



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 2018-0053

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)	48
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

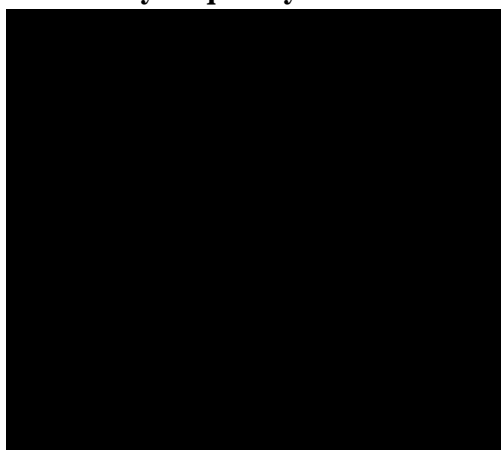
From: [REDACTED]
To: [CMTEDD.FOI](#)
Subject: Freedom of Information request
Date: Thursday, 8 March 2018 3:14:44 PM

Please find online enquiry details below. Please ensure this enquiry is responded to within fourteen working days.

Your details

All fields are optional, however an email address OR full postal address must be provided for us to process your request. An email address and telephone contact number will assist us to contact you quickly if we need to discuss your request.

Title:
First Name:
Last Name:
Business/Organisation:
Address:
Suburb:
Postcode:
State/Territory:
Phone/mobile:
Email address:



Request for information

(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)

Under the Freedom of Information Act 2016 I want to access the following document/s (*required field):

I write to request under the Freedom of Information Act 2016 documents since 2012 inclusive that relate to the development and announcement of changes to taxation that apply exclusively to foreign investors. Documents may include, but are not limited to, modelling, policy suggestions, budget estimates, briefing notes, correspondence and any other internal documents.

I do not want to access the following documents in relation to my request::

Thank you.
Freedom of Information Coordinator




ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2018-0053



via email: 

Dear 

FREEDOM OF INFORMATION REQUEST

I refer to your application received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 8 March 2018, in which you sought access under section 30 of the *Freedom of Information Act 2016* (the Act).

Specifically, you sought access to: “...documents since 2012 inclusive that relate to the development and announcement of changes to taxation that apply exclusively to foreign investors.”

Authority

I am an Information Officer appointed by the Director-General of CMTEDD 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 21 May 2018.

Third Party Consultation

In making this decision, I was required to consult with parties that I identified the release of the requested information may be of concern to in accordance with section 38 of the Act. The views of these parties have been taken into account in making my decision on this access request.

Decision on access

A search of documents was conducted and resulted in 124 documents being identified that fall with the scope of your request.

I have decided to grant full access to 100 documents, partial access to 5 documents and fully exempt from release the remaining 19 documents. The information redacted in the documents is contrary to the public interest to release under Schedule 1 of the Act or

would, on balance, be contrary to the public interest to release under the test set out in section 17 of the Act.

I have included as Attachment A to this letter 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. The documents to be 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 decision is below.

Statement of Reasons

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

- the Act;
- the content of the documents that fall within the scope of your request;
- the views of a relevant third parties; and
- the *Human Rights Act 2004*.

Exemptions claimed

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

Contrary to the public interest information under Schedule 1 s1.6 Cabinet Information

The information contained in some of the documents within scope of your request were prepared for consideration by Cabinet and the Budget Committee of Cabinet. The information in these documents is deliberative in nature and includes advice and recommendations in regards to the foreign investor land tax surcharge.

In reviewing the documents, I note the requirements of schedule 1 section 1.6(2) of the Act which states that the exemption for Cabinet Information does not apply to 'purely factual information' unless the disclosure of the information would involve the disclosure of a deliberation or decision of Cabinet and the fact of the deliberation or decision that has not been officially published. In the case of *Parnell & Dreyfus and Attorney-General's Department* [2014] AICmr 71, the Australian Information Commissioner stated that the term 'purely factual material' does not extend to factual material that is an integral part of the deliberative content and purpose of a document, or is embedded in or intertwined with the deliberative content such that it is impractical to exercise it.

I consider that the purely factual information within the documents identified is an integral part of the deliberative content and as stated by the Commissioner, the analysis and views in the documents would be robbed of their essential meaning without incorporation of this factual material. I am satisfied that disclosure of this purely factual information would involve the disclosure of a deliberation or decision of Cabinet.

Having considered the information contained in these documents, I am satisfied that disclosure of such information would be contrary to public interest pursuant to schedule 1 section 1.6 of the Act.

Information Contrary to Public Interest (Schedule 2 of the Act)

The Act has a presumption in favour of disclosure. As a decision maker I am required to decide where, on balance, public interests lies. As part of this process I must consider factors favouring disclosure and non-disclosure.

In *Hogan v Hinch* (2011) 243 CLR 506, [31] French CJ stated that when ‘used in a statute, the term [public interest] derives its content from “the subject matter and the scope and purpose” of the enactment in which it appears’. Section 17(1) of the Act sets out the test, to be applied to determine whether disclosure of information would be contrary to the public interest. These factors are found in subsection 17(2) and Schedule 2 of the Act.

Factors favouring disclosure (Schedule 2 section 2.1)

Taking into consideration the information contained in the documents found to be within the scope of your request, I have identified that the following public interest factor in favour of disclosure is relevant to determine if release of the information contained within these documents is within the ‘public interest’:

- (a) *disclosure of the information could reasonably be expected to do any of the following:*
 - (i) *promote open discussion of public affairs and enhance the government’s accountability;*
 - (ii) *contribute to positive and informed debate on important issues or matters of public interest;*
 - (viii) *reveal the reason for a government decision and any background or contextual information that informed the decision;*

Having considered the factors identified as relevant in this matter, I consider that release of the information within the scope of the request may promote open discussion of public affairs and enhance the government’s accountability. The documents identified contain information relating to the introduction of foreign investor land tax surcharge which I consider is of public interest. The release of the documents identified will provide contextual information relating to how such changes to taxation are developed and as a result this may contribute to positive and informed debate on changes to taxation. I am satisfied that the public interest in increasing transparency and accountability of the Directorate carries significant weight.

Factors favouring non-disclosure (Schedule 2 section 2.2)

As required in the public interest test set out in section 17 of the Act, I have also identified the following public interest factors in favour of non-disclosure that I believe are relevant to determine if release of the information contained within these documents is within the 'public interest':

- (a) *disclosure of the information could reasonably be expected to do any of the following:*
 - (ii) *prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004;*
 - (x) *prejudice intergovernmental relations;*
 - (xii) *prejudice an agency's ability to obtain confidential information;*

When considering the documents and factors in favour of non-disclosure, I have considered the personal information contained in the documents, including names, signatures and contact information. I am satisfied that the names and contact information of ACT government employees and signatures of the Treasurer and Under Treasurer should be released as these individuals were acting in their official capacity and the personal information being released is done so in relation to these individuals exercising their delegations in a work related capacity. I do not consider the release of this information is unreasonable or could prejudice their right to privacy.

However, I consider it is unreasonable to release the names and contact information of non – ACT Government employees as this is personal information that is not publicly available. I am of the opinion that release of this information may prejudice the protection of the individual right to privacy or any other right under the *Human Rights Act 2004*. I am satisfied that this factor favouring non-disclosure should be afforded significant weight as it relates to individual privacy.

Having reviewed the documents, I consider that the release of some information could prejudice intergovernmental relations and adversely affect the Directorate's ability to obtain confidential information. The information contained in some of the documents identified as relevant to your request also contain sensitive and candid views regarding activities of other jurisdictions and was provided to CMTEDD in the strictest confidence. The release of this information would undermine the sharing of sensitive and candid information between jurisdictions and may have an inhibiting effect on inter-jurisdictional discussions in the future. I am satisfied that these two factors favouring non-disclosure should be afforded very significant weight. As a result, I have decided to fully exempt from release this information in document 11 and 12.

Noting the pro-disclosure intent of the Act, I am satisfied that redacting only the information that is not in the public interest to release, while releasing the rest of the documents will ensure the intent of the Act is met and will provide you with access to the majority of information held by CMTEDD within the scope of your request.

Additional Information

- Documents that are fully exempt from release or redacted in full as out of scope material have been removed from the document binder. Specifically, the following pages have been removed: 2-5, 14-17, 25, 27-28, 38-40, 50-52, 57-59, 64-66, 71-78, 81-84, 121, 127-132, 140-144, 150-154, 161-165, 193-195, 200, 222-227.

Charges

Pursuant to *Freedom of Information (Fees) Determination 2017 (No 2)* processing charges are applicable for this request because the total number of folio's to be released to you exceeds the charging threshold of 50 pages. However, the charges have been waived in accordance with section 107 (2)(e) of the Act.

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 and my decision in response to your access application will be published in the CMTEDD disclosure log after 24 May 2018. Your personal contact details will not be published. You may view CMTEDD disclosure log at: <https://www.cmtedd.act.gov.au/functions/foi/disclosure-log>.

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 the CMTEDD disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman

GPO Box 442

CANBERRA ACT 2601

Via email: ombudsman@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,

A handwritten signature in black ink, appearing to read 'Daniel Riley', with a stylized, flowing script.

Daniel Riley
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate

21 May 2018



ACT
Government

Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

NAME	WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
[REDACTED]	Documents since 2012 inclusive that relate to the development and announcement of changes to taxation that apply exclusively to foreign investors.	CMTEDDFOI 2018-0053

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-7	Revenue options for 2016-17 Budget	undated	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
2	8	Email - FW: Revenue initiatives ideas	28/10/2016	Full	n/a	Yes
3	9-11	Attachment to previous email – Ideals for Revenue Initiatives	undated	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
4	12	Email - revenue options	28/10/2016	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
5	13-18	Attachment to previous email – CM feedback on revenue options	undated	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
6	19-21	Possible future revenue initiatives	undated	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
7	22-25	Email - FW: For action (one due end Feb others end March): Queries for Treasury	31/1/2017	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
8	26-28	Treasurer's Office requests for info - comments	1/2/2017	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
9	29-33	Draft answers to Treasurer's Office requests	undated	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
10	34-35	Email - FW: Foreign duty/land tax surcharge	22/2/2018	Partial	Sch 2 s2.2 (a)(ii)	Yes
11	36-37	Email - Foreign duty/land tax surcharge	20/2/2018	Partial	Sch 2 s2.2 (a)(ii)(x)(xii)	Yes
12	38-40	Attachment to previous email	undated	Exempt	Sch 2 s2.2 (a)(x)(xii)	No

13	41-42	Email - FW: Foreign acquirer duty/absentee surcharge	7/3/2018	Partial	Sch 2 s2.2 (a)(ii)	Yes
14	43-44	Brief to Treasurer - draft	3/2017	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
15	45-47	Brief to Treasurer – draft	3/2017	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
16	48-52	Attachment to previous Brief – Attachment A Information and Analysis	undated	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
17	53-54	Brief to Treasurer – Final	undated	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
18	55-59	Attachment to previous brief – Attachment A Information and Analysis	undated	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
19	60-66	Brief to Treasurer – UT edit - draft	10/3/2017	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
20	67-68	Brief to Treasurer – obsolete <i><u>Please note that this is a draft brief that has not been finalised or provided to the Treasurer</u></i>	3/2017	Full	n/a	Yes
21	69-84	Brief to Treasurer - signed	3/3/2017	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
22	85	Email - Tax, Revenue and Concession Treasury Briefs	27/10/2017	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
		Attachment to previous email – CMTEDD-TSY R01 Foreign investor surcharges	undated	Exempt	Sch 1 s1.6	No
23	86	Email - CMTEDD Revenue Treasury Briefs	31/10/2017	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
		Attachment to previous email – CMTEDD-TSY R01 Foreign investor surcharges	undated	Exempt	Sch 1 s1.6	No
24	87	Email - Budget review comeback brief on land tax surcharge	27/11/2017	Partial	Sch 1 s1.6	Yes
		Attachment to previous email – CMTEDD-TSY R01 Foreign investor surcharges	undated	Exempt	Sch 1 s1.6	No
25	88	Email - RE: Budget review comeback brief on land tax surcharge	27/11/2017	Full	n/a	Yes
26	89	Email - Land tax surcharge Treasury brief	28/11/2017	Full	n/a	Yes
		Document referred to in the previous email - CMTEDD-TSY R01 Foreign investor surcharges	undated	Exempt	Sch 1 s1.6	No

27	90-91	Email - RE: Land tax BC comeback	29/11/2017	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
		Document referred to in the previous email –CMTEDD-TSY R01 Foreign investor surcharges	undated	Exempt	Sch 1 s1.6	No
28	92	Email - RE: Clearance Sheet - 17-18 BR Treasury Briefs	29/11/2017	Full	n/a	Yes
		Attachments to previous email – CMTEDD-TSY R01 Foreign investor surcharges	undated	Exempt	Sch 1 s1.6	No
29	93	Email - land tax - foreigner surcharge	4/12/2017	Full	n/a	Yes
30	94	Email - RE: BCC comebacks	6/12/2017	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
		Attachments to previous email – CMTEDD-TSY R01 Foreign investor surcharges	undated	Exempt	Sch 1 s1.6	No
31	95	Email - FW: Initiative descriptions	12/12/2017	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
32	96	Email - FW: Initiative descriptions	12/12/2017	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
33	97	Document referred to in the previous email – Budget Review Initiative Description - draft	undated	Full	n/a	Yes
34	98	Email – RE: BR revenue initiative descriptions Document referred to in the email – see Ref No. 33	13/12/2017	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
35	99	Email - RE: Revenue initiative descriptions and titles	21/12/2017	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
36	100-101	Attachment to previous email – Template – Initiative Description	undated	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
37	102	Email - Budget Review and 2018-19 Budget Initiatives	21/12/2017	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
38	103-117	Land Tax writeup website – changes to be made to website	9/1/2018	Full	n/a	Yes
39	118	Foreign surcharge state of play	17/1/2018	Full	n/a	Yes
40	119-123	Land Tax Bill 2018 Q&A	18/1/2018	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
41	124	Email - Land Tax Amendment Bill 2018	19/1/2018	Full	n/a	Yes
42	125-126	Attachment to previous email - Letter to the Parliamentary Counsel's Office – drafting instructions ofr amendments to Land Tax Act 2004	19/1/2018	Full	Full release of relevant information. Out of scope material has been redacted.	Yes

43	127-136	Attachment B to previous letter	undated	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
44	137-139	CMTEDD2018/159 Brief to Treasurer – Land Tax Amendment Bill 2018 – policy approval – obsolete	undated	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
45	140-146	Details of foreign surcharge land tax initiatives	undated	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
46	147-149	CMTEDD2018/159 Brief to Treasurer – Land Tax Amendment Bill 2018 – policy approval	undated	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
47	150-156	Attachment A to previous brief – Attachment A	undated	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
48	157	Email - CMTEDD2018/159 Land Tax Amendment Bill 2018 - policy approval	19/1/2018	Full	n/a	Yes
49	158-167	CMTEDD2018/159 Brief to Treasurer with attachment – Land Tax Amendment Bill 2018 – policy approval - signed	18/1/2018	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
50	168-171	Email - RE: Announcements from Budget Review	24/1/2018	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
		Attachment to previous email – CMTEDD-TSY R01 Foreign Investor	undated	Exempt	Sch 1 s1.6	No
51	172-174	Email - FW: Budget Review media schedule	24/1/2018	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
52	175-179	Revenue Legislation Amendment Bill 2017 (No 2) Presentation Speech	24/1/2018	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
53	180	Email - FW: land tax brief and flow chart	25/1/2018	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
54	181-183	Attachment to previous email – Brief to Treasurer	12/2017	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
55	184-185	Email - RE: Announcements from Budget Review	25/1/2018	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
56	186-187	Email - RE: Budget review comms schedule - update	29/1/2018	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
57	188	Email - FW: Missed call from Fell, Jacob Attachment 1 – TRSY18 19763 180115 Land Tax Bill 2018 brief – see Ref No. 46 Attachment 2 – 180115 Land Tax Bill 2018 Attachment A – see Ref No. 47 Attachment 3 – CMTEDD2018-159 Signed brief with notes from CMO – see Ref No. 49	30/1/2018	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
58	189-190	Email - RE: Mid year budget review announcements	31/1/2018	Full	n/a	Yes

59	191	Document 1 referred to in the previous email – dot points Document 2 referred to in the previous email – inspiration from Victoria is at https://www.premier.vic.gov.au/securing-a-fair-deal-for-victorians/	undated	Full	n/a	Yes
60	192-195	Email - RE: Update to Fiscal Strategy content for 2017-18 Budget Review - Tax Revenue	31/1/2018	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
61	196-197	Email - FW: Mid year budget review announcements	31/1/2018	Full	n/a	Yes
62	198	Email - RE: Mid year budget review announcements	1/2/2018	Full	n/a	Yes
63	199	Email - RE: For approval - Foreign investors to pay increased land tax in the ACT	1/2/2018	Partial	Sch 1 s1.6	Yes
64	200	Media Release - draft	5/2/2018	Exempt	Sch 1 s1.6	No
65	201-202	Email - FW: Budget Review Briefs	2/2/2018	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
		Attachment 1 to previous email – CMTEDD-TSY R01 Foreign investors surcharges	undated	Exempt	Sch 1 s1.6	No
66	203-204	Attachment 2 to previous email – REVENUE 2017-18 Budget Review Initiative Descriptions	undated	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
67	205	Email - RE: Budget Review Briefs	2/2/2018	Full	n/a	Yes
68	206	Email - RE: Budget Review Briefs	2/2/2018	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
69	207-208	Document referred to in the email – Revenue Initiatives contained in the 2017-18 Budget Review	12/2/2018	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
70	209	Email - For approval - Increased land tax for foreign investors	2/2/2018	Full	n/a	Yes
71	210	Attachment to previous email – Media Release – Foreign investors to pay increased land tax in the ACT	5/2/2018	Full	n/a	Yes
72	211	Email - FW: For approval - Increased land tax for foreign investors Attachment – see Ref No. 71	2/2/2018	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
73	212	Email - Increased land tax for foreign investors release	2/2/2018	Full	n/a	Yes
74	213	Attachment to previous email – Media Release	5/2/2018	Full	n/a	Yes
75	214	Email - FYI: land tax article	5/2/2018	Full	n/a	Yes

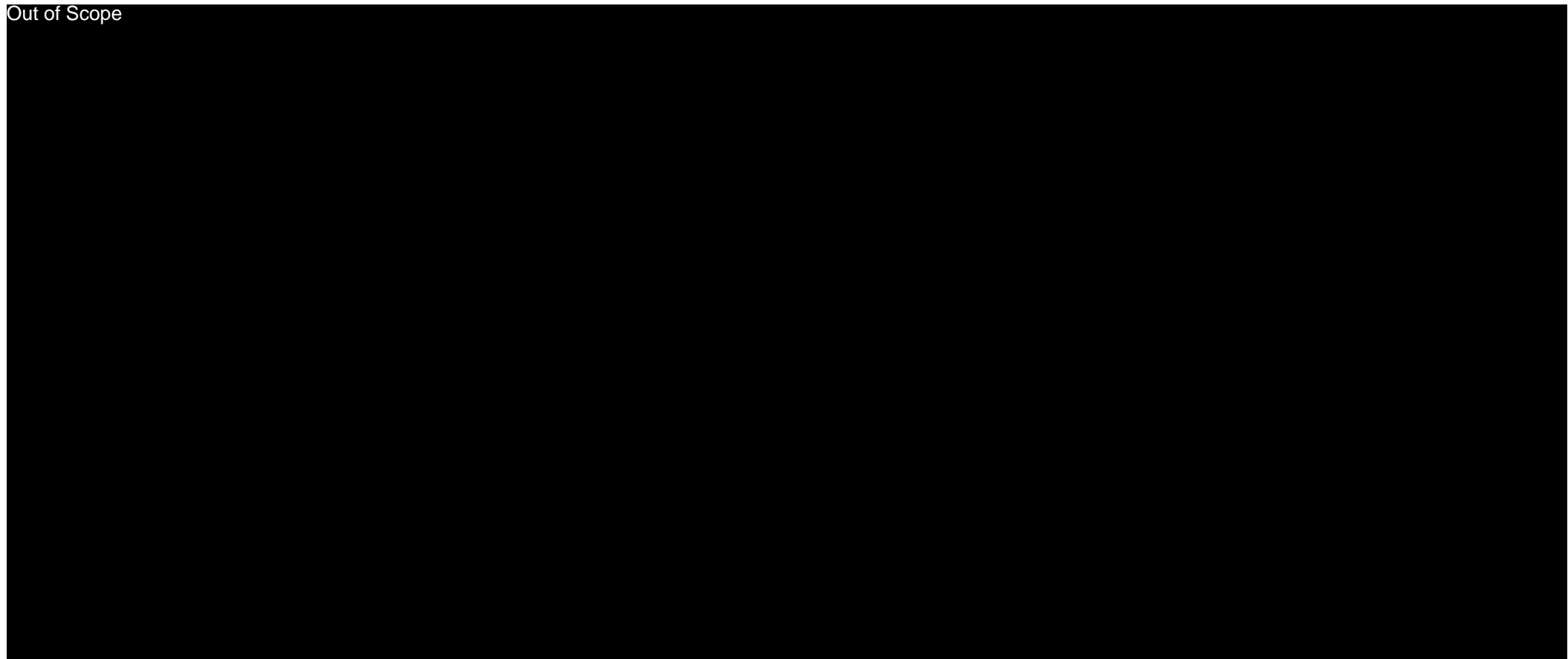
76	215	Email – Minister Barr: Increased land tax for foreign investors Attachment is at http://www.cmd.act.gov.au/open_government/inform/act_government_media_releases/barr/2018/increased-land-tax-for-foreign-investors	5/2/2018	Full	n/a	Yes
77	216	Email - FW: Foreign investors	5/2/2018	Full	n/a	Yes
78	217	Email - FW: land tax cabinet submission	7/2/2018	Full	n/a	Yes
		Attachment to previous email – CAB17/483	undated	Exempt	Sch 1 s1.6	No
79	218-219	CMTEDD2018/426 Brief to Treasurer – Land Tax Amendment Bill 2018 – agreement to exposure draft	undated	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
		Attachment 1 to previous brief – Attachment A CAB17/483	undated	Exempt	Sch 1 s1.6	No
		Attachment 2 to previous brief – Attachment B Table of Final comments	undated	Exempt	Sch 1 s1.6	No
		Attachment 3 to previous brief – Attachemnt C Triple Bottom Line Assessment	undated	Exempt	Sch 1 s1.6	No
80	220	CMTEDD2018/426 Brief to Treasurer – Land Tax Amendment Bill 2018 – agreement to exposure draft - signed	7/2/2018	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
81	221-231	Foreign investor land tax surcharge presentation with notes	8/2/2018	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
82	232	Email - FW: I think this is the article UT is referring to	9/2/2018	Full	n/a	Yes
83	233-235	Email - FW: Tax article	9/2/2018	Full	n/a	Yes
84	236	Email - RE: Tax article	12/2/2018	Full	n/a	Yes
85	237-239	Attachment to previous email – 20180212 - Brief to Treasurer – draft <i><u>Please note that this is a draft brief that has not been finalised or provided to the Treasurer</u></i>	12/2/2018	Full	n/a	Yes
86	240	Email - FW: Tax article	12/2/2018	Full	n/a	Yes
87	241-243	Attachment to previous email – 20180212 - Brief to Treasurer – draft <i><u>Please note that this is a draft brief that has not been finalised or provided to the Treasurer</u></i>	12/2/2018	Full	n/a	Yes

88	244	Email - RE: Tax article	13/2/2018	Full	n/a	Yes
89	245-248	Document referred to in the previous email – 20180212 - Brief to Treasurer Attachment A is at https://www.allhomes.com.au/news/will-increased-land-tax-for-foreign-investors-favour-act-home-buyers-20180207-h0v8lw/ Attachment B is at http://www.canberratimes.com.au/act-news/act-government-to-increase-land-tax-for-foreign-investors-to-rebalance-market-20180202-h0sgjb.html Attachment C is at http://www.canberratimes.com.au/comment/ct-editorial/foreign-investors-land-tax-hike-only-one-piece-of-affordability-problem-20180206-h0uq38.html <i>Please note that this is a draft brief that has not been finalised or provided to the Treasurer</i>	12/2/2018	Full	n/a	Yes
90	249	Calculation for the preparation of the Brief	undated	Full	n/a	Yes
91	250	Email - surcharge question	14/2/2018	Full	n/a	Yes
92	251	Document 1 referred to in the previous email – 20180214 – Assembly question on Foreign investor surcharge impact on rent rates	undated	Full	n/a	Yes
93	252	Document 2 referred to in the previous email – 20180214 – Assembly question on Foreign investor surcharge impact on rent rates	undated	Full	n/a	Yes
94	253	Email - QoN re Foreign Investor LT Surcharge Document referred to in the email – see Ref No. 92	14/2/2018	Full	n/a	Yes
95	254-255	Email - RE: Question taken on Notice today Attachment – see Ref No. 92	14/2/2018	Full	n/a	Yes
96	256	Media release	14/2/2018	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
97	257	Email - 20180214 - Assembly question on Foreign investor surcharge impact on ren.._ (002)	15/2/2018	Full	n/a	Yes
98	258	Attachment to previous email - 20180214 - Assembly question on Foreign investor surcharge impact on ren.._ (002)	undated	Full	n/a	Yes
99	259	20180214 - Assembly question on Foreign investor surcharge impact on ren.._ (002) - updated	undated	Full	n/a	Yes
100	260-263	Land Tax Ownership formulas	28/2/2018	Full	n/a	Yes

101	264	Email - land tax changes	6/3/2018	Full	n/a	Yes
102	265-266	CMTEDD2018/726 Brief to Treasurer – Land Tax Amendment Bill 2018 – final agency comment	undated	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
		Attachment to the previous brief – Attachment A Cabinet submission	undated	Exempt	Sch 1 s1.6	No
103	267	Email - CMTEDD2018/726 Cabinet submission signed	6/3/2018	Full	n/a	Yes
104	268-269	CMTEDD2018/726 Brief to Treasurer – Land Tax Amendment Bill 2018 – final agency comment – UT edit and clearance sheet	21/2/2018	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
105	270-271	CMTEDD2018/726 Brief to Treasurer – Land Tax Amendment Bill 2018 – final agency comment - signed	5/3/2018	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
106	272-273	Revenue Circular - draft	undated	Full	n/a	Yes
107	274-277	Land Tax Amendment Bill 2017 – Drafting instructions on version D01	8/3/2018	Full	Full release of relevant information. Out of scope material has been redacted.	Yes
Cabinet submissions and other documents prepared for Cabinet consideration						
108		Review of 2017-18 Budget - Cabinet	19/4/2017	Exempt	Sch 1 s1.6	No
109		2016-17 Concept Brief Residential foreign investor surcharge	undated	Exempt	Sch 1 s1.6	No
110		R01 – Brief	undated	Exempt	Sch 1 s1.6	No
111		R01 – Business Case	undated	Exempt	Sch 1 s1.6	No
112		R01 – Brief	undated	Exempt	Sch 1 s1.6	No
113		R01 – Business Case	undated	Exempt	Sch 1 s1.6	No
114		Calculation for R01	undated	Exempt	Sch 1 s1.6	No
115		R08A - Brief	undated	Exempt	Sch 1 s1.6	No
116		R08A – Business Case	undated	Exempt	Sch 1 s1.6	No
117		R08 – Brief	undated	Exempt	Sch 1 s1.6	No

118		R08 – Business Case	undated	Exempt	Sch 1 s1.6	No
119		Calculation for R08	undated	Exempt	Sch 1 s1.6	No
120		CAB17/483	signed – 7/2/2018	Exempt	Sch 1 s1.6	No
121		CAB17/483	signed – 5/3/2018	Exempt	Sch 1 s1.6	No
122		Cabinet Brief 17/483	meeting date 19/3/2018	Exempt	Sch 1 s1.6	No
123		Land Tax Amendment Bill 2018 - draft	undated	Exempt	Sch 1 s1.6	No
124		Land Tax Amendment Bill 2018 – explanatory statement - draft	undated	Exempt	Sch 1 s1.6	No
Total						
No of Docs						
124						

Revenue Options for 2016-17 Budget



Out of Scope

Revenue Options for 2016-17 Budget

OTHER CONSIDERATIONS		
Out of Scope		
Residential foreign investor surcharge Introduce a surcharge on foreign buyers of	In Victoria from 1 July 2015, foreign buyers of residential property pay a surcharge of three per cent on whichever is greater of the purchase price or the market value of residential property, in addition to any other transaction	

Revenue Options for 2016-17 Budget

<p>residential property. The surcharge could be a percentage of the value of the property or a fixed dollar amount for all properties regardless of the property's value.</p> <p><i>Estimated revenue impact yet to be confirmed.</i></p>	<p>charges. The surcharge is payable at settlement.</p> <p>Identification of foreign buyers relies on self-identification at the time of stamp duty being payable.</p> <p>We have considered this option at a high level and would not recommend it be pursued for a number of reasons:</p> <ul style="list-style-type: none"> • the ACT property market is not as heated as Melbourne or Sydney; • charging different conveyance duty to foreign buyers may have behavioural implications for their investment decisions; and • could have implications for the ongoing tax reform program. 	
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From: [Ellis, David](#)
To: [Jia, Bessie](#); [Fell, Jacob](#); [Kingham, Amy](#)
Subject: FW: Revenue initiatives ideas [SEC=UNCLASSIFIED]
Date: Friday, 28 October 2016 10:42:21 AM
Attachments: [Ideas for Revenue Initiatives.doc](#)

Let's talk about these and the other ideas from the RO, plus any others, at our meeting on Monday

From: Kingham, Amy
Sent: Thursday, 27 October 2016 4:48 PM
To: Ellis, David
Subject: Revenue initiatives ideas [SEC=UNCLASSIFIED]

David

Here are some ideas for revenue initiatives from the other states.

