

17 March 2023

The Hon Mark McGowan MLA, Premier; Treasurer; Minister for Public Sector Management;
and Federal-State Relations
13th Floor, Dumas House
2 Havelock Street
WEST PERTH WA 6005

By email: wa-government@dpc.wa.gov.au

Dear Treasurer,

Western Australian State Budget 2023–24

The Tax Institute writes to you regarding our views on the priorities for the Western Australian State Budget 2023–24 (**State Budget**). The State Budget plays a fundamental role for determining the economic direction of Western Australia's (**WA's**) future, impacting the lives of those who live and work in this community. We are of the view that development of the State Budget can benefit from input from a diverse range of stakeholders whose views and experiences can assist the Government in addressing the most pertinent issues.

The Tax Institute is the leading professional body for the tax community in Australia. We have consulted with our WA State Taxes Committee to deliver a submission that outlines a key issue related to tax and duty that we consider should be prioritised by the Government in the upcoming State Budget.

The Tax Institute is of the view that the Government should abolish transfer duty (stamp duty) on the acquisition of business assets. This will demonstrate the Government's commitment to supporting businesses grow by removing the significant financial burden that transfer duty imposes. Abolishment of transfer duty on business assets will improve the attractiveness for investment in WA, increase job opportunities for WA workers and reduce administration costs for the Government.

Our detailed comments are contained in **Appendix A**.

We would be pleased to meet with the Treasurer to discuss the points raised in our submission.

The Tax Institute is committed to shaping the future of the tax profession and the continuous improvement of the tax system for the benefit of all. In this regard, The Tax Institute seeks to influence tax and revenue policy at the highest level with a view to achieving a better Australian tax system for all. Please refer to **Appendix B** for more information about The Tax Institute.



If you would like to discuss any of the above, please contact our Senior Tax Counsel, Julie Abdalla, on (02) 8223 0058.

Yours faithfully,



Scott Treatt
General Manager,
Tax Policy and Advocacy



Marg Marshall
President

APPENDIX A

Recommended stamp duty priority for the WA Government

The Tax Institute's key priority and recommendation for the Government in relation to the upcoming State Budget is the abolition of transfer duty (stamp duty) on acquisitions of business assets.

We provide the following detail in support of our recommendation.

Historical context

When the Howard Government introduced the Goods and Services Tax (**GST**) in 2000, it was intended that certain other taxes, including stamp duty on a range of assets, would be abolished. Under the Intergovernmental Agreement on the Reform of Commonwealth – State Financial Relations (**Intergovernmental Agreement**), the States and Territories committed to various timelines for the abolition and review of a various types of stamp duty, including for the transfer of business assets.¹ However, more than 20 years later, WA remains one of the few jurisdictions in Australia (in addition to only Queensland and the Northern Territory), where stamp duty is still applicable to the acquisition of business assets, including:

- goodwill;
- business licences;
- intellectual property;
- restraint of trade;
- business identities;
- supply agreements with customers; and
- rent rolls.

Currently, under section 15(d) of the *Duties Act 2008* (WA) (**Duties Act**), a WA business asset is dutiable property on which duty is imposed on dutiable transactions.

In May 2007, the WA State Tax Review – Final Report recommended stamp duty be abolished for non-real business assets.²

WA has previously undertaken to abolish stamp duty on business assets on two occasions. In 2008, the *Duties Legislation Amendment Act 2008* (WA) was passed and received Royal Assent. This legislation deleted section 15(d) of the Duties Act, removing WA business assets from the definition of dutiable property. This amendment, combined with the other amendments in the Act effectively abolished stamp duty on the transfer of business assets from 1 July 2010. This was enacted as part of the WA Government's commitment to abolish duty on non-real business assets in the 2006-07 Budget.³

¹ [Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations](#)

² [State Tax Review – Final Report May 2007](#) (Final Report, May 2007) 39-40.

³ [Explanatory Memorandum](#), Duties Legislation Amendment Bill 2007 (WA) 1.

This, among other types of stamp duty that were to be abolished, would be funded from the Budget surplus that year. However, as part of the mid-year review of the 2009-10 Budget, the abolition of transfer duty on non-real business assets, was delayed due to the impact of the global financial crisis. The *Revenue Laws Amendment Act 2010* (WA) delayed the abolition until 1 July 2013.

