption is that introduced in the 1970s for owner-occupied housing (current estimated cost of about $200 million per year). While the rationale for the exemption is probably more to do with the social merits attached to policies assisting home ownership, it also has the effect of creating more 'room' for local government authorities to tax this asset class through rates (which comprise their single largest source of income).

- While both land tax and local government rates apply to business and investment properties, the burden is reduced by deductibility for Commonwealth tax purposes. In addition, levying land tax on unimproved values and rates on gross rental values could be considered an ideal combination for recognising capacity to pay (except where the land is not used for income generating purposes).

The fact that the economic incidence of land tax is generally much broader than its legal incidence is also relevant in this context, as it means that the effective burden of land tax is shared across the community. Thus, households partly bear the cost of land tax in the price of goods and services.

- While this does also highlight that residential tenants may be disadvantaged relative to owner occupiers in terms of bearing part of the cost of land tax in higher rents, there is another tax distortion at the Commonwealth level ('negative gearing') that favours rental housing.

In regard to the WACOSS proposal for 'high value' residential properties to be subject to land tax, it is notable that there was strong community opposition to the introduction of a premium land tax on highly valued residential land as initially proposed in the 2001-02 Budget.

Some Reference Group members nonetheless suggested that the option of broadening the land tax base to homes should at least be examined and costed, if the Review was serious about considering genuine tax reform. Notably, the cost of the current exemption is published each year in the Tax Expenditure Statement included in the budget papers.

- In 2004-05, the exemption was costed at $235 million, which compared to total land tax collections of $315 million, suggesting that land tax rates could be reduced by just under 75% if homes were included in the base.

The various land tax exemptions in Western Australia for primary producers, charitable, benevolent, religious, recreational and educational institutions are also found across other States. It would be reasonable to assume that there is an on-balance community view that these exemptions are warranted on fairness and social equity grounds.

Some submissions have suggested that the current exemption for primary producers creates an unfair advantage over business operators in other industries. While this may be so to a degree, most primary producers are more likely to be competing in overseas export markets, rather than with, say, businesses in domestic retail or service industries that pay land tax.

- Furthermore, it could be argued that the land tax exemption for primary producers recognises the uniquely land intensive nature of their business.

In relation to the proposal for the primary producer's exemption to exclude land used by horse breeders and flower growers, these are also relatively land-intensive activities. Also notable is that in cases where a parcel of land is used for a commercial purpose that is not principally for defined primary production purposes, this land may be liable for land tax.

Extending the primary producer exemption to all business would have an estimated revenue cost of about $230 million per year (this compares to the current estimated revenue cost of the primary producers exemption of about $20 million per year). It would be difficult to see this as a priority in terms of the State Tax Review principles.

- The proposal to only extend the exemption to businesses owned and operated from land owned by the business owner would seem to discriminate against businesses that lease premises and pay land tax indirectly.

Companies or Trusts

The land tax exemption for a PPR held by a company or trust was removed from 1 July 2002. The rationale was that while individuals should be free to place their family home in a company or trust structure to gain the associated commercial benefits (including asset protection), they should not expect to enjoy the same land tax treatment provided to natural persons who own and occupy their home, and as a result forego those other benefits.

To assist land owners affected by the removal of the land tax exemption in these circumstances, the Government has recently introduced a temporary stamp duty rebate for individuals who choose to transfer their properties out of a trust and into direct ownership. This applies to transfers undertaken on or after 1 November 2005 and before 1 November 2006.

Full Exemption for Land Used by Caravan Parks

From 1 July 2005, caravan park owners were granted a 50% concession on their land tax assessment. This concession was introduced in response to substantial increases in the value of land (e.g. in the South-West region) threatening the viability of caravan parks. The measure was considered necessary to ensure the on-going supply of low cost 'family' accommodation, especially in areas considered to be the State's prime holiday destinations.

- Raising the concession to a full 100% would involve a revenue cost of around $1 million per annum.

However, a Ministerial Taskforce (established by the Minister for Planning and Infrastructure) is currently investigating the use of specific tourism zoning to reduce land tax impacts on low-key tourist operations (caravan parks, camping grounds and chalets). Under the proposal, caravan park owners would have the option to change the zoning to reflect the restricted use of the property.

12 Month Exemption for New Residences

This issue is considered in detail in Chapter 6(c) of the Technical Appendices ('Twelve Month Exemption for New Residences').

An exemption from land tax is currently available for one assessment year for persons constructing or renovating a home. It applies where the new residence is not completed at 30 June, but is completed and used as the PPR prior to the following 30 June.

Anecdotal evidence from the real estate and building industries indicates that it is currently taking up to two years to construct a home, due in part to high demand and skilled labour shortages.

Extending the land tax exemption for new homes to two assessment years would reduce the risk of persons constructing new homes incurring land tax bills while waiting for the completion of their future residences.

More flexible arrangements already exist in other jurisdictions. In particular, New South Wales and the Australian Capital Territory allow a period of up to two years for individuals to construct or renovate their property.

Chapter 6(b) of the Technical Appendices, prepared in consultation with the Technical Committee, also recommends that the land tax rebate in transitional circumstances (where two residences are owned whilst moving from one residence to another) be changed to an exemption.

The proposal has been costed at around $2 million per annum. Feedback from the Reference Group included a suggestion that a sunset clause apply, so that the extension is reviewed after a suitable period.

Preliminary Findings

On balance, it is considered that there are no significant land tax base broadening opportunities (e.g. extension of the base to principal places of residence) that would unambiguously add to the efficiency and/or equity of the overall land tax system.

Any further consideration of increasing the caravan park land tax concession should wait until the outcome of the Ministerial taskforce investigation of the use of specific tourism zoning to reduce land tax impacts on low-key tourist operations.

An extension of the current one-year land tax concession for building new residences is considered a high priority. The exemption should only apply to the period of construction, up to a maximum of two land tax assessment years.

9.4. Capacity To Pay

Submissions have highlighted that ‘asset rich’ but ‘cash poor’ land owners such as owners of non-income producing property (e.g. holiday homes) or self-funded retirees have faced problems in meeting increased land tax assessments. Some land owners are caught by surprise by the strength of increases in land valuations that flow through to land tax assessments. Uncertainties and difficulties in planning ahead for the payment of land tax are also commonly cited.

The only relief currently available to taxpayers experiencing capacity to pay difficulties is through the Commissioner’s powers to approve extensions of time for paying tax, or the payment of tax in instalments in certain circumstances (under *the Taxation Administration Act 2003*). However, these arrangements are usually reserved for situations where the taxpayer has demonstrated extreme financial difficulty.

What Submissions Said

Exemptions from Land Tax for Family or Non-Income Producing Property

A number of submissions recommended the introduction of land tax concessions where a property is held within a family for recreational or retirement purposes.

- Submission no. 83 suggested that consideration should be given to the background of property ownership for land tax purposes (e.g. inherited family property).

- Lynley McDonald (56) recommended the provision of a land tax rebate for non-income producing family owned recreational properties. She argued that families are being forced to sell their properties.

- Grahame Young (99) recommended concessional land tax treatment for holiday or family homes (especially where a property is reserved for family use or rented for short periods or not at all).

- Mair & Co (6) suggested that people should be allowed to own two homes before becoming liable for land tax (i.e. so that they are not liable for land tax on a second home used for holiday or other purposes).

Capping Land Tax Liabilities

Mair & Co (6) and Kerry Carroll (133) suggested that annual land tax increases for taxpayers should be limited to the CPI (6). Kerry Carroll (133) further suggested that the land tax could then be re-based when the property is sold.

Deferral of Land Tax

The MTA (78) recommended deferring a percentage of any significant increase in land tax where a small business owner can demonstrate that the viability of the business might be affected. Any deferred tax can then be collected at a time that the business is sold and/or the land is redeveloped.

Penalties

Tom's Cranes (21) states that they have to request that their land tax be paid in instalments each year because of the large burden of land tax and suggest that it is unfair to impose penalties on businesses that cannot meet their land tax liabilities if a consistent effort is being made to pay tax.

Analysis of Issues

Exemptions From Land Tax For Family or Non-Income Producing Property

A full exemption for inherited or other family property used for recreational or other non income earning purposes would seem difficult to justify on equity grounds, as owners of such property are wealthier and have options for generating cash from the property. It would also pose definitional and administrative issues in terms of the eligibility criteria, and significant erosion of the tax base, pushing a higher burden on to other taxpayers, would be likely.

No such exemptions are provided in other States and it has not been possible to cost this proposal at this stage.

Capping Land Tax Liabilities

Introducing a cap on the growth of individual land tax assessments would partly address the problem of unexpected increases resulting from property value growth and bracket creep. However, it would also raise a number of equity and administrative issues.

A capping mechanism would lead to differences in the amount of land tax charged on properties of similar value. For example, a property that had rapidly increased in value from $500,000 to $1 million (but had its land tax bill capped at the same time) would incur significantly less land tax than a property that had been stable at a value of $1 million.

- The extent and longevity of such inequities would depend on how high the annual cap is set (relative to the extent of increase in land tax liabilities in individual cases).

Considerable changes to the OSR's information systems (with resource implications) would be required, particularly to cope with situations where a taxpayer's land holdings change during the year. Restricting capping to certain classes of property owners (such as family property owners) would raise additional equity and definitional issues (i.e. what would constitute a 'cash poor' land owner?).

Nonetheless, it is notable that Victoria recently (as part of its 2005-06 Budget) introduced a one-off policy of capping land tax liabilities. This involves limiting increases in taxpayers' 2005 land tax liability to 50% (with respect to the same properties). The capping arrangements will only apply between the 2005 and 2006 land tax years and will be discontinued thereafter (with no requirement for land owners to pay back land tax for increases above 50%).

This proposal has not been costed, as it would depend on the parameters chosen.

Deferral of Land Tax

The option to defer land tax liabilities for businesses has been suggested in circumstances where it can be demonstrated that the viability of the business is affected. The payment of the accrued land tax liability would be finalised when the property is sold or otherwise undergoes a change of ownership.

Policy Considerations

As noted, there is already some capacity for the Commissioner of State Revenue to offer extensions of time or instalment arrangements for the payment of land tax where a taxpayer is experiencing financial hardship. These are considered to be the most appropriate option for businesses and owners of other income earning investment properties.

Nonetheless, the deferral proposal potentially has application to non-income producing land (such as holiday homes). Owners could be offered the choice of deferring all or part of an increase in their land tax assessment, subject to an appropriate interest rate being applied to deferrals to ensure equity and revenue maintenance in net present value terms.

Notably, the outcome from the land owner's perspective would be similar to borrowing to meet part of their annual land tax liability, and paying off their accumulated borrowings only when they sell the property or convert it to income generating purposes.

- Further investigation of the availability of 'reverse mortgages' or similar products from private financiers for such purposes seems warranted, together with evaluation of the pro's and con's of the OSR providing such a facility (see also below in terms of administrative issues).

Administrative Issues

Clear criteria would need to be developed for the types of properties and circumstances in which deferment of land tax liabilities could be offered. Accounting for deferral amounts, and recovery of land tax liabilities, would require significant systems changes and pose certain risks.

Precedents

No other jurisdiction provides for the general, voluntary deferment of land tax.

However, prior to the abolition of its premium property tax, New South Wales offered certain pensioners the option of the long-term deferral of land tax liabilities. Deferred land tax liabilities were subject to CPI escalation, and were only payable once land was sold or transferred through a will.

Western Australia's concessional rates and charges arrangements also include a deferment option for eligible pensioners. The scheme operates on the basis that if an eligible pensioner pays the local government rates when they fall due, then a 50% concession applies. However, if the option to defer the payment is taken up, 100% of the rates are payable when the land in which they reside is sold.

- The 50% concession available for rates paid by the due date is a significant incentive to choose that option, rather than to defer payment.

The ACT provides similar deferment options for owner-occupiers under its rates and charges legislation. Eligible pensioners, those receiving unemployment or other benefits, or suffering substantial financial hardship, may defer all or part of the balance of their rates. A relatively low rate of interest is charged.

Penalties

Under current arrangements, if land tax payment is not received by the due date, a penalty of 5% of the unpaid tax is imposed. If a taxpayer fails to meet agreed instalment arrangements, the taxpayer forfeits the entitlement to pay under the instalment options provided on the original notice of assessment, and a penalty is imposed for late payment.

It is considered that the current instalment and penalty arrangements provide the right balance of temporary assistance and payment incentives to taxpayers. It would be difficult to define what is a ‘consistent effort’ to meet instalment arrangements for the purposes of the proposal to relax penalties in these circumstances.

Preliminary Findings

Land tax exemptions for ‘family’ or non-income producing property (e.g. holiday homes) are not supported on equity grounds. However, further work should be undertaken in Stage 2 of the Review on deferral options for owners of such land, including by having regard to the effectiveness of any similar provisions in other jurisdictions.

Capping arrangements for individual land tax assessments are not supported due to both equity and tax administration concerns. Nor is a deferral option for land tax for businesses in financial hardship supported, on the basis that existing short-term extensions and instalment arrangements adequately cater for these circumstances.

9.5. Land Valuation

The amount of land tax payable is based on the unimproved value (UV) of the land according to the valuation in force under the *Valuation of Land Act 1978* at midnight on 30 June in the previous financial year. The UV of land is effectively the amount the land would sell for in the marketplace assuming that no structural improvements had been made.

What Submissions Said

A number of submissions expressed concern about the UV system of land valuation for land tax purposes (Mair & Co (6), submission no. 46, submission no. 58, REIWA (84) and PCA (113)). Mair & Co (6) specifically recommended the use of Gross Rental Value[24] (GRV) to

[24] The Gross Rental Value (GRV) is a measure of a property’s potential rental assuming it were offered in the marketplace and rented on a year to year basis upon the condition that the landlord were liable for all rates, taxes and other charges necessary to maintain the value of the land.

assess land tax, as this would also be consistent with the calculation of council and water rates.

The most common concern in these submissions was that the UV method of valuation is unfair and/or can lead to significant increases/variations in land values and land tax assessments from year to year. More specifically, the following concerns were expressed.

- Valuations are not based on the current use of land or the duration a property has been owned by an individual (6, 46).
- The 'highest potential use' of the land, as determined by government agencies, can change according to what zonings are applied (46).
- The use of UVs can result in those that are able to generate the least amount of income from the improved land being taxed at a higher proportion of the revenue earning potential of the land (i.e. it is argued that income that can be generated on improvements to residential land is 'minimal' in comparison to land in the CBD) (58).
- The rental income derived from the land may not increase at the same rate as the value of the land (6).
- Increases in land values also increase annual Council and Water rates (46).
- It was not uncommon for adjoining properties to attract different values (46).
- The volatility and uncertainty in land tax is a burden not experienced by non-property asset investors (113).
- The revaluation process can lead to increases in land tax that exceed the increase in property values, as a result of bracket creep (84).

Analysis of Issues

While annual revaluations of land, as occur under the UV system, can lead to significant volatility in land tax assessments (especially in a strong property market), less frequent revaluations may lead to much larger increases in assessments at the time, and be harder to budget for.

- While increases in UVs updated on a less frequent basis could be phased in (as was the case prior to 1993/94), the annual valuations process was introduced partly to overcome the problem that taxable values could still be increasing under this system when current values were not.

Issues concerning bracket creep and 'capacity to pay' for owners of non-income producing land are addressed earlier in this chapter. Notably, GRVs would not necessarily address the latter issue, as they are based on the income earning potential of the land rather than actual earnings.

The BTR only recently examined the valuation approach for land tax purposes, and concluded that UVs have on-balance benefits over GRV (consistent with many previous reviews in Western Australia and other States). Specific findings included the following.

- The UV method encourages the development and redevelopment of land according to the highest rate of return. Generally, the incentive to hold land for speculative purposes is higher under a GRV system.
  - While it is arguable whether an incentive to develop land to its highest and best use always leads to outcomes that are consistent with the best overall interests or needs of the community (e.g. having regard for social or environmental impacts), it still seems the best assumption to make.
- The cost of determining UVs is less than for other valuation methods, as there is less need to reinspect properties (because the physical nature of land does not change very often).
- All States currently use unimproved values for land tax purposes.
- While the volatility of UVs are an undesirable feature of the existing system, volatility is not any less under a GRV system.
  - UVs are determined annually, so there is less scope for significant revaluations of land than under a GRV system which values land every three to five years, for local government rating purposes.
  - Previous analysis of the volatility of land tax bases found that there are no statistical differences between volatility of UVs versus GRVs.[25]
- Whilst the relationship between land tax and capacity to pay may be stronger under a GRV system, this is not always the case.
  - GRVs may not necessarily correspond with capacity to pay where the potential rent is higher than the actual rent associated with the current land use.

Preliminary Findings

No changes are proposed to the methodology of valuing land for land tax purposes.

25 White Paper On Land Tax: *Review of NSW Land Tax Base and Valuation System* (1992).

9.6. Land Development

Some submissions to the Review expressed concern that land tax was impeding new housing lot development.

What Submissions Said

Land Tax on Newly Subdivided Rural Land

The UDIA (125) recommended that the ‘five year clawback’ provisions of the *Land Tax Assessment Act 2002* (section 15) be relaxed so that land tax would only be paid retrospectively by a developer of previously exempt rural land where the developer had control over the land prior to acquiring it for sub-division.

- It argued that developers may not even know if a land tax concession has been claimed, and that the clawback arrangements inhibit development.

Land Tax Provisions for Subdivided Land

The UDIA (125) also recommended reinstating the concession (introduced in 1996 but repealed as part of the BTR) that allowed land developers to pay land tax on the en globo value rather than the full subdivided value of lots for one assessment year after the creation of the lots, on the following basis.

- The removal of the land tax concession for subdivided land is distorting developers' business decisions.
  - In order to minimise their land tax liability, developers plan subdivisions around the 30 June land tax liability date, creating a lack of supply and potentially higher lot prices at this time.
  - The flow on effect on civil contractors, building contractors and other markets can be dramatic, including stoppage of work for extended time periods, with a flow-on impact to employment and consumer spending.
  - Developers who continue to hold land after 30 June are being penalised, and will pass on additional land tax costs to the consumer in the form of increased prices.

Hypothecation of Land Tax Revenue

Gill Coplin (9) recommended using land tax revenues to help/encourage councils to process development applications in a more timely fashion. This would encourage redevelopment along existing urban corridors and reduce pressure on the State Government’s budgets in the future.

Analysis of Issues

Land Tax on Newly Subdivided Rural Business Land

This issue is considered in detail in Chapter 6(d) of the Technical Appendices ('Clawback Provisions and Liability After Settlement').

The clawback provisions are not restricted to the subdivision of rural land, and are intended to discourage taxpayers from taking unfair advantage of land tax concessions and exemptions. This is perhaps most obvious in the case of the recently introduced 50% land tax concession for caravan parks.

- In the absence of a claw back provision, the caravan park owner could enjoy land tax assessments that did not reflect the highest and best use of the land while the land continued to appreciate in value, then realise the capital gains by developing the land, having gained a tax benefit vis a vis other investors.

- These arrangements could be considered a crude form of a deferral option for land taxpayers in rapidly appreciating areas. The land owner effectively defers, but still accrues, full land tax in the five years preceding development of the land.

Similarly, if the claw back provisions did not apply, a person could buy rural land that they always intend to subdivide, hold that land, and enjoy the land tax concession until they are ready to subdivide, giving them a competitive advantage over other developers.

While it may seem unfair that a developer may incur five years land tax retrospectively upon acquiring previously exempt land (with no intent to avoid land tax), it could be expected that this would be at least partly passed back to the previous owner in the form of a lower purchase price.

The UDIA proposal has not been costed at this stage.

Land Tax Concession for Subdivided Land

The abolition of the 'en globo value' land tax concession for land developers in the BTR was based on the finding that it had not achieved its original objective of encouraging an increase the stock of residential land, and was costing 15 times more than estimated when first introduced ($5.5 million per annum, rather than the estimated $300,000).

- The savings from the abolition of this concession was used by the government to help fund simplification of the land tax scale.

While it seems clear that land tax causes some 'seasonality' in final subdivision approvals, it is less clear that this is adversely affecting prices or contractors in the industry. Further quantitative evidence would be necessary to consider reinstating the concession so soon after its abolition.

Hypothecation of Land Tax Revenue

Hypothecation of State taxes should generally be avoided as it hinders the flexibility of Government to allocate funding to the highest priority areas, in a transparent and accountable manner. The timeliness of development applications by local councils is also considered to be outside the scope of the Review.

Preliminary Findings

A stronger, evidenced-backed case for relaxing claw back arrangements for the development of rural land or reinstating concessions for subdivided land would be required in Stage 2 of the Review to justify these proposals.

The issue of the timeliness of the processing of development applications by local government authorities could be referred to the DHW.

9.7. Heritage Property

What Submissions Said

Mair & Co (6) recommended that where a heritage property has a market value that is less than the unimproved value of the land, the land tax should only be assessed on the lower value, making the following points.

- Taxpayers are being penalised because the unimproved value does not take into account the encumbrance of a Heritage Memorial and the restrictions placed on the heritage buildings or improvements on the property.
- The community is not being encouraged to co-operate with the intentions of the Heritage Council if taxpayers are forced to pay land tax based on a valuation that is in excess of fair open market value.
- A provision of this nature is present in South Australian Heritage legislation.

Analysis of Issues

The VGO uses available land market information as a benchmark for deriving unimproved values for the assessment of land tax. It has indicated that legally binding and other statutory limitations on the highest and best use to which a property may be put are already reflected in valuations.

- In this instance, where a landowner has entered into a Heritage Agreement with the Heritage Council, the agreement will specify any restrictions placed on the property, and the UV of that property will be adjusted accordingly.
- However, a Heritage Memorial on its own does not specify the restrictions on the highest and best use to which a property may be put and, as such, cannot be reflected in valuations by the VGO.