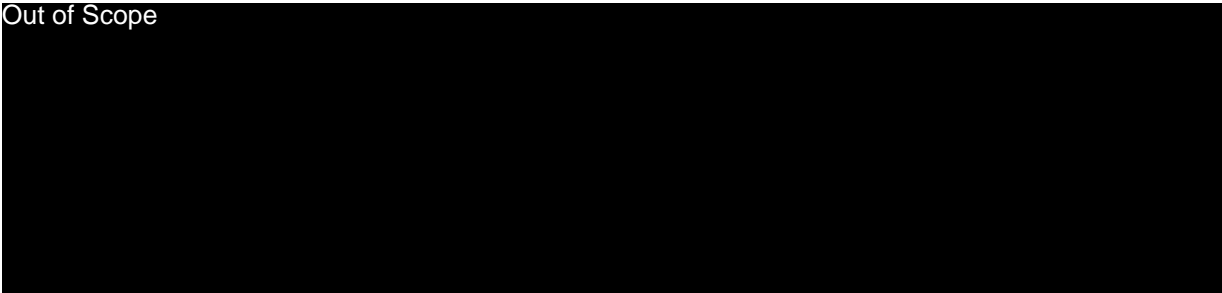
Regards
Amy

Amy Kingham | Senior Policy Officer | Part time: Mon, Tue & Thu
Economic and Financial Policy Group | Chief Minister, Treasury and Economic Development Directorate
Phone: (02) 620 59593 | amy.kingham@act.gov.au

Ideas for Revenue Initiatives

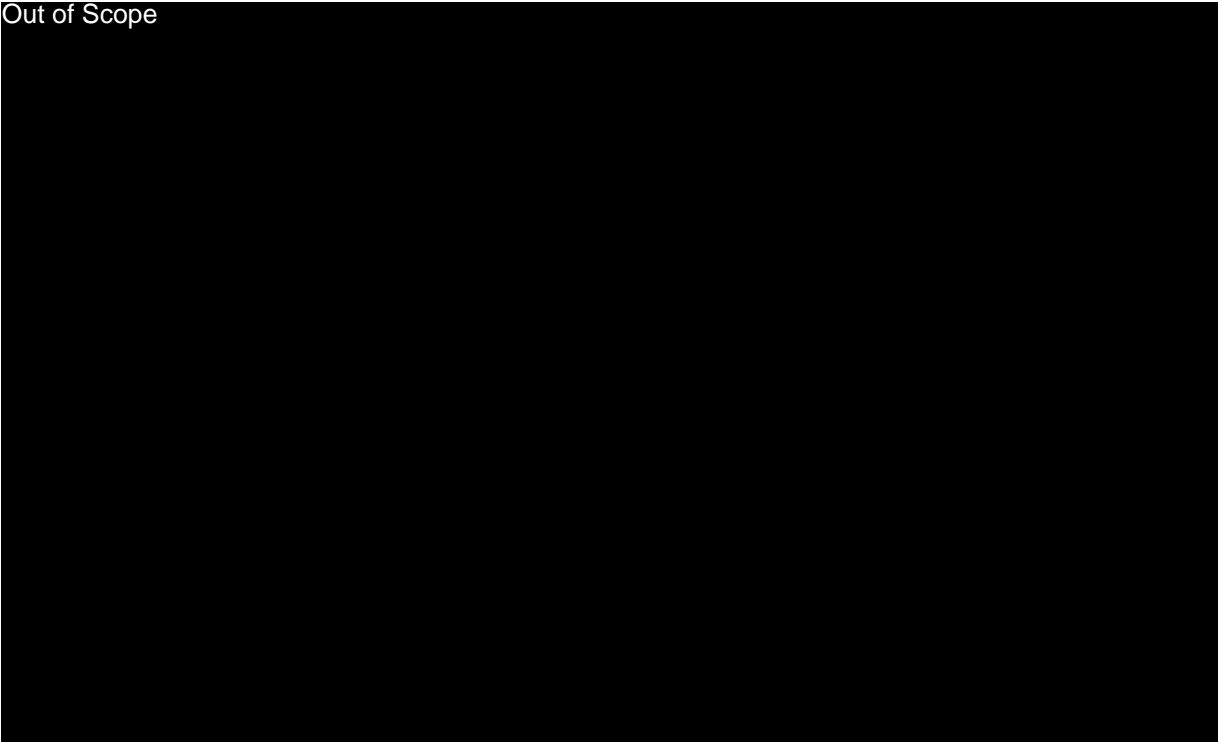
NSW Budget

Out of Scope



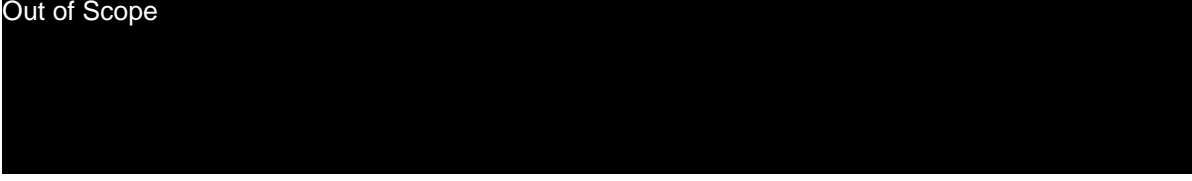
- **Foreign investor duty surcharge** - From 21 June 2016, a flat transfer duty surcharge of 4.0 per cent will apply to all acquisitions of NSW residential real estate by foreign persons, including foreign individuals, corporations, trusts and governments. The surcharge will not apply to Australian citizens, including those living abroad as well as most permanent residents living in Australia. The surcharge will be in addition to normal duty payments on these transactions. Furthermore, the current concession for residential off-the-plan purchases (which allows for a delay of up to 12 months in the payment of duty) will no longer be available to foreign persons. Combined, these measures are forecast to generate additional revenue of \$835.0 million over the four years to 2019-20.
- **Foreign investor land tax surcharge** - Commencing from the 2017 land tax year, a land tax surcharge of 0.75 per cent will apply to holdings of NSW residential land by foreign persons. There will be no tax-free threshold and no principal place of residence exemption for the tax surcharge. The tax surcharge will be additional to normal land tax, which remains unchanged. This measure is forecast to raise \$166.0 million over the four years to 2019-20.

Out of Scope



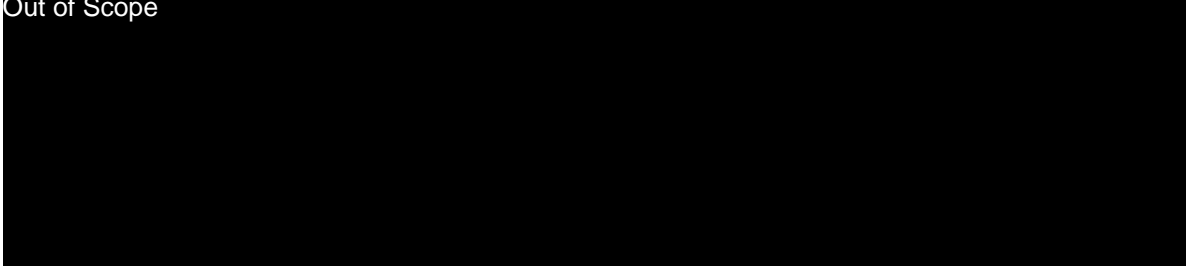
Vic Budget

Out of Scope



- **Land transfer duty surcharge on foreign buyers of residential property** - The land transfer duty surcharge on foreign buyers of residential property will be increased from 3 per cent to 7 per cent on the greater of the purchase price or the market value of the property, in addition to any other stamp duty payable. The surcharge will apply to contracts entered into on or after 1 July 2016 and will be payable at settlement.

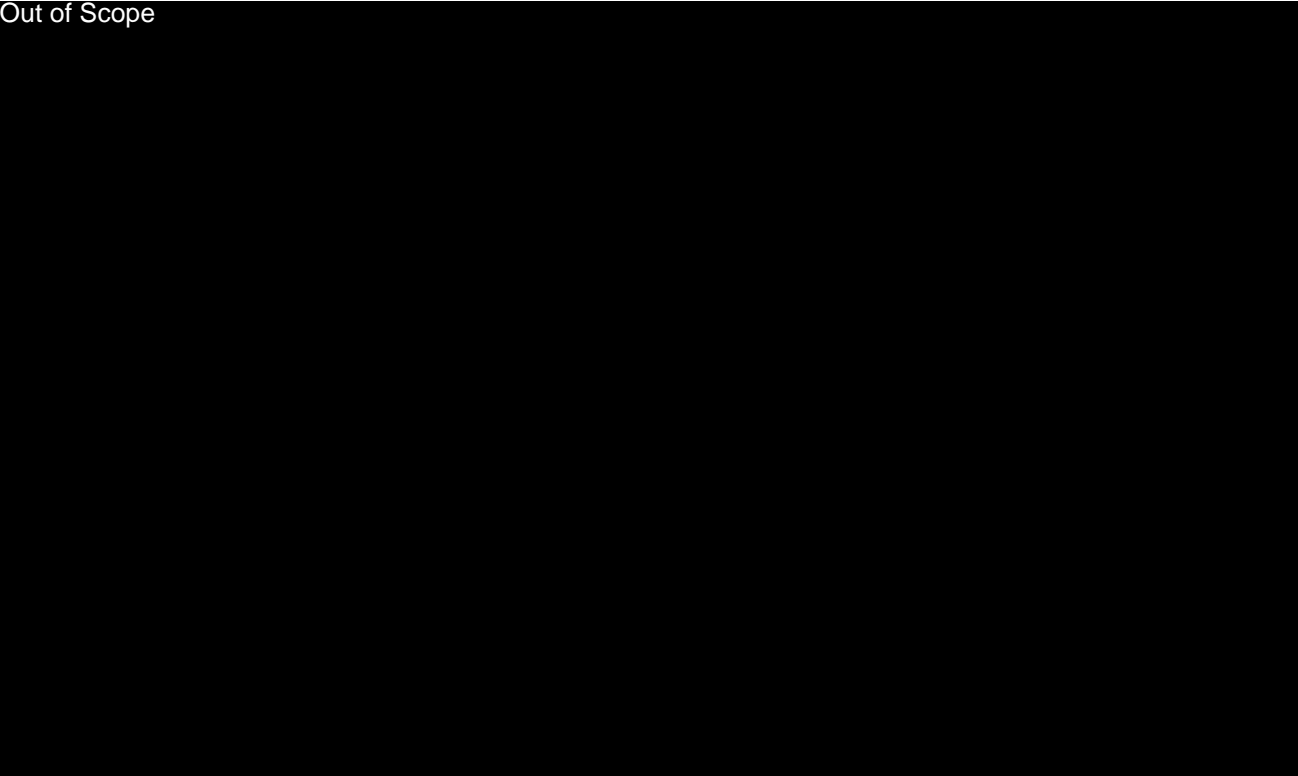
Out of Scope



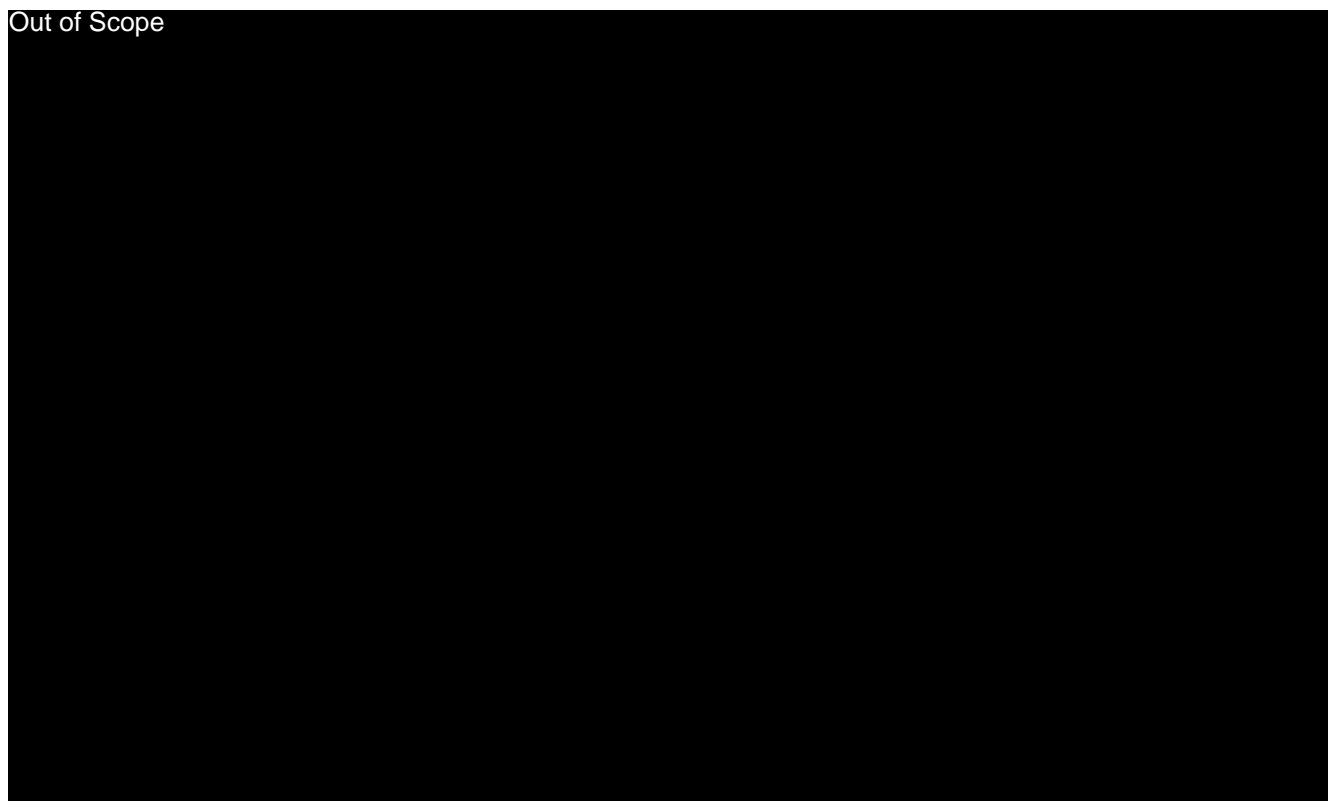
Qld Budget

- **Foreign buyers duty surcharge** - From 1 October 2016, a 3% transfer duty surcharge will be applied to foreign buyers of residential property in Queensland. This measure will have no direct impact on Queensland residents, and is designed to ensure that foreign purchasers of residential land, who benefit from Government services and infrastructure, make a contribution to their delivery.

Out of Scope



Out of Scope

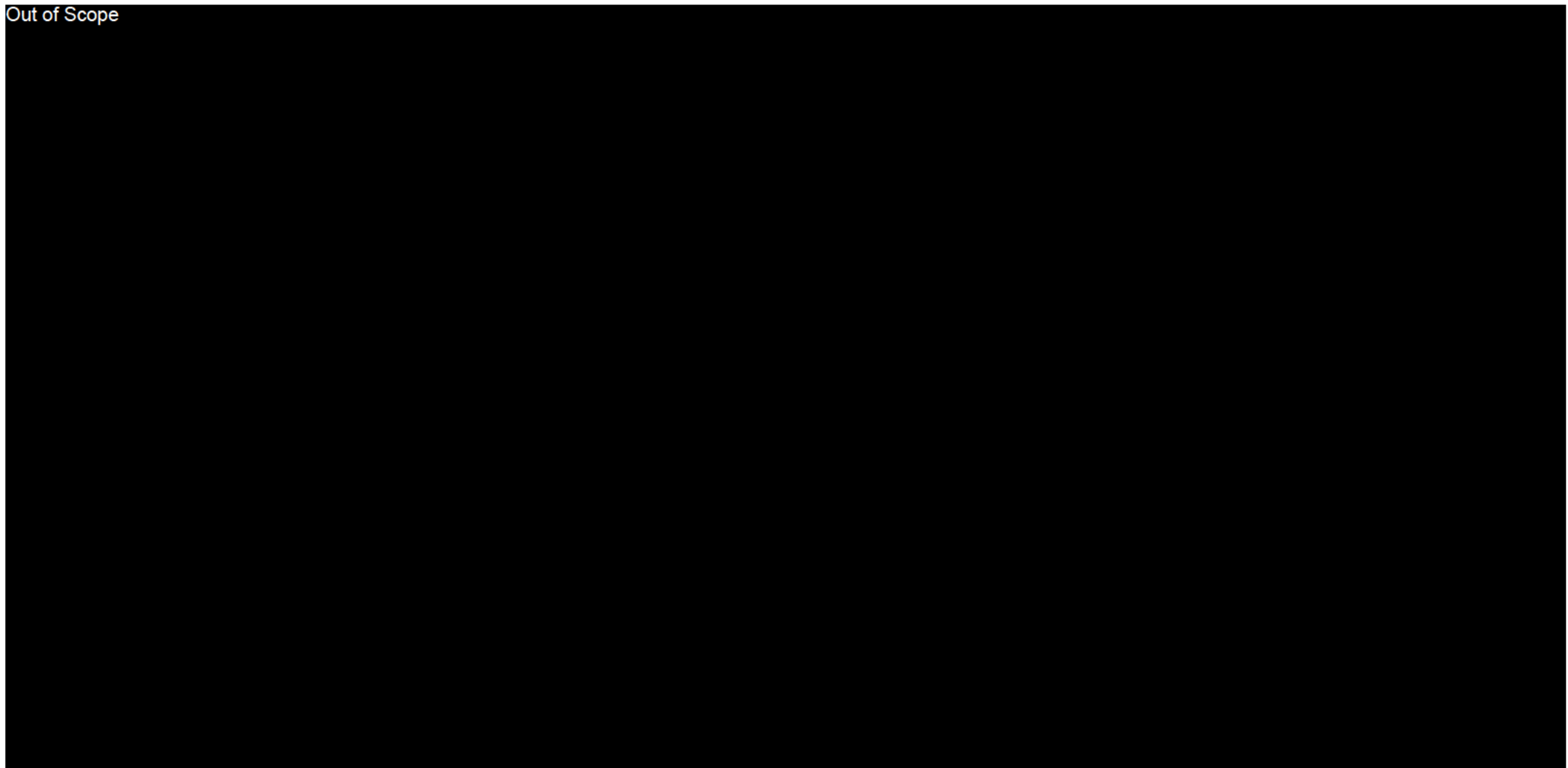


From: [Ellis, David](#)
To: [Jia, Bessie](#); [Fell, Jacob](#); [Kingham, Amy](#)
Subject: revenue options [SEC=UNCLASSIFIED]
Date: Friday, 28 October 2016 11:07:50 AM
Attachments: **Out of Scope**
[20151102_CM feedback on revenue options.pdf](#)

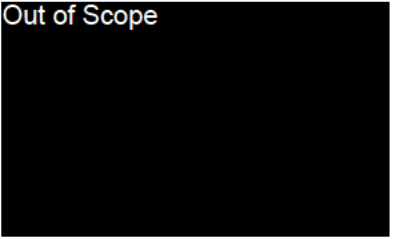
Team, Treasurer feedback on revenue options over the past 2 years is attached

Revenue Options for 2016-17 Budget

Out of Scope



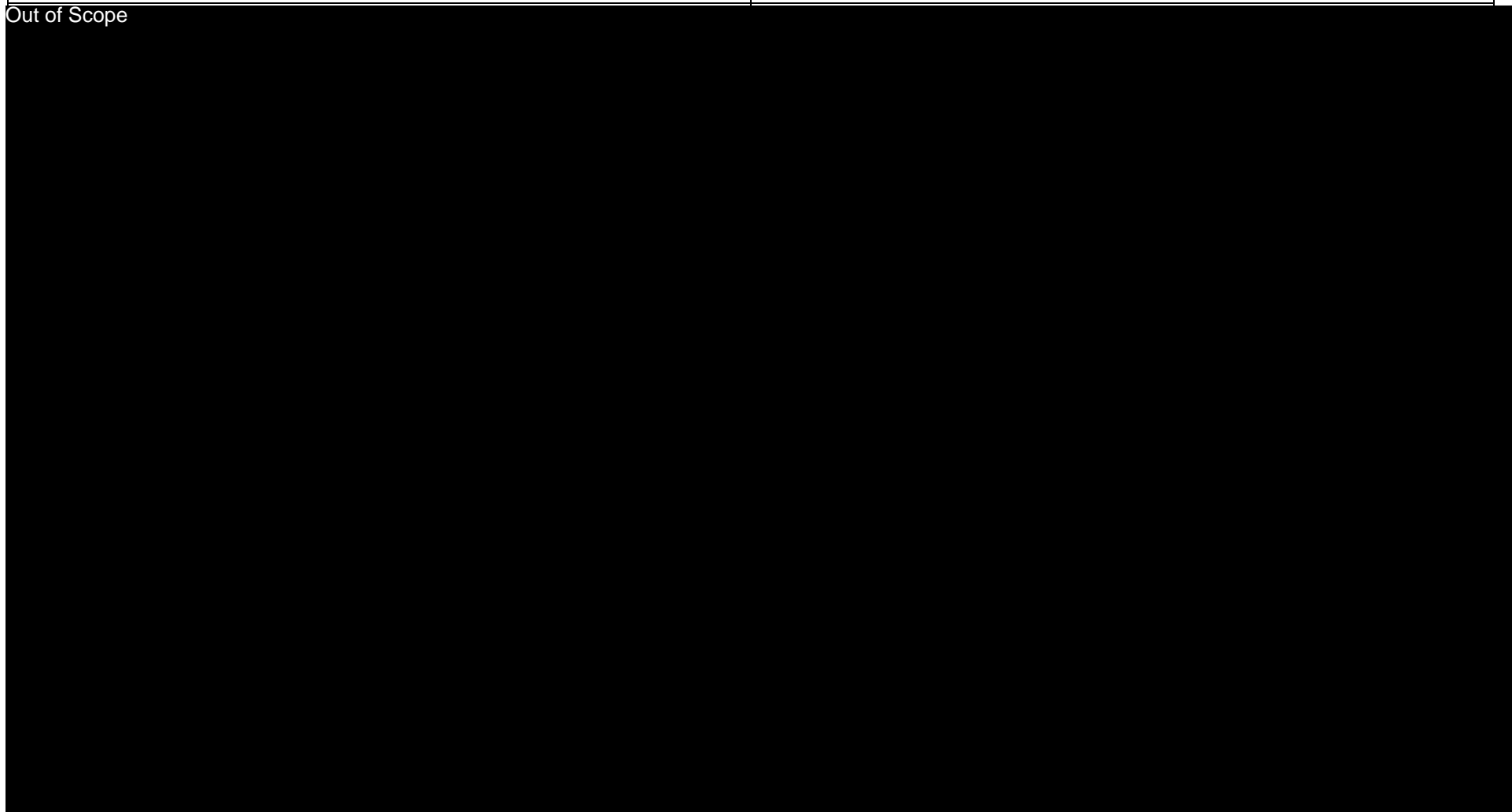
Revenue Options for 2016-17 Budget

Residential foreign investor surcharge		PROGRESS / DO NOT PROGRESS
<p>Introduce a surcharge on foreign buyers of residential property. The surcharge could be a percentage of the value of the property or a fixed dollar amount for all properties regardless of the property's value.</p> <p><i>Estimated revenue impact yet to be confirmed.</i></p>	<p>In its 2015-16 Budget, Victoria introduced a new reform where from 1 July 2015, foreign buyers of residential property pay a surcharge of three per cent on whichever is greater of the purchase price or the market value of residential property, in addition to any other transaction charges.</p> <p>The surcharge is payable at settlement and relies on foreign buyers to self-identify.</p> <p>The surcharge is in addition to the Federal Government's foreign investment application fee of \$5,000 (which increases for properties over \$1 million).</p> <p>The new surcharge came about partly due to the substantial increase in foreign investment in Victoria in the last financial year (which doubled from \$5.8 billion to approximately \$14 billion). In 2013-14, 42 per cent of all residential properties sold in Australia to foreign buyers were in Victoria. The ACT accounted for only 0.7 per cent.</p> <p>We have considered this option at a high level and would not recommend it be pursued for a number of reasons:</p> <ul style="list-style-type: none"> • the ACT property market is not as heated as Melbourne or Sydney; • there is less concern that foreign investors are out pricing local buyers in the ACT; • charging different conveyance duty to foreign buyers may have behavioural implications for their investment decisions (they may choose to invest in other jurisdictions); and • increasing conveyance duty is not consistent with the tax reform program to abolish conveyance duty over a 20 year period; <ul style="list-style-type: none"> ○ alternatively, an additional 'fixed charge' as part of land tax could be charged to foreign investors. 	<p>PROGRESS / DO NOT PROGRESS</p> <p>Out of Scope</p> 

POSSIBLE FUTURE REVENUE INITIATIVES

Revenue initiative	Comment
<u>Ideas from the Treasurer's office</u>	

Out of Scope



Revenue initiative	Comment
Out of Scope	[Redacted]
Foreign investor duty surcharge	Other states introduced this levy. Duty is reducing anyway. Anti-competitive? Out of Scope [Redacted]
Out of Scope	[Redacted]

Out of Scope



From: [Ellis, David](#)
To: [Jia, Bessie](#); [Fell, Jacob](#); [Kingham, Amy](#)
Subject: FW: For action (one due end Feb others end March): Queries for Treasury [SEC=UNCLASSIFIED]
Date: Tuesday, 31 January 2017 4:00:14 PM

I'll sort this out between us – stay tuned

From: Lee, MargaretA
Sent: Monday, 30 January 2017 2:16 PM
To: Ellis, David
Subject: For action (one due end Feb others end March): Queries for Treasury [SEC=UNCLASSIFIED]

For discussion at catchup.

Cheers

Margaret

From: Salisbury, Kim
Sent: Monday, 30 January 2017 1:10 PM
To: Ellis, David; Lee, MargaretA
Subject: FW: Queries for Treasury - FYI [SEC=UNCLASSIFIED]

Margaret/David some work!

Kim Salisbury | A/g Executive Director
Economic and Financial Group
Phone: +61 02 6207 0337 | kim.salisbury@act.gov.au
Chief Minister, Treasury and Economic Development Directorate
PO Box 158 Civic Square 2601

From: Nicol, David
Sent: Wednesday, 25 January 2017 2:45 PM
To: Rayner, Jennifer
Cc: Philbrick, Bernard; Salisbury, Kim; Goth, Kathy
Subject: RE: Queries for Treasury - FYI

Thanks Jen – we should be able to get most if not all this data relatively quickly. While we'll obviously provide it, it might be useful if you put some policy propositions to us, which we should be able to work them up very quickly in most cases.

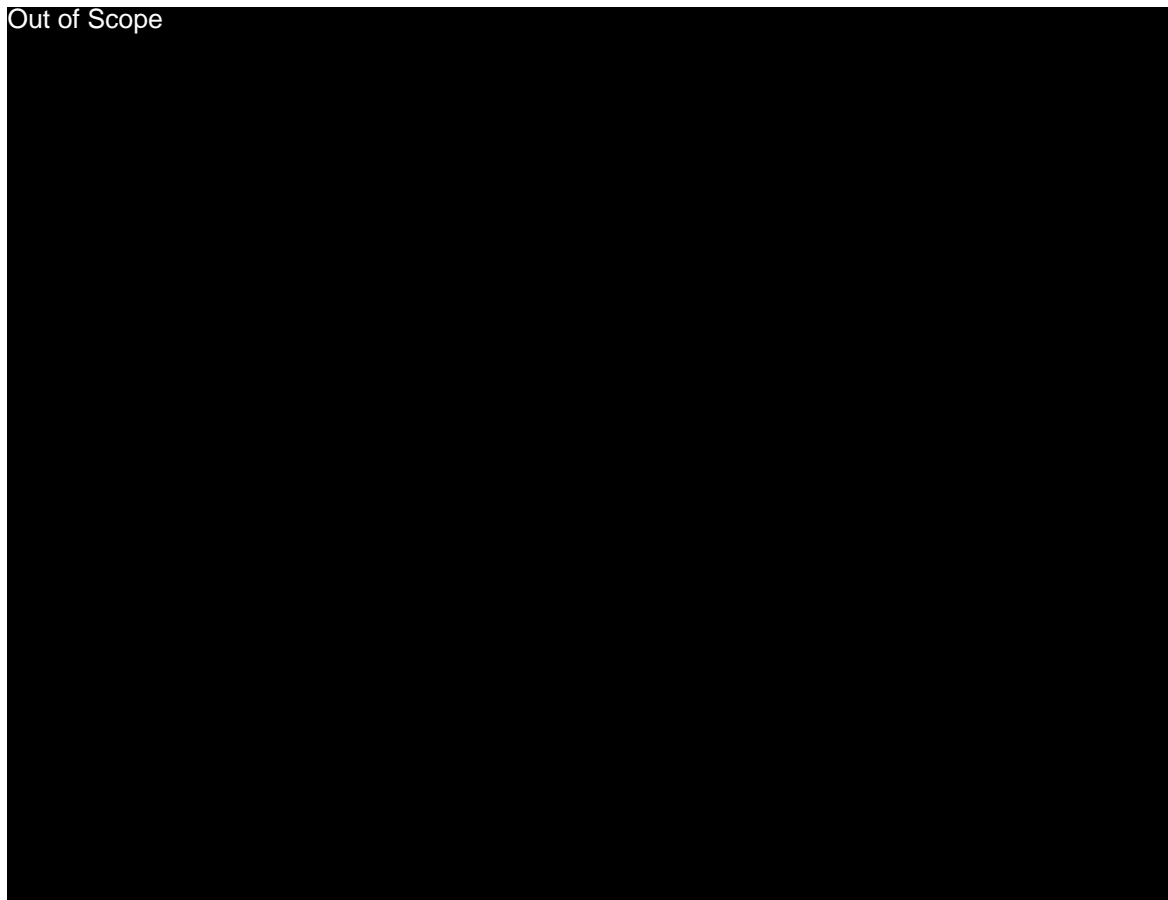
Just a couple of reactions to your queries, some or all of which you may already be aware of:

Out of Scope



- We (in Treasury) haven't considered options for a foreign purchaser surcharge because of the effect it might have on our broader property and student markets. Anecdotally, a lot of purchases for particularly small units relate to foreign students and this is part of supporting our University sector. I'm not sure we could quantify this affect, it's more a judgement call. Sydney and Melbourne have introduced them primarily as market cooling mechanism (particularly in the case of Sydney, less so for Melbourne, which is more related to revenue raising).

Out of Scope



Well get on to pulling out the data for these questions.

Thanks

David

From: Rayner, Jennifer
Sent: Wednesday, 25 January 2017 12:37 PM
To: Nicol, David
Cc: Philbrick, Bernard
Subject: Queries for Treasury - FYI

Hi David,

Just letting you know that I've today asked Kylie to help in seeking some data and analysis from Treasury on a few different issues we're looking at. This is really just preliminary information-seeking to determine whether some ideas we've discussed at this end are worth more serious policy development/consideration.

The details are below - I've suggested to Kylie that it would be great to get some information back on **the first one by the end of Feb, and the other three by end of March**. But very happy to take guidance from Treasury's end on what is feasible; none of this should take priority over the current preparations for the Budget Review or the preparation/consideration of business cases for the 2017-18 Budget.

You'll probably get a reasonable sense of what we're thinking about from the nature of the queries, but please feel free to give me a call if you'd like to discuss any of this. (Please also feel free to pull me up if anything about how we're seeking this information seems amiss to you – it's certainly not my intention to step on any toes or ignore conventions, just getting used to how the process works.)

Foreign property investors/Out of Scope :

- What proportion of investors purchasing ACT property are foreign non-residents? (latest available single year data or multi-year averages are fine)
- What is the annual value of property purchases in the ACT by foreign non-residents?
- Please provide a breakdown of total housing finance in the ACT by owner-occupier and investor; and a comparison of this with the national total.
- **Out of Scope**
- Victoria, NSW and Queensland currently impose various kinds of additional stamp duty and land tax levies on foreign non-resident property investors – please detail the specifics of how these measures operate.
- Do any other jurisdictions currently place an additional tax requirement on foreign non-resident investors seeking to purchase property?

Out of Scope

Requests received from Treasurer's Office (Dr Jennifer Rayner) on 25 January.

