MOTOR TRADE ASSOCIATION

SUBMISSION

Land Tax Reform Package

Land Tax (Miscellaneous) Amendment Bill 2019

2 October 2019

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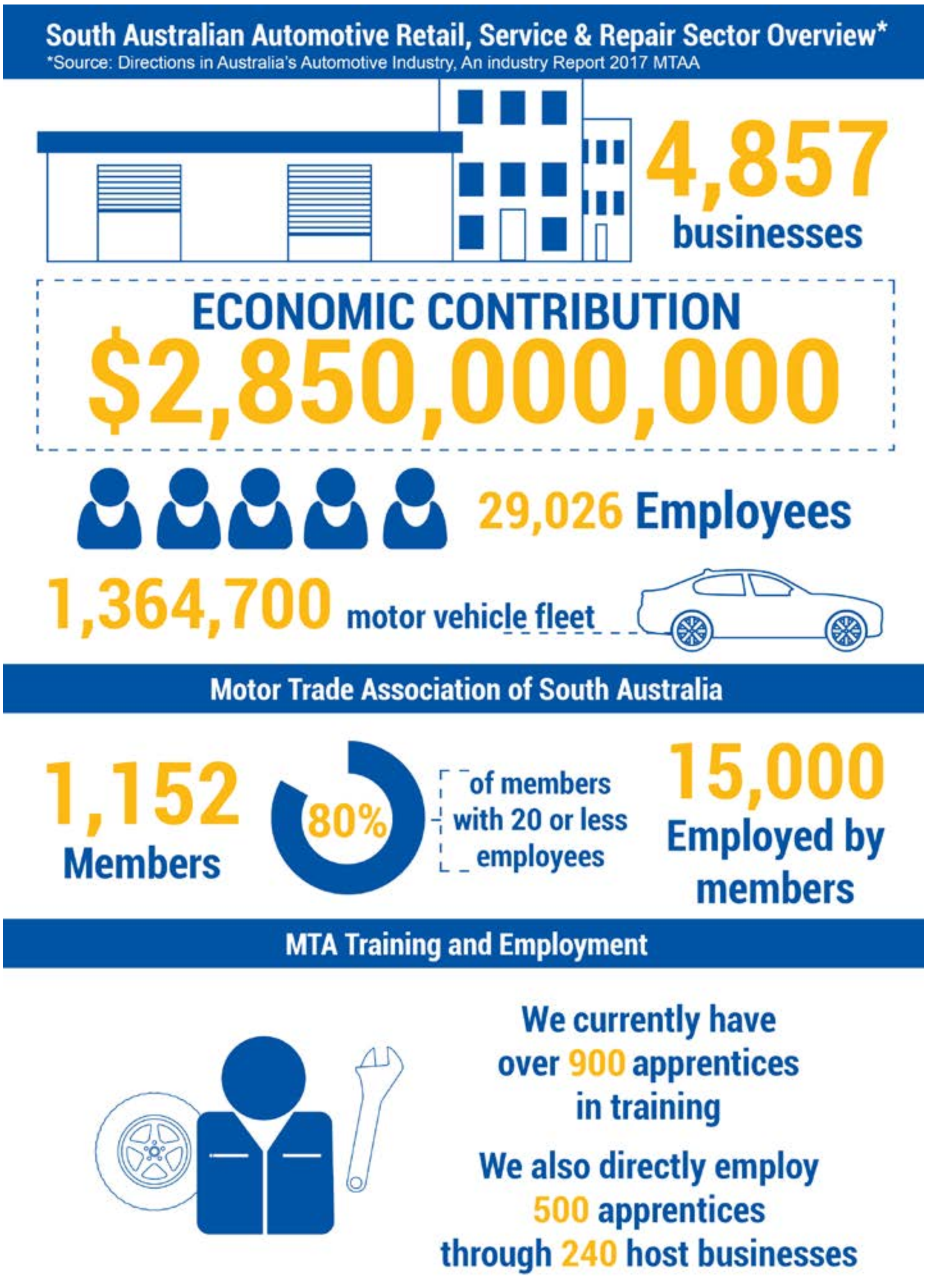
2. About Us

The Motor Trade Association of South Australia (MTA) is the only dedicated employer organisation representing the interests of automotive retail, service and repair businesses in South Australia.

The MTA Group Training Scheme comprises both our Registered Training and Group Training Organisations. It is the automotive industry's own training provider and is the largest employer of automotive apprentices in South Australia.