Preliminary Findings

The issues raised should be considered further, in consultation with the VGO and other jurisdictions as appropriate, as part of Stage 2 of the Review.

9.8. Liability to Land Tax After Land Is Sold

As land tax is levied annually, based on ownership of the property at midnight on 30 June immediately preceding the assessment year, property owners will be subject to the full amount of land tax even if they sell a property before the following 30 June.

What Submissions Said

Mair & Co (6) recommended that when land is sold the vendor should not be liable for land tax after the settlement date (i.e. should receive a pro-rata rebate).

Analysis of Issues

This issue is considered in detail in Chapter 6(d) of the Technical Appendices (‘Clawback Provisions and Liability After Settlement‘), which notes that levying land tax on the basis of ownership at 30 June provides a specific, verifiable, transparent and efficient administrative mechanism.

- The proposal would effectively require apportioning land tax between purchasers and sellers in the year that a property is sold. This would involve substantial administration and compliance costs.

If both the buyer and seller are liable for land tax, it could be expected that the sale price will be negotiated to effectively apportion the land tax between the two parties. However, this will not be the case in other circumstances where, for example, an investor sells to a home owner (or vice versa).

It is understood that no other State provides for apportionment of land tax.

Preliminary Findings

Potential inequities reflect the annual nature of land tax and essentially arise only where there is a difference in the land tax liability status of the buyer and seller of land. Unfortunately, it is not considered practical to apportion land tax even in just these cases.

9.9. Anti-Avoidance Provision

It has been identified that some land owners with multiple property holdings are circumventing the land tax aggregation provisions (and thereby paying land tax at a lower rate on their individual properties) by transferring a small portion (e.g. 1/100th) of each property to different owners - who are usually related (in some cases, it may be a related company or trust).

- In so doing, a small amount of stamp duty may be incurred, but this would be offset over time by the recurrent land tax savings.

Analysis of Issues

This issue is considered in detail in Chapter 6(e) of the Technical Appendices (‘Anti-Avoidance Provision‘). The avoidance practice is estimated to have a revenue cost of at least $10 million per anum, which is likely to be increasing.

Applying the additional land tax revenue from an anti-avoidance provision to reducing land tax rates would be consistent with the equity objectives of the Review - revenue protection measures can reduce the burden on taxpayers who do not engage in avoidance activity.

The Technical Committee raised concerns that general anti-avoidance provisions are too broad and do not provide certainty for taxpayers. It suggested that it is preferable for any anti-avoidance provision to be targeted at the specific avoidance activity that needs to be addressed.

Feedback from the Reference Group included the suggestion that “an effective aggregation avoidance provision” be considered, with a view to helping facilitate a revenue-neutral move towards a single rate of land tax. This was interpreted to mean consideration of full ‘grouping’ provisions, as currently apply in the case of payroll tax.

- While strongly supported on equity and efficiency grounds, major administrative hurdles would need to be overcome, particularly in view of the far higher number of land tax payers vis a vis payroll tax payers.

Preliminary Findings

Introducing a land tax anti-avoidance measure targeted at people avoiding a higher ‘aggregated’ land tax rate by transferring a small portion of properties to different ownership is considered a high priority.

9.10. List of Land Tax Issues Considered in Other Chapters

Additional issues are addressed in the following chapters.

Indexation of Tax Scale Thresholds (Chapter 5)

Proposals to index land tax thresholds.

Tax Relief/Reform for the Disadvantaged (Chapter 6.1)

Concerns about the impact of recent increases in land tax assessments on self-funded retirees and seniors on fixed incomes. The Aged Care Association of Western Australia (43) recommended the introduction of a land tax exemption for privately owned aged care facilities.

Feedback from the Reference Group included the proposition that a land tax exemption should be extended to all privately owned aged care facilities, retirement villages and lifestyle villages, on the basis that this accommodation constituted permanent principal places of residence for the occupants.

- It was argued that operators of these forms of accommodation would reduce the burden on government as the population aged. Other land tax paying ‘landlords’ were distinguished on the basis of providing only temporary rental accommodation.

Several submissions suggested land tax relief to remove taxation barriers for people with disabilities.

Tax Incentives and Rewards for Education and Training Purposes (Chapter 6.2)

The AIS (43) recommended that independent schools should be exempt from land tax in all circumstances.

Tax Incentives and Rewards for Environmental Purposes (Chapter 6.3)

The Minister for the Environment (132), Greening Australia and the Australian Bush Heritage Fund (128), and the PGA (71) recommended land tax relief for the conservation and protection of land.

9.11. Metropolitan Region Improvement Tax

The MRIT is levied on the unimproved value of land which is both liable for land tax and located within the metropolitan region. The MRIT rate was reduced from 0.25% to 0.225% in 1987-88, and to its current rate of 0.15% in 1993-94.

Exemptions and concessions for MRIT are the same as land tax. However, unlike land tax, MRIT is levied on the total land value once the land tax exemption threshold is exceeded.

MRIT revenue is hypothecated to a trust fund for expenditure by the WAPC primarily on land acquisitions for road reserves, parks, recreation areas and the “Bush Forever” program, within the metropolitan region. MRIT revenue of $47 million accounted for around 52% of total expenditure by the WAPC in 2004-05.

What Submissions Said

Proposals in submissions ranged from abolishing the MRIT (including through absorption into the land tax scale) to expanding the scope of the MRIT to other major regional areas.

Abolition of MRIT

The MBA (63), CPA Australia (69), SBDC (94) and the PCA (113) recommended the abolition of MRIT. CPA Australia (69) considered that the current land tax regime could be simplified by absorbing MRIT into a revised land tax scale.

The following reasons were provided in support of abolishing MRIT.

- MRIT is inequitable as it is only levied on land owners subject to land tax, such as metropolitan commercial property owners. However, the broader community is sharing in the benefits of WAPC funded activities (94, 113).

- Land owners in the metropolitan area already pay significant amounts of land tax as a result of higher land values (63).

- MRIT has increased on a per capita basis (113).

- MRIT is often passed on to tenants and has a direct impact on business and jobs (113).

The PCA (113) and the MBA (63) recommended that activities funded by the MRIT should instead be funded from consolidated revenue.

Retain/Increase MRIT

The WAPC (95) recommended the retention of and/or increase in MRIT on the following basis.

- MRIT is an efficient, long established, widely accepted and well-targeted hypothecated tax. The stability of the fund into which the MRIT proceeds are paid has enabled the WAPC to ‘buy well’, acquiring land for urban needs when it is still relatively remote rural land and ‘on the market’.

- Additional resources will be required in the Perth region to implement the revitalisation and sustainability policies of the Government.

  – Future liabilities for compensating land holders are likely to increase as there will be a greater need for development in the inner and middle rings of Perth, rather then on the urban fringes where funding requirements are less.

- Increasing the MRIT rate would improve the capacity of the WAPC to meet contingent liabilities in a timely manner, and to assist the Government with large projects (as occurred recently in the acquisition of land for the Perth to Mandurah railway).

- Extending the MRIT to other fast growing parts of the State would support planning that reduces delays and uncertainties, coordinates infrastructure provision and accelerates decision making and achieves efficiencies in public and private investment.

The WAPC considered that a reduction in the MRIT would put more pressure on the consolidated fund, introduce uncertainties into infrastructure works, and see benefits derived from purchasing property in advance foregone.

Warwick Boardman (15) supported the retention or increase of MRIT and its allocation to the protection of heritage bushland.

Exemptions

The SBDC (94) recommended that small businesses operating on their own property should be exempt from MRIT. It also expressed concern that it is inequitable to levy the tax on commercial metropolitan property owners for the “benefit of all”.

Analysis of Issues

While there may be a sound case for funded planning schemes such as the Metropolitan Region Scheme (MRS), together with the Peel region scheme and Greater Bunbury region scheme, this does not necessarily mean that the schemes should be funded by a hypothecated tax, as is currently the case only for the MRS.

It is considered that the hypothecation of State taxes should generally be avoided, as it hinders the flexibility of the Government to allocate funding to the highest priority areas in a transparent and accountable manner. In the case of the MRIT, the expenditure plans of the WAPC are potentially subject to less scrutiny and prioritisation in the annual budget process.

- This poses the risk that MRS projects may be over-funded relative to other Government priorities, particularly if the MRIT grows faster than other revenues (although in recent years the growth in MRIT revenue has been reduced by the increases in the land tax exemption threshold – see below).

- On the other hand, hypothecation is less of an issue if the hypothecated revenues typically only account for part of the annual expenditure requirements of the recipient agency, and are topped up from the budget (it is understood that this has varied over time in the case of the MRIT).

Table 42

ANNUAL GROWTH IN MRIT AND LAND TAX REVENUES

	2001-02	2002-03	2003-04	2004-05	2005-06
MRIT	5%	3%	12%	8%	15%
Land Tax	2%	15%	8%	13%	1%
Total Tax	5%	15%	22%	5%	8%
Total Revenue	4%	7%	8%	12%	8%

As noted in submissions, a significant inequity in the existing MRIT is that only land owners who pay land tax (e.g. commercial property and rental housing owners) are liable for the MRIT, while all land owners in the metropolitan area (i.e. including owner-occupiers) benefit from WAPC expenditure funded from the MRIT.

- However, like land tax, the economic incidence of MRIT is broader than its legal incidence, such that the burden is indirectly shared (in part) by households through higher prices for goods and services (as well as by tenants in the form of higher rents).

- While MRIT could be spread more broadly across the community by shifting its collection to local government authorities as part of their rating base, this would involve redistributional and administrative consequences requiring close examination and wide consultation (not yet undertaken).

In relation to the proposal that MRIT be absorbed into the land tax scale, it is relevant that MRIT is essentially a flat rate tax exhibiting none of the high progressivity of the land tax scale, once land has exceeded the exemption threshold. Thus, this proposal may fit with the proposal to examine flattening of the land tax scale over time, to reduce bracket creep.

- This could involve replacing MRIT revenue with higher marginal land tax rates at the lower and middle ranges of the land tax scale. However, one difficulty with this approach would be the impact on land tax payers in regional areas (where no offsetting reduction in MRIT would apply).

It is understood that Victoria is the only other State that imposes a levy similar to the MRIT.

Exemptions

The proposal to provide an MRIT exemption to small business would have the same disadvantages associated with all tax base-narrowing proposals, and push the ‘burden’ of MRIT onto larger businesses, and landlords and tenants. Issues would also arise in defining a ‘small business’ for this purpose.

Preliminary Findings

Further consideration, in consultation with the WAPC and DPI, should be given to incorporating MRIT into the land tax scale and funding the WAPC solely from general revenue, as part of Stage 2 of the Review.

Attachment

Recent Adjustments to the Land Tax Scale

Inherited Land Tax Scale

The Government inherited the following scale.

Table 43

2001-02 SCALE

Unimproved Value of Land $'000	Base Value at Threshold	Marginal Rate on Excess
0-10	Nil	Nil
10-100	$15	0.15%
100-190	$150	0.25%
190-325	$375	0.45%
325-550	$982.50	0.80%
550-850	$2,782.50	1.20%
850-1,250	$6,382.50	1.60%
Over 1,250	$12,782.50	2.00%

2002-03 Scale

In 2002-03:

- the land tax exemption threshold was increased five-fold from $10,000 to $50,000 (freeing around 52,000 taxpayers from the land tax base); and
- the tax rate applying to properties valued between $2 and $5 million was increased from 2.0% to 2.3% and the tax rate applying to properties valued over $5 million was increased from 2.0% to 2.5%.

Table 44

2002-03 SCALE

Unimproved Value of Land $'000	Base Value at Threshold	Marginal Rate on Excess
0-50	Nil	Nil
50-100	$75	0.15%
100-190	$150	0.25%
190-325	$375	0.45%
325-550	$982.50	0.80%
550-850	$2,782.50	1.20%
850-1,250	$6,382.50	1.60%
1,250-2,000	$12,872.50	2.00%
2,000-5,000	$27,872.50	2.30%
Over 5,000	$96,782.50	2.50%

Business Tax Review Adjustments

As part of the package of BTR measures, the number of land tax thresholds was reduced from ten to six, with the following scale applying in 2003-04.

Table 45

2003-04 SCALE

Unimproved Value of Land $'000	Base Value at Threshold	Marginal Rate on Excess
0-50	Nil	Nil
50-190	$75	0.15%
190-550	$285	0.45%
550-2,000	$1,905	1.76%
2,000-5,000	$27,425	2.30%
Over 5,000	$96,425	2.50%

2004-05 Scale

In 2004-05, the land tax exemption threshold was increased by $50,000 (to $100,000), the second tier land tax threshold was increased by $30,000 (to $220,000) and the third tier threshold was increased by $20,000 (to $570,000).

Table 46

2004-05 SCALE

Unimproved Value of Land $'000	Base Value at Threshold	Marginal Rate on Excess
0-100	Nil	Nil
100-220	$150	0.15%
220-570	$330	0.45%
570-2,000	$1,905	1.76%
2,000-5,000	$27,073	2.30%
Over 5,000	$96,073	2.50%

October 2004 Tax Relief

In October 2004, the Government announced that from 1 July 2005 land tax would only be levied on the portion of the aggregate taxable value of land above the exemption threshold (then $100,000), rather than on the total land value once the exemption threshold is reached.

2005-06 Scale

In 2005-06, the land tax exemption threshold was increased by $30,000 (to $130,000), the second tier land tax threshold was increased by $70,000 (to $290,000) and the third tier threshold was increased by $180,000 (to $750,000). The marginal rate between $750,000 and $2 million was also reduced (from 1.76% to 1.62%).

Table 47

2005-06 SCALE

Unimproved Value of Land $'000	Base Value at Threshold	Marginal Rate on Excess
0-130	Nil	Nil
130-290	Nil	0.15%
290-750	$240	0.45%
750-2,000	$2,310	1.62%
2,000-5,000	$22,560	2.30%
Over 5,000	$91,560	2.50%

2006-07 Scale

In the 2006-07 Budget, the Government increased the three lowest thresholds (by $20,000, $100,000 and $125,000 respectively).

Table 48

2006-07 SCALE

Unimproved Value of Land $'000	Base Value at Threshold	Marginal Rate on Excess
0 – 150	Nil	Nil
150 – 390	Nil	0.15%
390 - 875	$360	0.45%
875 – 2,000	$2,543	1.62%
2,000 – 5,000	$20,768	2.30%
Over 5,000	$89,768	2.50%

10. Motor Vehicle Taxes

10.1. Stamp Duty on Motor Vehicle Licence Transfers

Stamp duty on motor vehicle licence transfers or the grant of a new licence is based on the market value of the vehicle and paid by the purchaser. The duty is collected by the DPI under the *Road Traffic Act 1974*.

Three different rate scales apply for motor vehicle licence transfers, depending on whether the vehicle is an 'other' vehicle, used heavy vehicle or new heavy vehicle.

- The 'other' vehicle category includes standard passenger vehicles, motor cycles, scooters, caravans, campervans and household trailers.
- Heavy vehicles are defined to be over 4.5 tonnes.

Table 49

MOTOR VEHICLE STAMP DUTY RATE SCALE

Vehicle Value	Other Vehicles (i.e. below 4.5 tonnes)	Used Heavy Vehicles	New Heavy Vehicles
$0 - $15,000	2.75% flat	2.5% flat	3.0% flat
$15,000 - $40,000	2.75% – 6.50% [(a)]	2.5% – 5.0% [(b)]	3.0% flat
Over $40,000	6.50% flat	5.0% flat	3.0% flat
Maximum Duty ($400,000 and over)	n.a.	$20,000	$12,000

(a) rate = 2.75% + (V-$15,000)/($40,000-$15,000)x(6.50%-2.75%) where V = value of vehicle.

(b) rate = 2.5% + (V-$15,000)/($40,000-$15,000)x(5.0%-2.5%) where V = value of vehicle.

Competitiveness and Distortions to Transaction Activity

What Submissions Said

Most submissions argued that Western Australia's motor vehicle stamp duty scale for passenger vehicles is uncompetitive compared to other jurisdictions (2, 22, 51, 63, 70, 78, 81, 82, 94, 97, 99, 105, 124). Specific recommendations on rate reductions were as follows.

- Stamp duty rates should be more in line with other States (51, 82, 2, 124).
- If a progressive scale were retained, the top rate should be reduced to 4 percent (78, 94).

- A flat rate should be introduced. Suggested rates were 3% (78) and 3.5% (70).

- Rather than adjust rates, the bottom and top thresholds should be increased by $10,000 (to $25,000 and $50,000 respectively) (97).

Additional reasons given in submissions for introducing a flat rate were that it would be simpler to administer (78), reduce compliance costs (78) and fairly spread the tax burden on all vehicle purchasers (70).

Several submissions expressed concern that vehicle sales were being lost to other States (2, 22, 51, 63, 78, 94, 99, 124). Specific comments on this matter included the following.

- The transfer of vehicles interstate benefits larger businesses, fleet purchasers and national businesses (as they can take advantage of transport cost efficiencies), putting small businesses and individual taxpayers at a disadvantage (51, 78, 94).

- Dealerships selling more expensive vehicles are reporting a decline in sales compared to national averages (63, 78).

- As more vehicle sales are lost interstate, the practice becomes more established, as the barriers to transferring vehicles are lowered through the refinement of financial and logistical practices (124).

- The Government is losing revenue from the loss of sales (78).

Some submissions noted that stamp duty costs may be having a detrimental impact on Western Australian business, including for the following reasons.

- Increasing the cost of doing business in Western Australia, especially for fleet customers in the transport and light manufacturing sector, car rental industry (70) and tourism industry (78).

- The higher costs disadvantage and are unfair to the motor vehicle industry (78, 94).

- Imposing an unnecessary additional cost on builders who are required to travel to construction sites (63).

Other arguments for reducing stamp duty costs included the following.

- The State’s strong fiscal position and strong revenue growth from motor vehicle transfer duty makes this relief more affordable (78, 81).

- High stamp duty costs are a disincentive to purchase safer and more environmentally friendly vehicles, and have contributed to Western Australia having one of the oldest vehicle fleets in Australia (78).

- Motor vehicle stamp duty is a significant burden on Western Australia households, given a car is the second largest purchase of households (97).

- High stamp duty costs are a disadvantage to country motorists who have to buy more expensive vehicles (e.g. 4WDs) at more regular intervals (78).

- The Government has not moved to decrease duty rates in order to offset the policy change to levying stamp duty on the 'list price' for new vehicles (82).

The MTA (78) also addressed some counter arguments for not reducing motor vehicle stamp duty, including the following.

- The number of car sales should not be an indicator of whether the stamp duty rate is set at the correct level. Rather, stamp duty should only be set at a level that is fair and affordable, and for the government to fund its normal operating activities.

- Recent record sale levels have been driven by fleet and business sales from the resources boom, and around 70% of the new vehicle market is for vehicles under $20,000 (where the competitiveness of stamp duty rates is not a major issue).

- High stamp duty rates could also contribute to a downturn in sales if there is a loss in consumer confidence.

- High stamp duty costs may only be causing people to buy less expensive vehicles.

- Lower motor vehicle running costs from overall government charges on vehicles do not generally support levying higher stamp duty rates. For example, lower costs of compulsory third party insurance premiums in Western Australia are a result of motor vehicle accidents and claims, and not from direct Government decisions on the cost of premiums.

The MTA (78) also considered that there was a special case for tax relief for the motor vehicle industry, including for the following reasons.

- The motor vehicle industry is the second largest industry in Western Australia and a major contributor to the economy and State taxes.

- Many motor traders are small and family owned businesses. Those located in rural and remote regions are subject to higher costs for essential services and volatility in economic circumstances, while those located in metropolitan areas are subject to strong competition from large competitors, and operate on thin profit margins.

- It is unfair and inequitable to motor vehicle dealers that customers often opt to buy a cheaper vehicle or expect the dealer to meet some of the stamp duty costs. Dealers are also unable to take part in national drive-away deals because of high stamp duty rates.

From a more general tax principle perspective, the following comments were made in submissions.

- The ICAA (2) suggested that stamp duties on motor vehicles were inefficient.

- Taxpayers Australia (51) considered the compliance costs of motor vehicle transfer duty and motor vehicle license fees were low as the duty is paid by the purchaser and collected by DPI.

Analysis of Issues

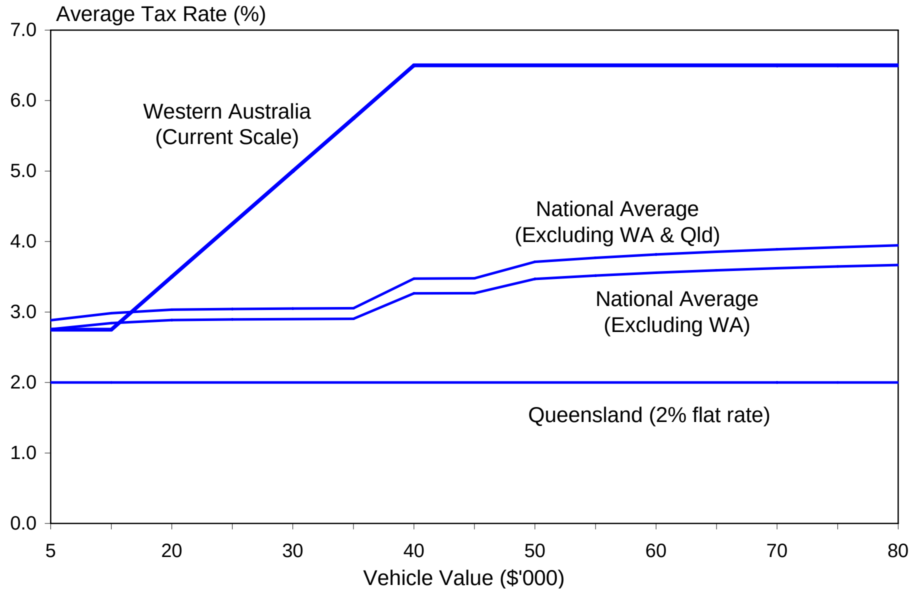
If the competitiveness criterion were based solely on an interstate comparison of tax rates, there would be a strong case for reducing Western Australia's motor vehicle stamp duty rates for passenger vehicles (i.e. new and used cars, trailers, caravans, motor cycles, scooters etc.).