Topic	Under Treasurer's comments	Other comments	Allocation
Foreign property investors/ Out of Scope	due end of February		Jake
<p>1. What proportion of investors purchasing ACT property are foreign non-residents? (latest available single year data or multi-year averages are fine)</p> <p>2. What is the annual value of property purchases in the ACT by foreign non-residents?</p> <p>Out of Scope</p> <p>5. Victoria, NSW and Queensland currently impose various kinds of additional stamp duty and land tax levies on foreign non-resident property investors – please detail the specifics of how these measures operate.</p> <p>6. Do any other jurisdictions currently place an additional tax requirement on foreign non-resident investors seeking to purchase property?</p>	<p>1. We (in Treasury) haven't considered options for a foreign purchaser surcharge because of the effect it might have on our broader property and student markets. Anecdotally, a lot of purchases for particularly small units relate to foreign students and this is part of supporting our University sector. I'm not sure we could quantify this affect, it's more a judgement call. Sydney and Melbourne have introduced them primarily as market cooling mechanism (particularly in the case of Sydney, less so for Melbourne, which is more related to revenue raising).</p> <p>Out of Scope</p>	<p>The ACTRO does not collect data on foreign purchases of real estate. The ABS or the Foreign Investment Review Board may have something. Would also be worth checking with counterparts in the states which have introduced a foreign purchaser surcharge to see where they got data from/any other views.</p> <p>Out of Scope</p>	

1. What proportion of investors purchasing ACT property are foreign non-residents? And what is the annual value of property purchases in the ACT by foreign non-residents?

Table 1 State and Territory distribution of proposed investment in residential real estate by industry subtype in 2014-15

Location	New Dwellings		Existing property		Redevelopment		Vacant land		Developer	
	Volume	Value (\$b)	Volume	Value (\$b)	Volume	Value (\$b)	Volume	Value (\$b)	Volume	Value (\$b)
ACT	166	0.08	86	0.05	-	-	28	0.02	*	0.2
NSW	7935	6.64	2855	3.73	221	1	1027	0.55	41	7.77
NT	15	0.01	19	0.01	-	-	*	-	-	-
Qld	2914	1.61	1026	0.79	77	0.31	784	0.45	39	6.76
SA	284	0.14	460	0.29	56	0.04	157	0.06	-	-
Tas	14	0.01	31	0.02	*	-	42	0.01	-	-
Vic	8435	5.41	4089	4.71	575	0.84	3426	1.26	82	12.85
WA	788	0.48	662	0.49	36	0.04	422	0.17	*	1.11

Source: Foreign Investment Review Board 2014-15 Annual Report, p33, Table 2.11

Note: Excludes annual programs and corporate reorganisations.

^ Developer includes off-the-plan approvals provided to real estate developers.

-indicates a figure of zero or a figure less than \$10 million.

* indicates between 1 and 9 approvals

New Dwellings: Applications by individuals to acquire newly constructed dwellings directly from developers and applications by developers to sell up to 100 per cent of new residences in a development to foreign interests (the developer is also required to market the dwellings locally). Applications from individuals are normally approved without conditions. If a developer is given approval, individuals need not apply for approval. Foreign persons may purchase new residences in such developments over a number of years.

Existing property: Consists primarily of temporary residents in Australia acquiring one existing residential property for use as their residence in Australia.

Vacant land: Individual blocks of land purchased for single dwelling construction. These were normally approved subject to conditions (such as, that construction begins within 24 months). It also includes broad acre land for residential subdivision and multiple-dwelling residential developments (such as townhouses and units).

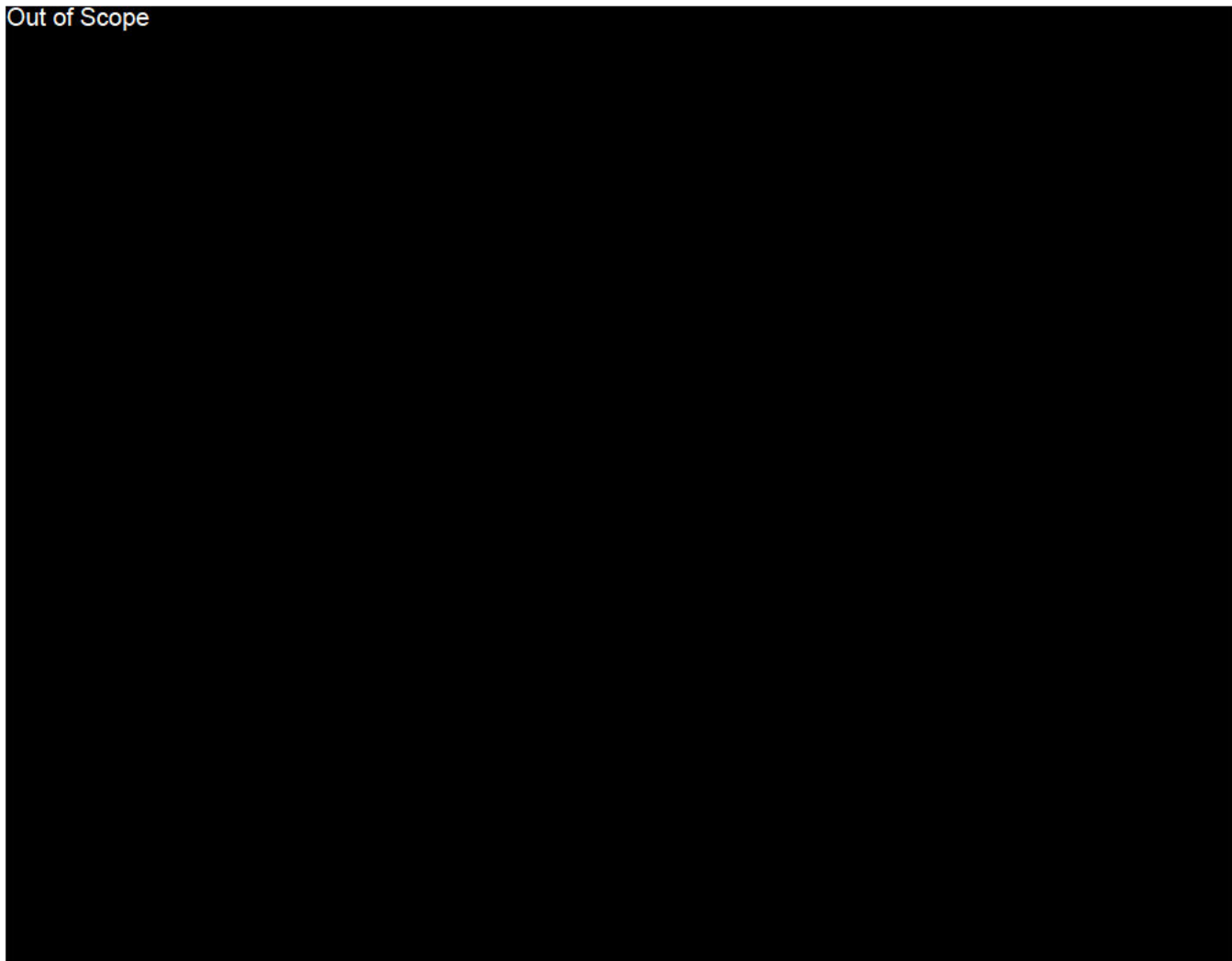
Developer: The approved investment figures for off-the-plan approvals for developers and annual programs overstate the likely extent of actual foreign purchases. The value of investment reported against annual program approvals represents the maximum amount foreign persons may acquire under the program.

Redevelopment: Developed property for redevelopment involves the acquisition of existing property for the purpose of demolition and construction of new residential dwellings. These are normally approved as long as the redevelopment increases Australia's housing stock (at least two dwellings built for the one demolished). Approvals were usually subject to conditions (such as, that construction begins within 24 months).

Table 2 Conveyance duty revenue from foreign investors

Avg ACT property price Dec 2016	\$608,223
Current duty on avg price	\$18,875
Foreign residential purchases (2014-15)	166
Conveyance duty revenue from foreigners	\$3,133,250
Additional foreign investor duty (3.1%)	\$18,875
Additional revenue	\$3,133,250

Out of Scope



4. Victoria, NSW and Queensland currently impose various kinds of additional stamp duty and land tax levies on foreign non-resident property investors – please detail the specifics of how these measures operate. Do any other jurisdictions levy a surcharge?

Victoria - Land transfer duty surcharge on foreign buyers of residential properties

The Victorian Government introduced a land transfer duty surcharge on foreign buyers of residential properties to ensure they contribute their fair share to government services and infrastructure, which supports growth in property prices.

Foreign buyers of residential property will pay a surcharge of 7 per cent on the greater of the purchase price or the market value of the property, in addition to any other stamp duty payable. The surcharge will apply to contracts entered into on or after 1 July 2016 and payable at settlement.

NSW - Foreign investor transfer duty surcharge

From 21 June 2016, a flat transfer duty surcharge of 4.0 per cent will apply to all acquisitions of NSW residential real estate by foreign persons, including foreign individuals, corporations, trusts and governments. The surcharge will not apply to Australian citizens, including those living abroad as well as most permanent residents living in Australia. The surcharge will be in addition to normal duty payments on these transactions. Furthermore, the current concession for residential off-the-plan purchases (which allows for a delay of up to 12 months in the payment of duty) will no longer be available to foreign persons. Combined, these measures are forecast to generate additional revenue of \$835.0 million over the four years to 2019-20.

NSW - Foreign investor land tax surcharge

Commencing from the 2017 land tax year, a land tax surcharge of 0.75 per cent will apply to holdings of NSW residential land by foreign persons. There will be no tax-free threshold and no principal place of residence exemption for the tax surcharge. The tax surcharge will be additional to normal land tax, which remains unchanged. This measure is forecast to raise \$166.0 million over the four years to 2019-20.

Table 4 Foreign investor duty surcharge

Jurisdiction	Rate	Start date	Property type	People affected
NSW	4%	21 June 2016	<p>Residential-related property, which includes: residential land in NSW; an option to purchase residential land in NSW (including nominations or assignment of the option).</p> <p>Residential land includes: a parcel of land with one or more dwellings; a strata lot; a utility lot; a parcel of vacant (or substantially vacant) land that is zoned for residential purposes, but does not include any land used for primary production.</p>	<p>A foreign person being: an individual not ordinarily resident in Australia (except for Australian citizens or a New Zealand citizen who holds a Special Category Visa (Subclass 444)); or, a corporation or trustee of a trust in which an individual not ordinarily resident in Australia, a foreign corporation or a foreign government holds a substantial interest (20%); or, a corporation or trustee of a trust in which two or more persons, each of whom is an individual not ordinarily resident in Australia, a foreign corporation or a foreign government, hold an aggregate substantial interest (40%); or, a foreign government; or, any other person, or any other person that meets the conditions, prescribed by the Foreign Acquisition and Takeovers Regulation, which includes a foreign government investor.</p>
Victoria	7%	1 July 2016 (introduced July 2015 at rate of 3%)	<p>Residential property includes: land; land which includes a building, or part of a building, that a person intends to refurbish or extend; land on which a person intends to construct a building; land in respect of which a person has undertaken or intends to undertake land development for the purposes of constructing a building, to be used solely or primarily for residential purposes and which may lawfully be used in that way. Some exceptions are expected to apply for commercial residential premises, residential care facilities, supported residential services and retirement villages.</p>	<p>Foreign purchasers who are not: citizens or permanent residents of Australia; or, New Zealand citizens with a Special Category Visa (Subclass 444). Foreign corporations, including: corporations incorporated outside Australia; and, corporations incorporated in Australia if a foreign natural person, another foreign corporation or a trustee of a foreign trust and their associates have a controlling (> 50% or the ability to control) interest in the corporation. Trustees of a foreign trusts, being trustees of trusts in which a substantial interest (>50% or the ability to control) is held by a foreign natural person, a foreign corporation or the trustee of another foreign trust and their associates, noting that any foreign beneficiary of a discretionary trust will be deemed to hold the maximum interest in the trust that the trustee has power to distribute to it.</p>
Qld	3%	1 October 2016	<p>Residential land is land that is or will be solely or primarily used for residential purposes, and on the land: there is or will be a building designed or approved by a Council as a single family residence; there is or will be a number of lots in a strata title building; an existing building will be renovated to be a house or apartment complex, or development land in respect of any of the above.</p>	<p>Foreign persons are: Individuals who are not Australian citizens or permanent residents (including the Subclass 444 visa New Zealanders); Companies incorporated outside Australia, or Australian companies in which foreign persons have an interest of 50% or more; and a trust where 50% of the "trust interests" are held by foreign persons.</p>

Source: State budget papers, Claytonutz.com

Table 5 Foreign investor land tax surcharge

Jurisdiction	Rate	Start date	Property type	People affected
NSW	0.75%	1 January 2017	<p>Surcharge land tax is payable in addition to any land tax payable in respect of the residential land under the other provisions of this Act, and is so payable even if no land tax is payable under those other provisions.</p> <p>Residential land has the same meaning as for the amendments to the Duties Act for the surcharge duty.</p>	<p>The land tax surcharge applies to the same foreign persons as the surcharge duty.</p>
Victoria	1.5%	1 January 2017	<p>All land subject to land tax in Victoria.</p>	<p>"Absentee persons", being:</p> <p>A natural person absentee: a person that is not an Australian or New Zealand citizen or a permanent resident of Australia, who does not ordinarily reside in Australia;</p> <p>An absentee corporation: a corporation incorporated outside Australia or a corporation in which an absentee person, or that person together with another absentee person, has a controlling interest; or</p> <p>A trustee of an absentee trust: a trust that has at least one absentee beneficiary.</p>

Source: State budget papers, Claytonutz.com

From: [Hitches, Tim](#)
To: [Wang, Wei](#); [Ee, Shu-Yen](#)
Subject: FW: Foreign duty/land tax surcharge [SEC=UNCLASSIFIED]
Date: Wednesday, 22 February 2017 5:14:23 PM

From: Sch 2 s2.2(a)(ii)
Sent: Wednesday, 22 February 2017 4:14 PM
To: Hitches, Tim; Sch 2 s2.2(a)
Cc: Pullen, Victoria
Subject: Re: Foreign duty/land tax surcharge [SEC=UNCLASSIFIED]

Hi Tim
 See my answers below after the questions.

Regards

Sc

Sch 2 | [Director Specialist Revenue Advice](#) | Technical & Advisory Services | ext: Sch | ip: Sch 2
 Sch | m: Sch 2

>>> "Hitches, Tim" <Tim.Hitches@act.gov.au> 20/02/17 16:20 >>>
 Hi all

The ACT is interested in learning about NSW's experience so far with surcharge purchaser duty, and the land tax surcharge (if you have any insights so far).

1. Have the scheme(s) met your expectations with respect to forecasted revenue?

Surcharge duty revenue is close to the forecast at this stage.
 We have no relevant information on land tax revenue at this stage.

2. Were there any challenges with legislative drafting, or administrative implementation?

Drafting of land tax provisions was fairly straightforward. Duty amendments were complex due to the complexity of the Duties Act. There were policy issues that took time to settle eg the extent to which the definition of "foreign person" in the FIRB Act should be adopted, and the definition of "residential land". The greatest administrative challenge was and remains the system changes required and temporary arrangements necessary until the system changes can be implemented.

3. What has the compliance experience been? Is there a good level of public awareness? It is too early to tell whether we have reached the target audience (foreigners).

Regards

Sc

We're not looking for a very detailed response at this point. Just a few dot points to each would be very helpful.

Thanks in advance.

Kind regards

Tim Hitches | Assistant Manager | Policy Unit

Phone: +61 2 6207 0077 | tim.hitches@act.gov.au

ACT Revenue Office | Chief Minister, Treasury and Economic Development Directorate | ACT Government

PO Box 293 Civic Square ACT 2608 | www.revenue.act.gov.au

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From: [Hitches, Tim](#)
To: [Ee, Shu-Yen](#); [Wang, Wei](#)
Subject: FW: **Sch 2 s2.2(a)(x), Sch 2 s2.2(a)(xii)**
Date: Friday, 24 February 2017 9:39:48 AM
Attachments: [ATT00001.gif](#)
Sch 2 s2.2(a)(x), Sch 2 s2.2(a)(xii)

Sch 2 s2.2(a)(x), Sch 2 s2.2(a)(xii)



From: "Hitches, Tim" <Tim.Hitches@act.gov.au>
To: **Sch 2 s2.2(a)(ii)**
Cc: "Pullen, Victoria" <Victoria.Pullen@act.gov.au>
Date: 20/02/2017 04:17 PM
Subject: Foreign duty/land tax surcharge [SEC=UNCLASSIFIED]

Hi **Sch**

As discussed, the ACT is interested in learning about Victoria's experience with foreign purchaser additional duty and the absentee owner surcharge.

1. How are the schemes meeting your expectations with respect to forecasted revenue?
2. Were there any challenges with legislative drafting, or administrative implementation?

3. What has the compliance experience been? Is there a good level of public awareness?

We're not looking for a very detailed response, just a few dot points to each would be very helpful.

Thanks in advance.

Kind regards

Tim Hitches | Assistant Manager | Policy Unit

Phone: +61 2 6207 0077 | tim.hitches@act.gov.au

ACT Revenue Office | Chief Minister, Treasury and Economic Development Directorate | ACT Government

PO Box 293 Civic Square ACT 2608 | www.revenue.act.gov.au

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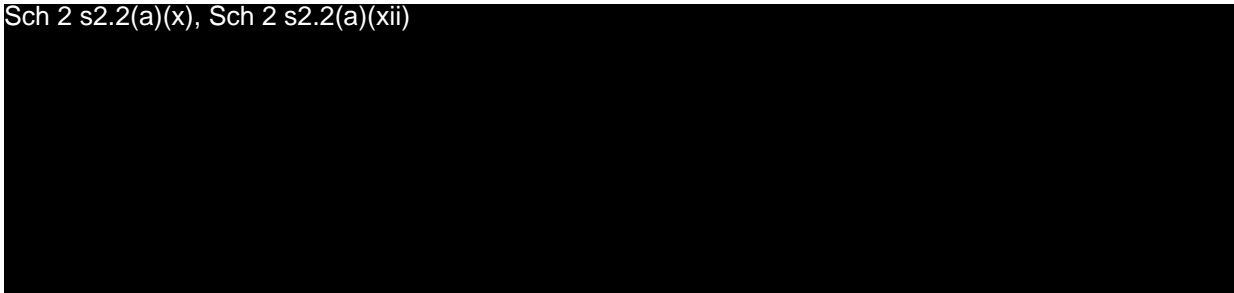
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The information contained in this e-mail does not constitute advice of any kind and the recipient should seek their own advice.

Sch 2 s2.2(a)(x), Sch 2 s2.2(a)(xii)



From: Hitches, Tim
To: Wang, Wei; Ee, Shu-Yen
Subject: FW: Foreign acquirer duty/absentee surcharge [SEC=UNCLASSIFIED]
Date: Tuesday 7 March 2017 1:53:50 PM
Attachments: image001.jpg

From: Sch 2 s2.2(a)(ii)
Sent: Monday, 7 March 2017 11:51 AM
To: Hitches, Tim
Cc: Sch 2 - Pullen, Victoria
Subject: FW: Foreign acquirer duty/absentee surcharge [SEC=UNCLASSIFIED]

Hi Tim

Apologies for the delay in getting back to you. Queensland's response to your queries as follows -

Have the schemes met your expectations with respect to forecasted revenue?

Queensland's Additional Foreign Acquirer Duty (AFAD) provisions commenced on 1 October 2016. Revenue collection figures are not usually analysed part way through the year as partial data is not necessarily representative of a full year's collection and can be misleading. Queensland Treasury will update estimates in the Budget with actuals being released later in the year in the Report on State Finances.

Were there any challenges with legislative drafting, or administrative implementation?

- One of the main concerns was to ensure that AFAD operated within the existing *Duties Act 2001* (DA) framework and applied to all types of dutiable transactions in which a foreign person could acquire Queensland residential land. This also included acquisitions for the purposes of landholder duty and corporate trustee duty. This meant that generally the same treatments applying to the underlying transaction would also apply to the treatment of AFAD e.g. the time liability arises, liable parties, exemptions and concessions, and notification, lodgement and stamping requirements. Certain concessions were expressly excluded from calculation of AFAD whereas other concessions and exemptions simply have no practical scope of operation.
- Another area of concern was to ensure that the definition of 'AFAD residential land' appropriately covered the types of land on which AFAD was intended to apply.
- For defining a foreign person, regard was had to the Victorian foreign purchaser duty provisions, the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and existing Queensland legislation referring to foreign persons.
- In terms of administrative implementation, Queensland OSR issued a Public Ruling (DA000.15.1—*Additional foreign acquirer duty—ex gratia relief for significant development*) which sets out guidelines on which the Commissioner of State Revenue may grant ex gratia relief from AFAD for significant developments which add to the supply of housing stock in Queensland. The main concern was to ensure ex gratia relief appropriately targeted the types of developments that the Government intended to be exempt from AFAD.
- Throughout the whole process, Queensland consulted with the Victorian State Revenue Office as they were the only jurisdiction at the time to impose foreign purchaser duty.

What has the compliance experience been? Is there a good level of public awareness?

Queensland's experience is that while there is a strong level of general awareness about AFAD, there is still a degree of uncertainty amongst some clients about the operation of the finer details of the scheme (such as the type of visa that needs to be held to be considered a 'permanent resident'). In Queensland, there was a lead time between announcement of AFAD (in the 2016 State Budget in June) and commencement on 1 October 2016. In the lead up to commencement, Queensland OSR published a series of 'frequently asked questions' to provide information to clients on how AFAD will operate. From commencement, Queensland OSR's system for assessing duty was updated with mandatory questions on the two key requirements for AFAD to apply – i.e. whether the acquirer is a foreign person and whether the land is 'AFAD residential land'. As the questions are mandatory, they need to be answered before the assessment of duty can proceed, irrespective of whether the taxpayer was aware of AFAD.

Queensland is developing its compliance programs for the 2017-18 financial year and is considering compliance issues for AFAD as part of this process.

There is no land tax absentee surcharge in Queensland.

I trust this information is of assistance. Please contact me if you require any further information.

Kind regards



Sch 2
Policy Officer – Policy & Legislation
Office of State Revenue
Queensland Treasury
Level 21, 1 William Street
Brisbane
Phone: Sch 2 s2.2(a)(ii)
Email:
Web: www.qld.gov.au/osr



From: Hitches, Tim [<mailto:Tim.Hitches@act.gov.au>]
Sent: Monday, 20 February 2017 3:14 PM
To: Sch 2
Cc: Pullen, Victoria
Subject: Foreign acquirer duty/absentee surcharge [SEC=UNCLASSIFIED]

Hi

As discussed, the ACT is interested in learning about Queensland's experience rolling out of additional foreign acquirer duty and absentee land tax.

1. Have the schemes met your expectations with respect to forecasted revenue?
2. Were there any challenges with legislative drafting or administrative implementation?
3. What has the compliance experience been? Is there a good level of public awareness?

We're not looking for a very detailed response, just a few dot points to each would be very helpful.

Thanks in advance.

Kind regards

Tim Hitches | Assistant Manager | Policy Unit
Phone: 61 2 6207 0077 | tim.hitches@act.gov.au
ACT Revenue Office | Chief Minister, Treasury and Economic Development Directorate | ACT Government
PO Box 293 Civic Square ACT 2608 | www.revenue.act.gov.au
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ACT
Government

Chief Minister, Treasury and
Economic Development

To: Treasurer

Subject: Information requested by your Office on foreign property investors, Out of

[Redacted]

Critical date and reason

- 1. This minute is for you information and does not require further action.

Recommendation

- 2. That you note the information in this brief.

NOTED/PLEASE DISCUSS

Andrew Barr MLA / /

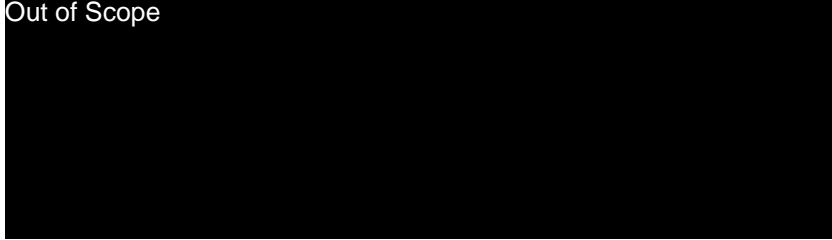
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Supporting Reasoning

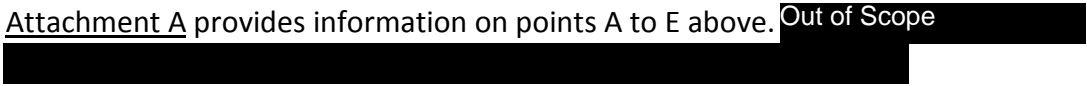
3. Your Office requested information and analysis on:

a. Foreign investors of residential property in the ACT;

Out of Scope



4. Attachment A provides information on points A to E above. Out of Scope



Consultation and Communication

5. The ACT Revenue Office and other state Revenue Offices were consulted during the preparation of this minute.

Financial

6. Nil.

Management of Other Risks

7. Nil.

Under Treasurer Clearance: David Nicol

Executive Clearance: Kathy Goth

Date: March 2017

Action Officer: David Ellis

Phone: 54811

**Chief Minister, Treasury and Economic
Development Directorate**

UNCLASSIFIED

To: Treasurer

Tracking No.: Click here to enter text.

CC NA

From: Under Treasurer

Date 7 March 2017

Subject: Information requested by your Office on foreign property investors, **Out of Scope**

Critical Date: No critical date.

Critical Reason: This minute is for you information and does not require further action.

- DG .../.../...
- DDG .../.../...
- CFO .../.../...

Purpose

To provide information and analysis requested by your office.

Recommendations

That you:

1. Note the information contained in this brief;

Noted / Please Discuss

Choose an item. MLA/...../.....

Minister's Office Feedback

UNCLASSIFIED

Background

- 1. Your Office requested information and analysis on:
 - a. Foreign investors of residential property in the ACT;

Out of Scope
 [Redacted]

- 2. Attachment A provides information on points A to E above. Out of Scope
 [Redacted]

Issues

- 3. Nil.

Financial Implications

- 4. Nil.

Consultation

Internal

- 5. The ACT Revenue Office was consulted during the preparation of this brief

Cross Directorate

- 6. Nil.

External

- 7. Other State Treasuries were contacted to discuss their policies on foreign investor taxation.

Benefits/Sensitivities

- 8. Nil.

Media Implications/Media Engagement/Community Engagement

- 9. Nil

Signatory Name: David Nichol Phone: 70260
 Action Officer: Kathy Goth Phone: 50772

Attachments

Delete if not required

Attachment	Title
------------	-------

UNCLASSIFIED

Attachment A	Information and analysis
--------------	--------------------------

UNCLASSIFIED

Foreign investors of residential property in the ACT

What proportion of investors purchasing ACT property are foreign non-residents? (latest available single year data or multi-year averages are fine)

What is the annual value of property purchases in the ACT by foreign non-residents?

1. Table 1 shows the number of approved residential property purchases from foreign investors in 2014-15. In 2014-15, the ACT's share of the national total of foreign property purchases is less than one per cent, which is lower than the ACT's share of the national population of around 1.6 per cent. This suggests the ACT has a relatively low level of property purchases by foreigners compared to other jurisdictions.
2. Based on the 2014-15 figures below, we estimate the proportion of foreign investors in ACT residential housing is around five per cent. This is based on an increase in the total volume of residential properties owned by investors by around 3,000 each year.

Table 1 State and Territory distribution of approved investment in residential real estate by industry subtype in 2014-15

Location	New Dwellings		Existing property	
	Volume	Value (\$b)	Volume	Value (\$b)
ACT	166	0.08	86	0.05
NSW	7,935	6.64	2,855	3.73
NT	15	0.01	19	0.01
Qld	2,914	1.61	1,026	0.79
SA	284	0.14	460	0.29
Tas	14	0.01	31	0.02
Vic	8,435	5.41	4,089	4.71
WA	788	0.48	662	0.49
Total	20,551	14.38	9,228	10.09

Source: Foreign Investment Review Board 2014-15 Annual Report, p33, Table 2.11

Victoria, NSW and Queensland currently impose various kinds of additional stamp duty and land tax levies on foreign non-resident property investors – please detail the specifics of how these measures operate.

Do any other jurisdictions currently place an additional tax requirement on foreign non-resident investors seeking to purchase property?

3. A foreign investment duty surcharge is currently applicable to foreign investors who purchase residential property in NSW, Victoria and Queensland in addition to the standard duty charged on all property transactions. The surcharge was introduced as both a market cooling mechanism (particularly in NSW) and as a revenue raising initiative.
4. A foreign investor land tax surcharge is also applicable to foreign investors who own property in NSW and Victoria.
 - a. Both of these taxes in all jurisdictions have been implemented less than 12 months ago.
5. The ACT property market has not seen the dramatic increases in property values experienced in Sydney and Melbourne so a duty surcharge in the ACT would mostly be a revenue initiative, rather than a market cooling mechanism. There is a risk that a duty surcharge might have an adverse impact on the number of international students who choose to live and study in the

ACT. There is also concern that a duty surcharge could be viewed as at odds with the ACT's tax reform program of removing conveyance duty.

Table 2 Conveyance and land tax surcharges in other jurisdictions

	Start date	Rate	Revenue (over four years)	ACT Revenue (over four years)
Conveyance Duty surcharge				
NSW	21 June 2016	4%	\$835 million	\$10 million
Victoria	1 July 2016*	7%	\$321 million	
Qld	1 October 2016	3%	\$80 million	
Land tax surcharge				
NSW	1 January 2017	0.75%	\$166 million	\$2 million
Victoria	1 January 2017^	1.50%	\$84 million	

*(introduced 1 July 2015 at rate of 3%)

^ (introduced 1 Jan 2016 at rate of 0.5%)

Note: The conveyance duty surcharge rate applies to the transfer or market value of the property, whichever is greater.

The land tax surcharge applies to unimproved value of the land. The revenue estimates are for the four years to 2019-20.

ACT revenue estimates are based on the ACT's share of residential investment approvals by the Foreign Investment Review Board.

Out of Scope



**Chief Minister, Treasury and Economic
Development Directorate**

UNCLASSIFIED

To: Treasurer

Tracking No.: CMTEDD2017/792

From: Under Treasurer

Subject: Information requested by your Office on foreign property investors, [REDACTED]
Out of Scope [REDACTED]
[REDACTED]

Critical Date: No critical date.

Critical Reason: This minute is for you information and does not require further action.

Purpose

To provide information and analysis requested by your office.

Recommendations

That you:

Note the information in this brief relating to Foreign investors of residential property in the ACT; Out of Scope [REDACTED]
[REDACTED]

Noted / Please Discuss

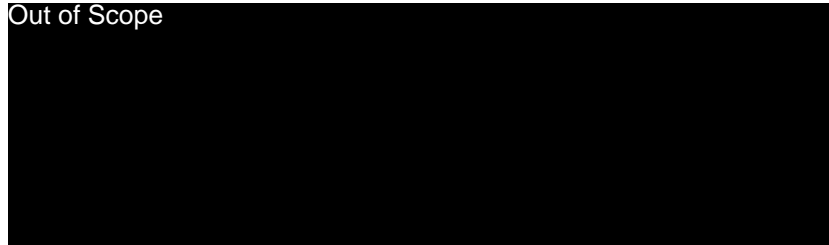
Andrew Barr MLA/...../.....

