2016-17 State Budgets: a mixed bag of abolitions, introductions and expansions

8 July 2016

In brief

We have another year of the 'mixed bag' approach to stamp duty and land tax reform in the Australian State and Territory Budgets for the 2016-17 financial year.

On the abolition side, New South Wales (NSW) has honoured its commitments made under the *Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations* signed in 1999 (after deferring its abolition schedule on two previous occasions), with the abolition of duty on intangible property, marketable security duty and mortgage duty.

But whilst NSW gave on one hand, it has taken with the introduction of 'foreign purchaser' stamp duty and land tax surcharges. Queensland has also introduced a similar stamp duty surcharge for foreign purchasers.

Both NSW and Queensland have followed the lead of Victoria, who introduced similar provisions on 1 July 2015. Victoria announced in its Budget increases to both the stamp duty and land tax surcharge rates.

Tasmania has confirmed the long awaited introduction of a legislated corporate reconstruction exemption for certain intra group property transfers. Following on the abolitions front, both Australian Capital Territory (ACT) and South Australia continue on their own reform agenda to reduce conveyance duty on commercial property (leaving stamp duty on residential and primary production land). South Australia has taken a significant further step with the abolition of duty on goods (relevant where goods are sold directly in connection with land or indirectly via a landholding entity). This change has been made with effect from 1 July 2016.

In detail

New South Wales

The Government announced the introduction of surcharges for foreign purchasers/holders of residential land, with a:

- 4 per cent stamp duty surcharge (relevant to direct and indirect transfers (e.g. an acquisition of shares in a company holding residential land)), and

- 0.75 per cent land tax surcharge.

In the context of land tax, not only will a foreign person be impacted by the surcharge, but the benefit of the tax free-threshold (currently $482,000) is to be removed. The consequence will result in certain foreign owners being brought into the land tax net for the first time. In addition, there is no principal place of residence exemption for this surcharge.

For both the stamp duty and land tax surcharge and in contrast to Victoria, there is no mechanism for foreign purchasers to be exempted from the surcharges.

NSW also confirmed the previously announced abolition of three stamp duties from 1 July 2016: unlisted marketable security duty, non-land business asset duty and mortgage duty.

Victoria

The key Budget announcement in Victoria is the increase of the foreign purchaser stamp duty and land tax surcharges. The surcharge rates (levied above the usual duty/tax rate) will increase to 7 per cent (from 3 per cent) and to 1.5 per cent (from 0.5 per cent), respectively, with effect from 1 July 2016 (for the stamp duty surcharge) and from the 2017 land tax year (for the land tax surcharge). The result is that the effective rates for foreign residents purchasing land or holding land goes to up to 12.5 per cent and up to 3.75 per cent respectively.

Queensland

From 1 October 2016, Queensland will introduce a 3 per cent foreign purchaser surcharge to direct and indirect transfers of residential land. The surcharge takes the effective duty rate to affected foreign purchasers up to 8.75 per cent.

At this stage, Queensland will not have any provision to exempt a foreign resident from the surcharge (unlike Victoria). General concessions from duty may still be extended to foreign purchasers for the primary duty and also the surcharge (e.g. change in trustee exemption and corporate reconstruction relief). However, certain concessions will not extend to this surcharge such as the concessions for first home buyers.

Western Australia

No major changes to stamp duty or land tax.

South Australia

The South Australian Budget announced the abolition of duty on the transfer of goods (in the case of a direct transfer) or the indirect transfer of goods (in the case of a transfer of shares in a company or units in a trust that holds South Australian land and goods). The Budget also confirmed the intention to make the further one third cut to stamp duty on non-residential property on 1 July 2017, and the full abolition of this duty from 1 July 2018.

Also announced was the extension for an additional year of the concession for ‘off the plan’ property acquisitions, along with the intention to introduce a wagering tax (15 per cent on net wagering revenue) from 1 July 2017.

Northern Territory

No major change to stamp duty or land tax.

Minor discount announced for eligible first home buyers on the purchase of an established home from 24 May 2016 to 20 June 2017.

Tasmania

The Tasmanian Budget announced the long awaited introduction of a corporate reconstruction/consolidation duty scheme to exempt corporate group reorganisations from duty. This brings Tasmania in line with the other States and Territories.

There are additional minor amendments to the First Home Owner Grant, an alteration to the permitted use of demonstrator vehicles and the deferral of two previous commitments (the reduction of duty on compulsory third party motor vehicle insurance premiums and the reduction of the motor vehicle duty tax rate on light vehicles).

Australian Capital Territory

The ACT continues on the reform path. Insurance duty was abolished from 1 July 2016 and the progressive phasing out of conveyance duty over 20 years continues with announced reductions in rates relevant to both residential and commercial properties.

The phased reduction in conveyance duty goes in hand with the replacement of this revenue with general increases to the rates levied on property owners through their rates, with the Government indicating that residential property rates will increase an average of around 4.5 per cent and commercial property rates will increase an average of around 7 per cent.

The takeaway

Purchasers and owners of residential property, particularly foreign residents, should be aware of the latest stamp duty and land tax measures announced in the 2016-17 State budgets. The 'mixed bag' approach to tax reform across the States and Territories continues to add complexity for those operating and/or investing in more than one State or Territory, so care is needed when considering State and Territory tax implications.

Let's talk

For a deeper discussion of how these issues might affect your business, please contact:

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