ACT Government
Chief Minister, Treasury and Economic Development

Freedom of Information Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI Reference: CMTEDDFOI 2022-057

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	Published
4. Additional information identified	No
5. Fees	N/A
6. Processing time (in working days)	23
7. Decision made by Ombudsman	N/A
8. Additional information identified by Ombudsman	N/A
9. Decision made by ACAT	N/A
10. Additional information identified by ACAT	N/A

From: [redacted]
To: CMTEDD FOI
Subject: FOI request
Date: Sunday, 27 February 2022 4:10:28 PM

I am looking for the following to be provided with regard to the ACT Revenue’s rates calculation collected from housing:

- Any information pertaining to reviewing / updating the rates calculation within the ACT in the last 2 years
- Any information (emails, board papers etc) pertaining to the equity (or inequity) of the current rates calculation
- Any information pertaining to the updating of rates to replace the variable charge component of rates with a more equitable / fair contribution of general rates

I can be contacted on [redacted] if required

Regards

ACT Government

Chief Minister, Treasury and Economic Development

Our ref: CMTEDDFOI 2022-057

[redacted]

via email: [redacted]

Dear [redacted]

FREEDOM OF INFORMATION REQUEST

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 28 February 2022, in which you sought access to:

- *Any information pertaining to reviewing / updating the rates calculation within the ACT in the last 2 years*
- *Any information (emails, board papers etc.) pertaining to the equity (or inequity) of the current rates calculation*
- *Any information pertaining to the updating of rates to replace the variable charge component of rates with a more equitable / fair contribution of general rates*

On 2 March 2022 your request was suspended under section 34 of the Act awaiting your clarification of the scope of your request.

On 9 March 2022, you clarified through a telephone conversation that you were seeking:

- *Calculation of specific tax rates used to calculate rates, which change on a year-to-year basis (i.e., the amount for the fixed charge and the variable charge tax rates)*

Additionally, you are seeking documents pertaining to any discussions/briefs on how/if equity of a house is included in the rates calculation. The contact details of Mr Conrad Asmus, a relevant Subject Matter Expert, were supplied to you to enable you to discuss your specific requirements and ensure that your request would be fulfilled as accurately as possible, however no contact was initiated with Mr Asmus by you.

Authority

I am an Information Officer appointed by the Director-General under section 18 of the Act to deal with access applications made under Part 5 of the Act.

Timeframes

In accordance with section 40 of the Act, CMTEDD is required to provide a decision on your access application by 29 March 2022 however, following your request being suspended and then reactivated the due date is 6 April 2022.

Decision on access

Searches were completed for relevant information. Significant amounts of information on this matter are publicly available at the following websites:

Budget Papers and EFU - Chapter 3.5 Revenue. Budget 2020-21. p135-152

Chapter 3.5 Revenue. Budget 2021-22. p237-255

Chapter 3.3 Revenue. August 2020 Economic and Fiscal Update. Revenue. p105-127

2021-22 Budget – Aggregate land value for 2021-22 general rates settings

Impacts and outcomes of the Government's tax reform program

Noting the above links, not all documents are published, and nine additional documents were identified that fall within the scope of your request.

I have included as **Attachment A** to this decision the schedule of relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

I have decided to grant access in full to three documents relevant to your request despite one document being in a draft format. I have decided to refuse access to six documents as I consider the information that they contain to be contrary to the public interest under schedule 1.6(d), being Cabinet information the disclosure of which would reveal deliberations of Cabinet

My access decisions are detailed further in the following statement of reasons and the documents released to you are provided as **Attachment B** to this letter.

In accordance with section 54(2) of the Act a statement of reasons outlining my decisions is below.

Statement of Reasons

In reaching my access decisions, I have taken the following into account:

- the Act,
- the content of the documents that fall within the scope of your request.

Exemption claimed

My reasons for deciding not to grant access to the identified documents and components of these documents are as follows:

Contrary to the public interest information under schedule 1 of the Act

The six documents that have been identified as being within the scope of your request contain information that is considered to be contrary to the public interest under section 1.6 of Schedule 1 of the Act as it is Cabinet information. Under section 1.6 of Schedule 1 of the Act, Cabinet information is exempt from release. The purpose of this exemption is to maintain the confidentiality of the Cabinet process and to uphold the principle of collective ministerial responsibility. This exemption was discussed in *The Commonwealth* *v Northern Land Council* [1993] HCA 24; (1993) 176 CLR 604 (21 April 1993). Paragraph 6 of the decision, states that:

> … it has never been doubted that it is in the public interest that the deliberations of Cabinet should remain confidential in order that the members of Cabinet may exchange differing views and at the same time maintain the principle of collective responsibility for any decision which may be made.