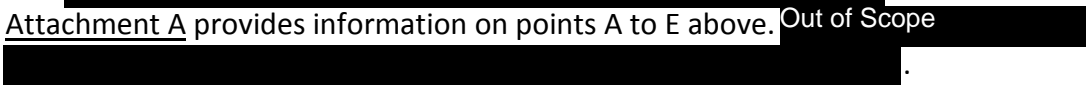
Minister's Office Feedback

UNCLASSIFIED

Background

- 1. Your Office requested information and analysis on:
 - a. Foreign investors of residential property in the ACT;

Out of Scope


- 2. Attachment A provides information on points A to E above. Out of Scope


Issues

- 3. Nil.

Financial Implications

- 4. Nil.

Consultation

Internal

- 5. The ACT Revenue Office was consulted during the preparation of this brief

Cross Directorate

- 6. Nil.

External

- 7. Other State Treasuries were contacted to discuss their policies on foreign investor taxation.

Benefits/Sensitivities

- 8. Nil.

Media Implications/Media Engagement/Community Engagement

- 9. Nil.

Signatory Name: David Nicol Phone: 70260
 Action Officer: Kathy Goth Phone: 50772

Attachments

Attachment	Title
Attachment A	Information and analysis

Foreign investors of residential property in the ACT

What proportion of investors purchasing ACT property are foreign non-residents? (latest available single year data or multi-year averages are fine)

What is the annual value of property purchases in the ACT by foreign non-residents?

1. Table 1 shows the number of approved residential property purchases from foreign investors in 2014-15. In 2014-15, the ACT's share of the national total of foreign property purchases is less than one per cent, which is lower than the ACT's share of the national population of around 1.6 per cent. This suggests the ACT has a relatively low level of property purchases by foreigners compared to other jurisdictions.
2. Data on the proportion of non-resident foreign investors who own residential property in the ACT is unavailable.

Table 1 State and Territory distribution of approved investment in residential real estate by industry subtype in 2014-15

Location	New Dwellings		Existing property	
	Volume	Value (\$b)	Volume	Value (\$b)
ACT	166	0.08	86	0.05
NSW	7,935	6.64	2,855	3.73
NT	15	0.01	19	0.01
Qld	2,914	1.61	1,026	0.79
SA	284	0.14	460	0.29
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Vic	8,435	5.41	4,089	4.71
WA	788	0.48	662	0.49
Total	20,551	14.38	9,228	10.09

Source: Foreign Investment Review Board 2014-15 Annual Report, p33, Table 2.11

Victoria, NSW and Queensland currently impose various kinds of additional stamp duty and land tax levies on foreign non-resident property investors – please detail the specifics of how these measures operate.

Do any other jurisdictions currently place an additional tax requirement on foreign non-resident investors seeking to purchase property?

3. A foreign investment duty surcharge is currently applicable to foreign investors who purchase residential property in NSW, Victoria and Queensland in addition to the standard duty charged on all property transactions. The surcharge was introduced as both a market cooling mechanism (particularly in NSW) and as a revenue raising initiative.
4. A foreign investor land tax surcharge is also applicable to foreign investors who own property in NSW and Victoria.
 - a. Both of these taxes in all jurisdictions have been implemented less than 12 months ago.
5. The ACT property market has not seen the dramatic increases in property values experienced in Sydney and Melbourne so a duty surcharge in the ACT would mostly be a revenue initiative, rather than a market cooling mechanism. There is a risk that a duty surcharge might have an adverse impact on the number of international students who choose to live and study in the ACT. There is also concern that a duty surcharge could be viewed as at odds with the ACT's tax reform program of removing conveyance duty.

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	Start date	Rate	Revenue (over four years)	ACT Revenue (over four years)
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*(introduced 1 July 2015 at rate of 3%)

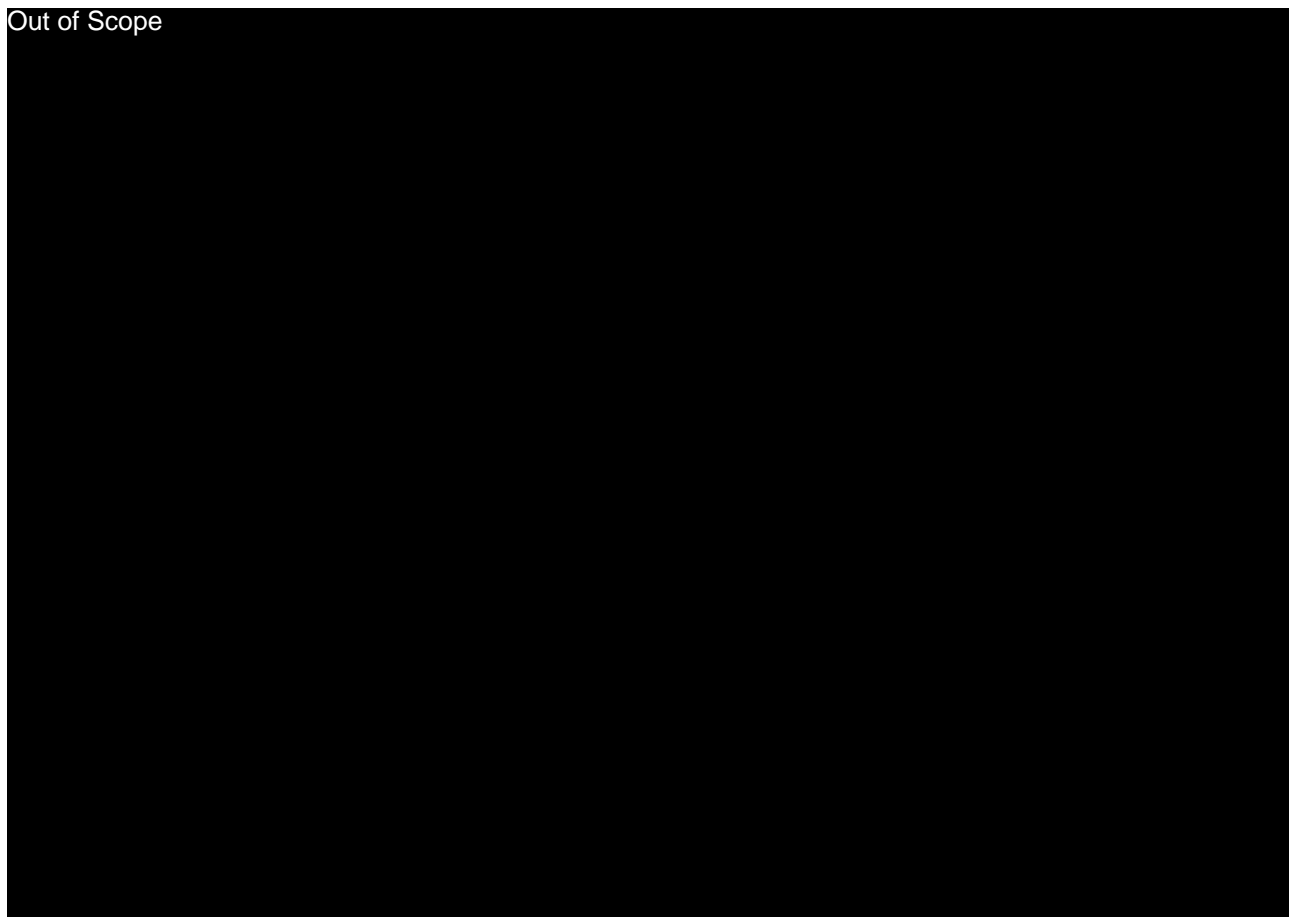
^ (introduced 1 Jan 2016 at rate of 0.5%)

Note: The conveyance duty surcharge rate applies to the transfer or market value of the property, whichever is greater.

The land tax surcharge applies to unimproved value of the land. The revenue estimates are for the four years to 2019-20.

ACT revenue estimates are based on the ACT's share of residential investment approvals by the Foreign Investment Review Board.

Out of Scope





MINISTERIAL BRIEF

*Kathy Asth -
good brief. Can we please
discuss quickly at
fruition today?
Thanks
Jared
10/3.*

Chief Minister, Treasury and Economic
Development Directorate

UNCLASSIFIED

To: Treasurer

Tracking No.: CMTEDD2017/792

From: Under Treasurer

Subject: Information requested by your Office on foreign property investors, [redacted]
Out of Scope [redacted]

Critical Date: No critical date.

Critical Reason: This minute is for you information and does not require further action.

Purpose

To provide information and analysis requested by your office.

Recommendations

That you:

Note the information in this brief relating to Foreign investors of residential property in the ACT; Out of Scope [redacted]

Noted / Please Discuss

Andrew Barr MLA/...../.....

Minister's Office Feedback

UNCLASSIFIED

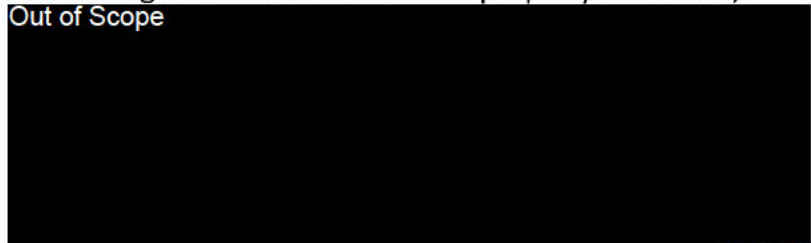
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Background

1. Your Office requested information and analysis on:

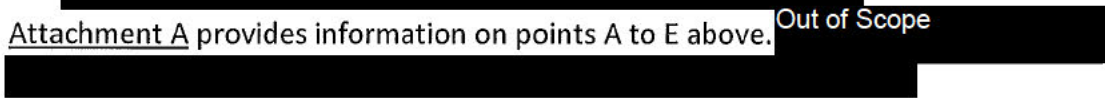
a. Foreign investors of residential property in the ACT;

Out of Scope



2. Attachment A provides information on points A to E above.

Out of Scope



Issues

3. Nil.

Financial Implications

4. Nil.

Consultation

Internal

5. The ACT Revenue Office was consulted during the preparation of this brief

Cross Directorate

6. Nil.

External

7. Other State Treasuries were contacted to discuss their policies on foreign investor taxation.

Benefits/Sensitivities

8. Nil.

Media Implications/Media Engagement/Community Engagement

9. Nil.

Signatory Name:	David Nicol	Phone:	70260
Action Officer:	Kathy Goth	Phone:	50772

Attachments

Attachment	Title
Attachment A	Information and analysis

UNCLASSIFIED

Foreign investors of residential property in the ACT

What proportion of investors purchasing ACT property are foreign non-residents? (latest available single year data or multi-year averages are fine)

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Total	20,551	14.38	9,228	10.09

Source: Foreign Investment Review Board 2014-15 Annual Report, p33, Table 2.11

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Not sure how we come do this conclusion - please discuss.

ACT. There is also concern that a duty surcharge could be viewed as at odds with the ACT's tax reform program of removing conveyance duty.

Table 2 Conveyance and land tax surcharges in other jurisdictions

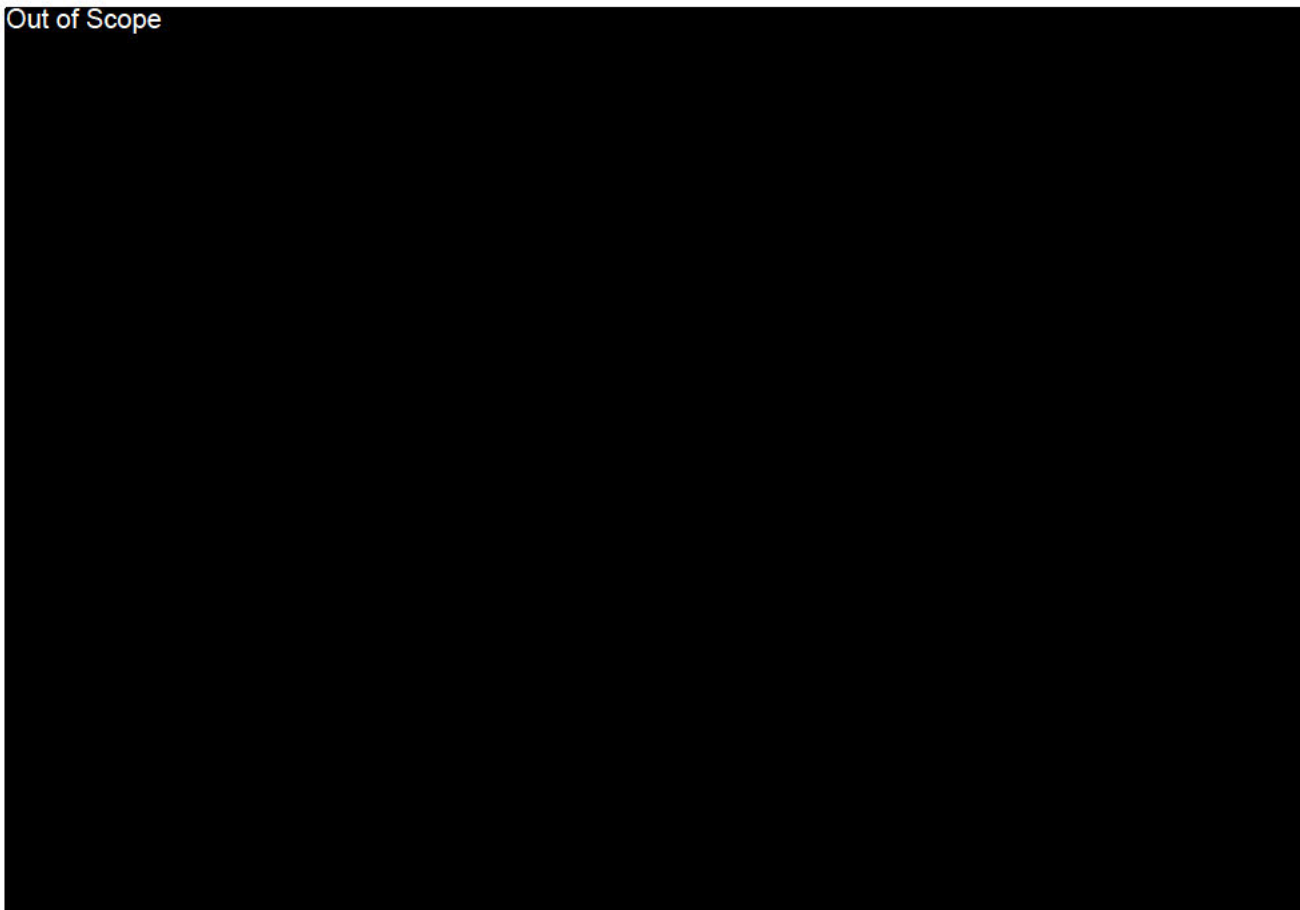
	Start date	Rate	Revenue (over four years)	ACT Revenue (over four years)
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*(introduced 1 July 2015 at rate of 3%)

^ (introduced 1 Jan 2016 at rate of 0.5%)

Note: The conveyance duty surcharge rate applies to the transfer or market value of the property, whichever is greater. The land tax surcharge applies to unimproved value of the land. The revenue estimates are for the four years to 2019-20. ACT revenue estimates are based on the ACT's share of residential investment approvals by the Foreign Investment Review Board.

Out of Scope



**Chief Minister, Treasury and Economic
Development Directorate**

UNCLASSIFIED

To: Treasurer

Tracking No.:

CC

From: Executive Director, Economic and Financial Group

Date March 2017

Subject: Sign Cabinet Submission – Revenue Options for the 2017-18 Budget

Critical Date: 10 March 2017

Critical Reason: Budget Committee of Cabinet meeting on 15 March 2017

- UT .../.../...

Purpose

To seek your agreement to the Cabinet Submission *Revenue Options for the 2017-18 Budget*, for the Budget Committee of Cabinet meeting on 15 March 2017.

Recommendations

That you:

1. agree to the attached Cabinet Submission which outlines the proposed revenue initiatives for the 2017-18 Budget; and

Agreed / Not agreed / Please discuss

2. sign the attached Cabinet Submission for consideration by the Budget Committee of Cabinet on 15 March 2017.

Signed / Not signed / Please discuss

Andrew Barr MLA/...../.....

Minister's Office Feedback

UNCLASSIFIED

UNCLASSIFIED

Background

1. Treasury has prepared a number of revenue initiatives for the 2017-18 Budget, for consideration by the Budget Committee of Cabinet on 15 March 2017.

Issues

2. The attached Cabinet Submission outlines revenue initiatives for the 2017-18 Budget, for your signature.

Financial Implications

3. The financial impact of the recommended revenue options is outlined in the attached Cabinet Submission.

Consultation

4. No general consultation was undertaken with Directorates on this submission. High level consultation has been undertaken with relevant officers within Directorates, as required. Treasury will work closely with other Directorates to ensure initiatives can be implemented within the expected timeframes.

Benefits/Sensitivities

5. Nil.

Media Implications/Media Engagement/Community Engagement

6. All initiatives which are agreed to will be announced in the 2017-18 Budget.

Signatory Name:

Phone:

Action Officer: David Ellis

Phone: 54811

UNCLASSIFIED



**Chief Minister, Treasury and Economic
Development Directorate**

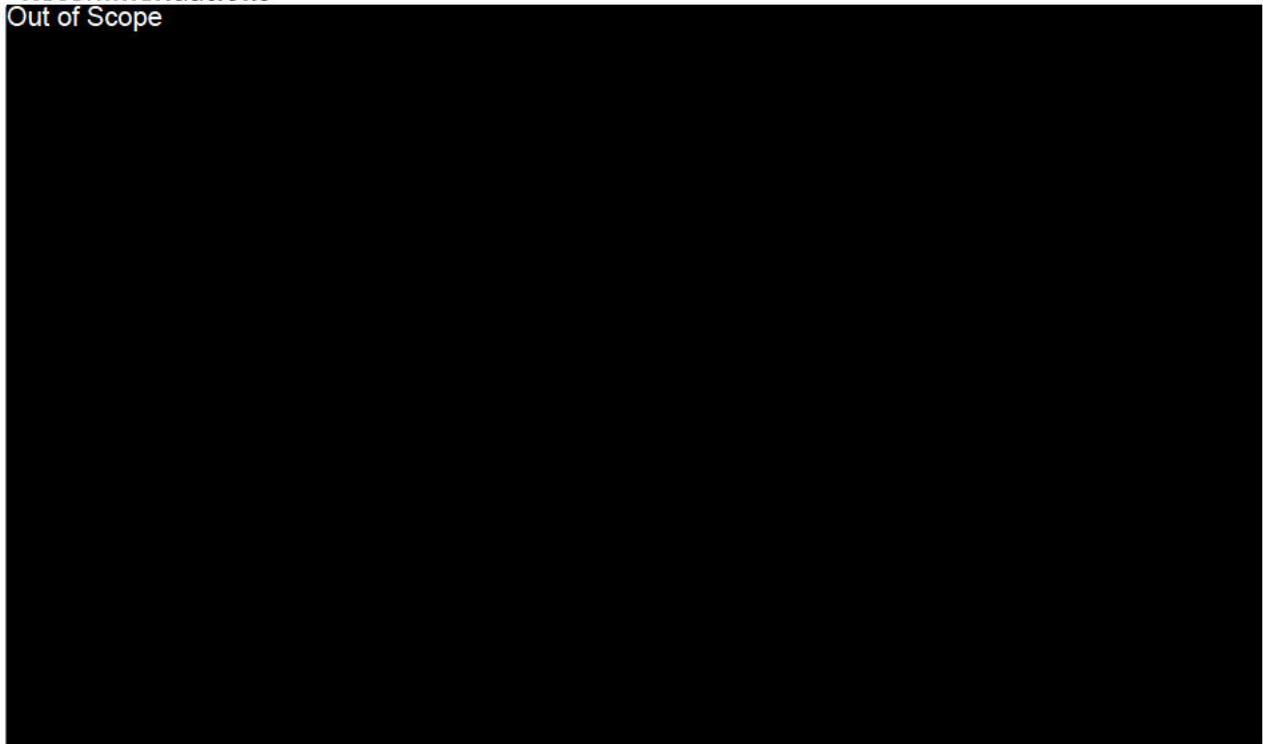
PROTECTED

To:	Treasurer	Tracking No.: CMTEDD2017/627
CC	Click here to enter text.	
From:	Under Treasurer	
Date	3 March 2017	
Subject:	Revenue options for the 2017-18 Budget	
Critical Date:	10 March 2017.	
Critical Reason:	The Budget Committee of Cabinet is expected to consider revenue options in mid March.	
• DG	.../.../...	
• DDG	.../.../...	
• CFO	.../.../...	

Purpose

Recommendations

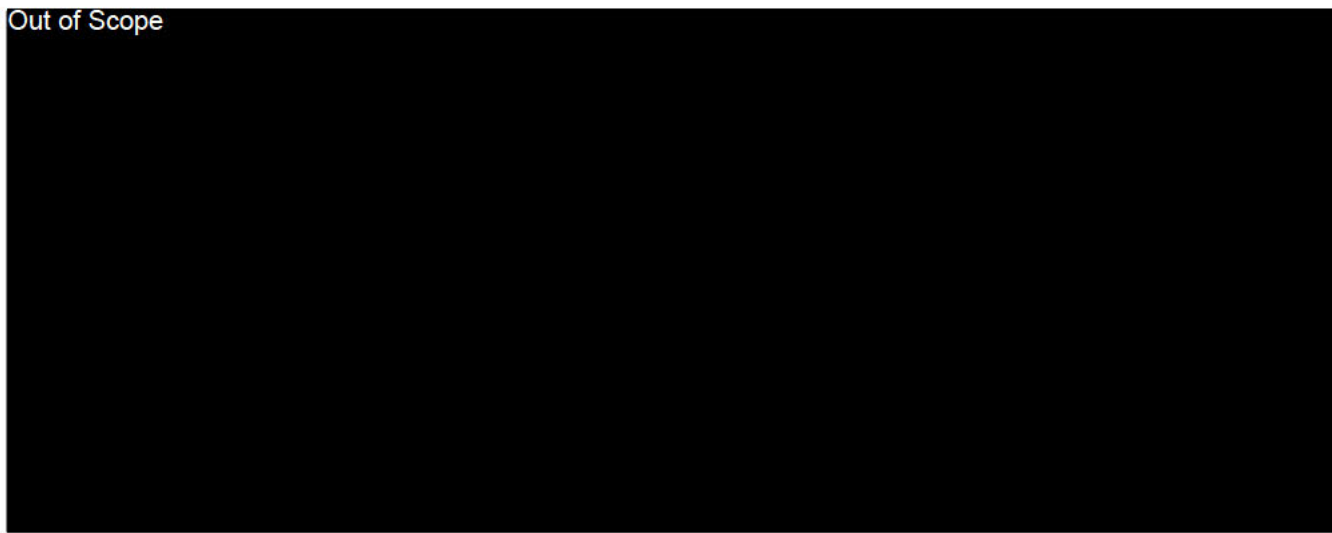
Out of Scope



PROTECTED

PROTECTED

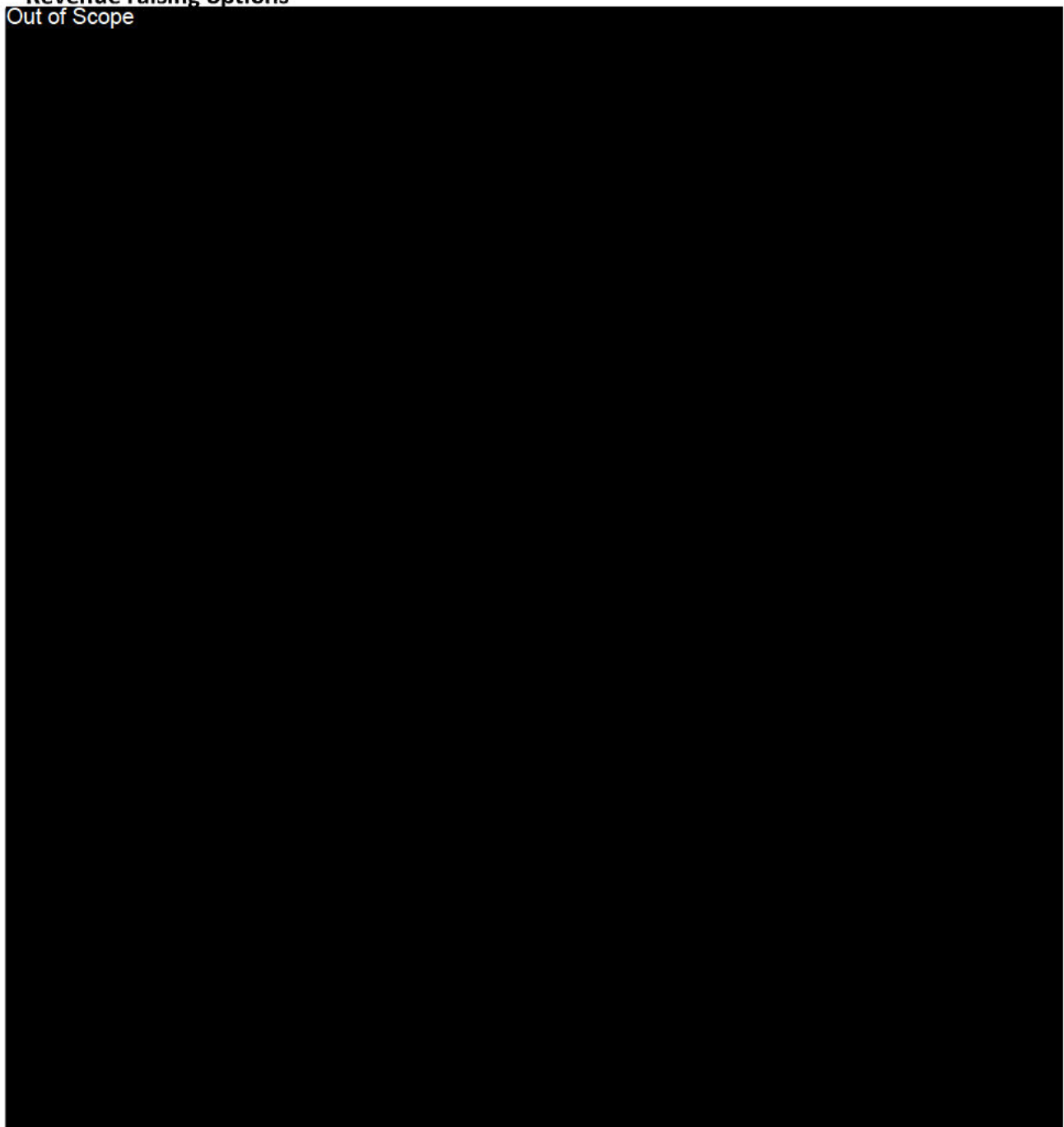
Out of Scope



Issues

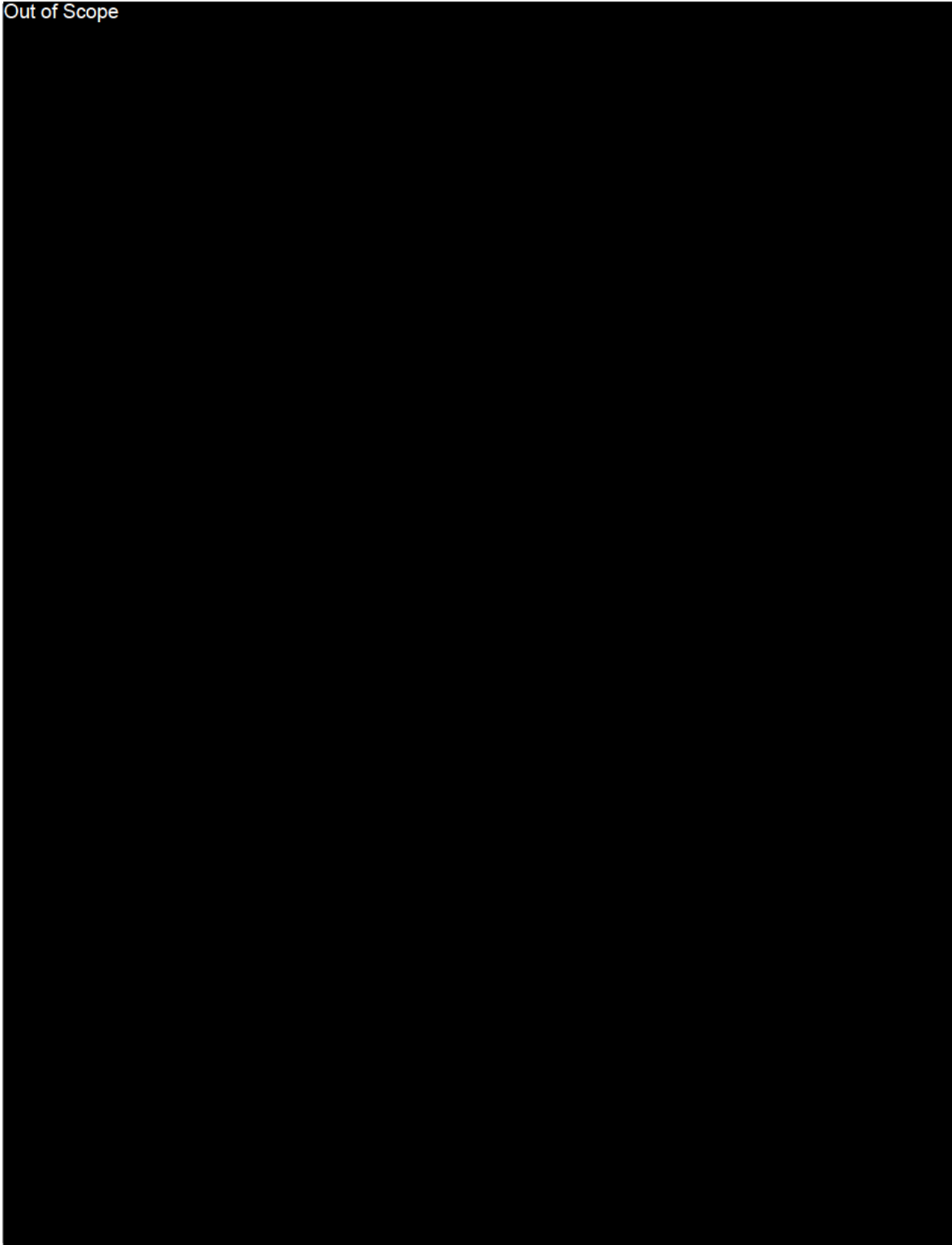
Revenue raising options

Out of Scope



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Foreign investment conveyance duty surcharge and land tax surcharge

50. A foreign investment duty surcharge is currently applicable to foreign investors who purchase residential property in NSW, Victoria and Queensland in addition to the standard duty charged on all property transactions. The surcharge was introduced as

Error! Reference source not found.

