

# eJournal of Tax Research

Volume 9, Number 2

December 2011

# Transparency in the valuation of land for land tax purposes in New South Wales

Vince Mangioni

## ***Abstract***

Transparency is an important taxation principle in maintaining integrity in the taxation of land. This paper is a review of improvements in transparency following recommendations for reforms to the valuation of land by the NSW Ombudsman in 2005. Data on objection rates to land values has been sourced from the NSW Department of Lands both pre and post the introduction of the 2005 reforms recommended by the NSW Ombudsman. This paper attempts to measure improvements in transparency via changes in objection rates to land values issued by the Valuer-General, resulting from the availability of sales information to land face 7 resu

taxpayer outlet and in some cases constitutes tax payer participation and input in the land tax assessment process. This is compounded by the fact that a lack of information relating not only to the process used to determine land value, but the evidence used, is an important part of the information to be provided to the tax payer.

A 2008 review of NSW state taxes highlighted the weaknesses in the taxation of land under the principles of transparency and simplicity of the tax, as shown in Figure 1.<sup>1</sup>

value (land & buildings) at the local government level and apply some form of limitation or cap on increases in revenue from this tax.<sup>5</sup>

## **2. EVOLUTION OF PROPERTY TAXATION AND CURRENT PROBLEM WITH LAND VALUE**

Understanding why recurrent land tax has evolved into a tax which is imposed on quite different measures of the bases has its orig

This pressure grew from suspicions of inequitable assessments, abatements and residency fraud and the movement of assets between residences.<sup>10</sup> In contrast to the transparency of the window tax, the taxing of buildings and personal property raised questions of transparency and challenged the notion of consistent and equitable assessment. Of particular concern was the inequity associated with the under-valuation of property, this being as low as one fifth of the market value in the United States during the 1800s.<sup>11</sup> An ideological divide between the north and south also saw property taxes move out of favour in the south where larger estates were held by the wealthy. With this move away from property based tax came a move to poll taxes.<sup>12</sup>

Once again as the necessity for property taxes grew, a residential frontage tax was introduced in New Orleans which was met with the development of the shotgun house, a long narrow house developed to avoid the tax. As the frontage tax moved to a 2<sup>nd</sup> storey tax, the camel back house was developed with the second storey set back to avoid the tax. The final attempt to establish consistency of the base of a property tax resulted in a room tax, which subsequently led to the bricking up of closets and pantries in attempts to minimize the impact of the tax on the house.<sup>13</sup> Whilst these taxes were unpopular, general uniformity existed in their application.

Land value taxation has existed in Australia since 1884 with its origins in South Australia. This tax was first imposed in NSW in 1895. In 1906 the tax was abolished in NSW as part of the reform of Local Government and to avoid competition between state and local government for the same revenue source. The Commonwealth introduced a land tax in 1910 which stayed in force until 1952. NSW reintroduced a land tax in 1956 and the tax was imposed on the Unimproved Capital Value of land.<sup>14</sup> With the reintroduction of the tax in 1956, land transactions were abundant as cities were urbanizing, which provided evidence and transparency as to how land value was determined.

In New South Wales, state land tax co-exists with local government council rating. The primary difference between the two is the exemption of the principle place of residence from state land tax. The difference between land tax and council rating addresses the concern raised that land tax is inherently regressive for poorer people as they spend a higher proportion of their income on their property,<sup>15</sup> more explicitly their home.

In 1982, New South Wales moved from unimproved capital value to land value as the base for the assessment of land value taxation<sup>16</sup>. The primary difference between unimproved value and land value is set out in Figure 2, which provides a conceptual





As vacant land sales become the exception, in its most simplistic terms, the primary issue turns on how improved sales are interpreted and how the added value of improvements are accounted for in the extraction of land value. Initially the question emerges of how to partition the constituent components of property which contribute to its value. However, a more complex paradox precipitates this question, that is what constitutes the highest and best use of land in the first instance and how are improved sales construed within the context of this question. In simple terms, if the added value of improvements are deducted from land which is not utilized to its highest and best use, a value well below land value may result.

Whilst not the subject of this paper, this question warrants brief discussion, as it determines in the first instance, which property sales are best suited for the partitioning process. In the absence of vacant land sales, at what point do improvements on land constitute added value and how is the added value to be determined? The two most pressing issues raised in the deduction of land value from improved sales were identified as, the absence of a method by valuers for the adjustment of time between the sale date and date of valuation and secondly, the absence of a method by valuers for the adjustment of the added value of improvements on land.<sup>22</sup>

In the assessment of the added value of improvements and in particular in countries where improved value is the basis of assessment, an additional dimension exists. That is, how does the tax payer perceive the added value of improvements of their property

is n d e a b s i s d q u 6 ( ) a s i s d T \* v a w e

### **3. INFORMATION TRANSPARENCY AND THE TAX PAYER**

The principle of transparency and tax payer understanding of how the value of land is determined has been identified as paramount over the past 10-15 years.<sup>23</sup> Following two recent inquiries into the valuation of land<sup>24</sup> In NSW, the importance of the principle

### **3.1 Method**

In gauging the impact and benefits yielded from the recommendations implemented by the NSW Valuer-General from the 2006 land tax year, with particular reference to making sales information available to land tax payers, a preliminary analysis of pre and post 2006 objections has been conducted.<sup>25</sup> This analysis has been conducted based on objection information provided by the NSW Department of Lands using objection numbers to land values from a sample of ten local government areas located within 15 kilometers of the Central Business District of Sydney. As at the date of this analysis there were forty two local government areas within the Sydney Metropolitan area, of which the sample of local government areas analysed, represents approximately 25 percent.

