

s 22

From: s 22
Sent: Wednesday, 24 May 2023 11:12 AM
To: s 22
Cc: Berger-Thomson, Laura; Di Marco, Katrina; Fraser, Bede; Bultitude, Susan; s 22
Robinson, Marty; s 22
Subject: FW: Herald Sun - state budget [SEC=OFFICIAL]

OFFICIAL

Hi s 22

We have made a minor change. Otherwise looks good.

Kind Regards

s 22

s 22
Assistant Director, Corporate Tax Branch
Corporate and International Tax Division
Revenue, Small Business and Housing Group
The Treasury | Level 29, 201 Kent Street | Sydney NSW 2000
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From: s 22 @TREASURY.GOV.AU>
Sent: Wednesday, 24 May 2023 10:52 AM
To: s 22 @TREASURY.GOV.AU>
Cc: Berger-Thomson, Laura <Laura.Berger-Thomson@TREASURY.GOV.AU>; Di Marco, Katrina <Katrina.DiMarco@TREASURY.GOV.AU>; Fraser, Bede <Bede.Fraser@TREASURY.GOV.AU>; Bultitude, Susan <Susan.Bultitude@TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; Robinson, Marty <Marty.Robinson@TREASURY.GOV.AU>
Subject: RE: Herald Sun - state budget [SEC=OFFICIAL]

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Thanks, s 22 . I have added in payroll tax. Can you please check the words asap? Sorry about timing.

- *The Victorian Government makes its own decisions about its own tax base, including land tax, stamp duty and payroll tax.*
 - *All other things equal, an increase in land tax would increase deductions available to individuals who own a rental property whether negatively or positively geared.*
 - *The tax treatment of the proposed replacement for stamp duty for commercial and industrial properties would depend on its design and the circumstances of the transaction and taxpayer.*

Generally no deduction ~~is available~~ would be available for stamp duty now, *however it reduces the capital gain when the property is sold.*

- All other things equal, a reduction in payroll tax liability for some businesses would reduce deductions available to them for income tax purposes.
- Any changes resulting from policies announced in State budgets will be factored in the forecasts at MYEFO.

s 22

Senior Adviser | Office of the Hon Jim Chalmers MP | Treasurer

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From: s 22 [@TREASURY.GOV.AU](mailto:s 22@TREASURY.GOV.AU)>

Sent: Tuesday, 23 May 2023 6:59 PM

To: s 22 [@TREASURY.GOV.AU](mailto:s 22@TREASURY.GOV.AU)>

Cc: Berger-Thomson, Laura <Laura.Berger-Thomson@TREASURY.GOV.AU>; Di Marco, Katrina <Katrina.DiMarco@TREASURY.GOV.AU>; Fraser, Bede <Bede.Fraser@TREASURY.GOV.AU>; Bultitude, Susan <Susan.Bultitude@TREASURY.GOV.AU>; s 22 [@TREASURY.GOV.AU](mailto:s 22@TREASURY.GOV.AU)>; Robinson, Marty <Marty.Robinson@TREASURY.GOV.AU>

Subject: FW: Herald Sun - state budget [SEC=OFFICIAL]

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Hi s 22

As a general proposition, stamp duty applies when a transaction takes place so is more likely to form part of the cost base to for capital gains tax purposes. Land tax is usually deductible against any income derived from the commercial property.

The ATO's comments are set out below. They are necessarily qualified by the lack of detail about the new State taxing arrangements. The mechanics will be important to consider in any final advice.

Stamp duty (presently)

- A taxpayer may be able to claim a tax deduction for stamp duty associated with revenue transactions (that are income producing activities of a business) where the criteria for a general deduction under section 8-1 are met.
- However, generally stamp duty would be a capital expense and no deduction would be available. Instead, the amount would form part of the cost base of the property (as a cost of acquiring a CGT asset) and would be dealt with under the capital gains tax rules.