- Stamp duty on these vehicles is higher than the average of the other States for vehicles valued $15,000 and above. This difference starts to become most apparent at around the $20,000 mark, and is at its greatest for relatively expensive vehicles that are valued above the maximum threshold of $40,000.

- Based on DPI data for 2004-05, vehicles valued at $15,000 or more only account for around 38%[26] of total annual transfers of light vehicles in Western Australia. However, this percentage share is a higher 71% for new vehicles and (if a break down of the data were available) would be even higher if motor cycles, scooters and trailers (which are mostly valued below $15,000) were excluded.

Figure 12

AVERAGE EFFECTIVE TAX RATE ON NEW MOTOR VEHICLES



[26] This proportion is around 25% for vehicles valued above $20,000.

Notably, Western Australia's motor vehicle stamp duty scale for passenger vehicles has a significantly greater degree of progressivity than the other States, whereby the top rate (6.5%) is phased-in over the $15,000 to $40,000 value range.

- Some of the other States also have progressive scales with higher minimum rates of duty, but the next highest top rate is 5% (in New South Wales, Victoria (for new vehicles) and the ACT).
- Flat rates are currently only levied in Queensland, South Australia (for vehicles valued over $3,000) and the Northern Territory. The lowest benchmark is Queensland's flat rate of 2%, which is lower than the minimum rate of any other State.
- The table below compares the stamp duty payable for various motor vehicle values in Western Australia and other States.

Table 50

STAMP DUTY ON SELECTED VEHICLES

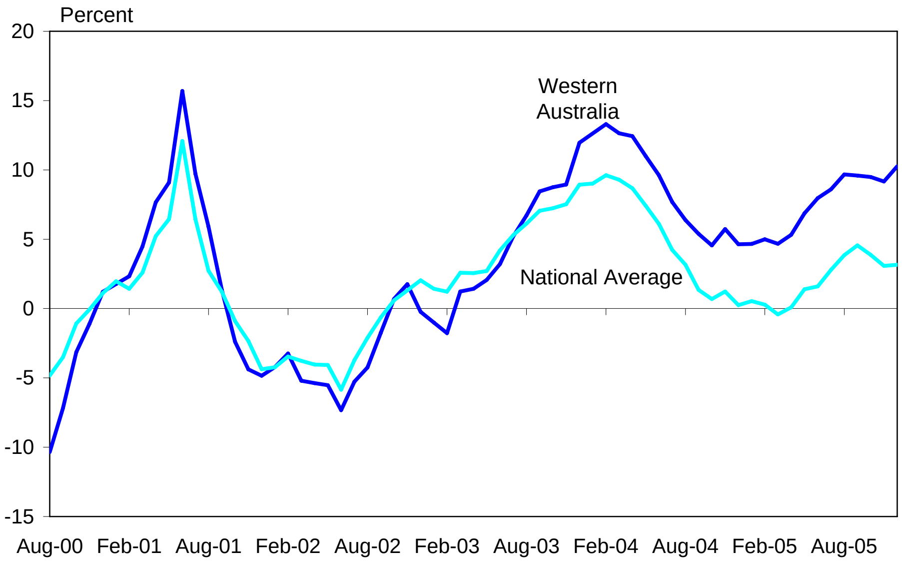
Vehicle Value	Western Australia	New South Wales	Victoria		Queensland	South Australia		Tasmania	
	Non-heavy		New	Used		Commercial	Other	Passenger	Other
$	$	$	$	$	$	$	$	$	$
5,000	138	150	125	200	100	120	140	150	150
10,000	275	300	250	400	200	270	340	300	300
20,000	700	600	500	800	400	570	740	600	600
30,000	1,500	900	750	1,200	600	870	1,140	900	900
45,000	2,925	1,350	1,800	1,800	900	1,320	1,740	1,800	1,350
60,000	3,900	2,100	3,000	2,400	1,200	1,770	2,340	2,400	1,800
80,000	5,200	3,100	4,000	3,200	1,600	2,370	3,140	3,200	2,400

However, competitiveness also needs to have regard for the impact of tax rate differentials between States on taxpayer behaviour. In this regard, the available data does not show any negative impact on total vehicle sales in Western Australia. ABS data for new vehicle sales (see chart below) indicates that growth in motor vehicle sales in Western Australia over the past two years has been markedly above the national growth rate.

Figure 13

NEW PASSENGER MOTOR VEHICLE SALES

Annual Average Growth (%)



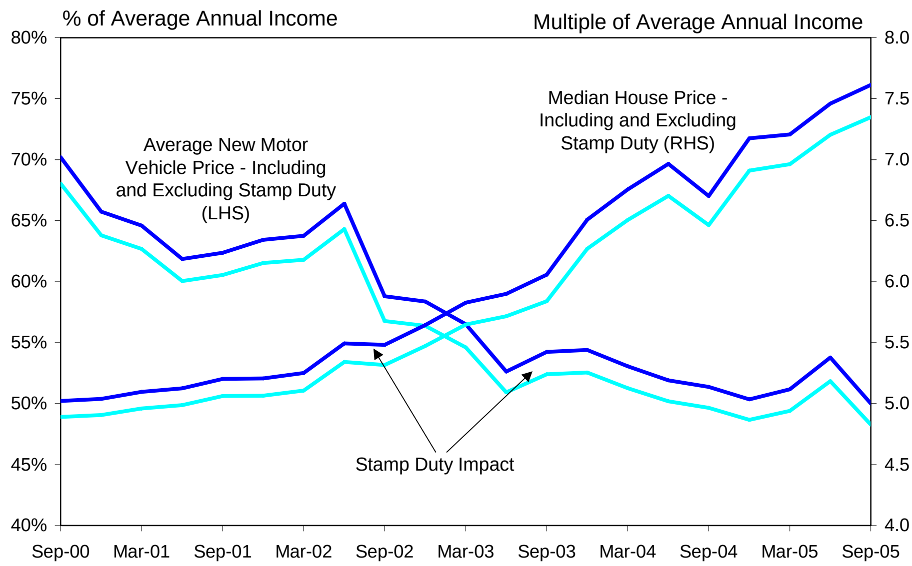
Submissions largely quoted only anecdotal evidence that high stamp duty rates were having a detrimental impact on vehicle sales. The absence of supporting quantitative evidence was a source of some frustration for the Review.

Feedback from the Reference Group included an ICAA survey of 350 local business people indicating that 70% were aware of instances of vehicles being purchased interstate to take advantage of lower stamp duty rates. However, the details provided were not considered to allow for any definitive conclusions to be drawn.

The factors which drive the demand for motor vehicles are complex. The additional cost of stamp duty may be outweighed by movements in vehicle prices and the incomes of purchasers. The chart below shows movements in a standard measure of the affordability of new vehicles for households (average new car prices (derived from ABS data) as a percentage of average annual income) since the September quarter 2000, and contrasts with the movements in home affordability.

Figure 14

HOUSEHOLD AFFORDABILITY MEASURES - NEW MOTOR VEHICLES AND HOUSING



The affordability of new vehicles for households has improved dramatically over the past five years (falling from an average 70% of annual income to around 50%), reflecting the combined impact of static new car prices (in nominal terms) and continued growth in annual average incomes. Car prices are understood to have benefited from technological advances, strengthening of the value of the $A and the replacement of wholesale sales tax by the (lower) GST, easily offsetting the impact of higher stamp duty rates.

- Static new car prices mean that the affordability (in real terms) of vehicles for businesses is also likely to have improved over this period.

By way of contrast, the affordability of housing purchases (based on the standard affordability measure of the median house price as a multiple of average annual income) has declined significantly over the past five years.

- These relative trends in affordability could be considered a relevant factor in determining an appropriate priority ranking for tax relief. In particular, as the affordability of housing declines and the affordability of motor vehicles increases, purchasers may become more sensitive to (and more adversely affected by) conveyance duty rates than high motor vehicle stamp duty.

- Divergent views were expressed in Reference Group meetings and written feedback about the relative priority to be given to stamp duty reductions in these areas. Some members not aligned to either the motor vehicle or property industries expressed scepticism about high motor vehicle stamp duty having a significant detrimental impact on sales in Western Australia. Some other members suggested that despite the lack of evidence, Western Australian consumers should not be over-taxed relative to other jurisdictions.

Data from the vehicle licensing authority in Western Australia (the DPI) provides little supporting evidence in regard to the contention in submissions that high stamp duty rates are encouraging households and businesses to purchase vehicles in other States and re-licence them in Western Australia, the available data provides little supporting evidence.

- As noted in Chapter 7(b) of the Technical Appendices on a possible anti-avoidance provision for vehicles initially licensed in other States, data received from the DPI for the period 1 January 1999 to 30 June 2005 indicate only a very slight increase in the number of 'luxury' vehicles re-licensed in Western Australia.

- Similarly, DPI data shows no evidence of an increase in the number of hire or business fleet vehicles that have been re-licensed in Western Australia.

This suggests that the total cost of purchasing a vehicle in another State and re-licensing it in Western Australia (i.e. including transportation costs and the payment of stamp duty in the other State, as well as the time and effort required to arrange the purchase of a vehicle in the other State) continues to outweigh the relatively high stamp duty costs.

- In this regard, there are anecdotal reports (West Australian of 4 February 2006) of very strong growth in the sales of luxury cars in Western Australia, with one dealer citing growth of 72% in 2005, with this trend continuing into 2006.

It is possible that in some regional areas of Western Australia (such as the far north, near the Northern Territory border) transportation costs may be much less of a disincentive for purchasing vehicles in a neighbouring jurisdiction. However, it is considered that any localised anomalies of this nature could be appropriately managed through an anti-avoidance provision, rather than a general reduction in stamp duty rates (and associated revenue cost).

It was suggested in Reference Group discussions and written feedback that dealers in Western Australia may be stemming the loss of sales to other States by absorbing some of the additional stamp duty costs, and that policing in Western Australia was not picking up all interstate registrations. This suggests some further lines of inquiry (e.g. examination of any interstate data on dealers' margins) that could be followed up in Stage 2 of the Review.

While the remaining contention in submissions that relatively high stamp duty costs are distorting the types of vehicles that are being purchased in Western Australia (i.e. lower value and quality than otherwise) could be further examined, this could be a complex and resource intensive task, possibly constrained by available data and unlikely to reach any definitive conclusions.

- For example, it would be difficult (and largely a subjective judgement) to assess whether a concern over high petrol prices in the long term plays a greater or lesser role than stamp duty in any growth in the number of smaller (and generally less expensive) vehicles.

From the perspective of the overall contribution by motorists to total State taxes, consideration also needs to be given to the relatively low annual licence and charges in Western Australia, as shown in the table below.

Table 51

ANNUAL MOTOR VEHICLE LICENCE FEE AND CHARGES 2005-06

(based on six cylinder Holden Commodore)

	WA	NSW	VIC	QLD	SA	TAS	ACT	NT
	$	$	$	$	$	$	$	$
Private								
Licence Fee	181	305	165	303	172	196	336	152
CTP (including stamp duty)	275	332	382	303	435	338	393	426
Other Fees	28	82	27	60	66	16	80	8
Total	484	719	573	666	673	550	809	587
Commercial								
Licence Fee	234	490	165	303	172	196	521	152
CTP (including, stamp duty)	292	340	382	325	469	338	432	426
Other Fees[a]	28	82	27	59	66	16	80	8
Total	554	912	573	687	707	550	1033	587

(a) Includes recording fees, plate fees, emergency service levies and traffic improvement fees.

Annual licence and fee costs in Western Australia are the lowest for private vehicles and second lowest for commercial vehicles (however, Queensland’s costs would be substantially reduced if annualised data were available on the benefit to individual motorists of its on-road fuel subsidy of around 8 cents per litre for unleaded petrol).

Western Australia’s costs incorporate relatively low compulsory third party (CTP), partly reflecting that the Government does not extract a dividend payment from the Insurance Commission of Western Australia (reducing the margin that needs to be added to the risk premium). The Government’s road safety initiatives, spending on the maintenance and improvement of the State’s roads, and development of public transport would also contribute to a lower accident rate.

Revenue Cost of Adjustments to the Motor Vehicle Stamp Duty Scale

From a starting point of addressing the main difference between Western Australia and other States (i.e. the highest top stamp duty rate and a low maximum threshold), the table below shows the estimated annual revenue impact in 2006-07 of combinations of increases in the upper threshold and/or reductions in the top rate.

Table 52

REVENUE COST OF ADJUSTMENTS TO MAXIMUM THRESHOLD/TOP RATE ($M)

	Top Rate					
Threshold	**6.5%**	**6.0%**	**5.5%**	**5.0%**	**4.0%**	**3.0%**
40,000	0	20	40	59	99	139
50,000	25	42	58	74	107	140
60,000	45	58	72	86	114	142
70,000	60	71	83	95	119	143
80,000	71	81	92	102	123	143
90,000	80	89	98	107	126	144
100,000	87	95	104	112	128	144

These costings highlight that even a moderate adjustment (such as a $10,000 increase in the upper threshold and a 1% reduction in the top rate) would involve a substantial revenue cost of around $58 million per annum.

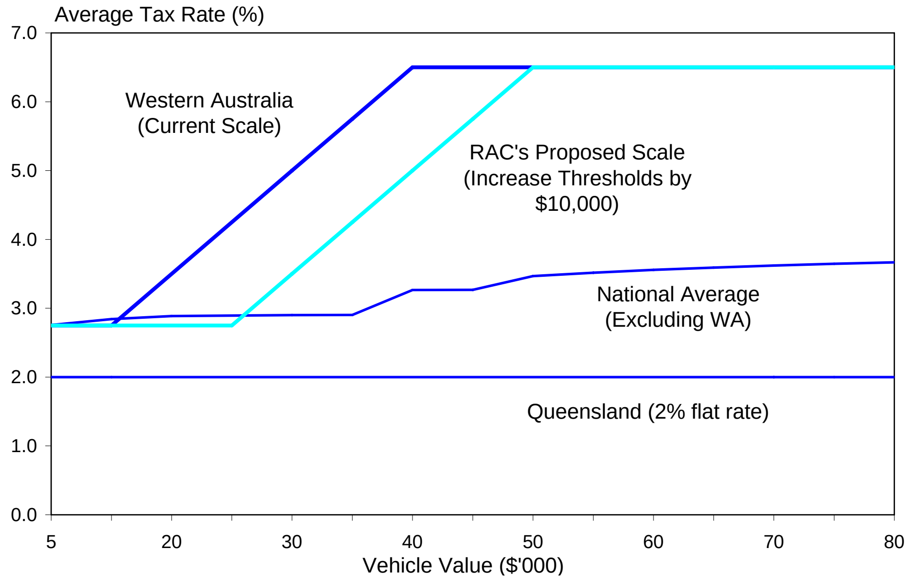
- In order to match the lower progressivity (on average) of the motor vehicle stamp duty scales of the other States, a top rate of around 3.5% and a maximum threshold of around $45,000 is required, involving an annual cost of around $121 million.

- At the extreme, matching Queensland’s flat rate of 2% would involve an annual revenue cost of $205 million. This would significantly reduce the scope for providing relief in other areas of taxation.

The RAC has proposed a more targeted adjustment to the scale, which only involves a $10,000 increase in both the minimum and maximum thresholds (to $25,000 and $50,000 respectively), at an estimated revenue cost of around $53 million per annum.

Figure 15

AVERAGE EFFECTIVE TAX RATE ON NEW MOTOR VEHICLES



Compared to options which only increase the maximum threshold and/or reduce the top rate, the RAC's proposal would direct all of the relief to vehicles valued between $15,000 and $50,000 (with vehicles above $50,000 still being subject to a top rate of 6.5%).

- As noted earlier, around 70% of new vehicle transfers are valued over $15,000. The majority of these (86%) are in between $15,000 and $50,000, which includes the 'standard' vehicle models (such as Falcon and Commodore) for households and business fleets.
- Overall, around 35% of light vehicle transfers (i.e. new and used vehicles between $15,000 and $50,000) would benefit.
- The table below compares the stamp duty payable under the current scale and the RAC's proposed scale.

Table 53

STAMP DUTY PAYABLE – CURRENT SCALE AND RAC PROPOSAL

Value	Current	RAC Proposal	Difference	
	$	$	$	%
5,000	138	138	0	0%
10,000	275	275	0	0%
15,000	413	413	0	0%
20,000	700	550	-150	-21%
25,000	1,063	688	-375	-35%
30,000	1,500	1,050	-450	-30%
35,000	2,013	1,488	-525	-26%
40,000	2,600	2,000	-600	-23%
45,000	2,925	2,588	-338	-12%
50,000	3,250	3,250	0	0%

Feedback from the Reference Group also pointed to the potential complexities and inequities resulting from the three different stamp duty scales for different classes of vehicle (the different scales reflect the degree to which interstate avoidance of stamp duty is considered to be an issue).

- This could be further examined in Stage 2 of the Review, although it was not apparent that these concerns were widespread, even for dealers who may trade in more than one of the three classes of vehicle.

Preliminary Findings

Western Australia’s motor vehicle stamp duty rates are significantly higher than other States for light passenger vehicles valued above the current bottom threshold of $15,000. However, there is currently little evidence of any negative impact on motor vehicle sales or (relative to other State taxes) the community. This may partly reflect ongoing improvements in the overall affordability of motor vehicles.

Nonetheless, if the Government were to support the view (expressed by a majority but not all Reference Group members) that Western Australians are simply over-taxed, then cuts to motor vehicle stamp duty should be ‘in the mix’, given the sheer extent to which rates for other than low value vehicles currently exceed those in other States (and the potential for future ‘leakage’ of sales, even if not readily apparent to date).

In view of the substantial revenue cost to significantly close the interstate differential, there may be a need to target any relief, as proposed by the RAC in its submission to the Review.

Additional Issues

In addition to any comments on the preliminary findings, feedback is invited on any difficulties caused by Western Australia having three different stamp duty scales for 'light', 'new heavy' and 'used heavy' vehicles.

List Price, Market Value and Demonstration Vehicles Issues

Since 1 March 2004, stamp duty on new vehicles has been levied on the 'list price' (or recommended retail price (RRP) of the manufacturer). Demonstration vehicles used for less than three months are included in the definition of new vehicles.

For other vehicles, stamp duty is levied on market value. This is intended to ensure that there is no avoidance of duty by way of under-reporting of the purchase price or artificial price reductions in non-arms length transitions.

Where a vehicle has been used for the purposes of demonstrating it to prospective purchasers, or as a loan vehicle to charitable organisations or for other specified purposes, for a period of more than three months, it is no longer considered to be a 'new' vehicle for the purposes of imposing stamp duty.

What Submissions Said

List Price and Market Value

Taxpayers Australia (51) and Bushby Investments Pty Ltd (70) recommended that stamp duty should be applied on the contracted sale price instead of the list price. Other comments on this issue included the following.

- Consumers are paying more stamp duty, even if they have been able to purchase vehicles at a discount (78).

- The list price regime is uncompetitive with other jurisdictions that use the contracted sale price to calculate stamp duty (with higher stamp duty rates in Western Australia exacerbating this disadvantage) (2, 78).

- Car rental businesses are paying the same stamp duty costs as other vehicle purchasers, despite negotiating better deals. These costs are passed onto consumers or absorbed into margins (70).

Other recommendations on this issue raised in submissions included the following.

- The ICAA (124) was concerned that dealers were liable for any underpayment of duty if the Commissioner finds differences between the RRP at the time the contract was entered into and the delivery of the vehicle. It suggested that administration would be improved if the licensing authority had the RRP provided to it by motor vehicle distributors, with stamp duty payable at the time of registration.

Demonstration Vehicles

Terry Redman MLA (79) recommended that demonstration vehicles be distinguished from new vehicles for stamp duty purposes, and that demonstration vehicles be subject to the same market value definition (i.e. the negotiated sale price) as all other vehicles (and not the list price, as for new vehicles).

Analysis of Issues

List Price and Market Value

The move to a list price regime for stamp duty on new vehicles was developed in consultation with the MTA and aimed to provide clarity and reduce dealers' compliance costs. In particular, it removed the confusion faced by dealers when determining a market value for fleet buyers (who were often given a multitude of discount options by manufacturers) for stamp duty purposes.

Any suggestion that the list price regime imposes higher stamp duty costs on fleet purchasers is difficult to sustain. Under the previous market value arrangements, stamp duty was applied on the price that a vehicle could be acquired for in the open market without taking into account any special discount for a bulk purchase that was not available to an ordinary purchaser.

- If fleet purchasers were paying substantially less duty in the past, this would have been in error.

For individual purchasers of new vehicles, in many cases less stamp duty would be payable as the list price does not include the value of accessories fitted after the factory production (which were included in the previous market value arrangement).

For other used vehicles, the use of an open market value for stamp duty purposes (rather than the purchase price) ensures that there is no avoidance of duty by way of under reporting of a purchase price or artificial reductions in purchase prices of non-arms length transactions. Any departure from this principle would carry the risk of establishing a precedent for significantly undermining the duty base.