3. Introduction

The MTA notes that the State Government has announced a land tax reform package to *"reduce total revenue collected from land tax and to implement a fairer, more competitive land tax system"*[1]*.*

The MTA has previously voiced its opposition to the Marshall Liberal Government's land tax reform package following its announcement in the 2019-20 State Budget. In particular, the announcement that *"the government is introducing targeted measures to crack down on individuals and companies who have reduced their land tax bills by setting up complex legal structures to avoid the land tax aggregation provisions of the Act."*

The MTA has reviewed the *Land Tax (Miscellaneous) Amendment Bill 2019* (the Land Tax Bill) and the *Land tax consultation summary* provided on the yourSAy website.

The MTA welcomes the opportunity to provide comments on the *Land Tax Reform Package* (the Reform Package).

4. MTA Position

The MTA notes the changes that have been made to the Reform Package since its announcement in the State Budget and welcomes the Government's decision to reduce the top marginal rate of land from 3.7% to 2.4% with effect from 1 July 2020.

However, despite the changes that have been made to the Reform Package, as announced by the Marshall Liberal Government on 9 September 2019, the MTA remains of the view that the changes to land tax are likely to have a negative impact across our membership and in particular upon those members who own commercial sites.

It is also important to highlight that several sectors of the automotive industry are very land intensive and many small and medium businesses who own their own premises and employ between 10 and 50 staff have indicated that they may have to lay off staff due to the proposed changes.

While the top land tax rate proposed is not too dissimilar from many other States, when coupled with the very low thresholds, the result is South Australian properties attract significantly higher land tax than other States.

[1] https://yoursay.sa.gov.au/decisions/land-tax-reform/about

During September 2019, the MTA surveyed its members seeking their views on the Reform Package and to gather information about how the land tax reform measures will specifically impact them and their business operations.

MTA members responding to our land tax survey have overwhelmingly indicated (91 per cent) that they are opposed to the Marshall Liberal Government's land tax changes contained in the Reform Package. MTA Members have clearly stated that the effect of the proposed Land Tax Bill will be job losses and a stifling of investment.

Outcomes of the survey are outlined in the Appendix to this submission.

The unforeseen and retrospective nature of the changes proposed in the Land Tax Bill will hurt businesses who have legally set up ownership structures for the purposes of asset and estate planning, and in other cases, to lessen their exposure to the highest top rates of land tax in the nation.

Businesses that have acted within the law, who have "played by the rules" and set up ownership structures to meet their financial needs have done nothing wrong, and yet, they are now facing the prospect of those "rules" being changed. If the Reform Package proceeds as proposed in the Land Tax Bill, from 1 July 2020, investors and small and medium businesses will be harshly penalised for decisions made under the existing law.

While jobs are the most obvious casualty, the retrospective changes will also hurt landlords as some leases do not allow you to pass on these increases and as many of our members structured in an owner/occupier arrangement, they will only be passing the increases on to themselves.

While self-managed superannuation funds are separate from personally held assets, and therefore exempt from aggregation, many members have indicated that they have not included all (in some cases any) property accumulated for their retirement as a part of their self-managed superannuation fund due to a variety of different reasons. The changes will reduce their return without providing them with the opportunity to either stay in the workforce longer or change investment strategies without absorbing the loss.

The Government's proposal to:

- shift to aggregating based on an owner's interest in every piece of land, rather than only aggregating properties held in the same ownership structure;
- introducing provisions to allow two or more related companies to be grouped for land tax purposes; and
- introducing a surcharge on land owned in trusts in cases where the interests in land of trust beneficiaries are not disclosed or cannot be identified,

will leave many of our members, who have legally set up ownership structures, facing enormous land tax bill increases from 1 July 2020.

The MTA is of the view that Reform Package will hurt jobs and investment in South Australia, with the largest concerns from MTA members being that the proposed changes will:

- prevent them from investing further in their businesses;
- lead to job losses, either through the closure of their business or as a means to reduce wage costs flowing from the need to meet a higher land tax burden;
- drive up rents; and
- force them to shift the burden of higher land tax costs directly on to consumers, leading to potential increases in petrol prices, new car prices, and servicing and repair costs.

The Liberal Party came to government with a *"focus on lowering costs for all businesses in South Australia"* which was to be achieved by reducing land tax and other taxes[2]. Unfortunately, the proposed land tax changes do not comply with this stated promise.

MTA members are also concerned about the lack of clarity surrounding the Valuer-General's controversial five-year program of state-wide property revaluations. Members are fearful that the revaluation program will result in major increases in property valuations, serving to further drive up land tax assessments resulting from aggregation.

It is manifestly unfair to penalise businesses and individuals who have acted within the law and who will now be forced to adhere to a change that could not have been foreseen. On top of the revaluation that is currently being undertaken, the issue of aggregation will have a detrimental impact on those who have held properties in separate trusts and subsidiary companies over many years.