The documents that you have requested fall within section 1.6 of the Act as it is information which has been brought before the Cabinet to guide its decision making and assist it in its deliberations. It is therefore exempt from release under the Act.

Charges

Processing charges are not applicable for this request because the number of pages being released to you is less than the charging threshold of 50 pages.

Online publishing – Disclosure Log

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published in the CMTEDD disclosure log after between 3-10 days of the decision date. Your personal contact details will not be published.

You may view CMTEDD disclosure log at https://www.cmtedd.act.gov.au/functions/foi.

Ombudsman Review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in CMTEDD disclosure log, or a longer period allowed by the Ombudsman.

We recommend using this form *Applying for an Ombudsman Review* to ensure you provide all of the required information. Alternatively, you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Via email: actfoi@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) Review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore St
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740
http://www.acat.act.gov.au/

Should you have any queries in relation to your request please contact me by telephone on 6207 7754 or email CMTEDDFOI@act.gov.au.

Yours sincerely

Katharine Stuart
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate

01 April 2022

ACT Government

Chief Minister, Treasury and Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
Calculation of specific tax rates used to calculate rates, which change on a year-to-year basis (ie the amount for the fixed charge and the variable charge tax rates)	CMTEDDFOI 2022-057

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-5	Alternative distributions of residential non-unit 2020-21 general rates	Undated	Full release	N/A	Yes
2	7-8	Discussion paper	Undated	Full release	N/A	Yes
3	9-10	Response to media questions	2 Nov 2020	Full release	N/A	Yes
4		Cabinet document		Exempt	Schedule 1 s1.6(d)	No
5		Cabinet document		Exempt	Schedule 1 s1.6(d)	No
6		Cabinet document		Exempt	Schedule 1 s1.6(d)	No
7		Cabinet document		Exempt	Schedule 1 s1.6(d)	No
8		Cabinet document		Exempt	Schedule 1 s1.6(d)	No
9		Cabinet document		Exempt	Schedule 1 s1.6(d)	No

Total No of Docs
9

Attachment C
Alternative distributions of residential non-unit 2020-21 general rates

The examples in this attachment are based on tax settings to collect the same revenue based on 2020-21 residential non-unit average unimproved values.

The alternatives have not been optimised to produce specific outcomes and are presented only to illustrate the potential impact of different changes to tax settings on the distribution of rates for non-units based on land values.

Treasury recommends agreement should first be reached on how general rates should be distributed, considering land value and taxpayer ability to pay. To inform these decisions, Treasury intends to analyse in detail and consult with relevant stakeholders on the distribution of residential general rates beyond 2021-22. Once this policy goal is determined, tax settings can be designed to achieve them, as part of a future Budget process.

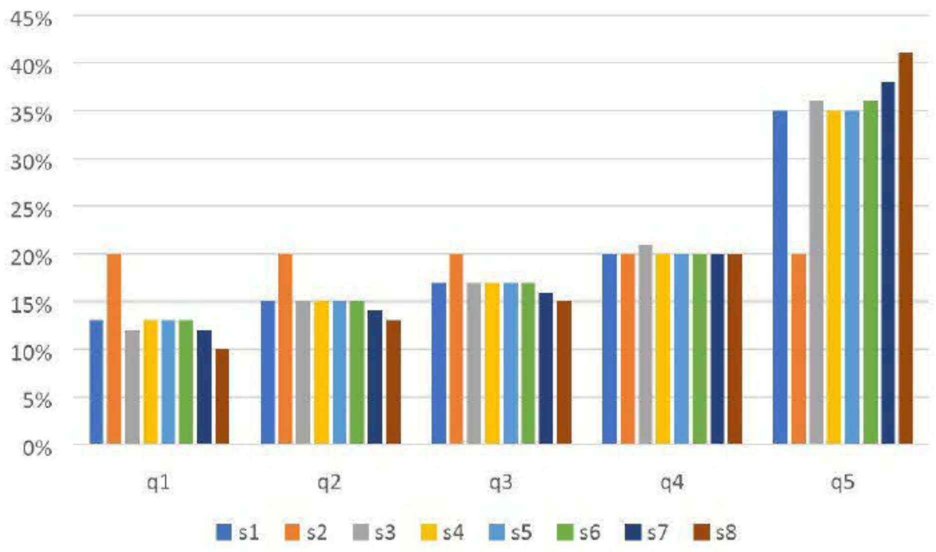
Note the information in this brief does not relate to taxpayer income or to residential units.