In relation to dealers being liable for underpayment of duty this would only arise where the RRP has increased from the time the dealer signs the contract to the time the vehicle is registered, as the duty is calculated at the time the licence is granted or transferred. During consultation on the list price regime, the question was raised regarding the timeliness of notification of RRP changes, with dealers indicating a preference for an automated system that automatically updated values at the licensing authority at the time a RRP changed.

However, in the absence of such automation, dealers are likely to have the most up to date information on RRP from the manufacturers in order to conduct their business, and are required to take this value into account at the time of licensing a vehicle.

Nonetheless, it is considered that concerns raised about the list price system are sufficient to warrant review in Stage 2 of an alternative system based on actual price paid (or market value in the case of non-arms length sales), which has significant intuitive appeal as a simple and fair system.

Demonstration Vehicles

This issue is also considered in Chapter 7(a) of the Technical Appendices ('Amendment to Definitions of New Vehicle and Market Value in Respect of Certain Demonstration Vehicles').

In the absence of the three month rule for demonstration vehicles, a potential avoidance opportunity would exist where a vehicle could be used for demonstration purposes, or loaned to charitable organisations to be driven for a short period of time, and be classified as a used vehicle, with duty then calculated on the market value rather than the retail selling price.

However, it is recognised that it is possible for demonstration and loan vehicles to be used to varying degrees in the three month period, resulting in the market value differing in each case. Therefore, basing an assessment of stamp duty on the list price may not be appropriate in all circumstances.

This matter was examined by the Technical Committee and it is considered that in addition to the three month rule, a kilometre test could be introduced to better determine whether a demonstration or loan vehicle is a new or used vehicle for the purpose of determining the value on which stamp duty is assessed.

Under this approach, a vehicle would be classified as a used vehicle if it was used for demonstration or loan purposes for less than three months, but more than a specified number of kilometres. The vehicle would then be treated as a used vehicle for stamp duty purposes, and the grant or transfer of the licence would be assessed on the market value of that vehicle.

It is considered that this would largely address the concern in relation to the inequitable treatment of new and used vehicles, while not creating avoidance opportunities. However, feedback from the motor trades industry was not supportive, on the basis of the additional compliance costs that dealers would incur.

Preliminary Findings

The list price regime has improved the transparency and certainty of the stamp duty treatment of new vehicles. However, the operation of the regime should be examined further in Stage 2 of the Review to confirm that it is the most appropriate model for imposing stamp duty in this regard.

- Subject to this, further consultation should be held with the motor trades industry on options for improving the operation of the list price regime, including the option to include a kilometre test for determining whether a demonstration or loan vehicle is new or used for stamp duty purposes.

General Business Concessions

The only exemptions and concessions provided for the purchasers of vehicles for business purposes are the concessional scales for heavy vehicles and the transfer of vehicles exempt from annual licence fees under the *Road Traffic Act 1974* (includes certain off-road vehicles used in farming and mining, government vehicles and vehicles purchased by certain charities).

What Submissions Said

Business Vehicle Transfers

The CME (82) recommended the introduction of a concessional rate of duty for commercial vehicle transfers.

- It was noted that Queensland, Victoria, Tasmania and South Australia levy duty on a concessional basis for commercial vehicles (and not just heavy vehicles) and that this concession would provide recognition of the resource industry's role in the State economy.

Heavy Vehicles

The Transport Forum (92) recommended that the stamp duty rate on heavy vehicles be reduced to 2%. The reasons provided in support of this recommendation included the following.

- Stamp duty costs for new and used heavy vehicles are uncompetitive in comparison with other jurisdictions (particularly Queensland), and higher stamp duty costs are exacerbated as a vehicle is on-sold again and again.

- The heavy vehicle industry is vital to the West Australian economy and national and international competitiveness, given its importance to resource and agricultural projects, and for moving goods to remote and regional communities.

- The heavy vehicle industry is highly competitive and subject to rising fuel costs and labour shortages, and stamp duty differences can have a significant impact on company viability.

- Higher stamp duty costs in Western Australia will flow through to higher household costs.

- The heavy vehicle industry already pays for the allocation of road costs attributed to them through vehicle registrations and fuel taxes.

Analysis of Issues

In relation to heavy vehicles, there are already significant concessions which were introduced in 2002-03. Furthermore, the flat 3% concessionary rate for new heavy vehicles (with a maximum stamp duty amount of $12,000) is broadly competitive with rates in other States (which range from 2% in Queensland to 5% in New South Wales). Used heavy vehicles are currently subject to a lower top rate (5%) than passenger vehicles (6.5%) in Western Australia.

However, some ‘special category’ heavy vehicles, such as mobile articulated cranes, are fully exempt from stamp duty in some other States. This may have a significant impact on local manufacturers, particularly if the market for these vehicles is relatively small.

The case for concessions for light commercial vehicles should be balanced against additional administrative costs (such as the need to establish specific criteria for commercial vehicles, although this could be linked to existing licensing arrangements for these vehicles) and the benefits that businesses derive from the deductibility of stamp duty costs for Commonwealth taxation purposes (which is not available to households).

Whole of community benefits might be maximised by a general rate cut rather than a targeted rate cut for light commercial vehicles. Based on (say) an average 20% concession for light commercial vehicles, the CME’s proposal would involve a revenue cost of $9 million in 2006-07. This is equivalent to the revenue cost of an average 2.9% reduction in stamp duty rates for all light vehicle transfers.

Preliminary Findings

Enhancing concessions for commercial vehicles is not supported, as it would narrow the tax base and have a lower priority than the provision of general rate reductions for transfers of light vehicles (including both commercial and passenger vehicles).

However, the impact of stamp duty on the competitiveness of specialised heavy vehicles, such as certain mobile articulated cranes, should be further examined in Stage 2.

Concessions for Dealer Vehicles

Transfers of vehicles to dealers for re-sale are exempt from duty. However, potential grey areas arise where vehicles are used by dealers for certain purposes before re-sale.

What Submissions Said

The MTA (78) recommended that the ‘minor incidental purposes’ test for the dealer exemption from stamp duty be expanded to include short-term loan vehicles to customers and vehicles used by dealership staff while on leave. It is also suggested that a schedule could be inserted into ‘the Act’ for identifying non-exempt vehicles. The main reasons for this recommendation included the following.

- Loan vehicles and vehicles used on leave remain part of the trading stock of dealers and are often returned to a dealership to complete a sale. The State is ‘double dipping’ by collecting stamp duty in these circumstances.

- The administration of the relevant Revenue Ruling to determine if stamp duty should be applied in these circumstances is cumbersome, and it is costly for dealerships to monitor vehicles used for short periods of time and taken on short periods of leave.

- These types of vehicles should be given an exemption as ‘trading stock’, given the small amount of revenue collected for these types of vehicles and compliance costs.

Grahame Young (99) considered the dealer's exemption difficult to audit and interpret, leading to artificial distinctions, and recommended that a time and kilometre test be introduced. It is stated that this test operates in other jurisdictions, and would bring certainty and ease compliance burdens.

The ICAA (124) recommended that the dealers' exemption on stamp duty be extended to all vehicles acquired as trading stock. The payment of stamp duty on trading stock makes the sale of these vehicles uneconomic, and creates trading distortions in the motor vehicle industry as they aim to minimise trading losses through altering business practices.

Analysis of Issues

The *Stamp Act 1921* provides that stamp duty is not payable on the issue or transfer of a motor vehicle licence on new and used vehicles that are acquired by a dealer solely for the purpose of resale in the ordinary course of business, or in the case of new vehicles, acquired solely for the purpose of demonstrating it to prospective purchasers. As the tests are sole purpose tests, the Act also provides that where a vehicle is also used for a ‘minor incidental purpose’, the licence will remain eligible for an exemption from stamp duty.

During audits conducted by the OSR on several motor vehicle dealerships, it became apparent that some dealers had been incorrectly claiming an exemption on the grant or transfer of a licence in respect of certain vehicles used within the dealership. Examples of the vehicles in respect of which stamp duty had not been correctly paid, included vehicles used as parts delivery vehicles, courtesy buses or dedicated courtesy/loan vehicles, promotional vehicles, mobile service vehicles and vehicles dedicated for personal use by dealer principals, staff and their families.

To remove any confusion that might have existed in this respect, the Commissioner of State Revenue prepared a draft revenue ruling based on legal advice, clearly explaining the position regarding the interpretation of the exemption in relation to a ‘minor incidental purpose’.

As is normal in these circumstances, the OSR commenced consultation with the industry representative body and attempted to work through the issues that were raised.

The Commissioner accommodated the concerns raised to the extent possible within the legal advice provided. Revenue Ruling SD 33.0 was issued on 1 July 2005.

The ruling advises that the use of vehicles from stock on the day, for use as loan vehicles, would be considered a minor incidental purpose provided no more than a nominal fee is charged for fuel and insurance, and the vehicle is not loaned for a period **generally** exceeding two days for use by the dealer's customers while their vehicle is being serviced.

The provision of an exemption from stamp duty for a vehicle that is a designated loan vehicle would be inequitable to other service providers and repairers that are not able to access similar stamp duty exemptions. For example, where a motor mechanic or smash repair business provides a loan vehicle to customers in similar circumstances, stamp duty is paid on the licensing of that loan vehicle.

A vehicle designated primarily for the personal use of a dealer principal, dealer, staff or family members of the dealer while acquired for resale or demonstration, is an example of the use of a vehicle for a purpose which is not a minor or incidental purpose. Other examples of when a vehicle will be considered to be used for a purpose that is not minor or incidental, include arrangements where the vehicle is able to be taken on leave or is able to be used by family members.

When a vehicle has been loaned to staff for leave purposes, it is not available for sale or demonstration purposes from authorised premises during business hours. This is use of the vehicle for a non-exempt purpose while the dealer is the licensee of the vehicle. In addition, the loan of a vehicle to staff to use on leave is not an approved purpose for the new exempt vehicle licence loan provisions.

If the definition of minor incidental purposes was linked to vehicles for which fringe benefits tax has been paid, the impact on the industry would likely be higher than the minor incidental purposes outlined in the revenue ruling.

In addition, other businesses provide vehicles for their staff members and fringe benefits tax is payable on the provision of these vehicles. These businesses have also paid stamp duty on the acquisition of the vehicle. It would be inequitable to allow an exempt grant or transfer of a vehicle licence to a motor vehicle dealer on the basis of the fringe benefits tax payable.

If the vehicle licence provisions were amended as submitted by the MTA, motor vehicle dealers would be in a privileged position that would inevitably lead to avoidance of stamp duty whereby dealers would use vehicles exempted under the car dealership arrangement for associated businesses that were in direct competition with other similar businesses that were required to pay stamp duty.

To implement the suggestion that a schedule be inserted into the Act for non-exempt vehicles would not be practical, as the legislation would be required to be amended each time there was a variation to the list. By providing his interpretation of a 'minor incidental purpose' in Revenue Ruling SD 33.0, the Commissioner has advised dealers of the circumstances to which he will apply his discretion and has also included an explanation of the types of use of vehicles that would not be exempt from stamp duty.

The issue (including the proposal for a time and kilometre test for dealer vehicles) is also considered in the Chapter 7(a) of the Technical Appendices ('Amendments to Definitions of New Vehicle and Market Value in Respect of Certain Demonstration Vehicles'), including approaches in other States.

Preliminary Findings

Based on the Reference Group Technical Committee's findings, changes to the dealer's exemption (and associated Revenue Ruling) are not considered necessary.

Linking Concessions to Licence Fee Exemptions

Purchases of all vehicles exempt from annual licence fees under the *Road Traffic Act 1974* (includes certain off-road vehicles used in farming and mining, government vehicles and vehicles purchased by certain charities) are exempt from motor vehicle transfer duty.

What Submissions Said

Trevor Maughan (76) recommended that the requirement to obtain a licence fee exemption to obtain a stamp duty exemption on motor vehicles be removed, including for the following reasons.

- The 2002 Functional Review of Licensing Services and Review of Motor Vehicle and Drivers Concessions made this recommendation.
- The "coupling" of the licence fee and stamp duty exemption exerts pressure on the DPI.
- DPI is making decisions that impact on revenue without consultation with DTF.
- The Government is losing income to maintain the road network. The value of exemptions is estimated at around $8 million.

If this recommendation were implemented, the submission recognises that current exemptions would have to be reviewed and stamp duty exemptions reinstated for particular organisations (e.g. charitable organisations) (76).

Analysis of Issues

Notably, the Functional Review of Licensing Services and Review of Motor Vehicle and Drivers Concessions did not propose any alternative criteria for determining the relevant stamp duty exemptions, which would be a necessary step before any consideration of the implementation of its recommendations. The current approach of linking stamp duty and motor vehicle licence exemptions has advantages of administrative efficiency, minimising compliance costs for taxpayers and equity (with one Act determining the same criteria for both areas).

At the same time, there may be scope for improving the current arrangement, such as by clarifying the exemption criteria administered by the Director General of DPI. This should assist in reducing any pressure exerted on DPI staff by vehicle owners to grant exemptions.

Preliminary Findings

This is essentially an internal matter within Government over which agency is responsible for administering eligibility for motor vehicle stamp duty exemptions. At this stage, no changes to the current eligibility criteria for stamp duty exemptions are proposed, but administration issues should be further considered by the OSR and DPI.

Concessions for Caravan Purchases

Stamp duty is applied in Western Australia, but not in a number of other States, to the transfer of caravans, motorhomes and camper trailers.

What Submissions Said

Kevin Matthews (61), the CIAWA (64), and Tourism WA (98) recommended that stamp duty be abolished on caravans and/or motorhomes and camper trailers. The reasons given to support this recommendation included the following.

- Most other States do not levy stamp duty on caravan sales (including Victoria, South Australia and Queensland), and New South Wales has lower stamp duty costs (61, 64, 98).
- Consumers are buying caravans interstate, including through having it licensed to an address in that State or changing the State of a driver's licence (61, 64, 98).
  - Victoria accounts for around 34% (1999) of new caravan registrations and Queensland registrations have been increasing strongly (64).
  - This is penalising local caravan dealers and manufacturers, and not supporting local manufacturing and employment (61, 64, 98).
- It is unfair that Western Australian consumers should pay more in stamp duty for caravans, and pensioners/caravan owners are also faced with high fuel costs (61).
- A caravan should not be subject to stamp duty as it is not a motor vehicle, but 'mobile accommodation' (61).
- High stamp duty costs are creating disincentives to tourism, and lower stamp duty costs would promote tourism in Western Australia (61, 98).
  - In Victoria, it is recognised that caravan owners contribute to tourism and regional economies (61).
  - In Western Australia, caravan owners are likely to visit the north and south of the State for around 4/5 months each year (61).
  - Reducing stamp duty costs would support recent policy initiatives of providing assistance to the tourism industry (98).

- The State can afford to abolish stamp duty on caravans, especially in light of current and projected budget surpluses (61).

Analysis of Issues

Levying stamp duty on caravans is consistent with the principle of maintaining a broad tax base that assists in keeping overall stamp duty rates as low as possible. There is an equity argument for caravans being subject to the same stamp duty treatment as all other road vehicles (which includes other non-motorised vehicles, such as household trailers).

- If stamp duty were not levied on caravans, this may create an inequity for other types of vehicles that are also designed for mobile accommodation (such as the large and expensive ‘Winnebago’ types of mobile accommodation vehicles).

While some submissions suggested that the growth in caravan sales and manufacturing is stronger in other States, little data could be found to support this view. Even if reliable data on trends in caravan sales and manufacture were available, it would be difficult to separate the impact of stamp duty from other influences.

Nonetheless, as highlighted in submissions, New South Wales is the only other State to levy stamp duty on caravans, and it does so at a much lower rate than Western Australia. On this basis, stamp duty on caravans in Western Australia is not competitive against other jurisdictions.

The revenue cost of matching the exemption for caravans that is provided by most other States is estimated to be around $7 million in 2006-07.

Feedback from Reference Group members included the question of why caravans but not boats were subject to stamp duty. Notably, the BTR had considered but ruled out the introduction of stamp duty on the transfer of boat licences on the basis that it would amount to a nuisance tax.

Preliminary Findings

Levying stamp duty on caravans and other non-motorised ‘vehicles’ required to be registered for road-use is consistent with the principle of a broad and equitable revenue base. Although most other States provide a stamp duty exemption for caravans, there is little evidence of a detrimental impact on registrations in Western Australia. However, this should be further examined in Stage 2 of the Review.

Stamp Duty Rebate for Safer Vehicles

What Submissions Said

The RAC (97) recommended that a $500 stamp duty rebate be provided for all new vehicles with a four or five star safety rating, including for the following reasons.

- There is a role for the Government in providing incentives for households to buy safer vehicles, as increased use of safer vehicles would lead to less road deaths and a saving to the community, and contribute to broader safety initiatives.
- The RAC estimates that approximately 35,000 new vehicles per year (53% of new car sales) would attract this concession. However, the RAC recognises that this is a conservative estimate given the cost of this rebate will increase over time as more vehicles become eligible for the concession.

Analysis of Issues

The revenue cost of the proposed $500 rebate (around $20 million in 2006-07) would substantially reduce the scope for lowering the general duty scale for motor vehicles. From a wider budgetary perspective, the Government would also need to consider the cost and effectiveness of the rebate against alternative road safety measures, such as funding better roads and driver education.

A key consideration would be whether a $500 rebate would have a significant impact on the number of new vehicles purchased with four or five star safety rating. In the absence of more evidence, it is not clear if the higher safety rating itself would be a sufficient ‘market’ inducement.

Strong evidence of the effectiveness of the proposed rebate in encouraging the purchase of safer vehicles would also be required to counter the following fairness impacts:

- it would introduce a ‘horizontal’ inequity, to the extent that purchasers of used cars with a four or five star safety rating were not eligible to receive a rebate; and
- to the extent that safer vehicles are more expensive vehicles (although the RAC has indicated that this may no longer always be the case), the rebate may favour higher income earners (who would most likely have purchased the same vehicle anyway).

Administration and compliance costs would be another issue (and would depend in part on who administered the scheme). Notably, the motor trades industry advised that calculating stamp duty on the basis of a vehicle’s safety features would be largely unworkable, and prone to error.

Preliminary Findings

In view of the potential inequity and high administration costs of the proposed rebate scheme, supporting evidence of a positive impact on the incentive to purchase safer vehicles would be required in Stage 2 of the Review. The proposal could then be considered by the Government in the context of its overall funding priorities for road safety and the relative cost effectiveness of alternative road and driver safety programs.

Concession for Written-Off/Stolen Vehicles

Where a vehicle is stolen or written-off in an accident, the owner will incur a second stamp duty liability on the grant or transfer of the vehicle licence, for the replacement vehicle.

What Submissions Said

On fairness grounds, the DTF has suggested that consideration be given to providing relief from motor vehicle transfer duty on the replacement vehicle where the previous vehicle had only recently been acquired, to restore the taxpayer to their original position. To do this, a credit could be given for the duty paid on the stolen or written-off vehicle, which would then be offset against the duty payable on the acquisition of the replacement vehicle by the same person.

Analysis of Issues

This issue is considered in the Chapter 7(b) of the Technical Appendices (‘Written-Off/Stolen Vehicles and Anti-Avoidance Provision’).

The proposed concession is expected to have a low cost impact of less than $1 million per annum.

Preliminary Findings

This proposal would eliminate the double payment of duty in unfortunate circumstances where a relatively recently acquired vehicle needs to be replaced.

Subject to further examination by the OSR (in consultation with the DPI) of the parameters for the concession (such as an appropriate time limit for a new vehicle and other issues discussed in the Technical Appendices), this proposal should be allocated a high priority.

Anti-Avoidance Provision

As noted earlier in this chapter, it has been suggested that high stamp duty rates in Western Australia have led to a leakage of sales to other States. In these cases, the purchaser of a vehicle would require a legitimate address in the other State for the initial registration (and payment of duty) of the vehicle. Any subsequent re-licensing of the vehicle by the same owner in Western Australia is then exempt from duty.

What Submissions Said

The DTF considers that an anti-avoidance provision could be inserted to mitigate the potential avoidance practice of licensing a vehicle in another State, and subsequently having the vehicle re-licensed in Western Australia.

However, the ICAA (124) considered that anti-avoidance measures to prevent the interstate purchase of vehicles by Western Australian customers would be difficult to enforce. There are also constitutional limitations that prohibit the impediment of free trade between the States.

The MTA (78) also made the comment that it is not aware of any ‘crackdown’ on interstate vehicle purchases, despite public announcements. In any case, it is difficult to prove avoidance (e.g. buying a caravan interstate to start a holiday there).

Analysis of Issues

This issue is considered in Chapter 7(b) of the Technical Appendices (‘Written-Off/Stolen Vehicles and Anti-avoidance Provision’). The available data on re-licensing were also discussed in the previous section of this chapter ‘Competitiveness and Distortions to Transaction Activity’.

The Technical Committee raised doubts as to the extent of avoidance activity, and it was suggested that further analysis be undertaken to substantiate industry claims of widespread avoidance. It was suggested that the Reference Group should be satisfied that this avoidance activity does exist before any anti-avoidance provision is contemplated.

The Victorian *Duties Act* currently makes a stamp duty exemption on re-licensing conditional upon the Commissioner being satisfied that the vehicle was not originally registered outside of Victoria for the purposes of avoiding Victorian stamp duty under Victorian legislation. The effectiveness of the provision is not known at this stage.

The Technical Committee noted that an anti-avoidance provision for interstate licensing may not be necessary if rates of duty in Western Australia were consistent with rates in other jurisdictions. Both opposition and support for such a provision were expressed in Reference Group feedback.