However, placing questions of "fairness" to one side, it remains the case that our members have advised us that the impact of the proposed Reform Package will be to cost jobs and stifle investment in South Australia.

Undoubtedly, this is an unintended and unwanted consequence of the proposed land tax changes, and an important reason to review the impact of the changes without delay.

5. MTA Requests

The MTA advises that it will be requesting all South Australian politicians to block the passage of the Land Tax Bill through Parliament.

Additionally, the MTA makes the following requests of the Marshall Liberal Government:

[2] https://www.saliberal.org.au/a_marshall_liberal_government_will_work_for_all_south_australians

1. In the first instance, the MTA requests that the tabling of the Land Tax Bill be delayed and a complete review of the existing tax system in South Australia be undertaken, so as to ensure that South Australia can become the best State for businesses to invest.

   If a review of the existing tax system supports the position that South Australia is a viable and competitive place to do business, industry associations such as the MTA would be able to work with government to advocate for industry support of proposed tax changes, boosting investment instead of driving it interstate.

2. Failing an agreement to undertake a complete review of the existing tax system, the MTA requests that the Land Tax Bill be amended to allow for grandfathering of the existing legislation, so that those who have set up their properties under separate trusts and subsidiary company ownerships will not face massive land tax bills from July next year, which would otherwise have a further impact on consumers and renters.

   New investment decisions are made under whatever the legislation and regulation is at the time and grandfathering allows previous investments to stay as they are until there is a change of ownership; the property can then convert over to the legislation and regulation of that time.

   Without grandfathering in place, several of our members have indicated that the Reform Package will result in a fire sale of their properties, resulting in job losses and contributing to a crash in the local property market.

   Whilst the State Government has indicated that it does not believe grandfathering is possible, time to review and develop solutions to the issues grandfathering may raise can be resolved with the will of the Parliament.

3. Should the Government persist with the proposal in its current form, a review of the land tax rates and thresholds must be undertaken to ensure South Australia is competitive with the other States as the current proposal is not.

   The MTA is unable to provide other rate or threshold options without access to modelling as there is no way to determine the overall effect to the budget of any changes.

6. Next Steps

The MTA is available to provide further information in relation to this submission and to clarify any aspect of it.

This includes meeting with agency representatives and facilitating further consultations with industry on proposed changes.

7. Submission Contact

Please do not hesitate to contact the MTA, should you require any further information in relation to the content of this submission.

In the first instance, please contact:

Daniel Forbes
Marketing, Communications and Membership Manager
dforbes@mtaofsa.com.au

08 8291 2000

8. Appendix

The MTA recently surveyed 34 of its Members to seek their views on the proposed land tax changes. The Members surveyed either own business and/or investment properties.

91% of respondents voiced their overwhelming opposition to the land tax changes. Members are frustrated by the fact that they have planned for their future based on existing legislation, and that they will now struggle to meet the additional burden, thus facing increased financial risk in their business operations and personal financial arrangements.

In summary, 13 members reported that the changes would result in increased costs for their customers; 9 members said they would face reduced profits; 12 members said they would have to reduce staff numbers in their business; and 7 members said they would have to close their business and/or sell property. (Note: not all respondents provided a response to this question and some identified more than one consequence.)

Not all Members were in a position to report what the anticipated change would be to their land tax liability. However, those that were able to calculate their land tax liability under the Reform Package reported that they were facing land tax increases in the range of 40 – 1150%.

Members are consistently informing us that these proposed changes will prevent them from investing further in their businesses, resulting in job losses and a stifling of investment.

As a result of exorbitant increases in land tax, one MTA member expects his land tax bill to increase from $15,000 to $60,000. This member, who already employs 25 staff, says that the changes to land tax will prevent him from hiring more staff and his business will need to make cuts.

A sample of the comments provided my members via the MTA's Land Tax survey are as follows:

<u>Taxpayer 1</u>

Q: Do you support the proposed changes to Land Tax? Why?

"No. It will increase rents… [and is] a further increase to the cost of doing business, at a difficult time with the economy being stagnant… many small-medium businesses will feel the pinch, retrench staff or close the doors, none of these options are palatable.

Landowners buy and hold property, most for long terms, based on achieving certain financial returns, this [change] is not predicted and will reduce the value of property and I suggest seeing a dumping of multiple properties, with owners driven back to fewer holdings, thus causing values to plummet.

Investing interstate is an option, that many will choose to explore, many businesses also will move to a lower cost of business base…I can't pass on the possible land tax increase, so would need to absorb them hence ruining a 40 year plan, which was sound and well thought of to provide for [the] imminent retirement for my wife and myself.