Description of examples

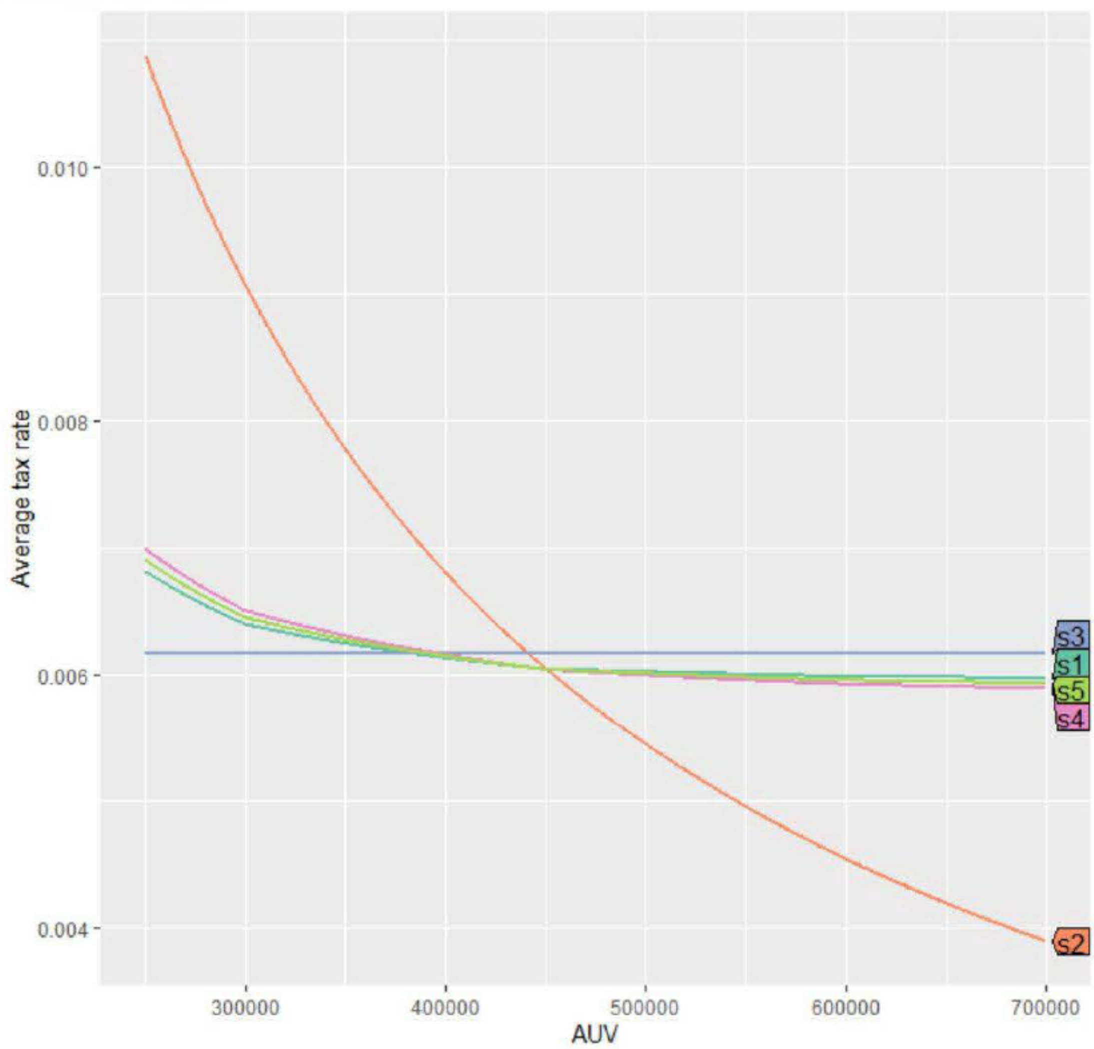
S1: current 2020-21 settings (inclusive of the $150 rebate)
S2: fixed charge only, with no variable component
S3: flat variable rate, with no fixed charge
S4: higher fixed charge, with the variable component distributed like 2020-21
S5: medium fixed charge, with the variable component distributed like 2020-21
S6: current fixed charge, with two fewer thresholds
S7: current fixed charge, with two more thresholds
S8: no fixed charge, with the variable component distributed like 2020-21