Preliminary Findings

To the extent that affordability considerations and other priorities prevent a reduction in motor vehicle stamp duty rates to significantly closer to other States for relatively expensive vehicles, an anti-avoidance provision should be considered to protect Western Australian dealerships from a leakage of sales to other States.

10.2. Motor Vehicle Licence Fees

Motor vehicle licence registration fees are paid by motor vehicle owners (who use their vehicles on public roads) either every six months or 12 months. The registration fees consist of a motor vehicle licence fee, compulsory third party insurance premium and recording fee.

For light vehicles (gross weight of less than 4.5 tonnes), the licence fee component of the registration fees is currently $14.24 per 100 kg of weight. A $53 discount (‘family rebate’ is applied to vehicles used for private or ‘non-business’ purposes). The fees payable on a Holden Commodore are shown below.

Table 54

FAMILY AND BUSINESS LICENCE FEES

	Family Use $ per annum	Business Use $ per annum
Holden Commodore	181.44	234.44

For heavy vehicles (gross weight of 4.5 tonnes or more), Western Australia adopted the national uniform licence fee regime from 1 July 1996. The licence fee component of the registration fees for these vehicles is determined by the number of axles, the gross weight of the vehicle and its nomination of use in towing trailers.

The revenue from motor vehicle licence fees is hypothecated to the Main Roads Trust Fund, which is used for road expenditure purposes.

What Submissions Said

General Issues

WACOSS (114) considered that care must be taken to ensure that motor vehicle fees and charges do not harm the disadvantaged. It considers registration charges are inequitable given they are levied at fixed rates, irrespective of income. While smaller cars are subject to lower charges, there is no correlation between the size of cars and ability to pay (e.g. families, seniors and people with disabilities may require large cars).

Kevin Matthews (61) was concerned over the higher annual registration costs for caravans in Western Australia ($32 per year in Victoria, compared to $72 per year in Western Australia).

Mr B. Walker (17) and Mr B. W. Churcher (12) were concerned about multiple taxation on car licences given stamp duty on car licences, and the accompanying GST and recording fees.

Abolishing Differential Business/Private Fees

The SBDC (94) and Taxpayers Australia (51) recommended that differential registration fees for business and private use be abolished for the following reasons.

- Western Australia is one of only a few jurisdictions to levy different fees for business and private use.
- The current definition for what separates business from private use is confusing.
- The SBDC (94) also considered that owners of commercial vehicles are cross-subsidising the cost of vehicles used for private purposes.

Family Concession

WACOSS (114) considered that the family concession for motor vehicle registration is poorly targeted, is not means tested, is of no benefit to people who do not own a car, and could be better spent on targeted assistance to the poorest members of the community.

Submission no. 5 recommended that the recently introduced licence relief of $25 be replaced with a reduction in stamp duties as this would provide benefits to pensioners who do not pay car registration fees.

Analysis of Issues

An interstate comparison indicates that Western Australia's annual licence fees are already competitive with other States, particularly for family vehicles.

Table 55

MOTOR VEHICLE LICENCE FEES[(a)]

	WA	NSW	VIC	QLD	SA	TAS	NT	ACT
$'000	**$ p.a**	**$ p.a**	**$ p.a**	**$ p.a**	**$ p.a**	**$ p.a**	**$ p.a**	**$ p.a**
Holden Commodore								
Family Use [(b)]	181.44	305.00	164.50	302.65	172.00	195.80	152.00	336.00
Business Use	234.44	490.00	164.50	302.65	172.00	195.80	152.00	521.00

(a) Excludes administration, recording and inspection fees and CTP insurance premiums.

(b) Licence fee exemptions are provided for disabled pensioners. Holders of a Pensioner Concession Card and seniors who hold both a State Seniors Card and Commonwealth Seniors Health Card receive a 50% exemption.

- For family vehicles, Western Australia has among the lowest annual licence fees of the States. For commercial vehicles, Western Australia's licence fees are in the middle of a very wide range across the States.

- Possibly reflecting cross-subsidisation of family vehicles by commercial vehicles, the annual licence fee for commercial vehicles in Western Australia is higher than the States (apart from Queensland) which do not levy differential licence fees.

- As noted in the previous section on 'Competitiveness and Distortions to Transaction Activity', the interstate comparison for family and commercial vehicles would be even more favourable for Western Australia if other annual costs (i.e. recording fee and CTP insurance) are included. This mainly reflects significantly lower CTP premiums in Western Australia than in other States.

- It is also notable that Queensland has relatively high annual licence fees (second only to New South Wales for family vehicles). This may reflect that Queensland's taxation of vehicle owners is weighted more heavily toward licence fees than stamp duty on the purchase of vehicles (where, as noted above, it is the lowest taxing of the States).

As is the case in other jurisdictions, Western Australia's licence fees are essentially flat amounts that are adjusted annually. Although, as noted by WACOSS, this approach does not involve a capacity to pay principle, it is consistent with the owners of similarly weighted vehicles making broadly the same contribution toward the cost of road maintenance.

The alternative approaches that incorporate capacity to pay would need to be based on either the value of a vehicle (in a similar manner to stamp duty) or introducing some form of means testing. Both arrangements would introduce significant additional complexity to the licensing arrangements.

Western Australia's approach of applying a higher licence fee on commercial vehicles than family vehicles is similar to arrangements in New South Wales and the ACT. It reflects a priority that successive Western Australian governments have placed on reducing licence costs for families with vehicles. It could also be supported on the basis that commercial vehicles are likely to use the roads significantly more than family vehicles and that commercial operators are able to claim licence costs as an income tax deduction.

- Nonetheless, as noted by WACOSS, the family rebate provides no benefit to families who do not own vehicles, who are often in need of the greatest assistance. This forgone revenue (estimated to be around $58 million in 2005-06) could be spent on targeted assistance for families in greatest need.

On a revenue neutral basis (i.e. increasing the family licence fee and reducing the commercial licence fee), removing cross-subsidisation by commercial vehicles would involve an increase in annual licence fees for family vehicles of around 11% (or from $181 to $202 for a Holden Commodore) and a reduction in licence fee costs for commercial vehicles of around 14%. This could be phased-in over time.

Preliminary Findings

Neither reductions in motor vehicle licence fees, nor phasing-out the differential fees for family vehicles vis a vis commercial vehicles, are considered priorities on the basis of the State Tax Review principles.

10.3. Broader Reform Options for Motor Vehicle Taxes

What Submissions Said

While most submissions only made recommendations to change the operation of stamp duty on motor vehicle transfers and registration fees through changes in the tax or fee structure, changes to the taxable base, and changes to tax administration practices, CPA Australia (69) and Mr Warwick Boardman (15) recommended more broad ranging reform of motor vehicle taxes.

CPA Australia (69) suggested that there is a need to restructure existing motor vehicle duties to reduce disincentives for investment and vehicle turnover. It recommended that the Government consider the reform approach suggested in the Victorian Review of State Business Taxes (i.e. a flat usage charge).

- CPA Australia (69) also noted that there is a need for a closer linkage between the level of taxes and charges and the impact of vehicles on road infrastructure (as occurs in New Zealand).

Mr Warwick Boardman (15) considered that motor vehicle licence fees are “problematic”, given funding required to support licensing and enforcement infrastructure.

- He suggests that fuel taxes raised by the Federal Government (on the State’s behalf), or road tolls based on vehicle size (weight), could be used to subsidise public transport and make car use less attractive. They could also be used to pay for licensing, road maintenance and enforcement of road rules not covered by fines.

Analysis of Issues

As noted by the CPA, the Victorian Review of State Business Taxes recommended that motor vehicle stamp duty be abolished and replaced by a higher annual motor vehicle licence fee. The Review considered that such an option would have the advantage of simplifying motor vehicle taxation and providing incentives for motorists to turnover vehicles more frequently, leading to a younger, more environmentally friendly vehicle fleet.

However, it is not clear that motor vehicle stamp duty is a significant disincentive to purchasing motor vehicles, given the continued growth in affordability, the lack of any close substitute (other than using public transport) and that stamp duty represents only a relatively small (one-off) amount of the final price for the majority of vehicle sales.

In addition, replacing the progressive stamp duty scale with a higher annual licence fee (based on vehicle weight) is likely to redistribute the tax burden towards those people with lesser capacity to pay. The Victorian Government did not support the proposal and similar concerns may apply in Western Australia.

While this redistribution of the tax burden could be addressed by also introducing some progressivity to licence fees (such as by linking to the market value of the vehicle), this would involve additional administrative complexities and costs.

The proposal to introduce road tolls or additional Commonwealth taxes on fuel to fund public transport and roads is considered to be outside the scope of the Review. Western Australia would not be able to adopt this proposal without the agreement of the Commonwealth and the other States to a significant change in existing funding and taxation arrangements for roads and transport.

Preliminary Findings

Replacing stamp duty on motor vehicles with a higher motor vehicle licence fee may risk imposing a greater tax burden on those people with lesser capacity to pay. No further work is proposed on this reform option unless there is community support for it in Stage 2 consultation.

10.4. List of Issues Considered in Other Chapters

Additional issues are addressed in the following chapters.

Link to GST-Agreement (Chapter 3)

Submission no. 16 was concerned that stamp duty on motor vehicle purchases was not removed as a result of the introduction of the GST. The States were not required to remove or review stamp duty on motor vehicle purchases as part of the GST tax reform arrangements.

Levying Stamp Duty on a GST-Exclusive Basis (Chapter 4)

Various submissions recommended that transfer duty should be levied on a GST-exclusive basis, as a tax is being applied to a tax.

Stamp Duty Exemptions for Education Providers (Chapter 6.1)

The AIS (45) and the Catholic Education Office of Western Australia (28) both recommended that independent schools/the Catholic Education Office should be exempt from stamp duty (on vehicles purchased by the office for educational purposes in the case of the Catholic Education Office).

Stamp Duty Concessions for Fuel-efficient Vehicles (Chapter 6.3)

John Hyde MLA (89) and the RAC (97) made recommendations for the provision of stamp duty relief to encourage the purchase of energy efficient vehicles.

11. Insurance Duty

Stamp duty is levied on general and motor vehicle third party insurance policies at a rate of 10% of the value of the premium. While the legal liability for stamp duty rests with the insurer, the cost is typically passed on to policy holders and separately identified (along with the GST) on premium notices.

Exemptions

Health insurance, superannuation policies, workers' compensation insurance and life insurance are all exempt from 'insurance duty', together with insurance of risks associated with the transport of goods and commercial marine hulls.

Recent Changes to Stamp Duty on Insurance Policies

The stamp duty rate on general insurance policies was increased from 5% to 8% on 1 July 1998, and to 10% on 1 July 2003. As part of the BTR, stamp duties on workers' compensation insurance and life insurance policies were abolished from 1 July 2004.

Interstate Comparisons

Table 56

STAMP DUTY ON INSURANCE POLICIES (% OF PREMIUMS)

	WA	NSW	VIC	QLD	SA	TAS	NT	ACT
General	10.0	9.0	10.0	7.5	11.0	8.0	10.0	10.0
Workers' Compensation	Nil	Nil	Nil	5.0	Nil	Nil	Nil	Nil
Life Insurance	Nil	$1.00 for first $2,000 and 20c per $200 over $2,000	12c per $200 up to $2,000 and 24c per $200 over $2,000	5c per $100 up to $2,000 and 10c per $100 over $2,000	Annual licence of $1.50 per $100	10c per $200 up to $2,000 and 20c per $200 over $2,000	10c per $100	$1.00 for first $2,000 and 20c per $200 over $2,000
Public Liability	10.0	9.0	10.0	7.5	11.0	Nil	10.0	10.0[(a)]
Professional Indemnity	10.0	5.0	10.0	5.0	11.0	8.0	10.0	10.0

(a) The ACT provides an exemption from stamp duty on public liability insurance premiums for amateur and not-for-profit bodies.

Stamp Duty Collections From Insurance Policies

Table 57

REVENUE COLLECTIONS ($M)

2000-01	2001-02	2002-03	2003-04	2004-05	2005-06[(a)]
155.9	176.2	220.2	278.7	279.9	303.0

(a) 2006-07 Budget estimate

11.1. Reducing the Insurance Duty Burden

A number of submissions proposed abolishing insurance duty, reducing the rate or levying the duty on a GST exclusive basis. The latter is considered in Chapter 4 (‘Stamp Duty on GST-Exclusive Prices’).

What Submissions Said

The abolition of insurance duty was a common recommendation in submissions, including from submission no. 16, Insurance Australia Group (IAG) (24), Taxpayers Australia (51) and CPA Australia (69).

- The ICA (55) recommended a phased elimination of insurance duty over a five year period.

The MBA (63) recommended a reduction in the insurance duty rate.

K. Ridley (22) and Alcock Brown-Neaves (65) raised general opposition to the levying of insurance duty.

The reasons provided for the abolition or reduction in insurance duty largely focused on efficiency grounds.

Efficiency

The IAG (24), ICA (55) and CPA Australia (69) all expressed concern that insurance duty was a disincentive to individuals and businesses taking out adequate insurance, thereby contributing to under-insurance or non-insurance.

- The IAG (24) and ICA (55) noted that the current impact of Government taxes (GST-inclusive) on business and home insurance premiums is 21% in Western Australia.

- The IAG (24) referred to a survey commissioned by the NRMA which showed that approximately 47% of businesses do not have relevant or adequate cover, one in six Australian households do not have building and contents insurance, and one in five motor vehicles are not insured comprehensively.

- The ICA (55) argued that lower insurance taxes would encourage higher insurance coverage because insurance is relatively price elastic. Both the IAG (24) and ICA (55) noted that the abolition of the Fire Services Levy (FSL) in Western Australia resulted in increased insurance coverage.

- The ICA (55) argued that underinsurance and non-insurance in the community places unnecessary demands on government finances and resources in times of natural disaster, and suggested that economic recovery would be quicker if greater insurance coverage is in place.

- Related to this, the ICA (55) argued that the Government should encourage insurance on the basis that it is a "merit good".

The ICA (55) and IAG (24) both referred to Access Economics modelling which showed that reducing insurance taxes would result in larger gains to economic welfare than reductions in most other taxes (including payroll tax, land tax, and stamp duty on residential conveyances).

The CPA (69) argued that insurance taxes were the most inefficient of the remaining taxes not listed under the IGA (i.e. the GST Agreement).

Other Issues

Western Australia's interstate competitiveness was also seen as an important consideration for reducing the insurance duty burden, including by the MBA (63) and the ICAA (2).

- The ICA (55) argued that a tax friendly environment will attract business.

- The IAG (24) and ICA (55) both noted that Australian taxes on general insurance are high by international standards.

Other reasons provided in support of reducing the insurance tax burden included the following.

- Taxpayers Australia (51) argued that the community needed tax concessions in this area because of the increasing cost of insurance premiums.

- K. Ridley (22) and the IAG (24) argued that insurance is essential for everyday living, the community and the economy.

- Alcock Brown-Neaves (65) questioned the value of the tax in comparison to administration and compliance costs. Contrary to this, Taxpayers Australia (51) suggested that the cost of compliance is low, as duty is remitted by the insurer.

- The ICA (55) argued that reducing taxes on insurance may result in a larger premium pool, and therefore more GST revenues flowing back to the State.

- The ICA (55) noted that the HIH Royal Commission recommended that the States abolish stamp duty on insurance products.

- IAG (24) and Alcock Brown-Neaves (65) questioned the equity of insurance duty, while IAG also argued for the abolition of insurance duty on simplicity grounds.

Analysis of Issues

The estimated revenue costs of proposals to abolish or reduce the rate of insurance duty are provided below.

Table 58

REVENUE COSTS OF RECOMMENDATIONS

	2006-07 $m	2007-08 $m	2008-09 $m	2009-10 $m
Abolition insurance duty	315	329	345	363
Phase out insurance duty over 5 years (2% each year)	63	132	207	290
Reduce rates: indicative 1% point reduction	32	33	34	36
Applying stamp duty on a GST-exclusive basis	29	30	31	33

Although the abolition (or phasing out) of insurance duty could encourage an increase in insurance coverage (depending on the price elasticity of demand for insurance), the increase in GST revenues would be shared nationally, as GST revenues are distributed on the basis of ‘horizontal fiscal equalisation’ rather than on a State-of-origin basis.

- The extent to which GST revenues might rise if insurance duty was abolished by all States was nonetheless a point of interest. However, this would cause a significant reduction in State budget flexibility, and an associated increase in States’ already high (and arguably unhealthy) dependency on Commonwealth grants.

Efficiency

Stamp duty on insurance policies is effectively a broadly based tax as its final incidence rests with many consumers and businesses. Nonetheless, it is understood that insurance is relatively price sensitive (e.g. because it may not be considered a ‘necessity’), and therefore taxes that increase the price of insurance would distort some consumer and business decisions on insurance cover.

- This impact will be exacerbated by the relatively high rate of stamp duty (e.g. compared to stamp duties on motor vehicles and property transfers), and is likely to be greater for lower income households and businesses that are of marginal financial viability. Accordingly, a reduction in insurance stamp duty is a relatively high priority on economic efficiency grounds.

Competitiveness

Western Australia's 10% rate of insurance duty, although considerably higher than most other State tax rates, is broadly in line with other jurisdictions.

- Although Queensland has a lower general insurance duty rate, it still taxes workers' compensation insurance.
- Furthermore, total taxes on insurance are significantly lower than in New South Wales and Victoria, since the abolition of the FSL in Western Australia.
- In addition, Western Australia is the only State to have abolished stamp duty on life insurance policies.

Equity

Insurance duty is an equitable tax in the sense that it effectively applies to a relatively broad base (horizontal equity).

- However, businesses and households that can afford to self-insure (i.e. carry risk exposures themselves) do not incur insurance duty (the extent of self-insurance is not known).
- Evidence was not immediately available to assess whether the final incidence of insurance duty may be felt more keenly by those with a lesser capacity to pay (who may choose to under-insure as a result).
  - However, stamp duty increases directly in proportion to the insurance premium, which would be strongly correlated to the value of the insured goods and, although probably to a lesser degree, the insured's income.

Administration and Compliance

Stamp duty on insurance is relatively inexpensive to administer and compliance costs are understood to be generally low for insurers, aided by the simplicity of the flat rate (and nil threshold) tax scale.

Preliminary Findings

Abolition or phasing out of insurance duty would be difficult to afford, particularly if this only occurred in Western Australia such that there was little offsetting GST gain, and would compromise the State's budget flexibility.

However, a reduction in the insurance duty rate would be a relatively high priority on economic efficiency grounds, although not currently on interstate competitiveness or administrative efficiency grounds.

Further research should be undertaken in Stage 2 of the Review on equity aspects of insurance duty, and its impact on the take-up of insurance cover by the community.

11.2. Insurance Concessions for Households or Businesses

Several submissions suggested insurance duty relief targeted only to households or only to businesses.

What Submissions Said

Abolition for Households

ICA (55) proposed a phased elimination of insurance stamp duty for home and contents insurance policies only (if phased elimination on both business and household insurance stamp duty could not be afforded), on the following basis.

- Tax reform should be focused on householders, as they are less likely to be adequately insured in comparison to businesses.
- Householders do not enjoy tax deductibility on their insurances policies.
- In the event of disaster, homes are likely to face threats, and more encouragement for insurance could reduce the Government’s need to provide financial assistance to communities.

The CNSP (50) recommended that stamp duty on home and contents insurance be abolished for those holding a Seniors Card or a Commonwealth Health Card. This proposal is effectively covered in Chapter 6.1 (‘Tax Relief/Reform for the Disadvantaged’).

Reduction in Rates for Businesses

The SBDC (94) recommended stamp duty relief for small businesses affected by escalating insurance premiums, including for public liability and professional indemnity insurance. It proposed an initial halving of the stamp duty rate to 5% for small business, with a view to abolishing the duty completely by 2008.

Tourism WA (98) recommended the abolition of stamp duty on public liability insurance to reduce the cost burden on tourism operators. It claimed that many festivals and tour operators have ceased operations due to increased premiums, and noted that Queensland, Tasmania and the ACT have abolished stamp duty on this insurance for non-profit organisations or (in Tasmania) small businesses.

Analysis of Issues

The following table indicates the estimated revenue cost of abolishing or reducing insurance duty for households or businesses (including public liability and professional indemnity insurance).

Table 59

REVENUE COSTS OF RECOMMENDATIONS

	2006-07 $m	2007-08 $m	2008-09 $m	2009-10 $m
Business				
Reduce insurance duty for business to 5% [(a)]	98	102	107	113
Remove stamp duty on public liability insurance and professional indemnity insurance	15	15	16	17
Households				
Remove stamp duty on home and contents insurance	34	35	37	39

(a) Assuming business insurance accounts for around 62% of stamp duty revenue.

Source: Based on data provided by the Insurance Council of Australia (derived from insurance returns to the Australian Prudential Regulation Authority).

As outlined in other chapters, the preferred approach to State tax reform is generally to keep tax bases broad, allowing a lower rate of tax to be applied across the entire base and ensuring greater horizontal equity, and fewer distortions to taxpayer behaviour.

- Compliance costs for insurers would also increase if a different tax regime were introduced for different classes of policy holder.

Specifically in relation to public liability and professional indemnity insurance, since 2002 the State Government has introduced a range of tort law reform and ‘professional standards’ initiatives (complemented by Commonwealth legislation) aimed at directly addressing the cause of rapidly escalating premiums.

In addition, the *Insurance Commission of Western Australia Amendment Act 2002* was introduced to establish a Community Insurance Fund (CIF), allowing the Insurance Commission to provide public liability insurance to eligible not-for-profit organisations.

- The CIF has since provided cover to more than 60 organisations, including tourist railways, charity events, community festivals, toy libraries and youth clubs.

Notably, only three States have introduced stamp duty concessions in this area. New South Wales and Queensland provide a concessional rate of 5% for professional indemnity insurance, and Tasmania has abolished stamp duty on public liability insurance.