Replacement stamp duty

Currently, there is not sufficient detail on the design of the proposed replacement to stamp duty to say with certainty how the new arrangements would be treated for income tax purposes, as this will turn on the particular mechanics of the new regime.

At a high level, whether or not a taxpayer would be able to claim a tax deduction for the new tax would depend on whether:

- The criteria for a general deduction are met.

- As with stamp duty, a taxpayer may be able to claim a tax deduction for the new tax if it is associated with revenue transactions.
- In other circumstances, deductibility is likely to depend on whether, in replacing a single lump sum charge with an annual charge, the new tax is revenue in nature rather than an affair of capital.
- While we would need to consider the matter in more detail, based on our current understanding there is a reasonable argument that the new tax arrangements would result in the expense being on revenue account where:
 - The new tax is more in the nature of a holding charge instead of one for the acquisition of a capital asset. This may have an effect on the character of the advantage sought. The regularity of payment has also changed from a single impost to a recurring one.
 - This could be argued to be consistent with the treatment of other land taxes payable in respect of an income-producing property currently, which can be deducted.
- The answer might be affected by specific rules that make some expenses non-deductible. We note there is an exception for some holding costs in relation to vacant land: section 26-102 of the ITAA 1997.
- If the new tax is not deductible, it would generally be expected to form part of the cost base of the property (as a cost of owning a CGT asset) and would be dealt with under the capital gains tax rules.

Regards

s 22

s 22 — Director

Corporate Tax Policy Unit, Corporate Tax Branch
Corporate & International Tax Division

P s 22

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The Treasury acknowledges the traditional owners of country throughout Australia, and their continuing connection to land, water and community. We pay our respects to them and their cultures and to elders both past and present.

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From: Robinson, Marty <Marty.Robinson@TREASURY.GOV.AU>

Sent: Tuesday, 23 May 2023 6:18 PM

To: Berger-Thomson, Laura <Laura.Berger-Thomson@TREASURY.GOV.AU>; s 22
<s22@TREASURY.GOV.AU>; Di Marco, Katrina <Katrina.DiMarco@TREASURY.GOV.AU>

Cc: Fraser, Bede <Bede.Fraser@TREASURY.GOV.AU>; s 22
<s22@TREASURY.GOV.AU>; Bultitude, Susan <Susan.Bultitude@TREASURY.GOV.AU>

Subject: RE: Herald Sun - state budget [SEC=OFFICIAL]

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Hi s 22

We are still awaiting some advice from the ATO on your earlier question around deductibility of commercial stamp duties vs land taxes but still aim to come back to you this evening.

Regards,

Marty Robinson

Corporate & International Tax Division

M s 22

The Treasury acknowledges the traditional owners of country throughout Australia, and their continuing connection to land, water and community. We pay our respects to them and their cultures and to elders both past and present.

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From: Berger-Thomson, Laura <Laura.Berger-Thomson@TREASURY.GOV.AU>

Sent: Tuesday, 23 May 2023 6:16 PM

To: s 22 <[REDACTED]@TREASURY.GOV.AU>; Robinson, Marty <Marty.Robinson@TREASURY.GOV.AU>; Di Marco, Katrina <Katrina.DiMarco@TREASURY.GOV.AU>

Cc: Fraser, Bede <Bede.Fraser@TREASURY.GOV.AU>

Subject: RE: Herald Sun - state budget [SEC=OFFICIAL]

OFFICIAL

Hi s 22

Here is a proposed response.

The Victorian Government makes its own decisions about its own tax base, including land tax.

All other things equal, an increase in land tax will increase deductions available to individuals who own a rental property whether negatively or positively geared.

Any changes in rental deductions will be factored in the forecasts at MYEFO.

Happy to discuss,

Laura

Laura Berger-Thomson (she/her) — **First Assistant Secretary, CBR**

Personal and Indirect Tax and Charities Division

s 22

The Treasury acknowledges the traditional owners of country throughout Australia, and their continuing connection to land, water and community. We pay our respects to them and their cultures and to elders both past and present.