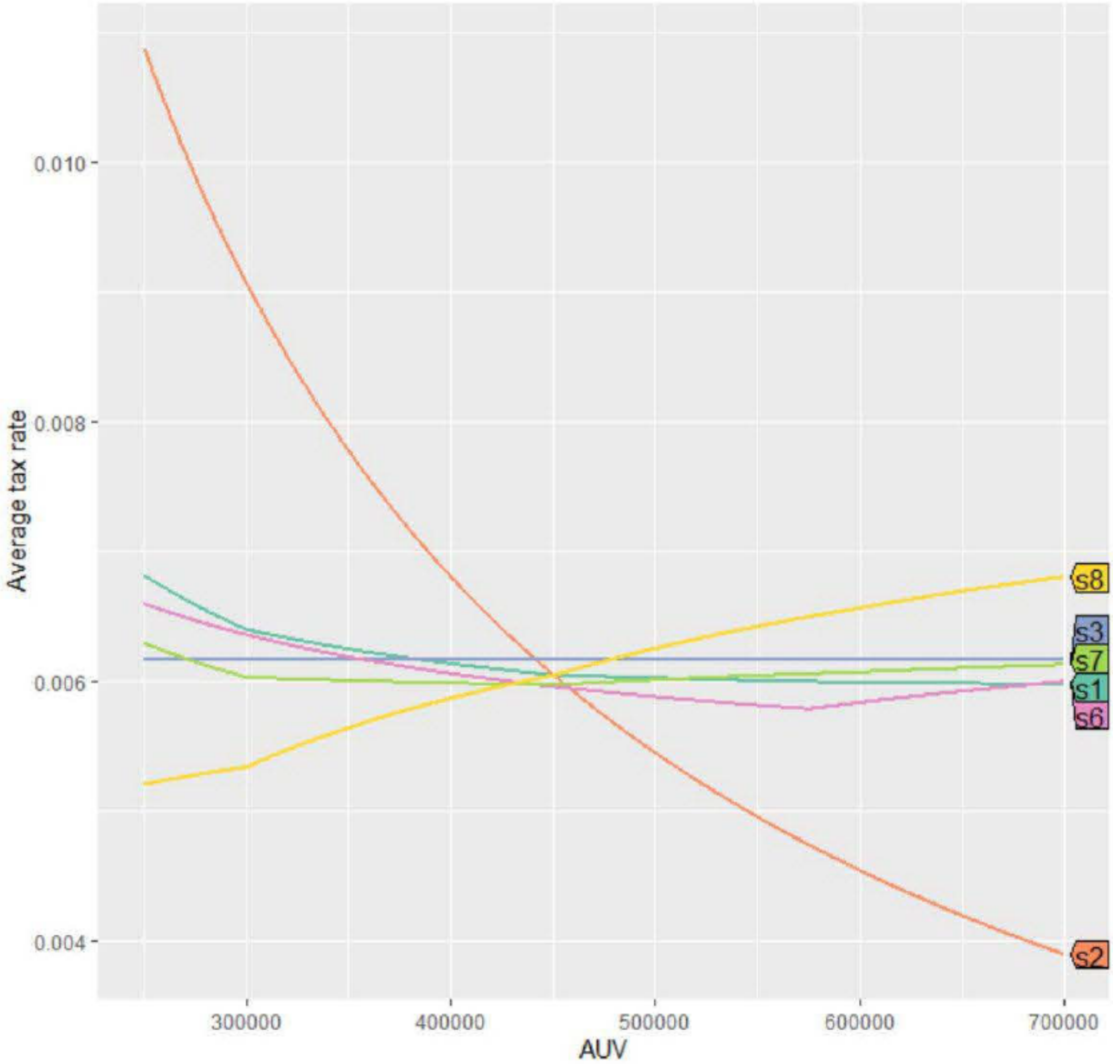
Proportion of revenue collected from each quintile.

	s1	s2	s3	s4	s5	s6	s7	s8
q1	13%	20%	12%	13%	13%	13%	12%	10%
q2	15%	20%	15%	15%	15%	15%	14%	13%
q3	17%	20%	17%	17%	17%	17%	16%	15%
q4	20%	20%	21%	20%	20%	20%	20%	20%
q5	35%	20%	36%	35%	35%	36%	38%	41%



Average tax rates





The charts above show the average tax rates for each option, for properties with AUVs between 250,000 and 700,000 (around 85 per cent of properties).

