

## Land Tax Aggregation – Myths and Misdirections

### **Land Tax Aggregation is a new tax imposition on property owners**

Land tax in South Australia is already based on the aggregated value of all properties held by a taxpayer (except for the primary place of residence). The proposed changes simply close a loop hole which has allowed some landowners to avoid paying the tax by holding properties in a range of different ownership structures (e.g. trusts, differing partnerships). If landowners are experiencing this as a new tax it is only because they have structured their affairs in a way that has previously avoided the tax that other landowners pay.

### **South Australian land taxes are the highest in the country**

This is true – if you only focus on the top rate of tax. But if you were buying an investment property at the median house price in each capital city, the land tax paid in South Australia would be the third lowest in the country. If your investment portfolio gets up to \$1m in any one state/territory, land tax in South Australia would currently be around the (unweighted) national average. At total land value of \$2m and above, SA land taxes are much higher than all other states, (not adjusting for different property values).

### **The land tax “tidal wave”**

The “tidal wave” suggests that since changes to land tax aggregation coincide with the review of property values and increases in taxable land value, property owners will be hit by the combination two massive tax increases. The “double-hit” would only apply to those with multiple properties who have hitherto avoided land tax, but from a policy perspective the issues are actually separate. You don’t not close a tax loop-hole because the rates are wrong – you fix the rates and the loophole – which is what is now proposed. Indeed, SACOSS believes the reduction of the top rate of land tax is overly generous.

### **The changes will hit “mum and dad” investors**

This assumes that all small investors use multiple ownership structures to avoid aggregation of land values. This is not true. And the aggregation changes would probably only really begin to impact on their fourth property. Assuming our “mum and dad” investors own their own home, then if mum owns an investment property and dad owns an investment property – then it is only when they buy their *third investment property* that the land value will be aggregated to existing holdings. Assuming their properties are under the land tax-free threshold, they would only *start* paying land tax on their third investment property – and then at very minimal rates. They will be fairly well-off mum and dad investors.

### **Real estate development will stop**

This argument suggests that big developers with large aggregated land-values will cease to invest or go elsewhere. This does not seem to have happened in other states where land tax aggregation works the way it will here under the proposed changes, and the changes also come at a time of the historic low interest rates/borrowing costs for developers. That said, we do need to encourage new building. If the development model is to subdivide and build multiple properties to sell off, then tax relief in the building period makes more sense than allowing a avoidance through a loophole which also allows owners of established properties (who aren't increasing the housing stock) to avoid tax.

### **Rents will go up and impact on pensioners and those on low incomes**

The suggestion that because land tax goes up, rents will go up (usually by an equivalent amount) assumes that any tax increase will be passed on in total. Many landlords are currently paying tax on the aggregated value of their properties (or have only one property) so there will be no tax increase and no need to increase rents. Also, rents did not come down in 2010 when tax changes benefitted landlords and with the new tax rates, and from 1 July 2020 land tax for many landowners will come decrease or disappear – which if the flow through theory holds should mean lower rents for many (and downward market pressure preventing other rent increases). But if the parliament is really concerned about the impact on pensioners and low income renters, it could legislate safeguards – such as capping rent increases to CPI.

### **Trust ownership is not a rort – trusts are legitimate and legal instruments**

Trusts *are* legal and there are a range of legitimate reasons why people establish trusts. However, regardless of why trusts are set up, the fact is that if they enable the ultimate beneficiaries to hold land and avoid paying land tax. That is not fair to other tax payers or to the community which relies on tax revenue to fund vital services.

### **Trusts/companies are separate legal entities and should be taxed separately**

While trusts and companies are separate entities in law, there is a long precedent of laws and courts “piercing the corporate veil” to treat substantial ownership fairly.

### **Owners organised their affairs in good faith and the rules shouldn't be changed on them**

Regardless of why people organise their property ownership under the structures they did, the argument that therefore the rules can never change would mean that there could never be any tax reform. Further, to be consistent, when top tax rates are decreased those who claim the rules should never change should continue to pay at the higher rate.

### **This is just a tax grab by a government addicted to tax**

South Australia remains the third lowest taxing jurisdiction per capita in Australia and the fourth lowest in terms of tax effort (according to Commonwealth Grants Commission standards). And in the 2019-20 budget, there was a significant hit to SA government revenue from a write-down of GST receipts so that revenue actually declines in real terms by 1%. Combined with the land tax changes from the last budget, the amount of land tax will decrease over the coming years.