In light of the continued negative impact of the global financial crisis on the state's financial position, the Government introduced the *Duties Legislation Amendment Act 2013* (WA) which repealed the various amendment acts and retained stamp duty for non-real business assets.

The opening paragraph of the Explanatory Memorandum to the *Duties Legislation Amendment Act 2013* (WA) states: "*The abolition will be revisited when its cost can be better accommodated in the State's Budget*".

Context for current request and submissions

It is timely to revisit the abolition of stamp duty for business assets, given the strong growth trajectory expected for WA's local economy. In the 2022-23 Budget, the WA Government expected to record an operating surplus of \$5.7 billion in 2021-22 and \$1.6 billion in 2022-23.⁴ The Government also announced that the domestic economy grew by 7.2% since the start of the pandemic, which was two and a half times the rate of growth of the rest of the nation. The WA economic outlook is bright, with Treasury forecasting that the WA economy will grow by 4% in 2023.⁵

It is clear that the local economy is no longer under financial stress and the Government should reconsider abolishing transfer duty on business assets.

Jurisdictions including New South Wales and South Australia, which also deferred the abolition of stamp duty for business assets in light of other funding priorities during the global financial crisis, have since enacted legislation that removed this duty. In the NSW 2014-15 Budget, the NSW Government announced that it would abolish transfer duty on non-real business transfers from 1 July 2016 in order to provide businesses with certainty, improve economic efficiency, and lower business administration costs.⁶ The NSW Government stated that this was an inefficient tax which adversely impacted businesses, and that removing it would improve the efficiency of the tax system, and reduce business costs and red tape. South Australia abolished stamp duty on transfers of all non-real property from 18 June 2015. At the time, the Treasurer Tom Koutsantonis said he was deliberately seeking to stimulate business and 'unlock the entrepreneurial spirit' because it was the best way to drive economic growth.⁷ This was followed by a surplus of \$43 million forecasted for 2015-16 and in the following years.⁸

⁴ [Western Australia State Budget 2022-23](#) (Budget Paper No. 3, 12 May 2022) p 3.

⁵ Ibid.

⁶ [Budget Statement 2014-15](#) (NSW Budget Paper No. 2) 6-5.

⁷ Simon Evans, '[SA Budget 2015: Stamp duty on commercial property to go](#)', *Financial Review* (online, 18 June 2015).

⁸ Simon Evans, '[SA budget 2015: Winners and losers](#)', *Financial Review* (online, 18 June 2015).

The application of stamp duty on the transfer of business assets imposes significant financial burden on businesses, particularly when it comes to acquiring new assets. Abolishing this duty will demonstrate a commitment to lowering business costs and making WA a more attractive location for new businesses and encouraging the growth of local businesses. It will incentivise businesses to invest in new assets and expand their operations, stimulating economic growth and job creation in WA. Further, the abolition of duty for business assets would simplify the tax system, reduce administration costs and provide certainty for businesses. This policy change will undoubtedly have a positive impact on businesses and the economy as a whole.

As most other States have done, the abolition of transfer duty on the acquisition of business assets can be done in phases to soften the impact on the economy. South Australia cut stamp duty in three steps, with one third removed in 2016, the next third in 2017, and the remainder by 1 July 2018.⁹

⁹ Simon Evans, (n 7).

APPENDIX B

About The Tax Institute

The Tax Institute is the leading forum for the tax community in Australia. We are committed to representing our members, shaping the future of the tax profession and continuous improvement of the tax system for the benefit of all, through the advancement of knowledge, member support and advocacy.

Our membership of more than 11,000 includes tax professionals from commerce and industry, academia, government and public practice throughout Australia. Our tax community reach extends to over 40,000 Australian business leaders, tax professionals, government employees and students through the provision of specialist, practical and accurate knowledge and learning.

We are committed to propelling members onto the global stage, with over 7,000 of our members holding the Chartered Tax Adviser designation which represents the internationally recognised mark of expertise.

The Tax Institute was established in 1943 with the aim of improving the position of tax agents, tax law and administration. More than seven decades later, our values, friendships and members' unselfish desire to learn from each other are central to our success.

Australia's tax system has evolved, and The Tax Institute has become increasingly respected, dynamic and responsive, having contributed to shaping the changes that benefit our members and taxpayers today. We are known for our committed volunteers and the altruistic sharing of knowledge. Members are actively involved, ensuring that the technical products and services on offer meet the varied needs of Australia's tax professionals.