PROTECTED

both a market cooling mechanism (particularly in NSW) and as a revenue raising initiative.

51. A foreign investor land tax surcharge is also applicable to foreign investors who own property in NSW and Victoria.
 - a. Both of these taxes have been implemented less than 12 months ago.
52. The ACT property market has not seen the dramatic increases in property values experienced in Sydney and Melbourne so a duty surcharge in the ACT would mostly be a revenue initiative, rather than a market cooling mechanism. There is a risk that a duty surcharge might have an adverse impact on the number of international students who choose to live and study in the ACT. There is also concern that a duty surcharge could be viewed as at odds with the ACT's tax reform program of removing conveyance duty.

Conveyance and land tax surcharges in other jurisdictions

	Start date	Rate	Revenue (over four years)	ACT Revenue (over four years)
Conveyance Duty surcharge				
NSW	21 June 2016	4%	\$835 million	\$10 million
Victoria	1 July 2016*	7%	\$321 million	
Qld	1 October 2016	3%	\$80 million	
Land tax surcharge				
NSW	1 January 2017	0.75%	\$166 million	\$2 million
Victoria	1 January 2017^	1.50%	\$84 million	

*(introduced 1 July 2015 at rate of 3%)

^ (introduced 1 Jan 2016 at rate of 0.5%)

Note: The revenue estimates are for the four years to 2019-20. ACT revenue estimates are based on the ACT's share of residential investment approvals by the Foreign Investment Review Board.

53. Given the relatively recent introduction of these surcharges, we recommend the impact of the additional surcharges in the eastern states be monitored before considering similar taxes in the ACT.

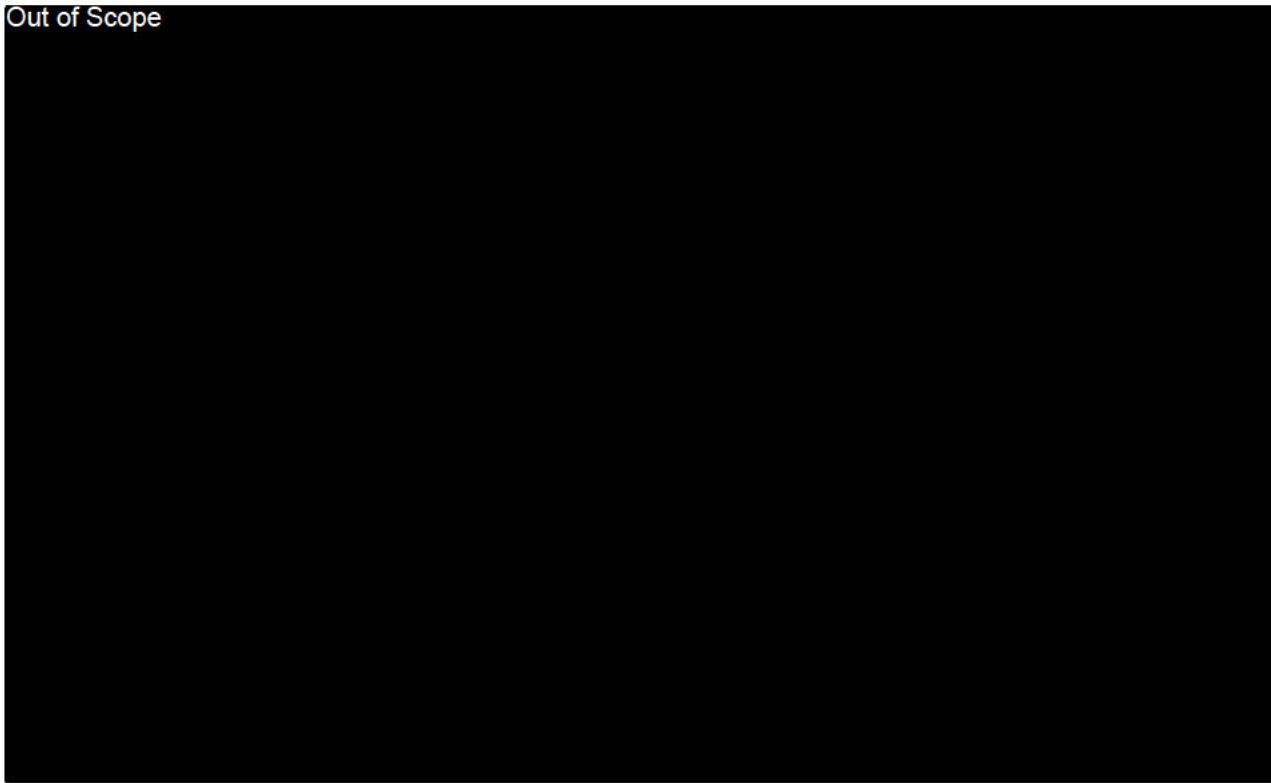
Recommendation

Delay consideration of a foreign investor surcharge until the 2018-19 budget process.	AGREED/NOT AGREED
---	-------------------

Out of Scope

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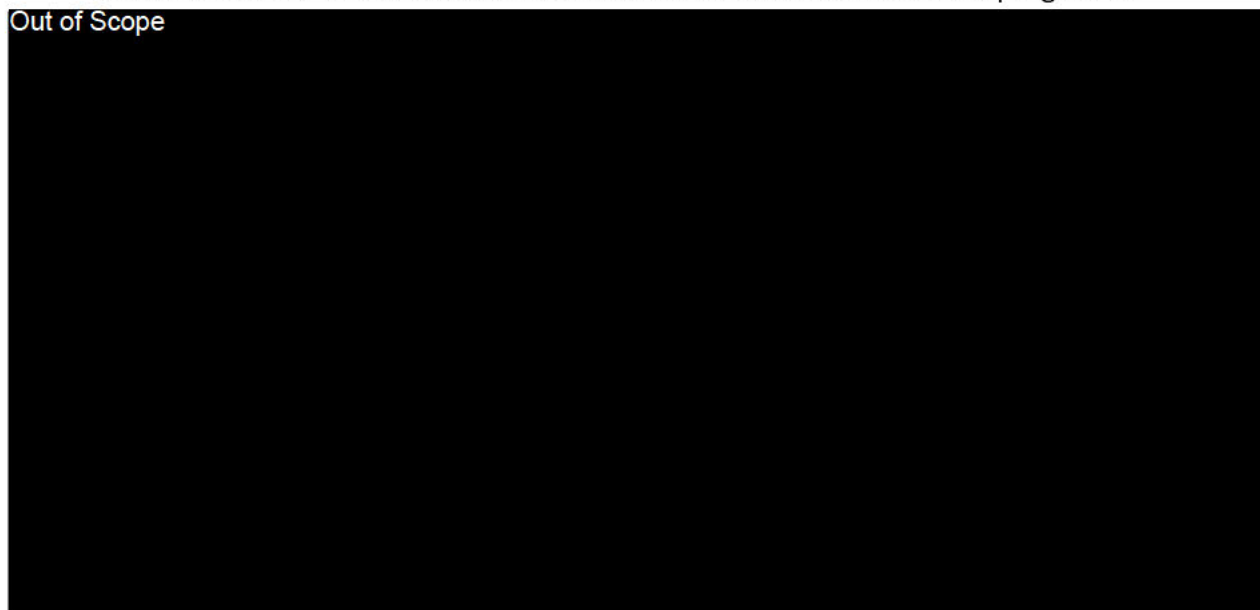
Out of Scope



Consultation and Communication

76. Initial consultation has been undertaken with Directorates responsible for the listed revenue options. Further consultation will occur as the initiatives are progressed.

Out of Scope



Management of Other Risks

78. Nil.

Signatory Name:	David Nicol	Phone:	70260
Action Officer:	Kathy Goth	Phone:	50772

Error! Reference source not found.

From: [Asmus, Conrad](#)
To: [Baker, Sue](#)
Cc: [Masters, Nicole](#); [Goth, Kathy](#); [Fell, Jacob](#); [Das, Sean](#); [Hutchinson, Paul](#)
Subject: Tax, Revenue and Concession Treasury Briefs [DLM=Sensitive: Cabinet]
Date: Friday, 27 October 2017 3:24:00 PM
Attachments: Out of Scope

[2017-18 BC Treasury Brief - R01 - Foreign investor surcharges.xlsx](#)

Out of Scope

Hi Sue,

Please find Treasury Briefs for the CMTEDD Revenue/Concession Budget Review business cases attached. They have been cleared by Nicole.

Kind regards,
Conrad

Conrad Asmus | Policy Analyst

Phone: +61 2 6207 0648 | Email: conrad.asmus@act.gov.au

Taxation and Revenue Reform | Chief Minister, Treasury and Economic Development Directorate | ACT
Government

Level 1 Nara Centre | GPO Box 158, Canberra ACT 2601 | act.gov.au

From: [Asmus, Conrad](#)
To: [Baker, Sue](#)
Cc: [Hutchinson, Paul](#); [Masters, Nicole](#); [Goth, Kathy](#); [Fell, Jacob](#)
Subject: CMTEDD Revenue Treasury Briefs [DLM=Sensitive: Cabinet]
Date: Tuesday, 31 October 2017 4:52:00 PM
Attachments: [2017-18 BC Treasury Brief - R01 - Foreign investor surcharges.xlsx](#)
Out of Scope

Hi Sue,

I've attached edited Treasury briefs (R01 **Out of Scope**) based on the Under Treasurer's comments. The rest were agreed to without edits.

I'll walk the signed off copies over to Paul shortly.

Regards,
Conrad

Conrad Asmus | Policy Analyst

Phone: +61 2 6207 0648 | Email: conrad.asmus@act.gov.au

Taxation and Revenue Reform | Chief Minister, Treasury and Economic Development Directorate | ACT Government

Level 1 Nara Centre | GPO Box 158, Canberra ACT 2601 | act.gov.au

From: [Asmus, Conrad](#)
To: [Ellis, David](#)
Cc: [Fell, Jacob](#)
Subject: Budget review comeback brief on land tax surcharge [DLM=Sensitive: Cabinet]
Date: Monday, 27 November 2017 9:47:00 AM
Attachments: [CMTEDD-TSY R01 - Foreign investor surcharges - Come back brief.docx](#)

Hi David,

I believe Jake mentioned to you that BCC requested a comeback brief on a foreign investor land tax surcharge [Sch 1 s1.6](#)

Could you have a look at the attached draft and provide comments within the document? Any further information on compliance and other Revenue Office costs you can provide would be good too.

Happy to discuss over the phone as well, if required.

Cheers,
Conrad

Conrad Asmus | Policy Analyst
Phone: +61 2 6207 0648 | Email: conrad.asmus@act.gov.au
Taxation and Revenue Reform | Chief Minister, Treasury and Economic Development Directorate | ACT Government
Level 1 Nara Centre | GPO Box 158, Canberra ACT 2601 | act.gov.au

From: [Ellis, David](#)
To: [Asmus, Conrad](#)
Cc: [Fell, Jacob](#)
Subject: RE: Budget review comeback brief on land tax surcharge [DLM=Sensitive: Cabinet]
Date: Monday, 27 November 2017 3:18:24 PM

Thanks. Can you let me know timetables for finalisation of business cases and Treasury briefs when you hear.

From: Asmus, Conrad
Sent: Monday, 27 November 2017 2:40 PM
To: Ellis, David <David.Ellis@act.gov.au>
Cc: Fell, Jacob <Jacob.Fell@act.gov.au>
Subject: RE: Budget review comeback brief on land tax surcharge [DLM=Sensitive: Cabinet]

Hi David,

My understanding is the current plan is for all the Budget Review Comeback briefs to go back to Cabinet in the first half of next week.

Conrad

From: Ellis, David
Sent: Monday, 27 November 2017 2:15 PM
To: Asmus, Conrad <Conrad.Asmus@act.gov.au>
Subject: RE: Budget review comeback brief on land tax surcharge [DLM=Sensitive: Cabinet]

Not really. Will try for later in the week. When is it due back to Cabinet?

From: Asmus, Conrad
Sent: Monday, 27 November 2017 10:44 AM
To: Ellis, David <David.Ellis@act.gov.au>
Subject: RE: Budget review comeback brief on land tax surcharge [DLM=Sensitive: Cabinet]

Thanks David,

It would be good to get something tomorrow, so we can progress it. Is that reasonable?

Cheers,
Conrad

From: Ellis, David
Sent: Monday, 27 November 2017 10:25 AM
To: Asmus, Conrad <Conrad.Asmus@act.gov.au>
Cc: Fell, Jacob <Jacob.Fell@act.gov.au>
Subject: RE: Budget review comeback brief on land tax surcharge [DLM=Sensitive: Cabinet]

Thanks, when do you need this by?

From: [Asmus, Conrad](#)
To: [Fell, Jacob](#)
Cc: [Das, Sean](#)
Subject: Land tax surcharge Treasury brief [SEC=UNCLASSIFIED]
Date: Tuesday, 28 November 2017 5:15:00 PM

Hi Jake,

I've put a draft Treasury Brief for the Land Tax comeback here:

<\\act.gov.au\treasury\dt\ECONOMICS\2017-18\4. Taxation and Revenue Reform\3. Budget\budget review\2017-18 BC Treasury Brief - R01 - Foreign investor surcharges - Comeback brief.xlsx>

Happy to discuss tomorrow.

Conrad Asmus | Policy Analyst

Phone: +61 2 6207 0648 | Email: conrad.asmus@act.gov.au

Taxation and Revenue Reform | Chief Minister, Treasury and Economic Development Directorate | ACT Government

Level 1 Nara Centre | GPO Box 158, Canberra ACT 2601 | act.gov.au

From: [Goth, Kathy](#)
To: [Asmus, Conrad](#)
Cc: [Fell, Jacob](#); [Das, Sean](#); [Masters, Nicole](#)
Subject: RE: Land tax BC comeback [DLM=Sensitive: Cabinet]
Date: Wednesday, 29 November 2017 12:58:45 PM

Thanks all

These are good to go to David Nicole for clearance please.

From: Asmus, Conrad
Sent: Wednesday, 29 November 2017 12:36 PM
To: Goth, Kathy <Kathy.Goth@act.gov.au>
Cc: Fell, Jacob <Jacob.Fell@act.gov.au>; Das, Sean <Sean.Das@act.gov.au>
Subject: FW: Land tax BC comeback [DLM=Sensitive: Cabinet]

Hi Kathy,

I've put percentages of foreign investment for NSW and Victoria into the brief at the link below.

Cheers,
Conrad

From: Fell, Jacob
Sent: Tuesday, 28 November 2017 5:56 PM
To: Goth, Kathy <Kathy.Goth@act.gov.au>
Cc: Asmus, Conrad <Conrad.Asmus@act.gov.au>; Das, Sean <Sean.Das@act.gov.au>
Subject: Land tax BC comeback [DLM=Sensitive: Cabinet]

Hi Kathy

Land tax come back business case and come back brief saved at the links below.

Treasury brief:

<\\act.gov.au\treasury\dt\ECONOMICS\2017-18\4. Taxation and Revenue Reform\3. Budget\budget review\2017-18 BC Treasury Brief - R01 - Foreign investor surcharges - Comeback brief.xlsx>

Business case

<\\act.gov.au\treasury\dt\ECONOMICS\2017-18\4. Taxation and Revenue Reform\3. Budget\budget review\CMTEDD-TSY R01 - Foreign investor surcharges - Come back brief.docx>

Out of Scope

Thanks

Jake

Jacob Fell

Manager | Taxation and Revenue Reform
Treasury (CMTEDD) | ACT Government

 (02) 6205 2528 |  jacob.fell@act.gov.au Nara Building, Canberra City.

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From: [Asmus, Conrad](#)
To: [Lowery, Deborah](#)
Cc: [Fell, Jacob](#); [Hutchinson, Paul](#)
Subject: RE: Clearance Sheet - 17-18 BR Treasury Briefs [DLM=Sensitive: Cabinet]
Date: Wednesday, 29 November 2017 1:16:00 PM
Attachments: [CMTEDD-TSY R01 - Foreign investor surcharges - Come back brief.docx](#)
[2017-18 BC Treasury Brief - R01 - Foreign investor surcharges - Comeback brief.xlsx](#)

Thanks Deb.

As promised electronic Comeback brief and Treasury brief are attached.

Cheers,
Conrad

From: Lowery, Deborah
Sent: Wednesday, 29 November 2017 1:08 PM
To: Asmus, Conrad <Conrad.Asmus@act.gov.au>
Subject: Clearance Sheet - 17-18 BR Treasury Briefs [SEC=UNCLASSIFIED]

From: [Ellis, David](#)
To: [Asmus, Conrad](#); [Fell, Jacob](#)
Subject: land tax - foreigner surcharge [SEC=UNCLASSIFIED]
Date: Monday, 4 December 2017 10:15:12 AM

Some comments from ACTRO. Thanks, David

There are a number of issues we would need to contend with. Settling on the scope of the surcharge through definitions/exemptions would be a good start e.g. who is a foreign person, a foreign company or a foreign trust, how would we deal with foreign residents living in the ACT, proposed treatment for part-owned land with Australians/Australian owned entities.

Compliance will be challenging. We would need to rely on taxpayers notifying us of their liability to begin with, at least until we can establish more reliable channels of information. Data from conveyancing transactions, FIRB and ASIC data are potential sources but these will take time **and resources** to set these up (from a systems/resourcing perspective). In this light, the revenue in the initial years is likely to be lower than what the estimated base would predict.

David Ellis | Manager | Objections and Policy Unit

Ph: 02 6205 4811 | david.ellis@act.gov.au

ACT Revenue Office | Chief Minister, Treasury and Economic Development Directorate | ACT Government

PO Box 293 Civic Square 2608 | www.revenue.act.gov.au

Respect, Integrity, Collaboration, Innovation - Better, Faster, Smarter

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From: [Das, Sean](#)
To: [Ellis, David](#)
Cc: [Asmus, Conrad](#); [Fell, Jacob](#)
Subject: RE: BCC comebacks [DLM=For-Official-Use-Only]
Date: Wednesday, 6 December 2017 10:32:56 AM
Attachments: Out of Scope
[2017-18 BC Treasury Brief - R01 - Foreign investor surcharges - Comeback brief.xlsx](#)
[CMTEDD-TSY R01 - Foreign investor surcharges - Come back brief.docx](#)

Hi David,

See attached. I believe you may have already received the Foreign Investor surcharge one previously, however these are attached just in case.

Regards,

Sean

Sean Das

Taxation and Revenue Reform | Economic and Financial Analysis Branch
Chief Minister, Treasury and Economic Development Directorate
Phone: 61-2-6207 7462 | Email: Sean.Das@act.gov.au
ACT Government

From: Fell, Jacob
Sent: Wednesday, 6 December 2017 10:08 AM
To: Das, Sean <Sean.Das@act.gov.au>
Cc: Asmus, Conrad <Conrad.Asmus@act.gov.au>
Subject: BCC comebacks [DLM=For-Official-Use-Only]

Hi Sean

Can you please email the updated BCC comeback business cases and Treasury briefs to David Ellis?

Thanks

Jake

Jacob Fell

Manager | Taxation and Revenue Reform
Treasury (CMTEDD) | ACT Government

 (02) 6205 2528 |  jacob.fell@act.gov.au Nara Building, Canberra City.

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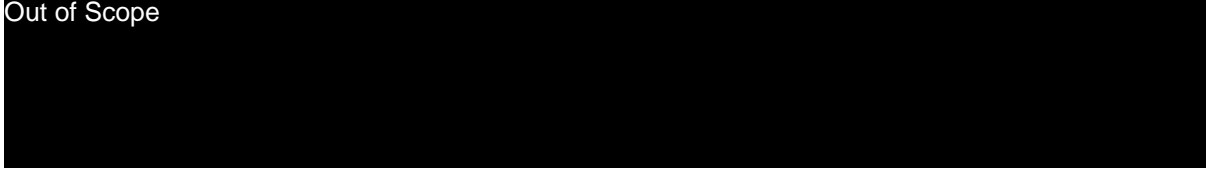
From: [Asmus, Conrad](#)
To: [Das, Sean](#)
Subject: FW: Initiative descriptions [SEC=UNCLASSIFIED, DLM=Sensitive: Cabinet]
Date: Tuesday, 12 December 2017 3:25:00 PM

From: Lowery, Deborah
Sent: Tuesday, 12 December 2017 3:25 PM
To: Asmus, Conrad <Conrad.Asmus@act.gov.au>
Cc: Fell, Jacob <Jacob.Fell@act.gov.au>; Hutchinson, Paul <Paul.Hutchinson@act.gov.au>
Subject: Initiative descriptions [SEC=UNCLASSIFIED, DLM=Sensitive: Cabinet]

Hi Conrad

Can you please organise two more initiative descriptions for **Out of Scope** and also the Foreign Investor Land Tax surcharge.

Out of Scope



The Foreign investor land tax surcharge was also agreed by BCC so that will need a description as well.

Please call me if you have any questions

Thanks
Deb

[Deborah Lowery](#) | Senior Analyst

Phone: 6207 3950 | Fax: 6207 0298 | deborah.lowery@act.gov.au

Budget Coordination and Reporting Branch | **Finance & Budget Division** | Chief Minister, Treasury and Economic Development Directorate | **ACT Government**

Level 1 Canberra Nara Centre | GPO Box 158 Canberra ACT 2601 |

www.act.gov.au

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From: [Asmus, Conrad](#)
To: [Fell, Jacob](#)
Cc: [Das, Sean](#)
Subject: FW: Initiative descriptions [SEC=UNCLASSIFIED, DLM=Sensitive: Cabinet]
Date: Tuesday, 12 December 2017 4:36:00 PM

Hi Jake,

The land tax surcharge description is here:

<\\act.gov.au\treasury\dt\ECONOMICS\2017-18\4. Taxation and Revenue Reform\3. Budget\budget review\2017-18 Budget Review Initiative Description - Land Tax surcharge.doc>

Happy to discuss and make changes.

We should confirm the Cabinet decisions before the initiative descriptions progress too far.

Conrad

From: Lowery, Deborah
Sent: Tuesday, 12 December 2017 3:25 PM
To: Asmus, Conrad <Conrad.Asmus@act.gov.au>
Cc: Fell, Jacob <Jacob.Fell@act.gov.au>; Hutchinson, Paul <Paul.Hutchinson@act.gov.au>
Subject: Initiative descriptions [SEC=UNCLASSIFIED, DLM=Sensitive: Cabinet]

Hi Conrad

Can you please organise two more initiative descriptions for **Out of Scope** and also the Foreign Investor Land Tax surcharge.

Out of Scope



The Foreign investor land tax surcharge was also agreed by BCC so that will need a description as well.

Please call me if you have any questions

Thanks
Deb

[Deborah Lowery](#) | Senior Analyst

Phone: 6207 3950 | Fax: 6207 0298 | deborah.lowery@act.gov.au

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CHIEF MINISTER, TREASURY AND ECONOMIC DEVELOPMENT DIRECTORATE

Fairer Revenue – Foreign investor land tax surcharge

	2017-18	2018-19	2019-20	2020-21	Total
	\$'000	\$'000	\$'000	\$'000	\$'000
Revenue		900	1,300	1,800	4,000

The Government will introduce a land tax surcharge on foreign investors who own residential property in the ACT from 1 July 2018. The surcharge will be 0.75 per cent of the property's average unimproved land value.

From: [Goth, Kathy](#)
To: [Fell, Jacob](#)
Cc: [Asmus, Conrad](#); [Das, Sean](#)
Subject: RE: BR revenue initiative descriptions [DLM=For-Official-Use-Only]
Date: Wednesday, 13 December 2017 4:45:08 PM

Thanks guys I'll look at this in the morning

From: Fell, Jacob
Sent: Wednesday 13 December 2017 16:22
To: Goth, Kathy
Cc: Asmus, Conrad; Das, Sean
Subject: BR revenue initiative descriptions [DLM=For-Official-Use-Only]

Hi Kathy

Draft BR revenue initiative descriptions for the Land Tax Surcharge on foreign investors **Out of Scope**
[REDACTED] are saved at the links below.

Land tax foreign investor surcharge
\\act.gov.au\treasury\dt\ECONOMICS\2017-18\4. Taxation and Revenue Reform\3. Budget\budget review\2017-18 Budget Review Initiative Description - Land Tax surcharge.doc<<file:///\\act.gov.au\treasury\dt\ECONOMICS\2017-18\4.%20Taxation%20and%20Revenue%20Reform\3.%20Budget\budget%20review\2017-18%20Budget%20Review%20Initiative%20Description%20-%20Land%20Tax%20surcharge.doc>>

Out of Scope
[REDACTED]

Thanks
Jake

Jacob Fell
Manager | Taxation and Revenue Reform
Treasury (CMTEDD) | ACT Government

' (02) 6205 2528 | • jacob.fell@act.gov.au | Nara Building, Canberra City.
P please consider the environment before printing this e-mail

From: [Hutchinson, Paul](#)
To: [Baker, Sue](#); [Goth, Kathy](#)
Cc: [Masters, Nicole](#); [Engle, Sam](#); #CMTEDD_Budget_Coordination_Team; [Fell, Jacob](#); [Asmus, Conrad](#)
Subject: RE: Revenue initiative descriptions and titles [DLM-Sensitive: Cabinet]
Date: Thursday, 21 December 2017 5:02:06 PM
Attachments: [REVENUE 2017-18 Budget Review Initiative Description Template.doc](#)

Hi Kathy – as recently discussed with Sue a template for the revenue-related initiative descriptions is attached.

Paul

From: Baker, Sue
Sent: Tuesday, 12 December 2017 8:11 PM
To: Goth, Kathy <Kathy.Goth@act.gov.au>
Cc: Masters, Nicole <Nicole.Masters@act.gov.au>; Engle, Sam <Sam.Engle@act.gov.au>; #CMTEDD_Budget_Coordination_Team <#CMTEDDBudgetCoordinationTeam@act.gov.au>; Fell, Jacob <Jacob.Fell@act.gov.au>; Asmus, Conrad <Conrad.Asmus@act.gov.au>
Subject: Revenue initiative descriptions and titles [DLM-Sensitive: Cabinet]

Hi Kathy

Just letting you know that most of the Budget Review items have now been decided and that four of yours have been agreed. The titles on the left are those that were originally put forward; we have put them into the Government's "preferred format" as per those on the right. Happy to revise them if you do consider that they reflect the intent of the initiative.

Out of Scope

Foreign investor land tax surcharge | CMTEDD | Barr | Fairer revenue – Foreign investor land tax surcharge

I understand that BCT has been liaising with Conrad in relation to writing descriptions for these initiatives. As you would recall from previous years these have to be cleared through Nicole then we provide them to David for his consideration before they go over to the Office then the Treasurer.

Ideally we would like to get them cleared prior to the Christmas shutdown so that the Office can review them early in the New Year.

Can you please let me know if this is achievable.

Regards

Sue

Sue Baker | Director – Budget Co-ordination and Reporting Branch | **Chief Minister, Treasury and Economic Development Directorate**
Phone: 6207 3998 | Fax: 6207 0298 |
Canberra Nara Centre | GPO Box 158 Canberra ACT 2601 | www.act.gov.au

CHIEF MINISTER, TREASURY AND ECONOMIC DEVELOPMENT DIRECTORATE

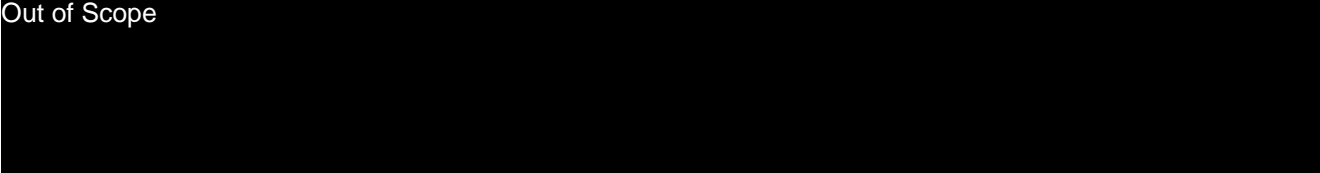
Fairer revenue – Foreign investor land tax surcharge (CMTEDD-TSY R01 CB1)

	2017-18	2018-19	2019-20	2020-21	Total
	\$'000	\$'000	\$'000	\$'000	\$'000
Revenue					
Associated Expenses					
Net Expenses					
Associated Capital					

The Government will ...

Out of Scope

Out of Scope



From: [Fell, Jacob](#)
To: [McAuliffe, Patrick](#); [Anderson, Michael](#); [Beaumont, Andrew](#); [Parcell, John](#); [Holmes, Lisa](#)
Cc: [Jacob, Kelly](#); [Masters, Nicola](#); [Dun-Sloan, Emma](#); [Lovered](#)
Subject: Budget Review and 2018-19 Budget Initiatives [DLM-For-Official-Use-Only]
Date: Thursday, 21 December 2017 11:04:33 AM

Hi all

As discussed at the Director's meeting see below the current list of initiatives from my team for Budget Review and 2018-19 Budget.

Budget Review

Initiative	Description
Out of Scope	
Fairer revenue – Foreign investor land tax surcharge	The Government will introduce a land tax surcharge on foreign investors who own residential property in the ACT from 1 July 2018. The surcharge will be 0.75 per cent of the property's average unimproved land value.

Out of Scope

Regards

Jake

Jacob Fell

Manager | Taxation and Revenue Reform
Treasury (CMTE00) | ACT Government

☎ (02) 6205 2528 | ✉ jacob.fell@act.gov.au | Nara Building, Canberra City.