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From: s 22 <[REDACTED]@TREASURY.GOV.AU>

Sent: Tuesday, 23 May 2023 5:32 PM

To: Robinson, Marty <Marty.Robinson@TREASURY.GOV.AU>; Berger-Thomson, Laura <Laura.Berger-

Thomson@TREASURY.GOV.AU; Di Marco, Katrina <Katrina.DiMarco@TREASURY.GOV.AU>

Subject: FW: Herald Sun - state budget [SEC=OFFICIAL]

OFFICIAL

Hi

We've received a query about impacts of the Victorian Budget on the Commonwealth budget position. Grateful for advice please on a holding response.

Note timing, sorry for short turnaround time.

This is on top of points Marty and I discussed.

Thank you

s 22

The remainder of the email is outside the scope of the request and has been deleted

OFFICIAL

s 22

SENSITIVITIES

COVID Debt Levy and impact on the Commonwealth

- Victoria introduced a COVID Debt Levy as part of its COVID Debt Repayment Plan in its 2023-24 Budget. This temporary plan lasting to 30 June 2033 is expected to raise \$8.6 billion in COVID debt offsets over the first four years, consisting of two components:
 - From 1 July 2023, businesses with national payrolls above \$10 million a year will have to pay 0.5 per cent in additional payroll tax, while businesses with national payrolls above \$100 million will pay an additional 0.5 per cent on top of this.
 - From 1 January 2024, the tax-free threshold for general land tax rates will decrease from \$300,000 to \$50,000. For landholdings above \$300,000 (and trust taxpayers with property holdings above \$250,000) land tax rates will temporarily increase by \$975 plus 0.1 per cent of the value of their landholdings above \$300,000.
- This increase in state land taxes may result in an increase in deductions available to individuals owning rental properties and therefore result in lower Commonwealth tax collections from those investors. The extent of this impact is dependent on a range of factors including:
 - the extent to which the impact of the tax is passed through to increased rents.
 - the extent to which the additional land tax is paid by taxpayers who are claiming a deduction against Commonwealth income tax (for example, if the property were a holiday home solely available for private use, the land tax would not be deductible).
 - the tax position of the relevant investors.
- The change in payroll taxes may also impact Commonwealth tax collections depending on factors such as:
 - the extent to which the payroll tax changes affect employer payrolls (for example, some of the impact may be passed on)
 - the tax position of affected employers (unincorporated employers will face a range of marginal rates depending on their specific circumstances; small businesses face a lower rate than 30 per cent; some employers may be in a tax loss position).

- The changes to Victorian land tax are not reflected in the Commonwealth 2023-24 Budget as they were not announced at the time the Budget forecasts were prepared.
- The Victorian Government makes its own decisions about its own tax base, including land tax, stamp duty and payroll tax. All other things being equal, an increase in state land taxes would increase deductions available to individuals owning rental properties, and therefore result in lower Commonwealth tax collections from those investors. However, the extent of this impact is highly dependent on a range of factors including taxpayer circumstances (for example, their marginal tax rate) and behaviour in response to the policy.
- Any changes resulting from policies announced in State budgets will be considered as part of the update to the forecasts at MYEFO.

Office Responsible	Treasurer - The Hon Jim Chalmers MP	Adviser	s 22
Contact Officer	s 22	Contact Number	s 22
Division responsible	Personal and Indirect Tax and Charities Division		
Date of Update	31 July 2023		

- The Victorian Government makes its own decisions about its own tax base, including land tax, stamp duty and payroll tax. All other things being equal, an increase in state land taxes would increase deductions available to individuals owning rental properties, and therefore result in lower Commonwealth tax collections from those investors. However, the extent of this impact is highly dependent on a range of factors including taxpayer circumstances (for example, their marginal tax rate) and behaviour in response to the policy.