Preliminary Findings

Differential tax treatment for insurance taken out by households and businesses would be difficult to support on the basis of the State Tax Review principles. Furthermore, other measures have already been implemented by the Government to directly address public liability and professional indemnity insurance affordability issues.

11.3. Foreign Insurance and Discretionary Mutual Funds

The factual information provided in this section largely draws on a discussion paper released by the Commonwealth Treasury on a review of Discretionary Mutual Funds (DMFs) and Direct Offshore Foreign Insurers (DOFIs) (the ‘Potts Review’) in December 2005.

A DMF is made up of members who contribute funds that are held in trust and made available at the ‘discretion’ of members to offset a loss incurred by a member as a result of a defined event. The Potts Review found that DMFs make up less than half of one percent of the Australian insurance market, are typically used by business franchises, community groups and sporting organisations, and are destined to remain a niche activity.

- A DMF normally ‘retains’ only a certain level of risk for individual member losses (e.g. the first $1 million of a defined loss), with ‘top up’ cover (generally up to a prescribed maximum amount for any claim by an individual member) obtained separately from a general insurer.

- The discretionary nature of DMFs means they are not considered to involve a policy of insurance or the payment of premiums and therefore are not subject to the provisions of the Commonwealth’s *Insurance Act* or regulation by the APRA.

A DOFI is a foreign insurer that sells insurance to Australians via a licensed insurance agent or broker (not a subsidiary or branch). DOFIs are not subject to the *Insurance Act* because they are not considered to be “carrying on insurance business in Australia”. The Potts Review found that DOFIs comprise approximately 2.5% of the Australian insurance market, and provide significant capacity in specialised lines (such as for large corporate entities).

As the *Stamp Act* only levies insurance duty on insurers authorised under the *Insurance Act*, DMFs and DOFIs are not subject to stamp duty. However, recent amendments to the insurance duty provisions of the *Stamp Act* have imposed a requirement on DOFIs and their intermediaries in Australia to notify the Commissioner of State Revenue of any policies of insurance that are entered into. The Commissioner is then able to undertake compliance activity to ensure that insured persons taking out these policies of insurance have met their stamp duty liabilities.

What Submissions Said

The ICA (55) recommended that DMFs be legislated as insurance products and made subject to stamp duty, on the following grounds.

- This would provide a level playing field for the insurance industry, as DMFs provide an insurance type product.

- Increased revenue from the expansion of the tax base would assist the Government to reduce the overall level of insurance taxes.

For similar reasons, the ICA (55) recommended that DOFIs should be subject to insurance duty. It suggested that the Government approach the Commonwealth in support of APRA collecting and sharing data with the States in relation to offshore insurers, so that taxes can be collected.

Analysis of Issues

DMFs

The Potts Review noted that there are two factors behind the apparent growth in DMFs.

- The cost advantages of exemption from insurance duty and, to a lesser extent, prudential supervision by APRA.

- The difficulty in obtaining insurance cover tailored to the specialised needs of client groups, such as sporting groups with limited financial capacity.

An important consideration in deciding whether insurance duty should be extended to DMFs is whether the Commonwealth decides to implement a Potts Review recommendation that the *Insurance Act* be extended to DMFs (except those that APRA considers carry no retained risk for their members).

- Administrative complexities would also need to be addressed. As DMFs do not issue policies of insurance, the current insurance duty provisions of the *Stamp Act* would not apply and a new regime would need to be developed to specifically apply to DMFs.

Notably, extending insurance duty to DMFs would not represent a significant broadening of the base (revenue of less than $1.5 million would be raised) that could be used to reduce the insurance duty rate.

DOFIs

The proposal to extend the insurance duty base to DOFIs should also have regard to the Commonwealth's response the Potts Review. The Review recommended that an exemption from prudential regulation by APRA should only be granted to DOFIs that can show that they are subject to a comparable level of prudential regulation as in Australia.

- If the above recommendation were implemented, non-exempt entities would be brought into the insurance duty base through the requirement to become an authorised insurer under the *Insurance Act* (although an inequity may still remain in respect of exempt entities).

As part of the requirements for applying for an exemption from the *Insurance Act*, the Potts Review also proposed that DOFIs be required to provide data to APRA to help maintain and develop a clear understanding of the size and type of DOFI business in Australia.

It should be noted that following the recent amendments to the insurance duty provisions of the *Stamp Act*, stamp duty is payable in relation to insurance policies issued by DOFIs, however, the liability is imposed on the insured person rather than the insurer.

Preliminary Findings

Consideration of broadening the insurance duty tax base to DMFs and DOFIs should await the outcome of the Commonwealth Government's response to the Potts Review.

In the meantime, there may be value in State governments approaching the Commonwealth to support APRA taking on a data collection role in relation to DOFIs and sharing this data with the States, so that stamp duty implications can be assessed.

11.4. Levying Insurance Duty on Gross Margin

What Submissions Said

CPA Australia (69) suggested that the tax base for insurance stamp duty is inappropriate, proposing that duty should be levied on gross margins (premium income less claims) rather than on total premium income.

Analysis of Issues

Levying stamp duty on the gross margin would be consistent with the GST treatment of insurance. In the case of GST, insurers are eligible to claim 'decreasing adjustments' for the settlement of insurance claims.

The insurance duty rate would need to be increased for revenue neutrality. This would push a higher tax burden on to insurers that have lower insurance claims, which could be considered more equitable on capacity to pay grounds.

However, the proposal would introduce increased volatility into the insurance stamp duty revenue base, exposing the Government to the risk of reduced revenue during periods of high claim costs.

Additional tax administration and compliance costs would also result from the requirement to account for claims in assessing insurance duty. National insurers would also be faced with a different tax regime in Western Australia (no other State levies insurance duty on a gross margin basis).

Preliminary Findings

The simplicity and revenue stability benefits of basing stamp duty on gross premiums are considered to outweigh the benefits of moving to a gross margin basis.

12. Other Issues

12.1. Perth Parking Levy

The Perth Parking Levy (PPL) is imposed under the *Perth Parking Management Act 1999* ('the Act'). While the DPI administers this Act, responsibility for collection of the levy is delegated to the OSR.

The PPL is levied on non-residential property in the City of Perth. Landowners must lodge applications for parking bays with the OSR. Car parking bays are charged $189 per annum if available for all-day parking or $163.50 per annum if for shorter-stay parking. Motorcycle parking bays are charged $82 per annum.

Various exemptions from the PPL are available, including for permanent residents of a building, for bays set aside for disabled persons, and for parking facilities with five or fewer parking bays.

Revenue collected from the PPL is required by the Act to be spent within the levied area for purposes connected with the Perth Parking Policy. Most is currently used to fund the Central Area Transit (CAT) bus system and to compensate Transperth for the loss of fare revenue within the Free Transit Zone (FTZ).

The amount of revenue collected from the PPL is estimated to be $9.5 million in 2005-06.

What Submissions Said

The CCI (81), Graham Laurence (52) and the PCA (113) recommended that that the PPL be abolished.

The submissions included the following reasons for abolishing the PPL.

- It gives businesses an incentive to locate outside the CBD. Such a move has the opposite effect on traffic congestion and air quality to that intended, as peripheral localities are harder to reach by public transport (81, 113).

- It is an ineffective deterrent to car use because commuters in many suburbs are poorly served by public transport and have little choice but to drive (81).

- It is a levy on "producers", and such levies are the least efficient way to raise revenue for infrastructure investment because of their distortionary effects (113).

- It is not a user charge, and the costs of congestion should be borne by the broader community.

- It is narrowly based, and unfair because it targets a group that does not benefit from the services it funds (81). In addition, it applies to businesses in areas of the CBD that are not served by the CAT, but does not apply to CBD residents who do use the CAT (113).

- It creates anomalies at the threshold (five parking bays), and uncertainties over the obligations of strata property managers and owners (113).

- It is detrimental to tourism through its impact on hotels in the CBD (52).

- It is a tax levied on church property in spite of the traditional tax-free status of churches. In addition, people attending church on Sunday do not contribute to traffic congestion and do not benefit from the CAT service (52).

- It is an instance of "double dipping" by the State, which also receives GST from parking fees (52).

- Funding the CAT service through hypothecation of the PPL revenue removes contestability from the budget process, possibly resulting in a misallocation of resources. Hypothecation is also contrary to the principles of accountability and transparency (81).

Analysis of Issues

General Principles

The principal objectives of the Act are to promote a balanced transport system for gaining access to central Perth, and to limit the growth of traffic congestion and deterioration of air quality in the central area.[27] The Act provides for management of the number, type and location of parking facilities with a view to improving the efficiency and amenity of the central city.

- The PPL is just one component of a comprehensive strategy (which also includes the Perth Parking Policy), so any proposal for change would need to take into account its role within that strategy.

Everyone who drives a car into the city on a weekday contributes to traffic congestion, thereby imposing a real cost (delay) on other road users. In economic terms, because drivers do not face this cost [28] they do not consider it in their decision-making, so they make more trips than would be socially optimal.

The PPL is intended to influence commuters' behaviour by increasing the cost of driving into and parking in the city, and decreasing the cost of public transport services (including the CAT) within the central-city FTZ. For the incentive to be effective, it is essential that these services be funded from a levy on people who don't use them.

[27] Hon M.J. Criddle, then Minister for Transport, in his second reading of the Bill.
[28] Each Driver faces the cost of *other* drivers' decisions, but not the cost of their own.

In principle, the PPL encourages owners to consider whether car parking is the best use of their land. Indeed, the introduction of the PPL is argued to have resulted in the ‘decommissioning’ of a significant number of little-utilised parking spaces, as owners sought to slip under the five-bay threshold. However, this was queried in feedback from the Reference Group.

In practical terms, the PPL-funded CAT services and FTZ have proved very popular, carrying 9.5 million passengers in 2004. If the PPL were reduced or abolished, alternative funding for these services would have to be found or the services downsized or discontinued.

Nonetheless, there are also certain disadvantages to the PPL. Arguably, its current level is not nearly high enough that motorists face the full social cost of driving into the city.[29] It is also a rather blunt instrument because:

- it penalises driving into the city at any time, not just during congested periods;
- it penalises those who drive into the city, but not those who drive through it; and
- it penalises the ability to drive into the city, rather than each act of doing so.

Alternative forms of demand management for traffic into and within the CBD, such as road-use charges on congested routes, seem unlikely to be palatable to the community in the foreseeable future. Thus the PPL, while not perfect, could be considered to perform an incentive-signalling function that contributes to the city’s economic and aesthetic well-being. The value of this effect does not depend on the amount of revenue collected.

However, if the PPL is not having a significant effect on congestion and pollution in the city, it could also be considered a nuisance tax. In this regard, feedback from the Reference Group included the suggestion that the demand for parking bays is inelastic (hence the PPL may not significantly influence commuter behaviour), and that planning approvals might be a more effective mechanism for achieving the same objectives as the PPL.

Exemption for Churches

As a general rule, State tax exemptions and concessions that provide targeted assistance are not supported as they tend to:

- narrow the tax base and increase the tax burden on the remaining taxpayers;
- lead to other inequities and perverse incentives;
- create precedents; and
- increase tax administration and compliance costs.

[29] Sydney imposes a levy of $880 per annum, and Melbourne’s levy will rise to a similar figure next year.

For these reasons, the Act provides no exemption for churches. Notably, there is no exemption for Government land either – the City of Perth and the Department of Health are the two largest payers of the PPL.

There is some sympathy for the special circumstances of churches if their parking bays are not used on weekdays (and so do not contribute to congestion), and/or if leasing out their bays on weekdays would affect their overall income tax exempt status. However, the latter concern may be better addressed through amendments to the Commonwealth's tax legislation (e.g. so that only churches' commercial income, such as from parking bays, is taxed).

Furthermore, providing an exemption to churches on this basis may set a precedent for any other organisations that operate only on weekends and do not lease their parking spaces during the week. It would also increase administration costs through the requirement to police the exemption by checking that parking bays owned by claimants are actually empty on weekdays. Finally, churches may have little need to provide parking spaces for use only on Sundays, as other public spaces are more likely to be available on that day.

In relation to the inconsistency that churches are not generally subject to other taxes, it is noted that this is but one of many examples. It is proposed in other chapters that inconsistencies in the provision of State tax concessions be addressed outside of the State Tax Review, as part of a dedicated process, reflecting the significant resources required (e.g. for consultation and to analyse revenue and incidence impacts) and to ensure that these inconsistencies are addressed in a coherent manner.

Responses to Other Issues Raised in Submissions

Businesses located in the CBD currently gain an advantage over their suburban counterparts from being better served by public transport (including CAT services and the FTZ). Rather than disadvantaging businesses in the CBD, the PPL could be considered to tilt the playing field back towards level. In any case, without some form of traffic management, the CBD may become so congested that it would offer little appeal to businesses or their customers.

The adverse effect of motor vehicle use on air quality tends to increase with the level of congestion, as vehicles accelerate and brake more frequently and spend more time idling. Therefore, even if businesses did move to the suburbs and car usage did rise, environmental quality would not necessarily suffer.

It is not necessarily valid to argue that commuters in some suburbs have little choice but to drive into the city, as anyone with a car has access to park-and-ride public transport. Also, if public transport options are limited, the most appropriate solution may be to provide more public transport, not more city car parks. The PPL potentially facilitates this solution by contributing to funding.

Those members of the community who choose to travel other than by car do not contribute to traffic congestion. It is not fair to expect them to contribute to the costs of relieving it, as they would if the CAT and FTZ were funded from general revenue.

It is acknowledged that the fee exemption for five or fewer parking bays (like any tax scale threshold) creates an anomaly. However, it yields a substantial reduction in administration and compliance costs.[30]

Payments made to Transperth to meet the costs of the CAT and FTZ are identified in the DPI Budget papers. Revenue from the PPL is not separately listed, but could be – doing so would address concerns about the transparency of hypothecation raised by the CCI.

Preliminary Findings

An independent review of the effectiveness of the levy in contributing to a reduction in traffic congestion and pollution in Perth may be warranted, now that the levy has been in place for about seven years, and in view of concerns about the levy expressed by the business community.

- In the meantime, reporting of levy revenue and expenditure could be made more transparent, while issues concerning the income tax treatment of churches if they collect parking fees to pay for the levy should be referred to the Commonwealth.

12.2. Emergency Services Levy

The Emergency Services Levy (ESL) was introduced on 1 July 2003 as a new funding arrangement for the State’s fire and emergency services. The ESL replaced the previous arrangements under which the cost of permanent fire services was funded by local government (12.5%), the State (12.5%) and a (FSL paid by insurance companies (75%), while the cost of other services was met through a patchwork of government and community funding.

The new levy is collected from private property owners by local government authorities on behalf of the Fire and Emergency Services Authority (FESA), and from Government agencies by FESA itself. The revenue is dedicated to fund a range of services, including Career Fire and Rescue Service, Volunteer Fire and Rescue Service, local government Bush Fire Brigades, the State Emergency Service, and multi-service FESA Units.

The levy is based on the property’s gross rental value and the levy rate varies according to regions (metropolitan, regional, rural). It is expected to raise about $138 million in 2006-07. The State Government will supplement this funding with an additional $9 million.

What Submissions Said

The City of Joondalup Associations Forum Inc. (87) recommended that the ESL be abolished and FESA be funded from general State revenue. Submission no. 16 considered that the ESL should have been abolished when the GST was introduced.

The PCA (113) recommended that the Western Australian Government:

[30] About one third of PPL licence holders pay no fees, but only 4% of parking spaces are exempted by the five-bay rule.

- place a cap on increases in the ESL, with the top limit increasing by no more than the CPI;
- promise to maintain its existing contributions to emergency services funding; and
- conduct an audit of previous years FESA budget and spending plans to determine the necessity of “the increase”.

(These last two recommendations are considered to be outside the scope of this Review.)

The City of Joondalup Associations Forum Inc. (87), the PCA (113) and Joan Berry (32) all expressed concerns that property owners are paying more ESL compared to the previous FSL on insurance premiums.

The City of Joondalup Associations Forum Inc. (87) also provided the following reasons for abolishing the ESL.

- FESA protects every person in the State, so the burden of funding it should be shared by every person in the State rather than being borne only by property owners.
- FESA is just another State Government department and should be funded through an appropriation from general revenue.
- Contributions to the funding of FESA should be based on family income rather than the rental value of property.
- Abolishing the ESL would benefit every householder in WA.

The PCA (113) made the following points.

- The change to levying the ESL on gross rental values has placed a large burden on commercial properties. Survey results show 73% of surveyed shopping centres faced an increase in their levy (with an average increase of 147%).
- Increases in the levy paid on large commercial properties are inappropriate given that the owners of such properties already invest in leading technologies to protect them from fire.

Analysis of Issues

The ESL arrangements reflect the high priority the Government places on a fully funded and effective fire and emergency service for the community.

The former FSL on insurance premiums suffered from the drawback that some property owners avoided the levy through non-insurance, underinsurance or offshore insurance (receiving a ‘free ride’). By contrast, the ESL is levied on all property that may require fire and emergency services, making it broader-based and fairer. Previous funding arrangements through insurance premiums and local government/community-based funding arrangements also suffered from lack of transparency.

It is not valid to make a simple comparison between the amounts paid under the old FSL and new ESL, as the former covered only 75% of the costs of providing emergency services. The increase in levies reported by survey respondents might be due in part to avoidance of the former levy as described above.

There is no requirement under the GST arrangements for the ESL to be abolished (or even reviewed). Notably, the FSL was included in the insurance premium base that was subject to stamp duty and GST (this is still the case in some other States), whereas the ESL is not.

To the extent that owners of rented properties can pass on costs such as the ESL to their tenants through the rents they charge, the levy is actually paid by occupants rather than by owners. The value of a property is strongly correlated with the income of its occupants, and will reflect capacity to pay in the majority of instances. More generally, a system based on 'family income', as suggested in one submission, is not appropriate given the desirability of levying the ESL on all properties including industrial and commercial properties.

The States have only a limited number of taxes available to them due to Constitutional constraints and the Commonwealth's effective monopoly on income tax. Abolishing the ESL and funding FESA from general revenue would not benefit every householder because it would require either a $138 million increase (in 2006-07 terms) in other taxes that may be less desirable than the ESL, or commensurate reductions in other areas of Government expenditure.

Only the improvements (buildings, fences, etc) on a property are really protected by FESA, as the land itself cannot be destroyed. Therefore the ideal basis for calculating the ESL could be the value of improvements, rather than the gross rental value of a property (which includes land value). However, it is also desirable to levy the ESL on vacant land because it does pose a fire risk to adjoining properties.[31] In any case, the VGO does not currently measure the value of improvements, and doing so would require a significant increase in resources. Also, the value of improvements is correlated with the value of the land they are on, so rental value is a reasonable proxy.

There is some sympathy for the view that properties with fire-protection systems should be levied at a lower rate to reflect their lower level of risk.[32] However, many other factors (such as construction materials, vegetation, and the activities carried out on a property) also affect risk, and it would be impractical to take them all into account in determining the levy rate. In addition, FESA responds to emergency calls regardless of the presence of a fire-protection system.

It is also agreed that hypothecation of State taxes should generally be avoided, as it fails to ensure that funding of the targeted service is balanced against other budgetary priorities. However, the ESL can be regarded (at least to some extent) as a user charge rather than a tax, in which case hypothecation is appropriate.

[31] Approximately 30 per cent of all fire service call-outs are to scrub fires on uninsured vacant land.
[32] Insurance companies generally recognise lower risk with lower premiums.

Preliminary Findings

The new levy is considered fairer than the previous funding arrangements. Abolition of the levy, and funding emergency services from general revenue, would be costly and require a stronger case in terms of the State Tax Review principles than has so far been made. However, further submissions should be accepted as part of Stage 2 of the Review.

12.3. Gambling Taxation

Western Australia’s gambling taxation base (TAB betting tax, casino tax and LotteryWest revenues) is significantly smaller than other States, due to the ban on electronic gaming machines in clubs and hotels.

The Burswood Casino provides a portion of gross gaming revenue (1%) to the Burswood Park Board for upkeep of Burwood Park, in addition to paying the casino tax.

Under the *Lotteries Commission Act 1990*, net subscriptions (sales less prizes) are distributed along the following lines – 40% to hospitals, 5% to the Arts, 5% to Sports, 12.5% to eligible organisations and up to 5% is used to support the Festival of Perth and the Western Australian film industry.

What Submissions Said

The CCI (81) argued that gambling tax reforms are a lower priority for business than payroll tax and stamp duty.

WACOSS (114) supports the current Government’s position for limiting poker machines in the State, citing research by the Productivity Commission on the prevalence of problem gambling and the availability of gaming machines, and the economic and social costs of gambling in society.

Warwick Boardman (15) argued that gambling taxes “are essential to prevent rampant private profiteering” and that the Government should refrain from encouraging gambling in the same way that cigarette advertising is discouraged.

- The submission also argued that gambling revenues should be hypothecated into the funding of areas such as preventative health, mental health and drug rehabilitation.

Mike Daube (62) recommended that a new tax be levied on the Burswood Casino (another 1% of its gambling revenue) and directed to a “Burswood Smokers Relief Fund”, from which funds would be hypothecated to provide health and related services to Burswood staff adversely affected by passive smoking in the casino. The Fund’s secondary purpose would be to support public education campaigns against smoking.

Analysis of Issues

Proposals to expand the hypothecation of gambling revenue would reduce the flexibility of the Government to allocate funding according to its overall budgetary priorities. A new tax on the Burswood Casino would require a re-negotiation of the existing Agreement.