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Land tax website

URL	Old text	New text
https://www.revenue.act.gov.au/im-a-landlord	<p>Land tax Generally, if you own a residential rental property, you pay land tax on it.</p>	<p>Land tax Generally, if you own an investment property, you pay land tax on it.</p> <p>Foreign land tax surcharge If you're not an Australian citizen or resident, you'll need to pay extra tax on your ACT residential property.</p>
https://www.revenue.act.gov.au/im-buying-a-new-home	<p>Land tax Generally, if you own a residential rental property, you pay land tax on it.</p>	<p>Land tax Generally, if you own an investment property, you pay land tax on it.</p> <p>Foreign land tax surcharge If you're not an Australian citizen or resident, you'll need to pay extra tax on your ACT residential property.</p>
https://www.revenue.act.gov.au/i-own-a-home	<p>Land tax Generally, if you own a residential rental property, you pay land tax on it.</p>	<p>Land tax Generally, if you own an investment property, you pay land tax on it.</p> <p>Foreign land tax surcharge If you're not an Australian citizen or resident, you'll need to pay extra tax on your ACT residential property.</p>

<p>https://www.revenue.act.gov.au/land-tax Overview</p>	<p>Overview</p> <p>The Government imposes land tax to generate revenue to provide a range of essential services to the ACT community.</p> <p>If you own a residential rental property in the ACT, you will need to notify the ACT Revenue Office in writing and pay land tax.</p> <p>Who pays land tax?</p> <p>Land tax applies to residential rental properties. Land tax also applies to residential properties owned by a trust or corporation, even if those properties are not rented. Land tax does not apply to commercial properties.</p> <p>Rented residential properties include dual occupancies, granny flats, multiple dwellings and boarding houses that are rented to tenants.</p> <p>Rent can include cash, services or other forms of payment that establish the existence of a tenancy arrangement.</p> <p>Responsibilities of owners and trustees</p> <p>If you own a residential property, you need to tell the ACT Revenue Office (by email or in writing) that it's being rented within 30 days of the start of the tenancy. If you have just bought a rented property,</p>	<p>Overview</p> <p>The ACT Government collects land tax to provide a range of essential services to the ACT community.</p> <p>Beginning 1 July 2018, all ACT residential properties are liable for land tax. There's an exemption for your principal place of residence – that is, your main home in the ACT. Both vacant and rented properties are now liable for land tax.</p> <p>You're also liable for land tax if you rent out a secondary dwelling to your principal place of residence, such as a granny flat.</p> <p>If you're not an Australian citizen or resident of Australia, you'll also need to pay the <u>foreign land tax surcharge</u>.</p> <p>Who pays land tax?</p> <p>Land tax applies to all residential properties, including dual occupancies, granny flats, multiple dwellings and boarding houses. It's payable by the owners of the property.</p> <p>Buying a property and land tax</p> <p>If you're buying a residential property, during the <u>Barrier Free conveyancing process</u> we'll ask you whether the property will be your principal place of residence or an investment property.</p>
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	<p>you need to tell the ACT Revenue Office within 30 days after becoming an owner.</p> <p>If you become the individual trustee of a residential property, you also need to tell the ACT Revenue Office in writing within 30 days of becoming a trustee.</p> <p>Land taxpayers can notify the Commissioner by email through our contact us form or by post:</p> <p>Your note should include your rates account number, the property address and the dates your tenant moved into or out of your property, or the dates you started or stopped being a trustee.</p> <p>However, you are ultimately responsible for ensuring land tax is correctly paid. If the agent fails to notify the Office, you will be held responsible for the unpaid land tax plus any interest and penalties. Under the law, a tax default by an agent is deemed to be a tax default by the taxpayer.</p>	<p>If you tell us the property will be your principal place of residence, you don't have to pay land tax. You have 90 days after settlement to move into the property. You'll need to tell if you have moved out of your old principal place of residence.</p> <p>If you tell us the property will not be your principal place of residence, we'll send you a land tax assessment automatically.</p> <p>You can apply for other exemptions at the same time.</p> <p>Owning a property and land tax</p> <p>If you own a property that becomes liable for land tax – for example, because you've moved out of your home to turn it into a rental property – you have 30 days to notify the ACT Revenue Office.</p> <p>If you don't supply this information on time, it's a tax default, and you may need to pay interest and penalties in addition to the land tax.</p> <p>If you rent a secondary dwelling on your property, like a granny flat, you'll also have to tell us.</p> <p>You can notify us through our contact us form, by phone or by post:</p> <p>ACT Revenue Office PO Box 293</p>
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		<p>CIVIC SQUARE ACT 2608</p> <p>You'll need your rates account number, the property address and the dates that your property started or stopped being liable for land tax.</p> <p>Rented secondary dwellings</p> <p>If there's another dwelling on the same parcel as your principal place of residence, such as a granny flat, you only have to pay land tax while the other dwelling is being rented. The land tax payable is a proportion of the full value based on the rented floor area.</p> <p>You'll need to <u>tell us</u> that you're renting a secondary dwelling.</p> <p>Correcting an assessment</p> <p>If you receive an assessment of land tax for your property in error, please contact us for a review.</p> <p>Responsibilities of agents</p> <p>If you employ an agent to manage your business or property, the agent's also responsible for telling the ACT Revenue Office when you need to pay land tax.</p> <p>However, you are ultimately responsible for ensuring land tax is correctly paid. If the agent fails to notify the Office, you will be held responsible for the unpaid land tax plus any interest and penalties.</p>
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		Under the law, a tax default by an agent is deemed to be a tax default by the taxpayer.
<p>NEW PAGE/SUBPAGE Land tax exemptions</p>	<p>Certain types of residential land are exempt from land tax, such as property that serves as a retirement village or nursing home, or land that provides accommodation for a member of a religious organisation to perform his or her duties. Other land tax exemptions include:</p> <p>land used for rural purposes</p> <ul style="list-style-type: none"> • a broadacre subdivision • a property with a guardian or manager for a person with a legal disability • residential land that a trustee owns under the will of a deceased person and that a life tenant occupies • residential land that a trustee or guardian owns on behalf of a person with a legal disability • residential land that a not-for-profit housing corporation owns <p>An exemption on compassionate grounds may be available for up to one year on a rented residential property, if the Commissioner for ACT Revenue is satisfied that the owner is temporarily absent because of a compelling compassionate reason. To request this exemption, you must apply in writing to the commissioner .</p> <p>Builders land tax exemption</p>	<p>Exemptions</p> <p>Some properties are exempt from land tax. The main land tax exemption is for a property that's your principal place of residence – that is, your main home.</p> <p><i>Principal place of residence</i></p> <p>You don't have to pay land tax on a property that is your principal place of residence on the first day of the quarter (1 July, 1 October, 1 January or 1 April).</p> <p>Your principal place of residence is basically the home you live in as your main or usual home. You can only have one principal place of residence at a time.</p> <p>We rely on you to tell us accurately whether a home is currently your principal place of residence. We may consider the following to decide whether a property is your principal place of residence:</p> <ul style="list-style-type: none"> • how long you've lived at the property • where your family lives • the location of your personal belongings • your electoral roll address • your postal address • whether you've connected services such as telephone, electricity and gas

	<p>Building or land-development corporations that own residential land can apply to the ACT Revenue Office for a potential two-year land tax exemption if they're constructing new residential premises that they will sell when construction is complete. If eligible, the exemption goes into effect from the first day of the first quarter after the date of ownership.</p>	<ul style="list-style-type: none"> • your intention to occupy the property <p>A rented property cannot be your principal place of residence.</p> <p><i>Nil or nominal rent arrangement</i></p> <p>If your property is occupied by a person rent-free, it is exempt from land tax. This includes any family members, friends or guests that live in the property for free.</p> <p>If the occupant does pay you rent, the rent must only cover the rates, repairs, maintenance or insurance in relation to the property. Payments for other expenses, such as the mortgage, will be taken to be a rental arrangement and land tax will apply.</p> <p><i>Moving into your home</i></p> <p>When you buy a home as a principal place of residence, you have 90 days after the date of settlement to move into the home. You can leave the home vacant before you move in, but it cannot be rented (except if it's rented to the other party to a contract for sale).</p> <p><i>Moving out of your home</i></p> <p>If you move out of your principal place of residence, you'll need to <u>tell us</u> because land tax may start to apply.</p>
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		<p>Your former principal place of residence stays exempt from land tax for 90 days after you move out. During this time, the property may be left vacant or sold, but cannot be rented to a tenant (except if it's to the other party to a contract for sale).</p> <p><i>Deceased estates</i></p> <p>If the owner of a principal place of residence dies, we need to be notified.</p> <p>The former principal place of residence of a deceased owner is exempt from land tax for 2 years after the date of the owner's death, or until it is transferred to a beneficiary of the deceased owner's estate.</p> <p><i>Life tenants</i></p> <p>Homes occupied by a person with a life or term interest under a will are exempt from land tax.</p> <p><i>Uninhabitable properties</i></p> <p>You can apply for an exemption for a property you own that is under construction, being significantly renovated, or which you are unable to live in or rent due to damage.</p> <p>If the ACT Revenue Office approves your exemption application, you don't have to pay land tax until the property becomes fit to occupy as a place of</p>
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		<p>residence, for example, if the Certificate of Occupancy and Use is issued for a home under construction.</p> <p><i>Compassionate cases</i></p> <p>You can apply for an exemption from land tax on compelling compassionate grounds for any home you own, such as a principal place of residence that you cannot occupy.</p> <p>Exemptions for compassionate reasons are granted for periods of up to 1 year.</p> <p><i>Other exemptions</i></p> <p>The other types of land that are exempt from land tax are:</p> <ul style="list-style-type: none"> • non-rateable land • rural land • land owned by the Housing Commissioner • retirement villages • nursing homes • religious accommodation • land used for prescribed purposes • development leases • land owned by a not-for-profit housing corporation
<p>https://www.revenue.act.gov.au/land-tax?result_1060955_result_page=2</p> <p>Calculating land tax</p>	<p>Calculating land tax</p> <p>The ACT Revenue Office assesses land tax quarterly and bases the assessment on the status of the property as of four key dates: 1 July, 1 October, 1</p>	<p>Calculating land tax</p> <p>We assess your land tax quarterly and base the assessment on the status of the property as of four key dates: 1 July, 1 October, 1 January and 1 April.</p>

	<p>January and 1 April. The assessments are for each whole quarter; there's no daily pro-rated land tax liability within a quarter.</p> <p>If you own residential property that's been rented but is temporarily vacant on the land tax's due date, you still owe land tax unless:</p> <p>the vacancy continues for at least 91 consecutive days and; you tell the Commissioner for ACT Revenue in writing that the property has not been rented in that quarter.</p> <p>Calculating your land tax</p> <p>Use our land tax calculator to get an estimate of the land tax you owe. You can also use it to calculate an estimate on your rates and any other relevant levies you may owe.</p> <p>Rates and Land Tax Calculator</p> <p>How is land tax calculated?</p> <p>The amount of land tax you pay is made up of two components: a fixed charge and a valuation charge.</p> <p>The fixed charge for land tax is \$1,145.</p> <p>The valuation charge is calculated by applying a rating factor to the average unimproved value (AUV), which is the average of the property's</p>	<p>The assessments are for each whole quarter; there's no daily pro-rated land tax liability within a quarter.</p> <p>From 1 July 2018, you owe land tax on both vacant and rented properties that are not your principal place of residence.</p> <p>Calculator</p> <p>Use our land tax calculator to get an estimate of the land tax you owe. You can also use it to calculate an estimate on your rates and any other relevant levies you may owe.</p> <p>Rates and Land Tax Calculator</p> <p>Components of your land tax</p> <p>The amount of land tax you pay is made up of two components: a fixed charge and a valuation charge.</p> <p>The fixed charge for land tax is \$X.</p> <p>The valuation charge is calculated by applying a rating factor to the average unimproved value (AUV), which is the average of the property's unimproved value over the last three years (see Table 1 below). For example, the AUV for 2017–18 is the average of the property's unimproved value over 2015, 2016, and 2017. So, the ultimate calculation looks like this:</p>
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	<p>unimproved value over the last three years (see Table 1 below). For example, the AUV for 2017–18 is the average of the property’s unimproved value over 2015, 2016, and 2017. So, the ultimate calculation looks like this:</p> <p>Standard properties = fixed charge + (AUV x rating factors)</p> <p>Together, the fixed charge and the rate of the AUV add up to the total land tax amount for the year, which is then divided into quarters. The amount for each quarter depends on the number of days in the quarter (see Table 2 below).</p> <p>Unit title properties 2017-18 Charges for unit title properties in 2017-18 have been calculated on the Average Unimproved Value of the residential portion of the total unit complex and your residential unit entitlement. The formula used to calculate charges for residential units is:</p> <p>((Residential AUV of the Master Property x Marginal Rates) x Unit Entitlement + Fixed Charge) x percentage of the quarter.</p> <p>Please note that the unit entitlement used in the above calculation methods is the individual unit portion of the total aggregate of residential properties in the complex.</p>	<p>Standard properties = fixed charge + (AUV x rating factors)</p> <p>Together, the fixed charge and the rate of the AUV add up to the total land tax amount for the year, which is then divided into quarters. The amount for each quarter depends on the number of days in the quarter (see Table 2 below).</p> <p>Unit title properties</p> <p>If you own a residential unit, your valuation charge is based on the AUV of the residential portion of the total unit complex (100% if it’s a fully residential complex) and your unit entitlement.</p> <p>The formula used for residential units is:</p> <p>((Residential AUV of the Master Property x Marginal Rates) x Unit Entitlement + Fixed Charge) x percentage of the quarter.</p> <p>Your unit entitlement is divided by the total unit entitlement of all residential units in the complex.</p> <p>Tables</p> <p>Transferring property</p> <p>A Certificate of Rates, Land Tax and Other Charges enables property owners applying for the certificate to calculate the amount of rates, land tax and other</p>
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	<p>Please contact the ACT Revenue Office for further assistance.</p> <p>TABLES</p> <p>Transferring property A Certificate of Rates, Land Tax and Other Charges enables property owners applying for the certificate to calculate the amount of rates, land tax and other charges they should allow for at a property transfer settlement.</p> <p>The ACT Revenue Office is not responsible for calculating these settlement balances; the new owners are responsible for these calculations and for paying any owed money following the settlement and transfer of a property.</p> <p>From 1 July 2017, the fee for a Certificate of Rates, Land Tax and Other Charges is \$112.</p> <p>To apply for a Certificate of Rates, Land Tax and Other Charges:</p> <p>lodge your application form complete the necessary declaration stating that the certificate is for conveyancing purposes only pay the \$112 fee. The ACT Revenue Office will then issue your certificate.</p>	<p>charges they should allow for at a property transfer settlement.</p> <p>The ACT Revenue Office is not responsible for calculating these settlement balances; the new owners are responsible for these calculations and for paying any owed money following the settlement and transfer of a property.</p> <p>From 1 July 2018, the fee for a Certificate of Rates, Land Tax and Other Charges is \$X.</p> <p>To apply for a Certificate of Rates, Land Tax and Other Charges:</p> <ul style="list-style-type: none"> • lodge your application form • complete the necessary declaration stating that the certificate is for conveyancing purposes only • pay the \$112 fee. <p>The ACT Revenue Office will then issue your certificate.</p> <p>When we process your application, we can deliver your certificate to you by post or fax depending on what you specify in your application.</p>
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	When we process your application, we can deliver your certificate to you by post, fax depending on what you specify in your application.	
https://www.revenue.act.gov.au/land-tax?result_1060955_result_page=3 Billing and payment	No changes	No changes
NEW PAGE Foreign land tax surcharge		<p>Foreign land tax surcharge</p> <p>If you're a foreign person who owns residential land in the ACT, you must pay a land tax surcharge of 0.75 per cent per year from 1 July 2018 onwards.</p> <p>The surcharge is on top of the <u>land tax</u> you have to pay if a property isn't your principal place of residence.</p> <p>What do you need to do?</p> <p>If you're a foreign person and you already pay land tax, you'll need to <u>notify us</u> of your foreign status and pay the surcharge. Penalties may apply if you don't notify us.</p> <p>We calculate the surcharge as part of your land tax assessment.</p> <p>If you become a foreign person for land tax purposes you also need to tell us.</p> <p>Who is a foreign person?</p>

		<p>A foreign person can be a foreign individual, a foreign company or the trustee of a foreign trust.</p> <p><i>Foreign individuals</i></p> <p>You're a foreign individual if you're not an Australian citizen, a permanent resident, a New Zealand Citizen with a Special Category Visa, or a person ordinarily resident in Australia.</p> <p>If you're a foreign citizen who ordinarily resides in Australia you don't have to pay the surcharge. To decide whether you're ordinarily resident, we'll consider a number of things including:</p> <ul style="list-style-type: none">• the period of your physical presence in Australia• your intention or purpose for being in Australia (including your visa status)• your family and business or employment ties• the maintenance and location of your assets• your social and living arrangements <p>You may be ordinarily resident in Australia even if you're temporarily absent from the country.</p> <p>Example: Anya is a dual Australian and Canadian citizen who owns a home in Canberra. She's working and living in Canada as at 1 July 2018. Anya is not a foreign person because of her Australian citizenship.</p> <p>Example: Nicolas is a German citizen who owns a home in Canberra and is employed in Canberra. On</p>
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		<p>30 June 2018, he travels from Australia to Germany to visit his family and friends for one month.</p> <p>Even though Nicolas isn't present in Australia on 1 July 2018, he will not be a foreign person if he is ordinarily resident in Australia at that time.</p> <p><i>Foreign corporations</i></p> <p>A foreign corporation is a corporation that's incorporated outside Australia or in which one or more foreign people hold a controlling interest. A controlling interest is constituted by 50 per cent or more of the shares or voting power.</p> <p>Example:</p> <p><i>Foreign trusts</i></p> <p>A foreign trust is a trust in which one or more foreign people, and people associated to foreign people, hold a controlling interest as beneficiaries.</p> <p>A controlling interest for a trust is 50 per cent or more of the interests in the trust as beneficiaries. However, for a discretionary trust, a foreign person can only hold a controlling interest if the person is specifically named in the trust deed as someone to whom a distribution can be made.</p> <p>Associated person –</p> <p>When do I have to pay the surcharge?</p>
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		<p>In general, you don't have to pay the surcharge if:</p> <ul style="list-style-type: none"> • you're an Australian citizen or resident • you're a foreign citizen, but you live in the ACT home as your principal place of residence • the principal place of residence requirement has been satisfied by another owner of the property, your partner, or the partner of another owner.
https://www.revenue.act.gov.au/rates	Note that if you're renting a residential property to a tenant, you will need to pay <u>land tax</u> for the property as well as rates.	<p>If the property's residential and it's not your principal place of residence, you'll need to pay <u>land tax</u> for the property as well as rates.</p> <p>If you're not an Australian citizen or resident, you'll need to pay the <u>foreign land tax surcharge</u>.</p>
https://www.revenue.act.gov.au/rental-bonds	Note that if you're the lessor, you will need to pay land tax while your property is rented.	Note that you're the lessor, you'll need to pay <u>land tax</u> for a rented or vacant property that's not your principal place of residence. You may be liable for the <u>foreign land tax surcharge</u> if you're not an Australian citizen or resident.
The Renting Book	<p>Special Note</p> <p>Land tax is payable to the ACT Revenue Office when a residential property is rented. The lessor has 30 days from the start of the tenancy to notify the ACT Revenue Office about the tenancy, or to ensure that the managing agent does so. Penalty tax and interest will apply to the lessor if the ACT Revenue Office is not notified. For more information visit www.revenue.act.gov.au.</p>	<p>Special Note</p> <p>Land tax is payable to the ACT Revenue Office on all residential properties except principal places of residence. The lessor must notify the ACT Revenue Office of any investment properties they own. Penalty tax and interest will apply to the lessor if the ACT Revenue Office is not notified within 30 days. For more information visit www.revenue.act.gov.au.</p>

SENSITIVE: CABINET

	ACT	NSW	VIC	QLD	SA	WA	TAS	NT
Duty	None	Surcharge Purchaser Duty payable on purchase of residential real estate by foreign people.	Foreign Purchaser Additional Duty payable by foreign purchasers acquiring residential property.	Additional Foreign Acquirer Duty payable by foreign acquirers of residential land in Queensland.	Foreign Ownership Surcharge payable by foreign people or trusts that acquire an interest in residential land in SA.	Foreign Buyers Surcharge will apply to all purchases of residential property by foreign individuals and entities from 1 Jan 2019.	None	None
		21 Jun 2016: 4% 1 Jul 2017: 8%	1 Jul 2015: 3% 1 Jul 2016: 7%	1 Oct 2016: 3%	1 Jan 2018: 7%	1 Jan 2019: 4%		
Land tax	Surcharge of land tax on residential land owned by foreign owners to commence 1 Jul 2018.	Land Tax Surcharge payable by foreign people who own residential land in NSW.	Absentee Owner Surcharge applies to Victorian land owned by an absentee owner.	Absentee Surcharge payable by owners who are not ordinary residents of Australia during the financial year (including Australian citizens).	None	None	None	None
	1 Jul 2018: 0.75%	1 Jan 2017: 0.75% 1 Jan 2018: 2%	1 Jan 2016: 0.5% 1 Jan 2017: 1.5%	1 Jul 2017: 1.5%				

Questions & Answers

1. What legislation is amended by this Bill?

- The *Land Tax Act 2004*

2. What does the Bill do?

- Out of Scope

- It also imposes a land tax surcharge on foreign investors from 1 July 2018.

3. Why is the Bill necessary?

- Out of Scope

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- The foreign surcharge is a measure to rebalance the market towards home buyers and home owners who reside in Australia.

4. What are the benefits of the Bill?

- Out of Scope

- The foreign surcharge will raise additional revenue to fund services to the ACT community.

5. Will the Bill have any revenue implications?

- Together the changes are estimated to raise \$10 million in revenue over 3 years.

6. How many home owners will be affected?

- Out of Scope

- About 280 ACT homes are purchased by foreign investors each year.

7. Does the Bill align with the Government's priorities?

- The legislation supports **Building a better city** as it is intended to improve rental supply and housing choice in the market. Increased land tax revenue from the initiative will support the funding of other government priorities.


8. How will the Bill impact home owners?

- Out of Scope
- [Redacted]
- Foreign people will also need to notify the ACT Revenue Office that they are liable for the surcharge (both foreign individuals and corporate entities).

9. How will the Bill impact home buyers?

- People who acquire residential property from 1 July 2018 will be asked to declare Out of Scope [Redacted] during the conveyance transaction, as well as their status as a foreign person.

Out of Scope



Out of Scope

Foreign investor land tax surcharge

19. What is the surcharge?

- The foreign investor land tax surcharge will apply to foreign-owned residential properties from 1 July 2018.
- The surcharge is 0.75 per cent per annum of the Average Unimproved Value.

20. Who is a foreign person?

- Individuals are foreign people if they have foreign citizenship and do not ordinarily reside in Australia.
- Companies and trusts are foreign people if they are incorporated outside Australia or controlled by one or more foreign people with an interest of 50 per cent or more.
 - A controlling interest is constituted by holding 50 per cent or more of a corporation's shares or voting power, or 50 per cent or more of the interests in a trust (including interests held by associated parties e.g. family members).
 - A discretionary trust is only foreign if it has a foreign person as a specifically named beneficiary.

21. Who is exempt from the surcharge?

- Australian citizens, permanent residents and New Zealand citizens on a Special Category Visa, whether they currently reside in Australia or overseas.
- Foreign citizens while they reside in Australia. Residency is determined by the person's visa and other personal circumstances.
- Foreign corporations include non-Australian corporations and any corporation in which one or more foreign people hold a controlling interest. A controlling interest is

constituted by holding 50 per cent or more of the corporation's shares or voting power.

22. Are there any exemptions from the surcharge?

- Most of the exemptions that apply to general land tax apply to the foreign surcharge, other than the exemption for nil and nominal rent arrangements.
- The ACT principal place of residence of a foreign person is exempt.
- Foreign developers of new homes in the ACT are exempt during construction, but are liable for the surcharge once construction is complete.

From: [Ellis, David](#)
To: [Metcalf, David](#)
Cc: [Hitches, Tim](#)
Subject: Land Tax Amendment Bill 2018 [SEC=UNCLASSIFIED]
Date: Friday, 19 January 2018 2:33:00 PM
Attachments: [180119 land tax amendment bill 2018 instructions.docx](#)

Hi David,

Please find attached drafting instructions for the Land Tax Amendment Bill 2018 – the Treasurer has agreed to commence drafting ahead of Cabinet consideration.

I'll give you a call early next week once you've had a chance to look through – it might be worth a quick meeting to talk through some of the proposed changes before you begin drafting.

Kind regards

David

David Ellis | Manager | Objections and Policy Unit

Ph: 02 6205 4811 | david.ellis@act.gov.au

ACT Revenue Office | Chief Minister, Treasury and Economic Development Directorate | ACT Government

PO Box 293 Civic Square 2608 | www.revenue.act.gov.au

Respect, Integrity, Collaboration, Innovation - Better, Faster, Smarter

Please consider the environment before printing this email - or if printing is necessary, please print double-sided.

Mr David Metcalf
Parliamentary Counsel's Office
David.metcalf@act.gov.au

Dear Mr Metcalf

Drafting instructions for amendments to *Land Tax Act 2004*

I am writing to provide instructions for amendments for two initiatives:

Out of Scope

- the 2017-18 Budget Review decision to impose a foreign owner land tax surcharge (please note this decision is yet to be announced).

The slated commencement date is 1 July 2018. Attachments A and B contain instructions for changes to the *Land Tax Act 2004*.

Out of Scope

Foreign investor land tax surcharge

The Budget Committee of Cabinet further agreed on 11 December 2017 to introduce a foreign investor land tax surcharge from 1 July 2018. The surcharge is intended to apply to residential properties owned by non-citizens who are not resident in that property.

Land tax surcharges for foreign or absentee people currently apply in NSW, Victoria and Queensland. These States plus South Australia also have a foreign conveyance duty surcharge.

SENSITIVE: CABINET

Critical dates

The relevant Cabinet submission will be considered on 27 February 2018; the Assembly Business Paper is scheduled for consideration on 3 April and the Bill is forecast for introduction on 12 April 2018. The Treasurer has agreed to drafting of the proposed amendments ahead of Cabinet consideration.

Please contact Tim Hitches at 6207 0077 or me at 6205 4811 to discuss any issues that may arise during drafting.

Yours sincerely

David Ellis
Senior Manager, Policy Unit
ACT Revenue Office

SENSITIVE: CABINET

Out of Scope

Attachment B – Foreign investor land tax surcharge

New provisions of Act

Topic	Drafting instruction
Imposition of surcharge	<p>Please insert provisions imposing the surcharge on a parcel that is:</p> <ul style="list-style-type: none"> • owned by a foreign person on the first day of a quarter and • not otherwise exempt from land tax. <p>The rate will be determined under section 139 of the <i>Taxation Administration Act 1999</i>.</p> <p>For normal parcels, the surcharge should be worked out as $AUV \times P$ (same as land tax without the Fixed Charge).</p> <p>For unit parcels, the surcharge should be $AUVRUP \times \frac{UE}{TUER}$.</p> <p>‘Not otherwise exempt’ means the surcharge will not apply if the parcel is eligible for a PPR exemption or other land tax exemption, for example, as the PPR of a foreign citizen living in the ACT.</p>
Meaning of foreign person	Please define a foreign person to include a foreign individual, a foreign corporation, or a trustee of a foreign trust.
Foreign individuals	A foreign individual means someone who on the first day of a quarter is:

SENSITIVE: CABINET

Topic	Drafting instruction
	<ul style="list-style-type: none"> • not an Australian citizen; • not a permanent resident of Australia; • not a New Zealand citizen who holds a Special Category visa; and • not ordinarily resident in Australia or an external territory. <p>‘Ordinarily resident’ takes an ordinary meaning in this context.</p>
Foreign corporations	Please define a foreign corporation as a corporation incorporated outside Australia or a corporation in which one or more foreign people hold a ‘controlling interest’.
Controlling interest for foreign corporations	<p>The controlling interest test captures Australian entities that are indirectly controlled by one or more foreign entities.</p> <p>To work out whether foreign people hold a controlling interest, the interests of all foreign people must be aggregated. The foreign people do not have to be related to one another.</p> <p>Please provide that foreign people are taken to have a controlling interest in a corporation if, taken together, one or more foreign people:</p> <ul style="list-style-type: none"> • are entitled to exercise 50 per cent or more of the maximum number of votes that might be cast at a general meeting of the corporation; or • hold 50 per cent or more of the shares of the corporation. <p>It is intended that these operate as tracing provisions: for example, a foreign individual could hold a controlling interest in an Australian corporation, which itself could hold controlling interests in other corporations or trusts.</p>
Foreign trusts	Please define a foreign trust as a trust where, taken together, 1 or more foreign people and any ‘associated people’ of the foreign people (within the meaning of the <i>Duties Act 1999</i>) hold an interest as beneficiaries in 50 per cent or more of the value of the interests in the trust.

SENSITIVE: CABINET

Topic	Drafting instruction
	<p>The trustee of any foreign trust is liable to pay the surcharge whether or not the trustee is a foreign person themselves.</p> <p>However, please specify that a discretionary trust (defined as per the <i>Duties Act 1999</i>) is only a foreign trust if a foreign person:</p> <ul style="list-style-type: none"> • is specifically named in the trust deed, that is, identified in the trust deed by name; and • is a person in whose favour, by the terms of the trust, capital the subject of the trust may be applied in the event— <ul style="list-style-type: none"> ○ of the exercise of a power or discretion in favour of the person; or ○ that a discretion conferred under the trust is not exercised. <p>For discretionary trusts there is no 50 per cent threshold.</p>
Joint ownership	<p>Please provide that the amount of the surcharge is apportioned as follows if land tax and the surcharge are payable for a parcel or unit, and the parcel or unit has one or more owners who are foreign people and one or more owners who are not.</p> <p>For standard leases, the apportionment should be based on the AUV:</p> $AUV \times P \times \frac{FI}{AI}$ <p>For units it should be based on the amount of the surcharge worked out for the overall parcel, as follows:</p> $AUVRUP \times \frac{UE}{TUER} \times \frac{FI}{AI}$ <p>FI means the value of all interests in the parcel or unit held by foreign people.</p>
Relationship between land tax and surcharge	The definition of land tax in the dictionary should be updated to be inclusive of the surcharge.

SENSITIVE: CABINET

Topic	Drafting instruction
	The rules about assessment and payment of the surcharge (e.g. sections 17, 18 and 19) are the same as for land tax.
Change in circumstances	<p>Foreign people should be required to tell the Commissioner that they have become liable for the surcharge due to relevant changes in circumstances such as becoming a foreign person or acquiring a property as a foreign person.</p> <p>This could take place under a generic change of circumstances provision (s 14) with a 30 day time limit.</p>

**Chief Minister, Treasury and Economic
Development Directorate**

SENSITIVE: CABINET

To: Treasurer

Tracking No.: CMTEDD2018/159

CC:

From: Executive Director, Revenue Management Division

Subject: Land Tax Amendment Bill 2018 – policy approval

Critical Date: 22 January 2017

Critical Reason: To allow drafting instructions to be provided to the Parliamentary Counsel as soon as practicable and to meet the deadlines for Cabinet circulation.

- UT .../.../...
- DUT .../.../...

Purpose

To seek your agreement to the changes required to **Out of Scope** implement a foreign investor land tax surcharge.

Recommendations

That you:

1. Agree to the changes necessary to the *Land Tax Act 2004* to implement **Out of** and foreign surcharge proposals, detailed in Attachment A; and

Agreed / Not Agreed / Please Discuss

2. Agree to commence drafting prior to consideration by Cabinet.

Agreed / Not Agreed / Please Discuss

Andrew Barr MLA/...../.....

Minister's Office Feedback

SENSITIVE: CABINET

SENSITIVE: CABINET

Background

1. Out of Scope

2. The Budget Committee of Cabinet agreed on 11 December 2017 to introduce a foreign investor land tax surcharge from 1 July 2018.

Issues

3. Attachment A summarises the required amendments to the *Land Tax Act 2004* to implement these changes. Your agreement is sought to commence drafting of amendments.
4. The timetable for this legislation is as follows:
 - a. 30 January 2018: exposure draft Cabinet submission (following your agreement to this brief);
 - b. 27 February 2018: Cabinet consideration (following your agreement to the final submission);
 - c. 3 April 2018: Assembly business paper;
 - d. 12 April 2018: introduction;
 - e. May or June 2018: debate and passage.