In qualifying the information and results of this preliminary analysis, a number of other factors which are not quantifiable, have been identified. These include the adoption of a three year averaging of land values and threshold, the revised formula for the annual adjustment of the threshold and the level of values at the commencement of the 2006 land tax year. Each of these factors would to some degree impact on land tax assessments and were among the thirty two recommendations made and subsequently phased in.<sup>26</sup>

The objection numbers have been provided by the New South Wales Department of Lands for each local government area in the analysis. In analyzing the number of objections to land values, two factors were considered. The first consideration was the location in which objections were grouped by local government area. The second consideration was the base date of valuation. In New South Wales, each parcel of land is valued annually as at 1 July each year and is the basis of value for the following land tax year. This date is known as the base date of valuation. The analysis was undertaken between base dates 1-7-2000 and 1-7-2008.

Table 1 sets out the objections by local government area and base date, in which a

**Table 1: Objection totals by location & date**

<b>Council</b>	<b>1/07/02</b>	<b>1/07/03</b>	<b>1/07/04</b>	<b>1/07/05</b>	<b>1/07/06</b>	<b>1/07/07</b>	<b>1/07/08</b>	<b>Grand Total</b>
ASHFIELD	7	4	63	6	8	7	2	97
BOTANY BAY	3	8	14	15	3	17		60
BURWOOD	8	7	48	11	3	7		84
LEICHHARDT	217	30	38	67	16	10	59	437
MARRICKVILLE	51	146	27	17	42	7	17	307
MOSMAN NORTH	252	23	102	152	9	3	38	579

The objection process is crucial in many cases as some land values will inevitably be incorrect, that is the primary function of the objection process to identify and correct. It may well be that the provision of sales information is an important first step in minimizing objections and this may still be proven to be correct over time.

**Figure 6: Upward objection trends 2005 to 2008**

of land values. To this end, a register of sales information used to assess land values could be made available to taxpayers in advance of the issuing of land tax assessments. It would also include sales information used for each of the three years relevant to the taxpayers assessment.

A lesson exists for tax administrators of other taxes in observing the assessment of land tax and the objection process. Where consideration is being given to minimizing

Tw2(he objed

asi yea0546

## 5. REFERENCES

- Carlson, R.H., 'A Brief History of Property Tax' (Paper presented at the IAAO Conference on Assessment Administration, Boston, Massachusetts, 1 Sept 2004).
- Coleman, C. and McKerchar, M., 'The history of land tax in Australia' (2008) eJournal of Tax Research, *Australian School of Taxation UNSW*.
- Daly, M.T., *Sydney Boom Sydney Bust* (1982). Unwin and Allen, North Sydney
- Daw, C.A, 'Land taxation: an ancient concept' (2002) 1(Feb 2002) *Australian Property Journal* 20-25.
- Fisher, G.W., *The worst tax: A history of property taxes in the United States* (1996).
- Gibson, J., 'The Hearth Tax' (2008). Federation of Family History Societies
- Haveman, M. & Sexton, T.A., *Property Tax Assessment Limits - Lessons from Thirty Years of Experience* (2008).
- IPART Independent Pricing and Regulatory Regime, *Review of State Taxation Report to the Treasurer* (2008).
- Mangioni, V., *Land Tax in Australia* (2006). Australian Property Publications
- NSW Ombudsman, *Improving the quality of land valuations issued by the Valuer General* (2005).
- NSW Parliament, *Parliamentary Debates*, NSW Valuation of Land Act 1916.
- Oates, W.E. and Schwab, R.M., *The Impact of Urban Land Taxation: The Pittsburgh Experience* (1996). College Park, University of Merryland.
- Smith, S., *Land Tax: An Update* (2005). NSW Parliamentary Research Service, Sydney
- Timmins, G., *The History of Longparish* (2001).  
[www.longparish.org.uk/history/windowtax.htm](http://www.longparish.org.uk/history/windowtax.htm)
- Toohy's Ltd v. Valuer General, (1925). AC 439 Privy Council
- Vickers, T., *Location Matters* (2007). Shephard-Walwyn, London
- Walton, J., *Report of Inquiry Into Operation of Valuation of Land Act* (1999). Report to the New South Wales Parliament.