Notably, in terms of fundamental reform, no submission suggested that the Western Australian Government should expand the gambling tax base (such as by allowing gaming machines to be introduced in hotels and clubs), as a means of reducing its reliance on other State taxes. One Reference Group member supported a more thorough review of gambling taxes, including the possible wider introduction of electronic gaming machines, increasing the casino rate of tax, and increasing "player loss" percentage payments into the Consolidated Fund.

Preliminary Findings

Hypothecating gambling taxation revenue to specific expenditure purposes is not supported as it reduces budget scrutiny and flexibility, and potentially distorts resource allocation between competing programs. At this stage, no further examination of gambling tax reform options is proposed.

12.4. On-Road Diesel Subsidy

The Western Australian Government currently provides a 0.71 cents per litre rebate to fuel wholesalers on diesel fuel that is supplied to a fixed retail outlet and purchased by an end user for on-road use (or consumed by the fuel wholesaler for on-road use). The rebate is expected to cost around $8 million in 2006-07.

The subsidy was introduced to compensate on-road diesel users in Western Australia for the small net increase in tax on this fuel when a nationally uniform increase in Commonwealth excise rates replaced State fuel franchise fees ruled unconstitutional by the High Court in 1997 (as part of a ‘safety net’ arrangement for the States).

In 1999, the Western Australian Government introduced draft legislation to abolish the on-road diesel subsidy. However, the Commonwealth opposed this, noting that the continuation of the subsidy was effectively being funded through the GST arrangements (which subsumed the franchise fee ‘safety net’ arrangements in July 2000).

- At the time, the Commonwealth threatened to deduct an equivalent amount from Western Australia’s GST ‘top up’ payments.

The Commonwealth Government also provides a rebate for the on-road use of diesel, as part of its Energy Grants Credits Scheme. This scheme replaced the diesel fuel rebate scheme for off-road diesel, and the diesel and alternative fuels grants scheme for on-road use, on 1 July 2003. The Commonwealth rebate is 18.51 cent per litre for diesel.

Analysis of Issues

DTF suggests that the on-road diesel subsidy be abolished, providing a small addition to funding available for higher priority tax relief elsewhere. The Commonwealth would be consulted to determine if the GST funding arrangements are still seen as a constraint to States choosing to take such action.

Price Impact of the Subsidy

The current administrative arrangements mean that it is difficult to ensure that the subsidy is actually passed on to users through lower diesel fuel prices. Changing these administrative arrangements to ensure that prices are lower may not be feasible given the marginal level of subsidy.

Furthermore, the subsidy is not significant in terms of the price of diesel. The average price of diesel in the metropolitan area was around 140 cents per litre in March/April 2006. The on-road diesel subsidy of 0.71 cents per litre represents only 0.5% of this average price.

Administrative Issues

The OSR currently operates the on-road diesel subsidy on a non-legislative basis.

Access to the subsidy is provided through an application form declaring that the diesel fuel is purchased for on-road purposes and a requirement to retain diesel fuel purchase invoices. If compliance activities undertaken by the OSR were enhanced, record-keeping costs for applicants would increase.

Furthermore, it seems inappropriate for the State to be responsible for providing a subsidy for diesel when the State no longer has any role in fuel taxation.

Efficiency

The on-road diesel subsidy is distortionary to the extent that it marginally subsidises one fuel type (diesel).

Commonwealth Arrangements

As part of its Securing Australia’s Energy Future, the Commonwealth Government announced its intention to reform the fuel tax system over an extended timeframe (to 1 July 2015 for ‘alternative’ fuels). In a subsequent discussion paper, it noted that the fuel tax system would be changed away from differential treatments for fuels towards types of fuel use.

- Under this system, fuel excise will be limited to the private and business[33] use of motor vehicles, and any other private purpose (except for the generation of electricity).

- From 1 July 2006, on-road fuel users in vehicles that exceed 4.5 tonnes will receive a fuel tax credit to the extent that the fuel tax paid exceeds the road user charge.

[33] For vehicles with a mass in excess of 4.5 tonnes, businesses will be eligible to claim a deduction on total excise equivalent to the road user charge on that vehicle.

Arrangements in the Other States and Territories

The Victorian, Tasmanian and Northern Territory Governments operate an on-road diesel fuel scheme similar to Western Australia's. The subsidy is 0.751 cents per litre in Victoria, 1.99 cents per litre in Tasmania and 1.1 cents per litre in the Northern Territory. In 2000, the Victorian and Northern Territory Governments also sought to abolish their on-road diesel subsidy, but were threatened with lower GST 'top up' payments by the Commonwealth.

The Queensland Government provides an 8.354 cent per litre rebate to eligible fuel users (diesel and petrol). However, this reflects that Queensland did not levy any fuel taxes prior to the 1997 High Court decision.

The New South Wales and South Australian Governments only operate zonal subsidies for on-road diesel users. The New South Wales scheme was designed to 'equalise' the price of fuel with Queensland in border regions, whereas the South Australian scheme provides a subsidy for those parts of the State that are over 100 kilometres from the Adelaide GPO.

Preliminary Findings

The on-road diesel fuel subsidy should be abolished on the basis of the uncertain benefit to users, and compliance concerns. The revenue raised from this subsidy could be more appropriately used for revenue relief elsewhere in the State tax system. However, any decision to abolish the on-road diesel subsidy will need to be negotiated with the Commonwealth

13. Tax Administration

The administration provisions of the taxation Acts administered by OSR were recently rewritten as part of a major reform of tax administration legislation, culminating in the *Taxation Administration Act 2003* (TAA). These reforms reduced compliance costs, accommodated electronic services, and implemented more efficient processes for legislative change and tax investigation.

Rewrite of the *Stamp Act*

The *Stamp Act 1921* was the only major taxation Act not rewritten as part of the above reform of tax administration legislation. Consistent with a recommendation of the BTR, a project is currently underway within the OSR to rewrite the *Stamp Act*.

The Terms of Reference to the State Tax Review noted that the Review would incorporate the Government's commitment to a rewrite of the *Stamp Act.*

Several submissions supported the need to rewrite the *Stamp Act*, including the CME (82) and WAFIC (73), mainly on the basis of reducing the complexity of the legislation. CPA Australia suggested that the rewrite of the *Stamp Act* should be deferred pending the outcomes of the State Tax Review. Grahame Young (99) and the AIC (106) also made some recommendations to clarify specific provisions of the *Stamp Act*, which will be addressed in the rewrite.

The aim of the rewrite of the *Stamp Act* is to:

- ensure that Government policy is reflected in the legislation;
- update the current provisions and ensure that they meet modern commercial practices;
- minimise compliance costs for taxpayers;
- facilitate efficient administration of the legislation;
- introduce an improved structure and a contemporary drafting style that is easy to understand;
- provide certainty to taxpayers in relation to their duty obligations through the use of clear, unambiguous language;
- adopt a transaction-based approach as the basis for the imposition of duty; and

- increase consistency with the legislation of other jurisdictions where possible.

As the rewrite project will incorporate recommendations made by the State Tax Review process, major reform proposals, such as the possible introduction of a land-holder regime need to be addressed in advance of the rewrite of the *Stamp Act*.

Other Issues

Submissions and DTF have also raised a number of other tax administration issues, including tax avoidance matters, private binding rulings, and relatively minor matters relating to assessment, objections, penalties and appeals practices.

- The following sections present preliminary findings on these issues, which were all considered by the Technical Committee. The 'Tax Administration' section of the Technical Appendices should be referred to for more detailed background and analysis on issues raised in submissions.

13.1. Assessments

The background and analysis of these issues are considered in more detail in the 'Assessments' and 'Compromise Assessments' sections of the Technical Appendices.

Reductions in Consideration

Reassessments of stamp duty are not done in circumstances where the consideration for a transaction is reduced prior to the transfer of property (instead, duty is payable on the original higher consideration). In contrast, the ACT, NSW and Tasmanian Duties Acts all contain provisions that allow for a reassessment of duty when the consideration is reduced prior to the transfer of the property.

The UDIA (125) has suggested that duty should be reassessed if the consideration is reduced prior to the transfer of property.

Preliminary Findings

The proposal to allow stamp duty to be reassessed where the consideration paid for the purchase of property is reduced prior to settlement is supported and should be further considered in Stage 2.

Valuations – Transactions for Nil Consideration (Particularly Goodwill)

Section 22 of the TAA and section 33 of the *Stamp Act* provide the authority for the Commissioner to value property. This authority applies regardless of whether the parties are related or not. Commissioner's Practice TAA 8 outlines the circumstances when a valuation is required, including where parties are not at arms length as well as in other situations.

Grahame Young (99) suggested that no stamp duty should be levied for arms length transactions where no consideration is provided.

Preliminary Findings

The proposal to not levy stamp duty on ‘arms length’ transactions for nil consideration is not supported is it would create significant opportunities for avoidance by structuring transactions.

Time Limits on Valuations

There is currently no limit on the length of time that the Commissioner may take to obtain valuations of property.

The CME (82) proposed that the Commissioner should have 40 days from the date of lodgement of a statement or instrument to increase a valuation of property submitted to him.

Preliminary Findings

The proposal for time limits to be placed on valuations of property (for stamp duty purposes) by the Commissioner is not supported, as valuations are often highly complex and it may be impractical for deadlines to be placed on the services of external valuers.

However, it is acknowledged that in some cases there have been lengthy delays in obtaining valuations. The Commissioner is currently discussing this situation with the Valuer General in order to identify ways in which these delays could be minimised.

Time Limits on Routine Assessments

There is currently no statutory limit on the length of time that the Commissioner may take to make an assessment of duty.

The CME (82) suggested that OSR’s Customer Charter should include a requirement that all non-routine documents be assessed in a timely manner.

Delays in assessing duty are sometimes outside the control of the Commissioner (e.g. as a result of the need to obtain further information from taxpayers, obtaining legal advice or valuations). The requirements of the State Administrative Tribunal (SAT) relating to the ‘onus of proof’ (refer below) have also recently impeded the timeliness of issuing assessments.

Preliminary Findings

While all instruments should ideally be assessed in a timely manner, delays are sometimes outside the control of the Commissioner and can be the result of obtaining further information from taxpayers, or legal advice or valuations. Furthermore, a recent impediment in relation to complex matters has been the requirements of the State Administrative Tribunal concerning the onus of proof. On this basis, a statutory limit on the time the Commissioner is allowed to make an assessment is not supported.

Providing Expanded Grounds of Assessment

Section 25 of the TAA provides that an assessment notice may include a statement of grounds on which the assessment was made. Where the assessment notice does not include the grounds of assessment, a taxpayer may request a statement of the grounds, which the Commissioner must provide within 30 days of receipt of the request.

In its submission, the MBA (63) suggested that further information should be included on the notice of assessment, or separate advice providing the basis of the assessment should be included.

- It is also claimed that there is not enough time to put forward a comprehensive objection submission within the required 60 days, as an explanation of assessment only needs to be provided within 30 days of inquiry.
  - However, taxpayers are not disadvantaged in circumstances where a taxpayer requests a statement of the grounds of assessment within 30 days of the issue of the assessment, as they have 60 days to lodge an objection to an assessment from the date on which the Commissioner serves the statement of grounds (and not from when they requested the statement of the grounds of an assessment).

While additional information provided on basic assessments is minimal, comprehensive statements of the grounds of assessment are usually included for complex assessments.

Preliminary Findings

Any requirement for the OSR to provide additional information on the grounds for even basic tax assessments could lead to lengthy delays and additional administration costs, and is therefore not supported.

Time Limits on Retrospective Adjustments

The TAA prescribes a period for the reassessment of tax of up to five years. This includes upon application by the taxpayer or reassessment by the Commissioner.

The ICAA (2) suggested that the time period for reassessments for State taxes be reduced to four years in order to be consistent with the Federal taxes, while the CCI (81) and Fehily

Loaring Pty Ltd (48) recommended that it should be three years plus the current year unless there has been fraud or evasion.

Preliminary Findings

The proposal for the period for reassessments of tax by the Commissioner to be reduced from five years is not supported, as five years is consistent with the time allowed for an application for refunds by taxpayers, and with record-keeping requirements. A five year period for reassessment also aligns with several other jurisdictions, including the ACT, Queensland and South Australia.

Compromise Assessments

The Commissioner of State Revenue has a statutory duty to assess tax correctly and has no discretionary power to settle taxpayer disputes, alter an assessment or accept a lesser amount in payment of a taxation liability.

It is sometimes difficult for the Commissioner to make an assessment due to the complexity of the case, the volume of work that must be undertaken by taxpayers and assessors or investigators, or uncertainties associated with the case. In these situations it would be desirable for the Commissioner to have the power to reach an agreement with taxpayers on the amount or basis of a proposed assessment.

DTF has suggested that an approach similar to that adopted by other jurisdictions in respect of compromise assessments, or that adopted by the Australian Taxation Office in respect of negotiated settlements, may be a more efficient and effective manner of resolving certain disputes with taxpayers. However, there is a need to achieve a proper balance between enforcement of revenue legislation on one hand, and customer service and taxpayer rights on the other.

Preliminary Findings

Providing the Commissioner with the power to make compromise tax assessments would help both taxpayers and the OSR settle certain complex tax cases, and should be further considered in Stage 2 of the Review.

13.2. Tax Avoidance Issues

General Anti-Avoidance Provision

A general anti-avoidance provision does not exist under the TAA or any other State tax Act. Precedents for a general anti-avoidance provision exist in ACT, Queensland and Victoria, as well as under Commonwealth legislation, indicating that these jurisdictions have seen it as necessary to deter concerted tax avoidance efforts by taxpayers.

While the *Stamp Act* contains numerous targeted provisions that allow the Commissioner to make determinations on particular issues, there is often a constant need to make legislative amendments to shut down tax avoidance schemes, which is a lengthy process that often requires retrospective commencement dates to prevent further loss of revenue.

This issue is considered in the relevant section of the Technical Appendices ('General Anti-Avoidance Provision'), which includes information on the possible design of a general anti-avoidance measure. The Technical Committee expressed various concerns over the implementation of a general anti-avoidance provision, including that it would create uncertainties for taxpayers (this view was also shared by at least one Reference Group member).

Preliminary Findings

A general anti-avoidance provision would help deter blatant tax avoidance. An approach that recognises and seeks to address concerns about the uncertainty that may be created by the introduction of such a provision should be further examined as part of Stage 2 of the Review.

Disclosure Rules of Tax Avoidance Schemes

The United Kingdom Government recently enacted amendments to the *Finance Act 2004 (UK)* which introduced new obligations on promoters and, in some cases, users of certain tax schemes to report details of these schemes to the Inland Revenue Department (these apply to all income type taxes, and most recently to 'stamp duty land tax'). The Australian Government also recently announced legislation to deter promoters of tax avoidance schemes.

Introducing a 'notification' requirement for tax avoidance schemes would enable the OSR to make a more effective and timelier response to any avoidance schemes identified. The disclosure rules could operate in conjunction with the proposed general anti-avoidance provision to mitigate the effect of the avoidance schemes.

These issues are considered in the 'Disclosure Rules' section of the Technical Appendices. The Technical Committee expressed uncertainty over the 'triggers' for disclosure, and noted that further work was necessary.

Preliminary Findings

There would be benefits from introducing a 'notification regime' in relation to tax avoidance schemes to help detect and deter such schemes, and ensure a level playing field for all taxpayers. This matter should be further considered as part of Stage 2 of the Review (including through examination of similar regimes elsewhere).

Removing Right to Sue Lawyers for not Providing Unsolicited Tax Avoidance Advice

OSR has sometimes been advised by legal practitioners that they have no choice but to provide tax avoidance advice to their clients, given the common law position established in various cases.

DTF suggests that consideration be given to amending State revenue legislation to remove a client's right to sue a lawyer for not giving unsolicited tax avoidance advice (it is not proposed to extend this to any other taxation advisers, such as accountants, at this stage).

This issue is considered in the relevant section of the Technical Appendices ('Remove the Right to Sue Lawyers for not Giving Tax Avoidance Advice'). The Technical Committee suggested that the Law Society should be consulted on this issue (one Reference Group member supported this).

Preliminary Findings

The proposal to remove the rights of clients to sue lawyers for not giving tax avoidance advice should be further examined in Stage 2 of the Review, including in consultation with the Law Society.

13.3. Binding Rulings

Taxpayers Australia (51), the MBA (63), the CME (82), SBDC (94), Grahame Young (99), the AIC (106), the Law Society of WA (123) and the ICAA (124) all recommended or suggested that a system of binding rulings be introduced to enable parties to better understand their taxation obligations for transactions. It was mainly argued that this would improve certainty for taxpayers about their tax obligations, and that a ruling system is a fundamental feature of a good tax system.

While the desirability of greater certainty for taxpayers from a general private binding rulings system is acknowledged, OSR sees its role as one of providing information, not advice. This position is generally consistent with that applying to revenue offices in other jurisdictions (particularly in respect of transactions that are being contemplated, rather than those that have been carried into effect). The exception is the ATO, which is required to issue private binding rulings by law.

To put a rulings system in place would also take time and require extensive additional experienced resources, which may compromise the ability to deliver services in other areas. Further analysis is also required on the drivers for a binding ruling system, and whether such a system is the most efficient method of addressing these issues.

Additional issues surrounding the implementation and design of a binding rulings system are considered in the 'Binding Rulings' chapter of the Technical Appendices. Despite recognising the legitimate problems with a private binding ruling system, the Technical Committee considered that such a system is desirable.

Members of the Reference Group that commented on this matter generally supported the introduction of a private binding rulings system. One member did not support a ruling system for hypothetical situations, to evaluate alternative options, or where the Commissioner considers that a ruling is requested for the purposes of tax avoidance.

Preliminary Findings

Further consideration should be given in Stage 2 of the Review to the policy merits and possible design of a private binding ruling system.

13.4. Objections and Appeals

These issues are considered in the ‘Objections and Appeals’ and the ‘Administrative Issues’ sections of the Technical Appendices (Chapters 8(g) and 4(o)).

Extension of Time for Payment Arrangements where Objection/Appeal Lodged

The TAA states that the obligation to pay tax is not suspended or deferred by objection or review proceedings. This is consistent with other States or Territories.

The CME (82) recommended that an extension of time to pay an assessment should apply to assessments subject to objection or appeal, while the AIC (106) suggested that stamp duty should not be payable until an objection is determined.

As outlined in the Technical Appendices, current arrangements are considered to provide an acceptable balance between allowing extensions for the time of payment in certain circumstances (including objections) and revenue protection.

Preliminary Findings

The proposal to provide a general extension for the time to pay an assessment subject to an objection is not supported, as current arrangements are considered to provide a sufficient degree of flexibility.

Use of Legally Qualified People in Determining Objections

The CME (82) recommended that the Commissioner should consult legally qualified people in considering objections.

It is not considered necessary to consult with legally qualified people to determine the majority of objections, as OSR has established procedures and precedents. For contentious matters, or complex areas of law, the advice of the State Solicitor's Office is generally sought.

Preliminary Findings

No changes are considered necessary to OSR's current arrangements for consulting with the State Solicitor's Office on objections.

Expansion of the Jurisdiction of the State Administrative Tribunal

The TAA provides that a person who is dissatisfied with the Commissioner's decision on an objection, or an application for an extension of time for lodging an objection, may apply to the SAT for a review of the decision.

The Law Society of Western Australia (123) suggested that the jurisdiction of the SAT be expanded to cover general administrative law issues (along the lines of the *Administrative Appeals Tribunal Act 1975* (AAT Act)) as the SAT only replaced the role of the Supreme Court on appeals.

As outlined in the Technical Appendices, the SAT was never designed to have the power to review all decisions made by an agency. The AAT also does not have a greater capacity to review a broader range of administrative decisions than the SAT. In any case, the SAT will soon have the jurisdiction to review the majority of Commissioner decisions that affect taxpayers (following the proclamation of sections on directly reviewable decisions).

Preliminary Findings

The proposal to expand the jurisdiction of the SAT to cover general administrative law issues is not supported as the SAT is considered to provide (or soon will provide) sufficient scope to review the Commissioner's decisions.

Onus of Proof on Appeals to the State Administrative Tribunal

The TAA imposes the burden of proof in proving that an assessment/decision is incorrect or invalid on taxpayers at the objection and appeal stages. However, upon the commencement of the SAT on 1 January 2005, the burden of proof at the appeal stage was effectively removed. As a result, the legislation expressly imposes the burden of proof on the taxpayer at the objection stage but not at the review stage.

Tax legislation in other jurisdictions typically contains an express provision imposing the burden of proof upon taxpayers at the appeal stage on the basis that the taxpayer is more likely to be in a position to provide the court or tribunal with all relevant documents, materials and information.

DTF has suggested that the onus of proof on review under the TAA should be reinstated, given significant increases in compliance and administration costs resulting from the need for OSR to gather additional information at the 'objection' stage and the possible need for the Commissioner to resort to enforcement powers.

No agreed position was reached on this matter by the Technical Committee and the Reference Group supported further consultation with the SAT.

Preliminary Findings

A high priority should be attached to reinstating the onus of proof on taxpayers for appeals under the TAA, subject to further consultation with the SAT in Stage 2 of the Review.

13.5. Penalty Provisions

Under the TAA, penalty tax is applied for late payment at a rate of 20% of the amount outstanding at the due date. The Commissioner may also impose a penalty tax of up to 100% for any type of default. Penalty tax is limited to an amount equal to the primary liability. The Commissioner has commenced a comprehensive review of Commissioner's practices on how penalty provisions should be structured.

The CME (82) recommended that the Commissioner should be more flexible in the application of his discretion to remit penalty tax especially where the parties to the transaction have acted in a proper manner. It also recommended that the Commissioner should extend his guidelines to apply his discretion to remit penalty tax to more areas.