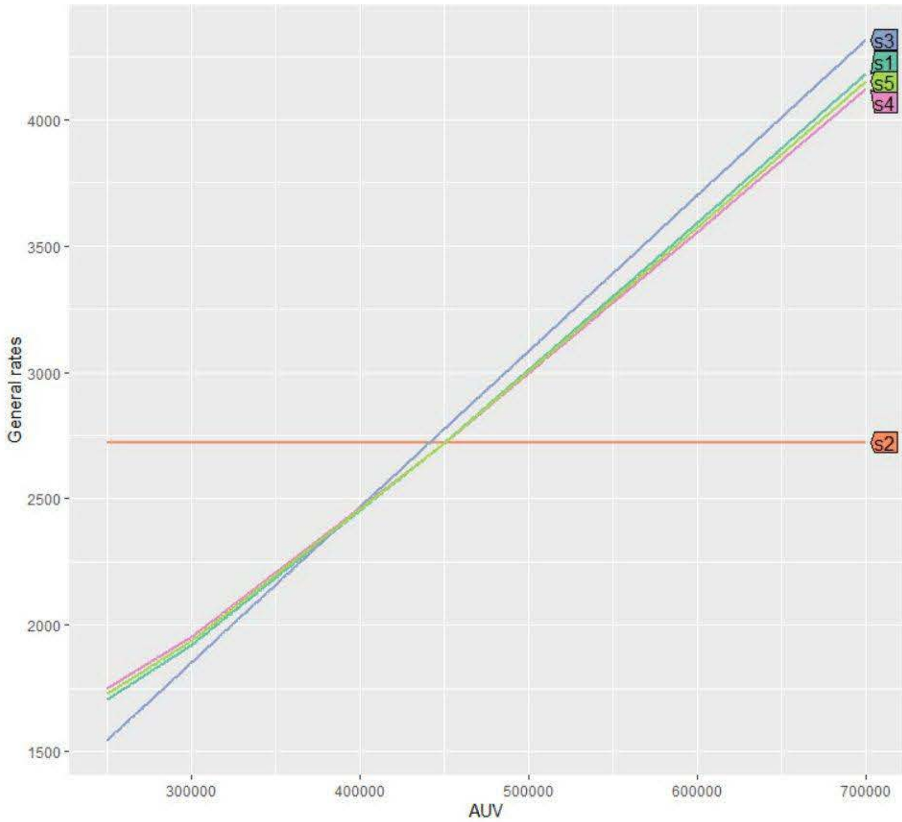
The only option that is progressive at any AUV in a technical sense (the average tax rate increases as AUV increases) is s8, which has no fixed charge and progressive marginal tax rates. S3 (the flat variable rate) is neither progressive nor regressive and S2 (fixed charge only) is regressive at every AUV. All other alternatives are regressive for most AUVs, but less so than S2.