This is drastically unfair, un-Liberal and would leave me with a bitter taste, as I can't now change my retirement plans at age 69 due to these skunks changing the rules. Likely to never vote Liberal again, if this is delivered."

Q: What is your expected Land Tax increase?

"Still awaiting confirmation from my external accountants… it appears it will reduce [our current income by] over $135K… which is a large amount."

Q: If you are facing an increase in costs to your business as a result of the proposed Land Tax, what will you do?

"Reduce staff."

<u>Taxpayer 2</u>

Q: Do you support the proposed changes to Land Tax? Why?

"No. Would significantly impact our… cash flow. Unable to raise rents to cover increase in land tax payable as tenants under contract."

Q: What is your expected Land Tax increase?

"Our current land tax bills are approximately $3,000 per year but would increase to $30,000 if changes go ahead due to entities being linked."

Q: If you are facing an increase in costs to your business as a result of the proposed Land Tax, what will you do?

"Possibly all of the above [reduce profits, increase costs to consumers, reduce staff] if the changes go ahead."

<u>Taxpayer 3</u>

Q: Do you support the proposed changes to Land Tax? Why?

"No. The decision to buy property as an investment was made some years ago. We already pay land tax, emergency services levy and capital value based water and sewerage.

These imposts are considerable and ongoing. Aggregation based on my calculations will increase my land tax by 25%. Historically acquired property should be grandfathered.

Going forward the new land tax regime should apply so investment decisions are based on known facts. Retrospectivity is totally unfair."

Q: *What is your expected Land Tax increase?*

"Current land tax is $82,448 on four properties. Under aggregation on a portfolio of $4,860,000 at 2.4% the forecast land tax will be $102,962 an increase of $20,515."

Q: *If you are facing an increase in costs to your business as a result of the proposed Land Tax, what will you do?*

"My reaction will be a mixture of increasing rent, charging consumers more and reducing costs in other areas of my businesses."

Q: *Do you think the proposed land tax rates in South Australia are too high? If so, what alternative do you propose?*

"The proposed rate of 2.4% under an aggregation regime is probably ok but the threshold should be much higher. These days $1M properties are commonplace. A property portfolio of more than $5M is the threshold from which the new rate should be levied from."

Taxpayer 4

Q: *Do you support the proposed changes to Land Tax? Why?*

"No. We estimate that our Land Tax will be 10 times more than it currently is. We're a family business that has tried to plan for our future and retirement. There seems to be very little incentive to… work hard for the future. Like most small businesses we struggle to meet the government demands with regards to taxes and legislation that is imposed on us. It is already difficult to remain competitive within our industry without these extra financial pressures."

Q: *What is your expected Land Tax increase?*

"[Property 1] – Currently $0. [Property 2] – Currently $1,495. [Property 3] – Currently $130… we will now be expecting to pay $20,379. This is on current site values, so will increase when property revaluation takes place."

Q: *If you are facing an increase in costs to your business as a result of the proposed Land Tax, what will you do?*

"Increase costs to consumers. There is no doubt that profits would reduce. We would also need to streamline processes to stay competitive. This would most likely see a reduction in staff."

Q: *Do you think the proposed land tax rates in South Australia are too high? If so, what alternative do you propose?*

"A grandfathering system could be applied so that future investors can plan for the increase."

<u>Taxpayer 5</u>

Q: *Do you support the proposed changes to Land Tax? Why?*

"No. Because the changes will require me to sell my investments as they will no longer be viable in particular the residential homes I rent out will lose money as the rent will not cover the new tax moreover the tenants will be asked to vacate."

Q: *If you are facing an increase in costs to your business as a result of the proposed Land Tax, what will you do?*

"Will be evicting my tenants and divesting all my residential property and possibly some commercial."

<u>Taxpayer 6</u>

Q: *Do you support the proposed changes to Land Tax? Why?*

"No. Aggregation will dramatically drive land tax up for multiple site or land owner businesses."

Q: *What is your expected Land Tax increase?*

"Currently $17,000 under the 2.4 and aggregation will go to approx. $28,000 or up 40%."

Q: *If you are facing an increase in costs to your business as a result of the proposed Land Tax, what will you do?*

"Increase costs to consumers. Consider options to not continuing business position in SA. Stop any further business and property investment in SA."

Q: *Do you think the proposed land tax rates in South Australia are too high? If so, what alternative do you propose?*

"Spread the land tax over a wider group rather than bulk of revenue from 25% of property and Business owners/employers. Do NOT implement aggregation."