Financial Implications

5. Together the changes to land tax are estimated to raise \$10 million over 3 years.

ConsultationInternal

6. Nil.

Cross Directorate

7. Parliamentary Counsel's Office has agreed to the drafting timetable.
8. All directorates will be consulted during the Cabinet process.

External

9. Nil.

Benefits/Sensitivities

10. The ACT Revenue Office is evaluating the requirements to implement these changes. The foreign investor surcharge is likely to require changes to existing IT systems. We will keep you informed of any issues which may jeopardise the proposed start date.

Media Implications

11. Nil.

SENSITIVE: CABINET

Signatory Name: Kim Salisbury Phone: 70010
Action Officer: David Ellis Phone: 54811

Attachments

Attachment	Title
Attachment A	Details of Out of Scope and foreign surcharge land tax initiatives

Foreign land tax surcharge

On 11 December 2017 the Budget Committee of Cabinet agreed to implement a foreign investor land tax surcharge from 1 July 2018 (0.75 per cent of Average Unimproved Value).

The introduction of the surcharge has the following implications:

- foreign status will be determined based on foreign citizenship, residency status or country of incorporation; and
- as an anti-avoidance measure, foreign people will include Australian companies or trusts under majority foreign control.

Issue	Proposed model
Imposition of surcharge	The surcharge will apply to any residential parcel of land owned by a foreign person on the first day of a quarter, in addition to land tax.
Foreign person: individuals	<p>Foreign individuals will include anyone who is not an Australian citizen, permanent resident, New Zealand citizen on a Special Category visa, or ordinarily resident in Australia or an external territory.</p> <p>The 'ordinarily resident' test applies to foreign citizens who are Australian residents based on their visa status and other relevant circumstances: e.g. physical presence in Australia, intention for being in Australia, family ties, employment or business ties, location of assets, social and living arrangements. These factors align with the residency test for income tax purposes.</p>
Joint ownership	For investment properties with multiple owners, only some of whom are foreign, the surcharge will be payable in proportion to the foreign person's interest.
Exemptions	<p>A foreign citizen's principal place of residence in the ACT will always be exempt.</p> <p>Most other exemptions will apply <u>except</u> the exemption for nil or nominal rent arrangements. In such situations, the foreign owner is exempt from land tax but liable for the foreign surcharge.</p> <p>Australian citizens will never incur the surcharge even if they are based overseas.</p>
Notification requirements	<p>Information about foreign ownership will be collected at the time of property transfer under the Barrier Free conveyancing model.</p> <p>Owners who become foreign people, such as foreign citizens who leave Australia permanently, would be subject to the 30-day requirement to notify the Commissioner for ACT Revenue about any change in circumstances.</p>

Issue	Proposed model
Foreign person: corporations	<p>The surcharge will apply to corporations incorporated outside Australia or in which foreign people hold a controlling interest. The 'controlling interest' test captures Australian companies that are indirectly controlled by one or more foreign people.</p> <p>For a corporation, a controlling interest is constituted by control of 50 per cent or more of the shares or voting power. The interests of all foreign people must be aggregated whether or not they are related.</p>
Foreign person: trustees	<p>A trustee for a foreign trust will be liable for the surcharge. A foreign trust will be any trust in which foreign people hold a controlling interest.</p> <p>For a fixed or unit trust, a controlling interest is constituted by 50 per cent or more of the beneficial interests in the trust being held by foreign people in aggregate whether or not they are related.</p> <p>However, for trusts, interests held by an associated person (within the meaning of the <i>Duties Act 1999</i> e.g. family members) are added to the foreign person's interest.</p> <p>For a discretionary trust, a controlling interest only exists if a foreign person is specifically named under the trust deed as a beneficiary whether or not a distribution is made in their favour.</p>

**Chief Minister, Treasury and Economic
Development Directorate**

SENSITIVE: CABINET

To: Treasurer

Tracking No.: CMTEDD2018/159

From: Executive Director, Revenue Management Division

Subject: Land Tax Amendment Bill 2018 – policy approval

Critical Date: 22 January 2018

Critical Reason: To allow drafting instructions to be provided to the Parliamentary Counsel as soon as practicable and to meet the deadlines for Cabinet circulation.

- UT .../.../...
- DUT .../.../...

Purpose

To seek your agreement to the changes required to **Out of Scope** and to implement a foreign investor land tax surcharge.

Recommendations

That you:

1. Agree to the changes necessary to the *Land Tax Act 2004* to implement the **Out of Scope** and foreign surcharge proposals, detailed in Attachment A; and

Agreed / Not Agreed / Please Discuss

2. Agree to commence drafting prior to consideration by Cabinet.

Agreed / Not Agreed / Please Discuss

Andrew Barr MLA/...../.....

Minister's Office Feedback

SENSITIVE: CABINET

SENSITIVE: CABINET

Background

1. Out of Scope

2. The Budget Committee of Cabinet agreed on 11 December 2017 to introduce a foreign investor land tax surcharge from 1 July 2018.

Issues

3. Attachment A summarises the required amendments to the *Land Tax Act 2004* to implement these changes. Your agreement is sought to commence drafting of amendments.
4. The timetable for this legislation is as follows:
 - a. 6 February 2018: exposure draft Cabinet submission (following your agreement to this brief);
 - b. 6 March 2018: Cabinet consideration (following your agreement to the final submission);
 - c. 3 April 2018: Assembly business paper;
 - d. 12 April 2018: introduction;
 - e. May or June 2018: debate and passage.

Financial Implications

5. Together the changes to land tax are estimated to raise \$10 million over 3 years.

ConsultationInternal

6. Nil.

Cross Directorate

7. Parliamentary Counsel's Office has agreed to the drafting timetable.
8. All directorates will be consulted during the Cabinet process.

External

9. Nil.

Benefits/Sensitivities

10. The ACT Revenue Office is evaluating the requirements to implement these changes. The foreign investor surcharge is likely to require changes to existing IT systems. We will keep you informed of any issues which may jeopardise the proposed start date.

Media Implications

11. Nil.

SENSITIVE: CABINET

Signatory Name: Kim Salisbury Phone: 70010
Action Officer: David Ellis Phone: 54811

Attachments

Attachment	Title
Attachment A	Details of Out of Scope and foreign surcharge land tax initiatives

Foreign land tax surcharge

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The introduction of the surcharge has the following implications:

- foreign status will be determined based on foreign citizenship, residency status or country of incorporation; and
- as an anti-avoidance measure, foreign people will include Australian companies or trusts under majority foreign control.

Issue	Proposed model
Imposition of surcharge	The surcharge will apply to any residential parcel of land that is not exempt from land tax and owned by a foreign person on the first day of a quarter.
Foreign person: individuals	<p>Foreign individuals will include anyone who is not an Australian citizen, permanent resident, New Zealand citizen on a Special Category visa, or ordinarily resident in Australia or an external territory.</p> <p>The 'ordinarily resident' test applies to foreign citizens who are Australian residents based on their visa status and other relevant circumstances: e.g. physical presence in Australia, intention for being in Australia, family ties, employment or business ties, location of assets, social and living arrangements. These factors align with the residency test for income tax purposes.</p>
Joint ownership	For investment properties with multiple owners, only some of whom are foreign, the surcharge will be payable in proportion to the foreign person's interest.
Exemptions	<p>A foreign citizen's principal place of residence in the ACT will always be exempt. A property occupied by the foreign person's domestic partner or a co-owner who is not foreign will also be exempt.</p> <p>Australian citizens will never incur the surcharge even if they are based overseas.</p>
Notification requirements	<p>Information about foreign ownership will be collected at the time of property transfer under the Barrier Free conveyancing model.</p> <p>Owners who become foreign people, such as foreign citizens who leave Australia permanently, would be subject to the 30-day requirement to notify the Commissioner for ACT Revenue about any change in circumstances.</p>

Issue	Proposed model
Foreign person: corporations	<p>The surcharge will apply to corporations incorporated outside Australia or in which foreign people hold a controlling interest. The 'controlling interest' test captures Australian companies that are indirectly controlled by one or more foreign people.</p> <p>For a corporation, a controlling interest is constituted by control of 50 per cent or more of the shares or voting power. The interests of all foreign people must be aggregated whether or not they are related.</p>
Foreign person: trustees	<p>A trustee for a foreign trust will be liable for the surcharge. A foreign trust will be any trust in which foreign people hold a controlling interest.</p> <p>For a fixed or unit trust, a controlling interest is constituted by 50 per cent or more of the beneficial interests in the trust being held by foreign people in aggregate whether or not they are related.</p> <p>However, for trusts, interests held by an associated person (within the meaning of the Duties Act 1999 e.g. family members) are added to the foreign person's interest.</p> <p>For a discretionary trust, a controlling interest only exists if a foreign person is specifically named under the trust deed as a beneficiary whether or not a distribution is made in their favour.</p>

From: [Heath, Kylie](#)
To: [Ellis, David](#)
Cc: [Salisbury, Kim](#); [Lalliard, MaryJane](#)
Subject: CMTEDD2018/159 Land Tax Amendment Bill 2018 - policy approval [DLM=For-Official-Use-Only]
Date: Friday, 19 January 2018 11:49:43 AM
Attachments: [image001.jpg](#)
[GOVERNMENT & STAKEHOLDER RELATIONS - Government & Assembly Matters - Land Tax Amendment Bill 2018 - policy approval.tr5](#)

Hi David

This brief has now been signed off, however please see notes that have been added by the CMO (a scanned copy is in TRIM for your reference).

Thanks

Kylie

Kylie Heath | Treasury & WSIR Directorate Liaison Officer - Legislative Assembly
Chief Minister, Treasury and Economic Development Directorate | ACT Government

Phone: +61 2 6205 3033 |

www.act.gov.au  Please consider the environment before printing this e-mail



MINISTERIAL BRIEF

Chief Minister, Treasury and Economic Development Directorate

SENSITIVE: CABINET

To: Treasurer

Tracking No.: CMTEDD2018/159

From: Executive Director, Revenue Management Division

Subject: Land Tax Amendment Bill 2018 – policy approval

Critical Date: 22 January 2018

Critical Reason: To allow drafting instructions to be provided to the Parliamentary Counsel as soon as practicable and to meet the deadlines for Cabinet circulation.

- UT *W 17/1/18*
- DUT *.../.../...*

Purpose

To seek your agreement to the changes required to **Out of Scope** and to implement a foreign investor land tax surcharge.

Recommendations

That you:

1. Agree to the changes necessary to the *Land Tax Act 2004* to implement the **Out of Scope** and foreign surcharge proposals, detailed in Attachment A; and

Agreed / Not Agreed / Please Discuss

2. Agree to commence drafting prior to consideration by Cabinet.

Agreed / Not Agreed / Please Discuss

Andrew Barr MLA *Andrew Barr* 18.1.18

Minister's Office Feedback

Out of Scope

SENSITIVE: CABINET

SENSITIVE: CABINET

Background

1. Out of Scope

2. The Budget Committee of Cabinet agreed on 11 December 2017 to introduce a foreign investor land tax surcharge from 1 July 2018.

Issues

3. Attachment A summarises the required amendments to the *Land Tax Act 2004* to implement these changes. Your agreement is sought to commence drafting of amendments.
4. The timetable for this legislation is as follows:
 - a. 6 February 2018: exposure draft Cabinet submission (following your agreement to this brief);
 - b. 6 March 2018: Cabinet consideration (following your agreement to the final submission);
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Financial Implications

5. Together the changes to land tax are estimated to raise \$10 million over 3 years.

ConsultationInternal

6. Nil.

Cross Directorate

7. Parliamentary Counsel's Office has agreed to the drafting timetable.
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External

9. Nil.

Benefits/Sensitivities

10. The ACT Revenue Office is evaluating the requirements to implement these changes. The foreign investor surcharge is likely to require changes to existing IT systems. We will keep you informed of any issues which may jeopardise the proposed start date.

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SENSITIVE: CABINET

Signatory Name: Kim Salisbury Phone: 70010
Action Officer: David Ellis Phone: 54811

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- as an anti-avoidance measure, foreign people will include Australian companies or trusts under majority foreign control.

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Imposition of surcharge	The surcharge will apply to any residential parcel of land that is not exempt from land tax and owned by a foreign person on the first day of a quarter.
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From: [Hutchinson, Paul](#)
To: [Baker, Sue](#); [Le, Joanna](#)
Cc: [Dolan, Fiona](#); [Engele, Sam](#); [#CMTEDD_Budget_Coordination_Team](#)
Subject: RE: Announcements from Budget Review [SEC=UNCLASSIFIED]
Date: Wednesday, 24 January 2018 8:10:53 AM

Attachments:

Out of Scope
[Redacted]

[CMTEDD-TSY R01 - Foreign Investor.pdf](#)
Out of Scope
[Redacted]

All – Business cases attached as per Sue’s email below.

In a couple of cases **Out of Scope** BCC directed that the proposal return for consideration at lower cost etc. In these cases, I have also attached the comeback brief to provide a sense of how the proposal was altered/reduced in scope. Both documents should be reviewed together, as the comeback brief will ordinarily be much shorter/not contain the context of the original business case.

Regards,

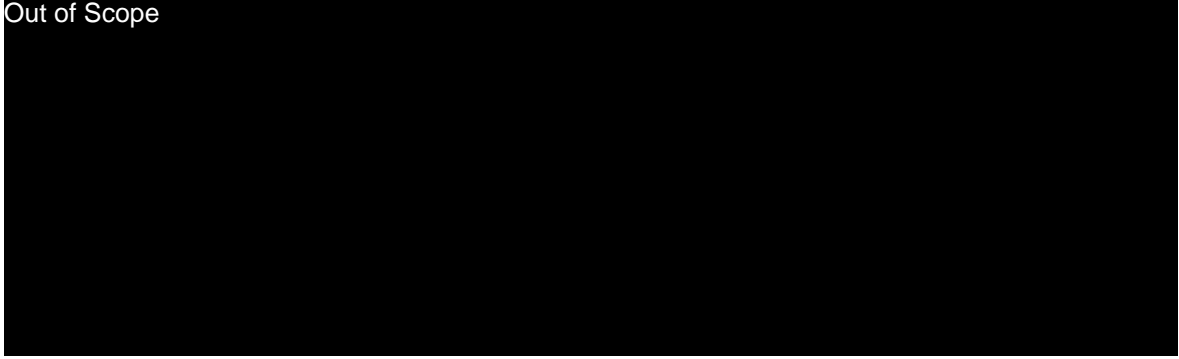
Paul

Out of Scope
[Redacted]

Feb 5: Increased land tax for foreign investors

Out of Scope
[Redacted]

Out of Scope



From: Baker, Sue
Sent: Tuesday, 23 January 2018 6:20 PM
To: Le, Joanna <Joanna.Le@act.gov.au>
Cc: Hutchinson, Paul <Paul.Hutchinson@act.gov.au>; Dolan, Fiona <Fiona.Dolan@act.gov.au>; Engele, Sam <Sam.Engele@act.gov.au>
Subject: RE: Announcements from Budget Review [SEC=UNCLASSIFIED]

Hi Joanna

I doubt that the initiative descriptions will be sufficient for a media release so I have asked Paul to forward you the relevant business cases for those eight listed below. If you need any further information, each business case has a contact officer listed within so feel free to contact them about the content.

As discussed with you and Fiona earlier this week, we only see the media releases when they're nearly ready to be released (and only the once) so they usually come from Mark directly to our liaison person (yet to be determined) and copied to me in case that person is not in the office to do a fact check.

I'll copy you and Fiona into the email to Mark once we have nominated our coordinator.

Regards

Sue

From: Le, Joanna
Sent: Tuesday, 23 January 2018 4:27 PM
To: Engele, Sam <Sam.Engele@act.gov.au>
Cc: Baker, Sue <Sue.Baker@act.gov.au>; Hutchinson, Paul <Paul.Hutchinson@act.gov.au>; Dolan, Fiona <Fiona.Dolan@act.gov.au>
Subject: RE: Announcements from Budget Review [SEC=UNCLASSIFIED]

Hi Sam,

Further to Fiona's email below, could you please provide an ETA on the descriptions of

each initiative? We are keen to get the ball rolling on this asap as the first media announcement will occur next Monday 29th.

Thanks in advance,

Jo

From: Dolan, Fiona
Sent: Monday, 22 January 2018 5:32 PM
To: Engele, Sam
Cc: Baker, Sue; Hutchinson, Paul; Le, Joanna
Subject: RE: Announcements from Budget Review [SEC=UNCLASSIFIED]

Hi Sam

The initiative descriptions first up would be incredibly useful, thanks very much.

From there, we will either draft releases (in the case of CMTEDD) or facilitate their drafting through the relevant directorate.

Once drafted and approved by the content owner, we will supply across to the CMO for their review.

Mark will then send them for final fact check to Treasury.

Sue, is that your expectation?

Thanks

Fiona

From: Engele, Sam
Sent: Monday, 22 January 2018 4:46 PM
To: Dolan, Fiona <Fiona.Dolan@act.gov.au>
Cc: Baker, Sue <Sue.Baker@act.gov.au>; Hutchinson, Paul <Paul.Hutchinson@act.gov.au>
Subject: RE: Announcements from Budget Review [SEC=UNCLASSIFIED]

Fiona,

What do you need from us? I assume the initiative descriptions first up, and then a fact check just prior to release?

Sam

From: Paviour, Mark

Sent: Monday, 22 January 2018 3:04 PM
To: Engele, Sam <Sam.Engele@act.gov.au>
Cc: Rayner, Jennifer <Jennifer.Rayner@act.gov.au>; Dolan, Fiona <Fiona.Dolan@act.gov.au>; Le, Joanna <Joanna.Le@act.gov.au>
Subject: Announcements from Budget Review

Hi Sam,

I believe Jen may have already advised that we would like to run a series of pre-announcements of the initiatives in the Budget Review. I think it would be good to have CMTEDD Communications involved in this process, as we do with the Budget.

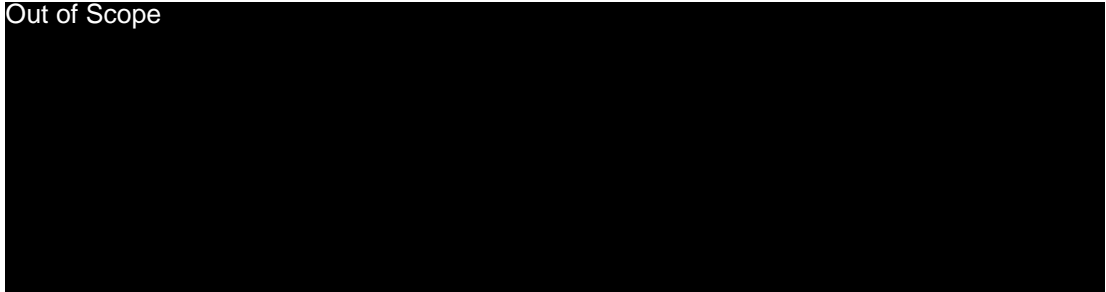
The draft schedule of announcements is as follows:

Out of Scope



Feb 5: Increased land tax for foreign investors

Out of Scope



I will continue dealing with Ministerial offices to ensure they are happy with the plan.

Please advise ASAP if you foresee any issues.

Mark Paviour | Communications Adviser

Andrew Barr MLA

Chief Minister

Treasurer | Minister for Economic Development | Minister for Tourism & Major Events

Meegan Fitzharris MLA (Wednesday)

Minister for Health & Wellbeing | Minister for Transport & City Services | Minister for Higher Education, Training & Research

Phone: 02 6205 2775 | **Mobile:** 0466 521 634 | **Email:** mark.paviour@act.gov.au

From: [Le, Joanna](#)
To: [Dolan, Fiona](#)
Subject: FW: Budget Review media schedule [SEC=UNCLASSIFIED]
Date: Wednesday, 24 January 2018 2:50:23 PM

FYI

From: Paviour, Mark
Sent: Wednesday, 24 January 2018 2:24 PM
To: Mason, Andrea <Andrea.Mason@act.gov.au>
Cc: Le, Joanna <Joanna.Le@act.gov.au>
Subject: RE: Budget Review media schedule [SEC=UNCLASSIFIED]

Hi Andrea,

See below some highlighted amendments.

From: Mason, Andrea
Sent: Wednesday, 24 January 2018 12:18 PM
To: Paviour, Mark <Mark.Paviour@act.gov.au>
Cc: Le, Joanna <Joanna.Le@act.gov.au>
Subject: Budget Review media schedule [SEC=UNCLASSIFIED]

Hi Mark,

Please see rough timetable for budget review media announcements below. Can you please confirm if the spokespeople for each item are correct, and highlight which (if any), you're thinking would be media release + a media event?

Out of Scope



RELEASE DATE

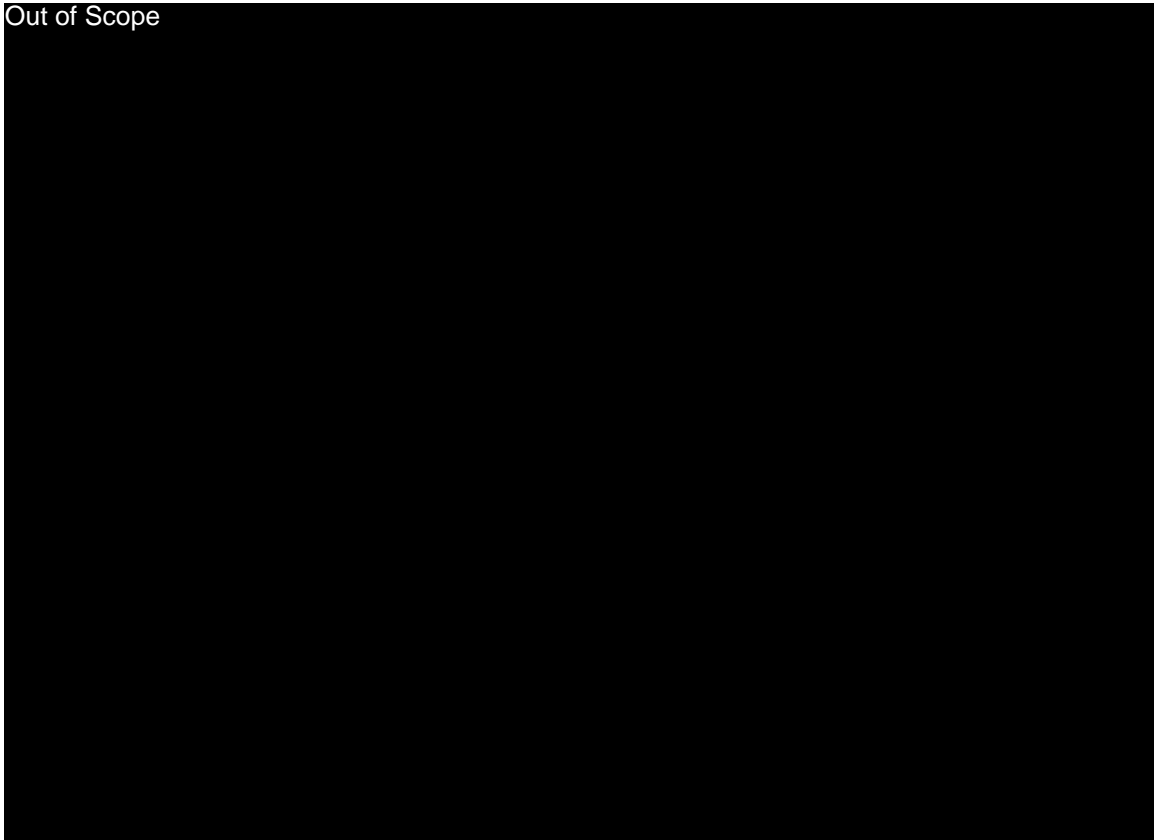
TOPIC

SPOKESPERSON

ACTIVITY

NOTES

Out of Scope



5/2

Increased land tax for foreign investors

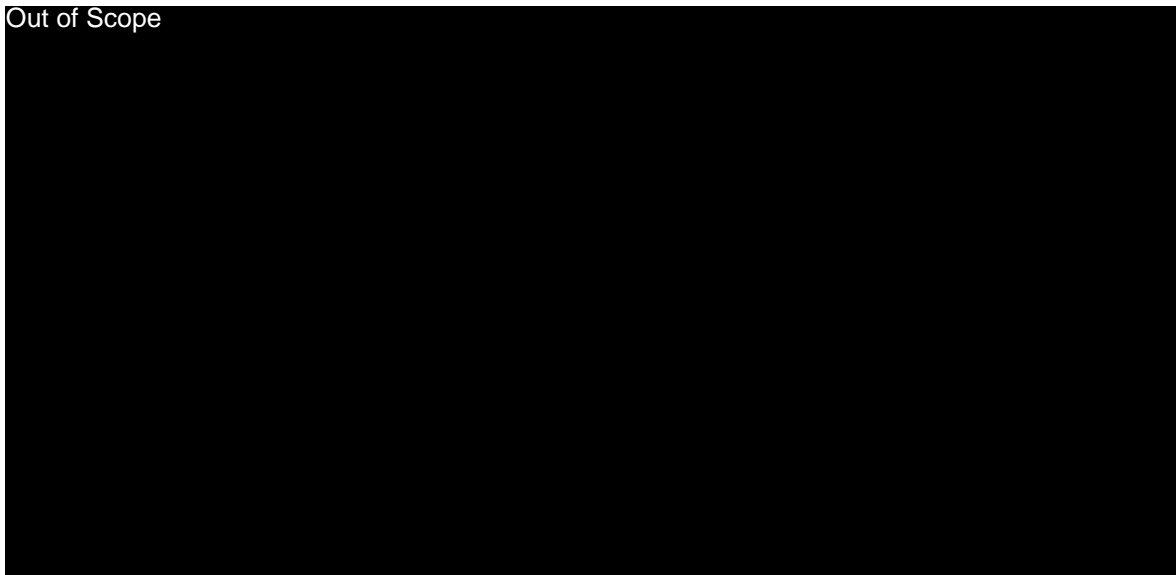
Chief Minister

yes


Media release

These changes are being implemented to ensure that more Canberrans can afford to purchase a home. The reduction in stamp duty is just one of a suite of measures to make housing more affordable in the Territory. Also an election commitment.

Out of Scope



Out of Scope



Thanks,

Andrea

Andrea Mason |Senior Communications Officer, Strategic Communications and Media

Phone: 02 6207 7272

Communications |Chief Minister, Treasury and Economic Development Directorate|ACT Government

Level 4, Canberra Nara Centre, 1 Constitution Avenue, Canberra City |GPO Box 158 Canberra City ACT 2601|www.act.gov.au <<http://www.act.gov.au>>



2017

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

REVENUE LEGISLATION AMENDMENT BILL 2017 (No 2)

PRESENTATION SPEECH

**Presented by
Andrew Barr MLA
Treasurer**

October 2017

Madam Speaker, I am pleased to present to the Assembly the Land Tax Amendment Bill 2018.

This Bill will implement two reforms to land tax from 1 July 2018 onwards:

Out of Scope

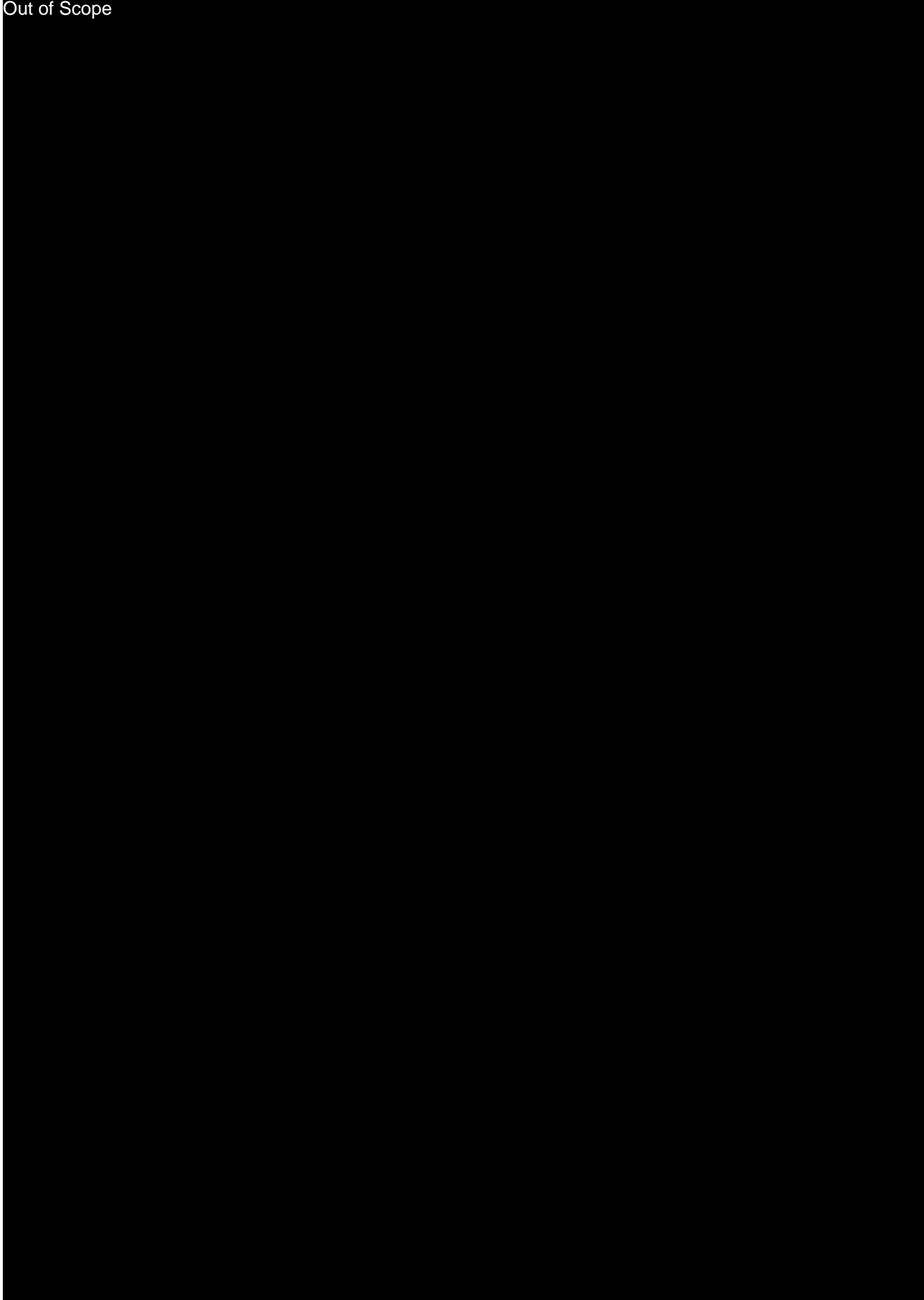
it

will introduce a foreign investor land tax surcharge.

Land tax is one of the more important taxes that the Territory collects, making up a higher proportion of our own-source revenue than in other jurisdictions. The Government recognises that land tax is one of the key taxation settings which impacts housing investment and affordability.

Out of Scope

Out of Scope



Foreign surcharge

Madam Speaker, the Bill will also introduce a foreign investor surcharge of land tax from 1 July 2018.