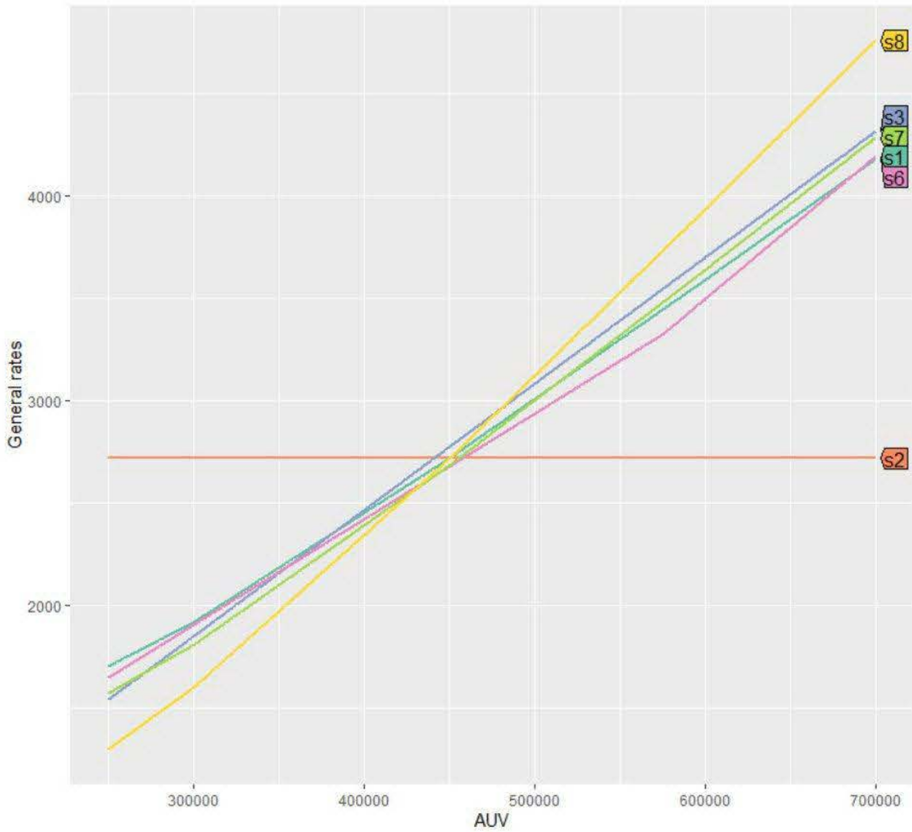
Dollar values

Average bill within each quintile

	s1	s2	s3	s4	s5	s6	s7	s8
q1	1,751	2,722	1,610	1,793	1,772	1,706	1,625	1,366
q2	2,033	2,722	1,982	2,060	2,047	2,017	1,933	1,759
q3	2,279	2,722	2,266	2,296	2,287	2,254	2,202	2,103
q4	2,748	2,722	2,798	2,745	2,747	2,699	2,717	2,759
q5	4,798	2,722	4,953	4,715	4,757	4,933	5,132	5,622

General rates for each option, for properties with AUVs between 250,000 and 700,000:


General rates
4000
3500
3000
2500
2000
1500
300000
400000
500000
600000
700000
AUV
s3
s1
s5
s4
s2


General rates
4000
3000
2000
300000
400000
500000
600000
700000
AUV
s8
s3
s7
s1
s6
s2

Deciles of difference ($) between each alternative and S1 (negative numbers indicate the rate payer pays less under the alternative)

Decile	s2	s3	s4	s5	s6	s7	s8
Min	-336,885	-731	-13,042	-6,507	-141	-172	-753
D1	-1,321	-127	-54	-27	-82	-124	-372
D2	-507	-71	-22	-11	-55	-111	-321
D2	24	-50	-1	-1	-37	-100	-272
D4	275	-34	10	5	-31	-90	-233
D5	449	-13	17	9	-26	-77	-178
D6	586	14	23	12	-22	-60	-109
D7	686	53	28	14	-19	-36	-10
D8	809	87	33	16	-16	14	201
D9	938	129	40	20	-11	92	524
D10 (Max)	1,898	11,895	98	49	66,953	157,257	133,682

The above table shows that increasing progressivity of the general rates system at higher AUVs can have significant dollar value impacts.

There are some very higher value residential blocks and even small increases in higher marginal tax rates can have large impacts on their general rates (the highest AUV in this data set is around $60 million and three per cent of properties are above $1 million).

This paper outlines options for determining general rates tax settings over Stage 3 of tax reform, while Treasury investigates distributional settings of general rates (see CMTEDD2021/949). The current choice is targeted at a defensible methodology that maintains current settings while alternative approaches can be investigated. We also note that publication of aggregate data used to calculate tax rates (see CMTEDD2021/949) may increase public interest in these matters.

Simple situation

This is how a new tax rate is set when there are no marginal tax rates and no fixed charge.

$$Rate_{t+1} = \frac{AUV_t \times Rate_t \times (1+p)}{AUV_{t+1}}$$

Where:

AUV_t = Total AUV of current property stock as at 1 January in year *t*
AUV_{t+1} = Total AUV of current property stock as at 1 January in year *t+1*
$Rate_t$ = Tax rate for year for *t*
$Rate_{t+1}$ = Tax rate for year for *t+1*
p = target increase in average rates for current property stock from *t* to *t+1*

This ensures that taxing the current property at the new rate results in the target revenue increase.