The AIC (106) recommended that for genuine errors and omissions, Western Australia should implement a system similar to that of the ATO or Queensland, where an interest charge is applied rather than 'penalty tax'.

This issue is considered in the 'Penalty Provisions' section of the Technical Appendices.

Preliminary Findings

The review of Commissioner's Practices on penalty provisions already being undertaken by the Commissioner should consider issues raised in public submissions to the State Tax Review.

13.6. Other Issues

These issues are considered in the 'Other Issues' section of the Technical Appendices.

Unlodged Transfers

The *Stamp Act* contains an obligation on a person who has control over an unstamped 'transfer of property' that has passed its due date to lodge that document with the Commissioner, or notify the Commissioner of its existence.

The Law Society of Western Australia (123) has suggested that the requirement for an independent person to lodge an unstamped instrument of transfer of property, or to notify the Commissioner of it where the person has custody or control of the instrument, should not be imposed on the legal profession.

However, given the above requirement only applies to a small range of documents that are generally routine in nature, it is considered that it should be relatively simple for practitioners to identify that a transfer document is liable to duty.

Preliminary Findings

The requirement for a practitioner who has control over an unstamped instrument that has passed its due date (for lodgement) to lodge that document with the Commissioner (or notify the Commissioner of its existence) is not considered to impose a large compliance burden. Accordingly, proposals for changing these arrangements are not supported.

Lodging Memorials on Mining Tenements

Section 77 of the TAA provides the circumstances where a memorial may be registered against land. Although section 77 allows the Commissioner to lodge a memorial and create a charge on land, the section states that the Commissioner must lodge the memorial with the 'Registrar of Titles'. While it is appropriate to lodge a memorial with the Registrar of Titles for all other circumstances prescribed in the section, memorials lodged by the Commissioner in relation to mining tenements must be lodged with a mining registrar within the meaning of the *Mining Act 1978*.

Preliminary Findings

The Commissioner should have the capacity to place a memorial on mining tenements (as well as other 'land'), on grounds of revenue protection and administrative efficiency. Amendments to the TAA to facilitate this should be considered further in Stage 2 of the Review.

Lodging Memorials for Increasing Amounts of Land Tax

Where land tax is not paid by the due date, the Commissioner may lodge a memorial of the charge with the Registrar of Titles to secure the land tax. The memorial is subsequently withdrawn when the outstanding land tax is paid. An administrative fee is incurred for each lodgement and withdrawal of a memorial. The practice of the OSR has been to lodge one memorial in respect of a property to secure the land tax, and where the land tax accumulates and remains unpaid for more than one assessment year, the Commissioner will not consent to the lifting of the memorial until all the outstanding tax is paid.

It has been suggested that a separate memorial should be lodged to secure the land tax for every assessment year for which the tax remains unpaid. If adopted, this practice would be administratively onerous and result in the imposition of numerous fees as additional memorials are lodged and withdrawn in respect of the same land.

Preliminary Findings

Amendments should be made to the TAA to clarify that a single memorial should suffice for both the original amount of land tax that remains unpaid and for subsequent liabilities incurred after the lodgement of the original memorial.

Small Tax Credits

Section 54 of the TAA provides for the Commissioner to refund tax to a taxpayer as a result of reassessments, if the Commissioner is satisfied an overpayment of tax has been made, or the Commissioner is required by a taxation Act to make a refund of tax. The taxpayer is required to apply for a refund within five years of the date when the overpayment was made.

DTF is considering options for the refund of small tax credits where taxpayers cannot be located.

- For amounts over $5, the *Unclaimed Money Act 1990* could be used for the transfer of unclaimed money (after the Commissioner has attempted to refund the credit to the taxpayer). Corresponding amendments to the TAA could also be made so that disclosure of certain information about the relevant taxpayer’s affairs could be made to the Treasurer for the purposes of unclaimed monies, and to allow tax credits to be paid into the Consolidated Fund.

- For small refund amounts of less than $5 (where the Commissioner cannot offset these amounts against other liabilities within a reasonable time), the amounts could be written-off with the ability to reinstate the credit should a refund be subsequently requested by a taxpayer.

Preliminary Findings

Mechanisms to improve the administration and refund of small amounts to taxpayers when they cannot be located, including through the use of the *Unclaimed Money Act*, and the writing off of amounts of less than $5, should be further considered in Stage 2 of the Review.

Unproclaimed Section 34(4) of the Taxation Administration Act

Following the proclamation of sections 34(4) and 47(8) of the TAA, the Commissioner will be required to give written notice to taxpayers of his decision on applications for tax payment arrangements. In addition, section 34(4) of the TAA will require the Commissioner to provide notification in writing to the taxpayer of decisions that are directly reviewable by the SAT.

Currently, all applications and responses for the Commissioner's approval of a tax payment arrangement are made in writing, with the exception of land tax where an extension of one month or less to pay land tax is requested by taxpayers. In these cases, applications do not need to be made in writing and a written approval (if granted) is not provided to the taxpayer unless it is requested.

- To ensure that the current practice of providing verbal approval to land tax taxpayers in these cases can continue, it is proposed to amend section 34(4) of the TAA to provide that the Commissioner's decision in these cases is not required to be provided in writing.

- In addition, an amendment to the SAT Regulations is proposed to ensure written notice is not required to be given by the Commissioner where verbal approval for an extension of time for the payment of land tax of no greater than one month has been provided.

Preliminary Findings

Amendments should be made to the TAA and SAT Regulations to ensure that the current process of providing verbal approval of requests for extensions of one month or less to pay land tax can continue.

Appendix A

Terms of Reference and Guide for Public Submissions

State Tax Review – Terms of Reference

Purpose and Objectives of the Review

The purpose of the Review is to make recommendations on reform of the State tax system for the next five years, in consultation with and reflecting the priorities of the Western Australian community.

The over-arching objectives of the Review are to enhance the competitiveness, equity, and efficiency of the State tax system in Western Australia, including minimising distortions to economic activity and compliance costs for taxpayers.

The Review will not be restricted to a revenue-neutral outcome, but aim to provide genuine, aggregate tax relief to the Western Australian community within the constraints of the community's demand for services and infrastructure and the requirement for responsible financial management (further discussed below).

Scope of the Review

The Review will be broad in scope. It will cover all State taxes affecting all sectors of the community. It will not cover the GST, which is a Commonwealth tax, nor mining royalties or user charges such as for electricity and water.

While not extending to Commonwealth taxes, local government rates or user-charges, the Review will recognise that the State tax system operates in the context of this wider system of taxes and charges, together with Australia's social welfare system, and requires various interactions to be taken into account.

The Review will incorporate the Government's commitment to a re-write of the *Stamp Act 1921*. While the main objective of the re-write is to modernise the Act to reflect current business practices, and to simplify it through restructuring and the use of plain language, policy proposals need to be addressed first.

Affordability and Funding of Tax Relief

A target amount of State tax relief has not yet been identified. States taxes are a key source of funding for State services and infrastructure, including in relation to health, education and law and order, and the provision of tax relief will need to be balanced against meeting community expectation in these areas.

Consistency with the Government's fiscal targets will also be crucial, including maintaining the State's AAA credit rating. Funding would be sourced from any sustainable improvement in the State's revenue outlook or a re-balancing of expenditure and revenue priorities, including as part of the 2006-07 State budget.

Process

The Review will be coordinated by the Department of Treasury and Finance.

Public submissions are invited, and consultation will be undertaken with an external Reference Group, appointed by the Treasurer and representing broad community interests.

The Reference Group will provide independent advice to the Treasurer that helps balance competing interests.

Timetable

Stage 1

The aim is to complete Stage 1 of the Review by March 2006. The Government will then consider the initial recommendations of the Review in the 2006-07 Budget.

June 2005: release by the Treasurer of the terms of reference, including an invitation for, and guidelines to assist, public submissions to the Review.

July – September 2005: appointment of the Reference Group by the Treasurer. Three-month period for receipt of public submissions by the Department of Treasury and Finance.

30 September 2005: deadline for public submissions.

October 2005 – December 2005: consultation with the Reference Group, including the consideration of public submissions.

January 2006 – March 2006: consultation with the Reference Group on the initial recommendations of the Review, and preparation of an interim report (Draft White Paper) for consideration by the Government.

May 2006: the Government considers the initial recommendations of the Review in the 2006-07 Budget process and releases the Draft White Paper for public comment as part of Stage 2 of the Review.

Stage 2

The aim is to complete Stage 2 of the Review by March 2007. The Government will then consider the final recommendations of the Review in the 2007-08 Budget process.

June 2006 – December 2006: further consultation with the Reference Group, including consideration of public comments on the Draft White Paper.

30 September 2006: deadline for public comments on the Draft White Paper.

January 2007 – March 2007: further consultation with the Reference Group on the final recommendations of the Review.

May 2007: the Government considers the final recommendations of the Review in the 2007-08 Budget.

A Guide For Public Submissions

- Submissions can be forwarded to:

State Tax Review
Department of Treasury and Finance
Governor Stirling Tower
197 St Georges Terrace
PERTH WA 6000
or (via email)

statetaxreview@dtf.wa.gov.au

- The closing date for the receipt of submissions is **30 September 2005**. All submissions received by the closing date will be considered by the Review.

- Submissions should briefly outline proposals for reforming either the overall State tax system or particular State taxes.

- Submissions should have regard for the overall structure and balance of the State's tax system, its place in the national tax system, and its role in funding essential State services and infrastructure.

- Submissions should explicitly address how the proposed reform/s will assist in meeting one or more of the following objectives of the Review.

Enhancing competitiveness: the State's taxes should be competitive with other States and internationally. While differences in tax rates or bases are one indicator, discernible impacts on the attraction of business activity to the State or incentives for avoidance should be demonstrable.

Enhancing equity: the State's taxes should treat people or businesses in similar circumstances in a similar manner, and tax burdens should have regard for ability to pay.

Enhancing efficiency: distortions to economic activity and business decisions from the State's taxes should be kept to a minimum, as should diversion of resources to enforcement and compliance effort (including by businesses that operate across State boundaries).

Enhancing other objectives: for example, consistent with the preceding objectives, the State's tax system should be as simple as possible, and robust vis a vis changes in markets, industry structures and economic conditions (in order to ensure funding is available in the long run for funding services etc).

- Having regard for these objectives and any other factors, views would be welcomed on what the State's priorities should be for further tax relief. More generally, multiple reform proposals should include a priority ranking.

- Where not already addressed, authors of submissions may wish to state explicitly what their aspirations for the Review are, or what they would see as the critical indicators of success for the Review.

Information on the progress of the review can be accessed on www.statetaxreview.wa.gov.au

Appendix B

List of Submissions Received

No.	Submission from
1	G.M. Miocevich
2	The Institute of Chartered Accountants in Australia (1)
3	Nulsen Haven Association
4	John Fitti (Fitti Steel)
5	Confidential
6	Mair & Co
7	Mr & Mrs Ansell
8	Confidential
9	G. Coplin
10	Michelle Zimmel
11	Confidential
12	B.W.Churcher
13	Cipri Martinez
14	Alfred Dutch
15	Warwick Boardman
16	Confidential
17	Mr B. Walker
18	Confidential
19	Michael More
20	Ken Waters
21	Tom's Cranes
22	K. Ridley
23	Tom Barrett
24	Insurance Australia Group
25	Philip Swan
26	Blockbuster - South Perth
27	Albany Finance
28	Catholic Education Office of Western Australia
29	Blockbuster - Meadow Springs
30	Council of the Ageing Western Australia
31	Video Ezy - Duncraig

List of Submissions Received – continued

32	Joan Berry
33	Video Ezy - Woodbridge
34	N. Lennox
35	Confidential
36	Video Ezy - Subiaco
37	Brian O'Hart
38	Coates Hire - Belmont
39	Kim Bonser
40	John Quigley MLA (Mindarie)
41	Confidential
42	Chamber of Minerals and Energy (included as attachment to main submission No. 82)
43	Australian Nursing Homes and Extended Care Association (Western Australia).
44	Western Australian DVD/Video/Game Stores
45	Association of Independent Schools of Western Australia
46	Confidential
47	Civic Video - Armadale
48	Fehily Loaring Pty. Ltd.
49	Freehills (on behalf of Colonial First State Property Limited)
50	Council on the Ageing National Seniors
51	Western Australian Divisional Council, Taxpayers Australia
52	Graham Laurence
53	Developmental Disability Council of Western Australia
54	Kevin Guhl
55	Insurance Council of Australia (WA and NT group)
56	Lynley McDonald
57	Tony Fowler
58	Confidential
59	Trinity School for Seniors
60	Hire & Rental Industry Association (Western Australia)
61	Kevin Matthews
62	Mike Daube: Professor of Health Policy, Curtin University of Technology
63	Master Builders Association of Western Australia
64	Caravan Industry Australia Western Australia
65	Alcock Brown-Neaves
66	The University of Notre Dame Western Australia
67	David Barnao & Co. Property Consultants
68	Confidential
69	CPA Australia
70	Bushby Investments Pty Ltd
71	Pastoralists and Graziers Association of Western Australia
72	Rural Business Development Corporation

List of Submissions Received – continued

73	Western Australian Fishing Industry Council
74	People with Disabilities (Western Australia) Inc.
75	The Western Australian Farmers Federation
76	Trevor Maughan
77	National Institute of Accountants
78	Motor Trade Association of Western Australia
79	Terry Redman MLA
80	Conservation Council of Western Australia
81	Chamber of Commerce and Industry of Western Australia
82	Chamber of Minerals and Energy of Western Australia
83	Confidential
84	Real Estate Institute of Western Australia
85	The West Australian Small Business and Enterprise Association
86	Housing Industry Association
87	City of Joondalup Associations Forum Inc.
88	Australian Government
89	John Hyde MLA
90	Building Service Contractors Association of Australia (Western Australia)
91	Building Service Contractors Association of Australia (Western Australia) - 2nd submission.
92	Transport Forum
93	Taxation Institute of Australia
94	Small Business Development Corporation
95	Western Australian Planning Commission
96	Department of Housing and Works
97	RAC
98	Tourism Western Australia
99	Grahame Young
100	J.C. Hanrahan
101	Printing Industries Association of Australia (Western Australian Region)
102	Australian Institute of Company Directors (Western Australian Division)
103	Paterson & Dowding
104	Public Universities of Western Australia (UWA, Curtin, Murdoch and ECU).
105	Albany Chamber of Commerce and Industry.
106	Australian Institute of Conveyancers (Western Australia Division)
107	John McCarney
108	Civic Video - Spencer Village
109	Eric Moxham
110	Civic Video - Maddington
111	Civic Video - Melville
112	Civic Video - State Manager
113	Property Council of Australia

List of Submissions Received – continued

114	Western Australian Council of Social Services
115	Shelter WA
116	Australian Equipment Lessors Association
117	Civic Video - Bunbury & Parks Centre
118	Young & Young
119	Confidential
120	Neil Durston
121	Barry MacKinnon
122	Graham R Willis
123	Law Society of Western Australia
124	The Institute of Chartered Accountants in Australia (2)
125	Urban Development Institute of Australia
126	Civic Video - Margaret River
127	Department of Education and Training
128	Greening Australia and the Australian Heritage Bush Fund
129	Business Coalition for Tax Reform
130	Insurance Premium Finance Association Australia
131	Australian Equipment Lessors Association (2)
132	Minister for the Environment
133	Kerry Carroll
134	Confidential
135	Warren Spencer
136	Australian Institute of Conveyances WA Division (late Submission received via Technical Committee)

Appendix C

Main Committee of Reference Group [(a)]

Member	Title	Organisation
Mr Philip Achurch	Chairman	Western Australian Small Business and Enterprise Association
Ms Anne Arnold	Chief Executive Officer	Real Estate Institute of Western Australia
Mr Nigel Barker (represented on occasions by Mr Ken Marston)	Executive Director	Council on the Ageing Western Australia
Ms Julie Bremner	Executive Officer Business Strategy and Membership	Chamber of Minerals and Energy
Mr Daryl Cameron	Regional Manager, Western Australia	Insurance Council of Australia
Mr Mark Cole	Representative	Australian Bankers' Association
Professor Gregory Craven (represented by Professor Peter Kenyon)	Professor of Government and Constitutional Law	Curtin University
Mr John Dastlik	Executive Director Western Australia	Housing Industry Association
Mr Trevor De Landgrafft (represented on occasions by Mr Ross Hardwick and Mr Gerry Crowden)	President	Western Australian Farmers Federation

Main Committee of Reference Group [(a)] – continued

Member	Title	Organisation
Mr Peter Fitzpatrick (represented on occasions by Mr Craig Marsland)	Executive Director	Motor Trade Association of Western Australia
Mr Gavan Forster	Director Housing and Economics	Master Builders Association of Western Australia
Mr Ron Hardaker (represented on occasions by Ms Helen Gordon)	Executive Director	Australian Finance Conference
Ms Fiona Harris	President	Western Australian Division Australian Institute of Company Directors
Mr Garry Hyde (represented on occasions by Ms Bindi Thomson)	Chairman, Economics and Business Management	Pastoralists and Graziers Association of Western Australia
Mr Scott Grimley	Representative	Institute of Chartered Accountants in Australia and CPA Australia
Mr Jonathan Ilbery	Chair	Jackson McDonald
Mr John Langoulant (represented by Mr John Nicolaou)	Chief Executive Officer	Chamber of Commerce and Industry
Mr Joe Lenzo	Executive Director Western Australia	Property Council of Australia
Professor Dale Pinto (replaced Mr Brian Lovitt)	Representative	Taxation Institute of Australia
Mr Barry MacKinnon	Chairperson	Disability Services Commission Board

Main Committee of Reference Group [(a)] – continued

Member	Title	Organisation
Mr Brian Reynolds	Director	Retail Traders Association of Western Australia
Mr Graham Short	Chief Executive Officer	Western Australian Fishing Industry Council
Mr Rod Slater	President	Royal Automobile Club
Mr Justin Walawski	Chief Executive	Association of Mining and Exploration Companies
Mr John Walker (represented on occasions by Ms Janine Freeman)	President	Unions Western Australia
Ms Rae Walter (represented on occasions by Ms Lisa Baker)	President	Western Australian Council of Social Services
Mr John Wood	Vice President	Caravan Industry Australia - Western Australia

(a) In a number of cases, members were represented by 'alternates' at all or some meetings.

Technical Committee of Reference Group

Member	Title	Organisation
Mr Rami Brass	Representative	Taxpayers Australia
Mr Graeme Cotterill	Representative	Taxation Institute of Australia
Mr Jonathan Ilbery	Chair	Jackson McDonald
Mr Guy Lehmann	Representative	National Institute of Accountants
Ms Koo Lloyd-Kane	Representative	Australian Institute of Conveyancers
Mr Rob Maurich	Chapter Member (Western Australia)	Finance and Treasury Association
Mr Peter Moltoni	Representative	Institute of Chartered Accountants in Australia
Associate Professor Jeff Pope	Representative	Curtin University
Evelyn Tucker	Representative	Independent Settlement Agents Association
Mr Grahame Young	Representative	Law Society of Western Australia

Appendix D

‘Out of Scope’ Issues

The following proposals or issues raised in submissions or by individual members of the Reference Group were considered to be ‘out of scope’ of the Review (in addition to those noted as such in the main report).

Expenditure Proposals

Alfred Dutch (14)	Increase Government spending on services (hospitals, police, road safety, transport).
Kim Bonser (39)	Provide assistance to public schools for extension programs and for resources for gifted and talented students.
CCI (81)	The Government should abide by its target to ensure that growth in general government spending does not exceed the growth rate in prices and the population, as achieving other key objectives such as maintaining tax competitiveness would be easier if this was achieved.
John Hyde MLA (89)	Fast track the undergrounding of all residential power lines.
	Increase borrowing at the current low interest rates to guarantee ongoing capital projects to stimulate the economy, encourage skilled migrants and ensure that existing workers remain in Western Australia.
WACOSS (114)	Current provision of services and infrastructure to community is inadequate.
Graham R Willis (122)	The ambulance service should be fully funded by the State (those on low incomes cannot afford ambulance services and are disadvantaged at present).
Reference Group member	Training concessions for regional employers.

User Charges

PGA (71)	Review CTP insurance and recording fees for farming machinery.
WAFF (75)	State licence fees should be set on a cost recovery basis.
SBEA (85)	Reductions in utility charges (especially electricity tariffs).

Federal Tax Issues

ICAA (2)	Various recommendations relating to the GST.
Submission no. 18	Various federal taxation issues (income tax and taxes on fuel).
Submission no. 41	Concerned about level of capital gains tax on transfers of land.
WAFIC (73)	Consider strategies to address high cost of fuel.
Reference Group member	Income tax proposals to encourage people to remain in the workforce.

Commonwealth-State Issues

Graham Laurence (52)	Addressed concerns over lack of Federal-State agreement on funding for transport concessions for seniors card holders, and about linking Federal funding for National Competition Policy reforms.
WAFF (75)	The funding distribution argument with the Federal Government should be “sorted out” to remove duplication of services and ensure equitable access to funding for areas of responsibility.

Other Issues

Submission no. 16	Review the use of the Gross Rental Value method in setting shire and water rates.
Submission no. 18	Shire councils to be allowed to organise fund raising projects (in addition to shire and water rates) to sponsor community needs.
	Concerned about inequity in health system as "rich" can afford better health care.
Michael More (19)	Firearms licence issues (indexing, link to drivers licence, frequency of licensing).

CIAWA (64)	Reinstate treatment of caravan park sites as tourist or itinerate sites (as was the case pre-1995).
CPA (69)	The Review should recognise the interaction of royalties in the wider context of taxes and charges, as it is difficult to ignore increasing royalty streams in considering the capacity for tax reform.