When there is a single tax rate applied to AUV, there is a unique solution (i.e. there is no other tax rate that achieves the desired revenue outcome). Introducing a fixed charge and marginal tax rates complicate the calculation. There are infinitely many different tax rates that achieve the outcome, with differing distributional impacts.

In the simple situation, we would publish AUV_t and AUV_{t+1} on the Treasury website as the aggregate data used to calculate tax rates. This would allow any interested person to check the calculation of the new tax rate.

Fixed charge

Recommended approach – keep fixed and variable components separate

This approach maintains the previous ratio of revenue from fixed to variable charges.

The fixed charge in year t+1 is *p* per cent greater than in year *t*; that is, the fixed charge increases by the target increase in average rates.

$$Fixed\ charge_{t+1} = \frac{Number\ of\ properties \times Fixed\ charge_t \times (1+p)}{Number\ of\ properties}$$

$$= Fixed\ charge_t \times (1+p)$$

In this case revenue from this current property stock from the fixed and variable charges both increase by *p* per cent.

The average variable charge will also increase by *p* per cent, but because AUVs tend to increase, the average *tax rate* will increase by less than *p* per cent.

The fixed charge will increase by more than the variable tax rates, meaning the tax will become more regressive in the technical sense (steeper slope of the average tax rate curve) unless marginal tax rates are adjusted to compensate.

Alternative approach – allow fixed and variable components to impact each other

Alternatively, the share of total revenue can shift between the fixed and variable revenue components.

One way to do this is to let the fixed charge increase by the same percentage as the average variable tax rate required to achieve the revenue outcome. In this case, the fixed charge and revenue from the fixed charge component increases by less than *p* per cent. Consequently, there is a shift in revenue from the fixed charge component to the variable component.

Depending on how changes to the marginal tax rates are calculated, this approach may retain the same level of progressivity of the previous year.

Variable tax rates

Once the new proportion of revenue between the fixed and variable components and the corresponding increase to variable revenue are determined, there are questions about how to distribute the increased variable revenue across AUV thresholds (for simplicity we are assuming no change to thresholds). For example, in residential non-units there are six new marginal tax rates to calculate based on AUV in each threshold.

$AUV_t^1 \times Rates_t^1$	$AUV_{t+1}^1 \times Rates_{t+1}^1$
$AUV_t^2 \times Rates_t^2$	$AUV_{t+1}^2 \times Rates_{t+1}^2$
$AUV_t^3 \times Rates_t^3$	$AUV_{t+1}^3 \times Rates_{t+1}^3$
$AUV_t^4 \times Rates_t^4$	$AUV_{t+1}^4 \times Rates_{t+1}^4$
$AUV_t^5 \times Rates_t^5$	$AUV_{t+1}^5 \times Rates_{t+1}^5$
$AUV_t^6 \times Rates_t^6$	$AUV_{t+1}^6 \times Rates_{t+1}^6$
$Variable\ revenue_t$	$Variable\ revenue_t \times (1 + variable\ revenue\ increase)$

Where AUV^i is the total AUV of the current property stock that will be taxed at $Rate^i$. Each column sums to the total variable revenue in the corresponding year.

In this these equations, only the tax rates for year *t+1* are unknown. Again, there are infinitely many solutions. The following discussion sets out two of these: the same percentage increase to each marginal tax rate, and the same percentage point increase to each marginal tax rate.

Treasury would publish the number of rateable properties in the current property stock and the total AUV in year *t* and *t+1* for each marginal tax rate as the aggregate data used to calculate tax rates. This would allow any interested person to better understand the relationship between the marginal tax rates in years *t* and *t+1*.

Recommended approach

Increase all the marginal rates by the same percentage to achieve the required increase in revenue. In this case, the variable charge retains the same progressivity in a technical sense. All properties with no AUV change have the same percentage increase in their variable charge regardless of their AUV.

Alternative approach

In recent budgets, *initial* marginal tax rates were calculated based on increasing them all by the same percentage points. Note that final tax rates were often different due to complications around residential units and non-units being in the same tax system.

This approach will tend to produce more regressive tax rates, as the same percentage point increase in tax rate will result in a larger tax increase for smaller AUV properties.

Current choice

Option 1: (recommended) Increase fixed charge by the target increase in average rates and increase all marginal tax rates by the same percentage.

Option 2: (possible alternative) Increase fixed charge and marginal tax rates by the same percentage.

Option 3: (previous baseline approach) Increase the fixed charge by the target increase in average rates and increase all marginal tax rates by the same percentage points.

Option 1 retains the same progressivity of the variable component of general rates while maintaining the current ratio of fixed component revenue to variable component revenue. This is the approach that best maintains the tax system structure and is appropriate for Stage 3 of tax reform while distributional impacts of general rates are investigated further.

Research over Stage 3 into these and other alternatives may lead the Government to make a justified change in the future. Other alternatives not mentioned above could include increasing the fixed charge in-line with the wage price index or maintaining the share of tax raised across AUV quintiles. We would also consider whether the same mechanism is appropriate for all general rates categories (commercial, residential units, residential non-units, and rural properties).

RESPONSE TO MEDIA QUESTIONS
Rates Calculations

Date: 2 November 2020

SUBJECT: Rates calculations and freezes

Issue: They have been contacted by members of the public to express concerns about how their residential rates bills for 2020-21 have been calculated, particularly in light of the Chief Minister's announcement on June 15.
Journalist: Dan Jervis-Bardy
Media outlet: Canberra Times

Q. Can you provide evidence to support the statement that "the usual annual increases will not be applied to 2020-2021 general rates bills"? How do you reconcile that statement with the figures included in the June 29 DI, and the fact the fixed charge component of the rates bill had been increased before the rebate was applied (meaning the saving was $102, not the $150 spruiked by the CM)?

The Government's clear commitment in terms of residential general rates, was that the average rates bill would not rise in 2020-21 including the effect of the $150 rebate. The Government stated that: *"When combined with the $150 fixed charge rebate previously announced as part of the ACT Government's Economic Survival Package, [the usual annual increase to average rates will not be applied to 2020-21 bills] means that average residential general rates will not increase."*

The Government maintained the relationship between AUVs and residential rate bills because this maintains fairness in the system and the system will continue to use AUVs to calculate residential rates into the future. As a result, the rates bill for the majority of residential properties fell in 2020-21, (more than 110,000 of 170,000 rateable residential properties). The rates bill for a property increased if either the average unimproved value (AUV) of the property increased significantly above the average change or if the property is a high value block of land.

The fixed charge and marginal rating factors were set to ensure average rates remained the same for both houses and units after the application of the $150 rebate. Consistent with usual practice, the pre-rebate increase to average rates for houses and for units was applied proportionately through the fixed charge and the valuation-based charge. The rates charge for a property was calculated as usual and then the $150 fixed charge rebate was applied.

This ensures that all residential properties benefit from the $150 rebate, with general rates for every residential property being at least $150 lower than they would otherwise have been in 2020-21. Average rates for a house are around $191 lower than they would have otherwise been.

Relevant public information on the matter can be found at:
https://www.act.gov.au/our-canberra/latest-news/2020/june/rates-relief-for-property-owners

Q. The homeowners arguing this point believe the ACT government and, in turn ACT Labor, misled Canberrans/voters ahead of the ACT election. How do you respond to this accusation?

The Government made a clear commitment that there would be no increase in average rates this financial year. Over 110,000 ratepaying households had a reduction in their total rates bill in 2020-21.

Q. Rates are due to rise 3.75 per cent next financial year. Will that increase be based on the PRE or POST $150 rebate level? (in other words, will the increase apply to a fixed charge of $773 or $923?)

The Government has stated that average rates will not rise by more than 3.75 per cent in 2021-22. This increase will be calculated from residential rates bills without the $150 one off rebate that was applied in 2020-21.

As indicated in the Economic and Financial Update, the Government will consider the economic circumstances to determine whether any further rebate should apply. The final settings for 2021-22 will be determined early next year and will be informed by the economic conditions at the time. As the Government has already demonstrated this financial year in the face of the global pandemic and resulting economic crisis, it will adjust the rates settings, including the fixed charge component, as is necessary.

Action officer: Jacquie Bunt
Cleared by: Sue Vroombout
Date: 2 November 2020