[why land tax and not duty- chosen a land tax and not a duty as duty is an unfair and inefficient tax that is not being re-introduced. Also Canberra's market fundamentally differs from Sydney and Melbourne where 'overheating' from foreign buyers has skewed prices – less evidence of that happening in Canberra. Keeping duty rates low]

A surcharge will be an equity measure to ensure that foreign investors pay a fair share of tax in exchange for the benefit of capital appreciation and price growth that may be driven by ACT Government investment in infrastructure.

The Bill is targeted specifically at foreign citizens, foreign companies and foreign trusts. Foreign citizens, however, are not liable for the surcharge unless they reside outside Australia. [The measure is specifically targeting offshore investors, and will not be to the disadvantage of Australian home buyers.]

The Bill defines a foreign individual as anyone who is not an Australian citizen, a permanent resident, a Special Category Visa holder, or a person not ordinarily resident in Australia.

Ordinary residents of Australia encompass foreign citizens who demonstrate their intent to live in Australia on a settled or long-term basis, despite not having permanent residency.

The surcharge will benefit from the same range of exemptions as the principal place of residence measure. Therefore, the surcharge is not expected to unfairly penalise foreign citizens who reside in an ACT property as their principal place of residence, or to penalise foreign investors who are constructing homes in the ACT. The surcharge will only apply in quarters when ordinary land tax is payable.

The surcharge ensures that absentee owners of ACT land make a fair contribution without making ACT or Australian residents any worse off.

(conclusion: housing affordability, create a level playing field for Australian home owners and investors – sending a signal to the market)

Madam Speaker, I commend the Bill to the Assembly.

From: [Fell, Jacob](#)
To: [Das, Sean](#); [Asmus, Conrad](#)
Subject: FW: land tax brief and flow chart [SEC=UNCLASSIFIED]
Date: Thursday, 25 January 2018 9:10:29 AM
Attachments: [Out of Scope](#)
[171205 Land Tax Bill 2018 brief.docx](#)
[Out of Scope](#)

From: Ellis, David
Sent: Thursday, 14 December 2017 12:21 PM
To: Fell, Jacob <Jacob.Fell@act.gov.au>
Subject: land tax brief and flow chart [SEC=UNCLASSIFIED]

fyi

David Ellis | Manager | Objections and Policy Unit

Ph: 02 6205 4811 | david.ellis@act.gov.au

ACT Revenue Office | Chief Minister, Treasury and Economic Development Directorate | ACT Government

PO Box 293 Civic Square 2608 | www.revenue.act.gov.au

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**Chief Minister, Treasury and Economic
Development Directorate**

SENSITIVE: CABINET

To: Treasurer

Tracking No.: CMTEDD2017/

CC:

From: Executive Director, Revenue Management Division

Subject: Land tax – Out of Scope

Critical Date: December 2017

Critical Reason: To allow drafting instructions to be provided to the Parliamentary Counsel before the end of 2017.

- UT .../.../...
- DUT .../.../...

Out of Scope

Andrew Barr MLA/...../.....

Minister's Office Feedback

SENSITIVE: CABINET

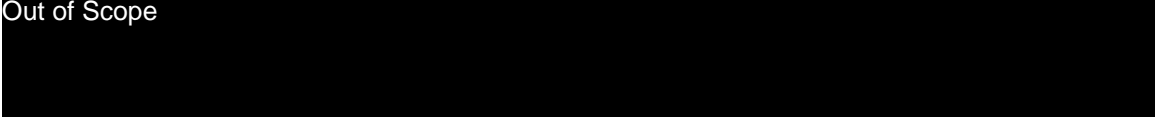
Tracking No.:
CMTEDD2017/

Out of Scope



Benefits/Sensitivities

8. Out of Scope



9. The Budget Committee of Cabinet agreed to the introduction of a foreign investor land tax surcharge in the 2017-18 Budget Review. The new surcharge will overlap with this initiative, as it will target the subset of absent owners who are also non-Australian citizens or residents.

10. You will be provided with a further briefing on a proposed structure for the land tax surcharge.

Out of Scope



Signatory Name: Kim Salisbury

Phone: 70010

Action Officer: David Ellis

Phone: 54811

SENSITIVE: CABINET

Attachments

Attachment	Title
Attachment A	Out of Scope
Attachment B	

SENSITIVE: CABINET

From: [Mason, Andrea](#)
To: [Le, Joanna](#)
Subject: RE: Announcements from Budget Review [SEC=UNCLASSIFIED, DLM=Sensitive]
Date: Thursday, 25 January 2018 1:34:00 PM
Attachments: [image001.jpg](#)

Thanks

From: Le, Joanna
Sent: Thursday, 25 January 2018 1:19 PM
To: Mason, Andrea <Andrea.Mason@act.gov.au>
Subject: FW: Announcements from Budget Review [SEC=UNCLASSIFIED, DLM=Sensitive]

FYI

From: Baker, Sue
Sent: Thursday, 25 January 2018 12:39 PM
To: Paviour, Mark <Mark.Paviour@act.gov.au>
Cc: Rayner, Jennifer <Jennifer.Rayner@act.gov.au>; Dolan, Fiona <Fiona.Dolan@act.gov.au>; Le, Joanna <Joanna.Le@act.gov.au>; Engele, Sam <Sam.Engele@act.gov.au>; Tong, Greg <Greg.Tong@act.gov.au>
Subject: RE: Announcements from Budget Review [SEC=UNCLASSIFIED, DLM=Sensitive]

Okay - thanks

From: Paviour, Mark
Sent: Thursday, 25 January 2018 12:34 PM
To: Baker, Sue <Sue.Baker@act.gov.au>
Cc: Rayner, Jennifer <Jennifer.Rayner@act.gov.au>; Dolan, Fiona <Fiona.Dolan@act.gov.au>; Le, Joanna <Joanna.Le@act.gov.au>; Engele, Sam <Sam.Engele@act.gov.au>; Tong, Greg <Greg.Tong@act.gov.au>
Subject: RE: Announcements from Budget Review [SEC=UNCLASSIFIED, DLM=Sensitive]

Will do, unlikely that new ones will be added. I think the only changes will be that some announcements will be moved back a few days.

From: Baker, Sue
Sent: Thursday, 25 January 2018 12:32 PM
To: Paviour, Mark <Mark.Paviour@act.gov.au>
Cc: Rayner, Jennifer <Jennifer.Rayner@act.gov.au>; Dolan, Fiona <Fiona.Dolan@act.gov.au>; Le, Joanna <Joanna.Le@act.gov.au>; Engele, Sam <Sam.Engele@act.gov.au>; Tong, Greg <Greg.Tong@act.gov.au>
Subject: RE: Announcements from Budget Review [SEC=UNCLASSIFIED, DLM=Sensitive]

Thanks Mark. We will start necessary preparatory work for those on the draft schedule below but would appreciate it if you could let us know if there are likely to be any new ones once that gets decided.

Regards

Sue

From: Paviour, Mark
Sent: Thursday, 25 January 2018 12:29 PM
To: Baker, Sue <Sue.Baker@act.gov.au>
Cc: Rayner, Jennifer <Jennifer.Rayner@act.gov.au>; Dolan, Fiona <Fiona.Dolan@act.gov.au>; Le, Joanna <Joanna.Le@act.gov.au>; Engele, Sam <Sam.Engele@act.gov.au>; Tong, Greg <Greg.Tong@act.gov.au>
Subject: RE: Announcements from Budget Review [SEC=UNCLASSIFIED, DLM=Sensitive]

Thanks Sue, **Out of Scope** I'm getting the usual run around myself. Will contact Greg for Mark Webber

From: Baker, Sue
Sent: Thursday, 25 January 2018 12:25 PM
To: Paviour, Mark <Mark.Paviour@act.gov.au>
Cc: Rayner, Jennifer <Jennifer.Rayner@act.gov.au>; Dolan, Fiona <Fiona.Dolan@act.gov.au>; Le, Joanna <Joanna.Le@act.gov.au>; Engele, Sam <Sam.Engele@act.gov.au>; Tong, Greg <Greg.Tong@act.gov.au>
Subject: RE: Announcements from Budget Review [SEC=UNCLASSIFIED, DLM=Sensitive]

Hi Mark

We are going to run the usual process in FABD with someone external to my Branch coordinating the media releases.

Greg Tong will be handling this for Budget Review so it would be great if you could send the final drafts through to him and copy me in too **Out of Scope**

Regards

Sue

From: Paviour, Mark
Sent: Monday, 22 January 2018 3:04 PM
To: Engele, Sam <Sam.Engele@act.gov.au>
Cc: Rayner, Jennifer <Jennifer.Rayner@act.gov.au>; Dolan, Fiona <Fiona.Dolan@act.gov.au>; Le, Joanna <Joanna.Le@act.gov.au>
Subject: Announcements from Budget Review

Hi Sam,

I believe Jen may have already advised that we would like to run a series of pre-announcements of the initiatives in the Budget Review. I think it would be good to have CMTEDD Communications involved in this process, as we do with the Budget.

From: [Mason, Andrea](#)
To: [Le, Joanna](#)
Subject: RE: Budget review comms schedule - update [SEC=UNCLASSIFIED]
Date: Monday, 29 January 2018 11:57:00 AM

No worries, saved here: G:\CSEP\Communications\Strategic communications, media and protocol\Media and Issues Management\Treasury\Mid year budget review announcements

From: Le, Joanna
Sent: Monday, 29 January 2018 8:49 AM
To: Mason, Andrea <Andrea.Mason@act.gov.au>
Cc: Dolan, Fiona <Fiona.Dolan@act.gov.au>
Subject: Re: Budget review comms schedule - update [SEC=UNCLASSIFIED]

Hi Andrea,

For some reason I can't view the first couple of columns -can you pls update the original doc and just resend the link?

Ya,

Jo

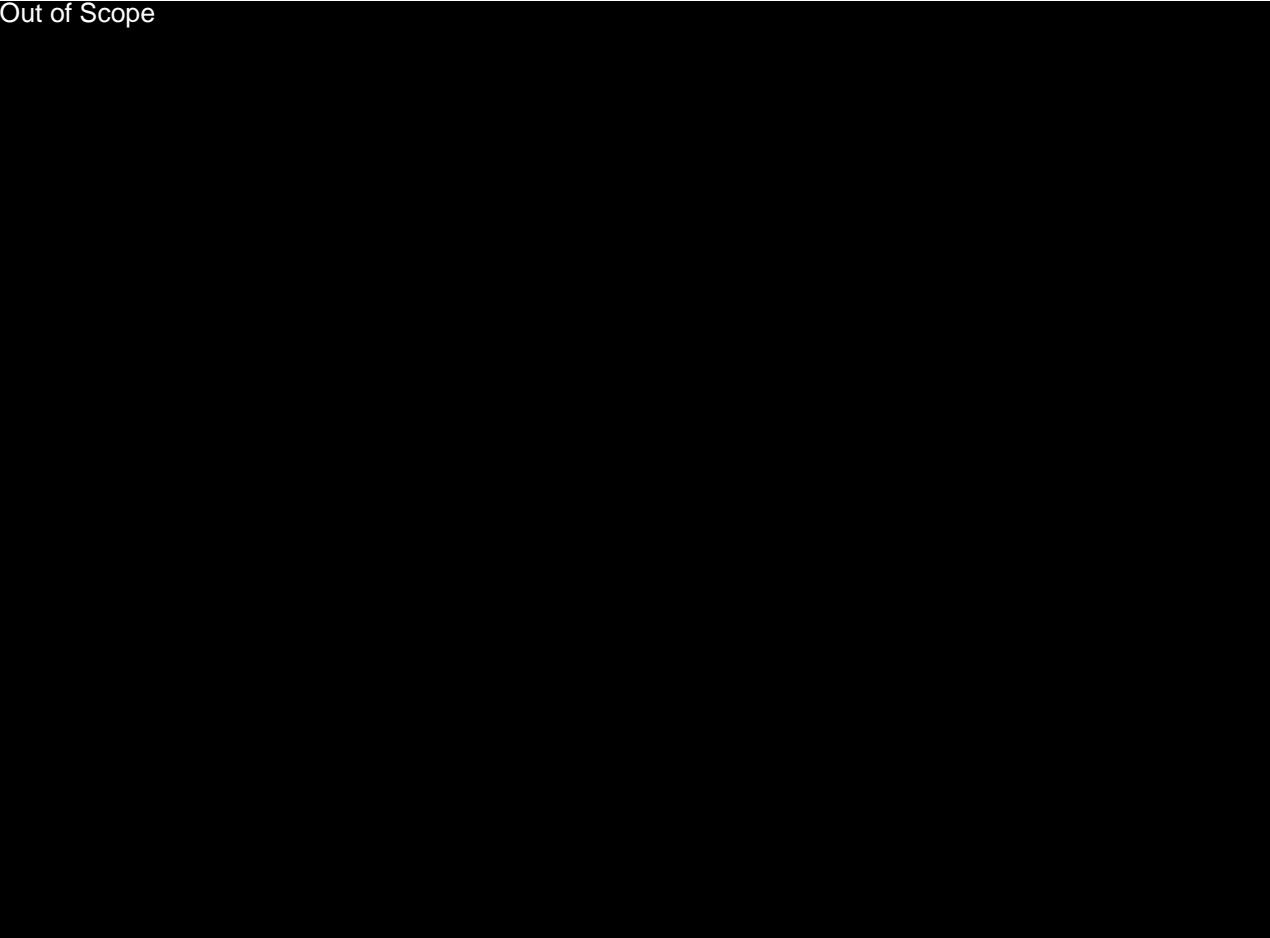
On 25 Jan 2018, at 4:03 pm, Mason, Andrea <Andrea.Mason@act.gov.au> wrote:

Hi Jo,

Sure, please see the below table with updates on how each item is progressing, let me know if you'd like any further info.

RELEASE DATE	TOPIC	SPOKESPERSON	ACTIVITY	NOTES	STATUS
Out of Scope					
5/2	Increased land tax for foreign investors	Chief Minister	Media release	These changes are being implemented to ensure that more Canberrans can afford to purchase a home. The reduction in stamp duty is just one of a suite of measures to make housing more affordable in the Territory. Also an election commitment.	I will have a draft ready on Monday.
Out of Scope					

Out of Scope



Thanks,

Andrea

From: Le, Joanna
Sent: Thursday, 25 January 2018 1:32 PM
To: Mason, Andrea <Andrea.Mason@act.gov.au>
Cc: Dolan, Fiona <Fiona.Dolan@act.gov.au>
Subject: Budget review comms schedule - update [SEC=UNCLASSIFIED]

Hi Andrea,

Can you please provide Fiona and I with a status update on the Budget review comms schedule before you leave today?

As part of this, let us know when you expect draft releases to be ready for our review for each announcement.

Thanks in advance,

Jo

Joanna Le | Deputy Director Strategic Communication and Media
M: 0402 265 145
Communications and Engagement | Chief Minister, Treasury and Economic Development Directorate
ACT Government
Level 4, Canberra Nara Centre, 1 Constitution Avenue, Canberra City | GPO Box 158 Canberra City ACT 2601 |
www.act.gov.au

From: [Fell, Jacob](#)
To: [Das, Sean](#); [Asmus, Conrad](#)
Subject: FW: Missed call from Fell, Jacob [DLM=Sensitive: Cabinet]
Date: Tuesday, 30 January 2018 2:42:18 PM
Attachments: **Out of Scope**
[CMTEDD2018-159 Signed brief with notes from CMO.PDF](#)
[TRSY18_19763_180115 Land Tax Bill 2018 brief 16Jan2018.docx](#)
[180115 Land Tax Bill 2018 Attachment A.DOCX](#)

Fyo

From: Hitches, Tim
Sent: Tuesday, 30 January 2018 2:27 PM
To: Fell, Jacob <Jacob.Fell@act.gov.au>
Subject: RE: Missed call from Fell, Jacob [DLM=Sensitive: Cabinet]

Hi Jake, here are the two briefs as discussed

Kind regards

Tim Hitches | Assistant Manager | Policy Unit

Phone: +61 2 6207 0077 | tim.hitches@act.gov.au

ACT Revenue Office | Chief Minister, Treasury and Economic Development Directorate | ACT Government

PO Box 293 Civic Square ACT 2608 | www.revenue.act.gov.au

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From: Microsoft Outlook **On Behalf Of** Fell, Jacob
Sent: Tuesday, 30 January 2018 2:06 PM
To: Hitches, Tim <Tim.Hitches@act.gov.au>
Subject: Missed call from Fell, Jacob

You missed a call from Fell, Jacob at 52528

Caller-Id: [52528](#)
Job Title: A/g Manager - Taxation and Revenue Reform
Work: [\(02\) 6205 2528](#)
E-mail: Jacob.Fell@act.gov.au
IM Address: Jacob.Fell@act.gov.au

From: [Fell, Jacob](#)
To: [Asmus, Conrad](#)
Subject: RE: Mid year budget review announcements [SEC=UNCLASSIFIED]
Date: Wednesday, 31 January 2018 12:03:23 PM

Thanks. I made a few changes in tracked changes. Can you please review and let me know if you're ok with it before I forward to Kathy?

From: Asmus, Conrad
Sent: Wednesday, 31 January 2018 11:27 AM
To: Fell, Jacob <Jacob.Fell@act.gov.au>
Subject: RE: Mid year budget review announcements [SEC=UNCLASSIFIED]

Hi Jake,

Dot points are here:

[\\act.gov.au\treasury\dt\ECONOMICS\2017-18\4. Taxation and Revenue Reform\3. Budget\Budget Review\20180131 - Comms dot points on landtax surcharge.docx](#)

I took some inspiration from Victoria:

[\\act.gov.au\treasury\dt\ECONOMICS\2017-18\4. Taxation and Revenue Reform\3. Budget\Budget Review\library\20180131 - Vic announcement - Securing A Fair Deal For Victorians _ Premier of Victoria.pdf](#)

Happy to discuss,
Conrad

From: Fell, Jacob
Sent: Wednesday, 31 January 2018 9:45 AM
To: Asmus, Conrad <Conrad.Asmus@act.gov.au>
Subject: FW: Mid year budget review announcements [SEC=UNCLASSIFIED]

Hi Conrad

Can you please review the Land tax brief from ACTRO and draft a few short points about Foreign investor land tax surcharge for comms?

Need to provide only information that the government has agreed to. Also need to communicate it as a housing affordability initiative – i.e. it creates a level playing field for local home buyers to compete with foreign investors.

Only needs to be in dot point form.

Grateful if you could do that sometime this morning.

THanks

Jake

From: Mason, Andrea
Sent: Monday, 29 January 2018 3:54 PM
To: Fell, Jacob <Jacob.Fell@act.gov.au>
Cc: Lee, MargaretA <MargaretA.Lee@act.gov.au>; Goth, Kathy <Kathy.Goth@act.gov.au>
Subject: Mid year budget review announcements [SEC=UNCLASSIFIED]

Hi Jacob,

I'm working on some media releases and announcements around the upcoming mid-year budget review. One of these is the increased land tax for foreign investors which the Chief Minister's office would like a media release for.

Are you able to please send me a few dot points on the changes, covering what it will mean, when it comes into effect etc? Alternatively we can schedule a quick meeting for some time tomorrow to discuss.

Thanks,

Andrea

Andrea Mason | **Senior Communications Officer, Strategic Communications and Media**

Phone: 02 6207 7272

Communications | Chief Minister, Treasury and Economic Development Directorate | **ACT Government**

Level 4, Canberra Nara Centre, 1 Constitution Avenue, Canberra City | GPO Box 158 Canberra City ACT 2601 | www.act.gov.au

- From 1 July 2018, foreign investors will pay a yearly land tax surcharge of 0.75 per cent on the average unimproved value of their residential investment properties in the ACT.
- Foreign investors who invest in the Territory will contribute a fairer share of the delivery of services in the ACT.
- Foreign investors benefit from the capital growth that comes with the high standard of living in the ACT.
- The surcharge will improve housing affordability by helping local home buyers compete with foreign investors on a more equal footing.
- No people living in the ACT will pay the surcharge.
- The surcharge is estimated to raise around \$4 million from 2018-19 to 2020-21.
- Further details of the surcharge will be released as legislation is developed.

From: [Asmus, Conrad](#)
To: [Fell, Jacob](#)
Subject: RE: Update to Fiscal Strategy content for 2017-18 Budget Review - Tax Revenue [SEC=UNCLASSIFIED, DLM=For-Official-Use-Only]
Date: Wednesday, 31 January 2018 2:08:00 PM
Attachments: [image001.png](#)

Hi Jake,

This a start on the para:

The Government will improve housing affordability through fairer revenue policies. From 1 July 2018, **Out of Scope**

Out of Scope and foreign investors will pay a yearly land tax surcharge on their residential investment properties in the ACT. The foreign investor surcharge will help local home buyers compete with investors on a more equal footing. **Out of Scope**

Out of Scope Under these initiatives, investors will contribute a fairer share of the delivery of services in the ACT and housing will be more affordable for the Territory's residents.

Happy to discuss

Conrad

From: Fell, Jacob
Sent: Wednesday, 31 January 2018 9:48 AM
To: Asmus, Conrad <Conrad.Asmus@act.gov.au>
Subject: RE: Update to Fiscal Strategy content for 2017-18 Budget Review - Tax Revenue [SEC=UNCLASSIFIED, DLM=For-Official-Use-Only]

Can you also please review the text below and let me know if you have any changes? Ok if none. We'll need to add another para about housing affordability initiatives – i.e. **Out of Scope** **Out of Scope** and foreign investor land tax surcharge. Can you please make a start on this para? We'll aim to send something to Kathy this afternoon.

Thank

Jake

From: Fell, Jacob
Sent: Wednesday, 31 January 2018 9:41 AM
To: Asmus, Conrad <Conrad.Asmus@act.gov.au>

From: [Fell, Jacob](#)
To: [Asmus, Conrad](#)
Subject: FW: Mid year budget review announcements [SEC=UNCLASSIFIED]
Date: Wednesday, 31 January 2018 3:14:23 PM

fyi

From: Goth, Kathy
Sent: Wednesday, 31 January 2018 3:14 PM
To: Mason, Andrea <Andrea.Mason@act.gov.au>
Cc: Fell, Jacob <Jacob.Fell@act.gov.au>
Subject: FW: Mid year budget review announcements [SEC=UNCLASSIFIED]

Hi Andrea

Please find input cleared by our ED below as requested.

Cheers Kathy

From: Masters, Nicole
Sent: Wednesday, 31 January 2018 3:05 PM
To: Goth, Kathy <Kathy.Goth@act.gov.au>
Cc: Fell, Jacob <Jacob.Fell@act.gov.au>
Subject: RE: Mid year budget review announcements [SEC=UNCLASSIFIED]

Looks good to me – can you please send it where it needs to go

Thanks!

Nicole

Nicole Masters | Acting Executive Director
Economic and Financial Group | Chief Minister, Treasury and Economic Development
Directorate
ACT Government
Phone: (02) 6205 2895
GPO Box 158 Canberra ACT 2601 | www.act.gov.au

From: Goth, Kathy
Sent: Wednesday, 31 January 2018 2:28 PM
To: Masters, Nicole <Nicole.Masters@act.gov.au>
Cc: Fell, Jacob <Jacob.Fell@act.gov.au>
Subject: FW: Mid year budget review announcements [SEC=UNCLASSIFIED]

Nicole

Please see our proposed response below to the Canberra Times regarding the foreign investor tax for your review please.

Regards

Kathy

- From 1 July 2018, foreign investors will pay a yearly land tax surcharge of 0.75 per cent on the average unimproved value of their residential properties in the ACT.
- The surcharge is designed to improve housing affordability by helping local home buyers compete with foreign investors.
- No people living in the ACT will pay the surcharge.
- The surcharge is estimated to raise around \$4 million from 2018-19 to 2020-21.
- Further details of the surcharge will be released as legislation is developed.

Hi Jacob,

I'm working on some media releases and announcements around the upcoming mid-year budget review. One of these is the increased land tax for foreign investors which the Chief Minister's office would like a media release for.

Are you able to please send me a few dot points on the changes, covering what it will mean, when it comes into effect etc? Alternatively we can schedule a quick meeting for some time tomorrow to discuss.

Thanks,

Andrea

Andrea Mason | **Senior Communications Officer, Strategic Communications and Media**

Phone: 02 6207 7272

Communications | Chief Minister, Treasury and Economic Development Directorate | **ACT Government**

Level 4, Canberra Nara Centre, 1 Constitution Avenue, Canberra City | GPO Box 158 Canberra City ACT

2601 | www.act.gov.au

From: [Fell, Jacob](#)
To: [Mason, Andrea](#)
Subject: RE: Mid year budget review announcements [SEC=UNCLASSIFIED]
Date: Thursday, 1 February 2018 12:46:55 PM

Hi Andrea

NSW, Victoria and Qld also have a land tax surcharge for foreign investors. All are significantly higher than the ACT rate.

Thanks

Jake

From: Mason, Andrea
Sent: Thursday, 1 February 2018 12:42 PM
To: Fell, Jacob <Jacob.Fell@act.gov.au>
Subject: FW: Mid year budget review announcements [SEC=UNCLASSIFIED]

Hi Jacob,

One more question: Are we the first state/territory to introduce a tax of this kind, or has it already been done elsewhere?

Thanks,

Andrea

From: Goth, Kathy
Sent: Wednesday, 31 January 2018 3:14 PM
To: Mason, Andrea <Andrea.Mason@act.gov.au>
Cc: Fell, Jacob <Jacob.Fell@act.gov.au>
Subject: FW: Mid year budget review announcements [SEC=UNCLASSIFIED]

Hi Andrea

Please find input cleared by our ED below as requested.

Cheers Kathy

From: Masters, Nicole
Sent: Wednesday, 31 January 2018 3:05 PM
To: Goth, Kathy <Kathy.Goth@act.gov.au>
Cc: Fell, Jacob <Jacob.Fell@act.gov.au>
Subject: RE: Mid year budget review announcements [SEC=UNCLASSIFIED]

Looks good to me – can you please send it where it needs to go

From: [Le, Joanna](#)
To: [Mason, Andrea](#); [Dolan, Fiona](#)
Subject: RE: For approval - Foreign investors to pay increased land tax in the ACT [SEC=UNCLASSIFIED]
Date: Thursday, 1 February 2018 2:28:50 PM
Importance: High

Andrea, I've [made a few tweaks to this release](#) to try to soften the foreigners VS locals angle, but it's a tough one. I've highlighted the **Sch 1 s1.6** until you've cleared this with Treasury.

Fiona, perhaps you could cast your eye over this draft while Andrea does her checks?

Thanks in advance,

Jo

From: Mason, Andrea
Sent: Thursday, 1 February 2018 1:26 PM
To: Le, Joanna <Joanna.Le@act.gov.au>
Subject: For approval - Foreign investors to pay increased land tax in the ACT [SEC=UNCLASSIFIED]



Hi Jo,

Here's my draft media release for your review/approval: G:\CSEP\Communications\Strategic communications, media and protocol\Media and Issues Management\Treasury\Mid year budget review announcements

Thanks,

Andrea

Andrea Mason | **Senior Communications Officer, Strategic Communications and Media**
Phone: 02 6207 7272
Communications | Chief Minister, Treasury and Economic Development Directorate | **ACT Government**
Level 4, Canberra Nara Centre, 1 Constitution Avenue, Canberra City | GPO Box 158 Canberra City ACT 2601 | www.act.gov.au


From: [Fell, Jacob](#)
To: [Craemer, Raoul](#); [Das, Sean](#); [Asmus, Conrad](#)
Subject: FW: Budget Review Briefs [SEC=UNCLASSIFIED, DLM=Sensitive: Cabinet]
Date: Friday, 2 February 2018 10:50:04 AM
Attachments: Out of Scope

[CMTEDD-TSY R01 - Foreign investor surcharges.docx](#)
 Out of Scope

[REVENUE 2017-18 Budget Review Initiative Descriptions.doc](#)

Hi all

We need to draft the Budget Review Revenue Initiatives Brief. We have four initiatives but we will include them all in a single brief. See the attached Revenue Initiatives template to see how they need to be drafted. They don't need to be long. The idea is to provide a little more information than is currently in the Initiative Descriptions.

Can each of you do a part please?

Raoul – Foreign investor land tax surcharge;

Out of Scope


See the Business cases and initiative descriptions attached for info.

Can you please email your completed sections to Conrad. Conrad – can you please put them all in a single brief using the attached template and then forward to me?

Would be good if we could aim to finish this today if possible please.

Thanks

Jake

From: Hutchinson, Paul
Sent: Friday, 2 February 2018 10:31 AM
To: Beaumont, Andrew <Andrew.Beaumont@act.gov.au>; McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>; Goth, Kathy <Kathy.Goth@act.gov.au>
Cc: Anderson, Michael <Michael.Anderson@act.gov.au>; Fell, Jacob <Jacob.Fell@act.gov.au>; Nicholls, Lucas <Lucas.Nicholls@act.gov.au>; #CMTEDD, Budget Coordination Team <#CMTEDDBudgetCoordinationTeam@act.gov.au>
Subject: RE: Budget Review Briefs [SEC=UNCLASSIFIED, DLM=Sensitive: Cabinet]

All,

Templates for the Revenue, Borrowings and Economics Overview attached. Some documents may still have track change on but there is no need for it to be kept on.

If you can please send the documents back once they have been cleared by Nicole, we can bundle them up on this end and prepare for signoff by Stephen/David, similar to the Budget Review chapters etc.

Regards,

Paul

From: Baker, Sue
Sent: Friday, 2 February 2018 9:48 AM
To: Blount, Wilhelmina <Wilhelmina.Blount@act.gov.au>; Calder, Robyn <Robyn.Calder@act.gov.au>; Vigor,

Catriona <Catriona.Vigor@act.gov.au>; Hall, Elizabeth <Elizabeth.Hall@act.gov.au>; Abeysekera, Srimal <Srimal.Abeysekera@act.gov.au>; Ryan, Shaun <Shaun.Ryan@act.gov.au>; Tong, Greg <Greg.Tong@act.gov.au>; Fraser, Norman <Norman.Fraser@act.gov.au>; Beaumont, Andrew <Andrew.Beaumont@act.gov.au>; McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>; Goth, Kathy <Kathy.Goth@act.gov.au>

Cc: Bourke, Natasha <Natasha.Bourke@act.gov.au>; #CMTEDD, Budget Coordination Team <#CMTEDDBudgetCoordinationTeam@act.gov.au>; Masters, Nicole <Nicole.Masters@act.gov.au>; Miners, Stephen <Stephen.Miners@act.gov.au>

Subject: Budget Review Briefs [SEC=UNCLASSIFIED, DLM=For-Official-Use-Only]

Importance: High

Hi all

Jen has agreed to the following list of Budget Review briefs so can you please commence drafting (where possible). If you have other suggestions about briefs that you think should be included, can you please let me know asap.

As per the usual arrangements, these all need to be cleared by Stephen/Nicole/Sue V then David so the sooner we can get them moving, the better. The packs will need to be bound by next Friday so most should be cleared by David by next Wednesday to expedite this process.

Regards

Sue

No	Title
	Out of Scope
3	Budget Review Initiatives - Revenue
	Out of Scope

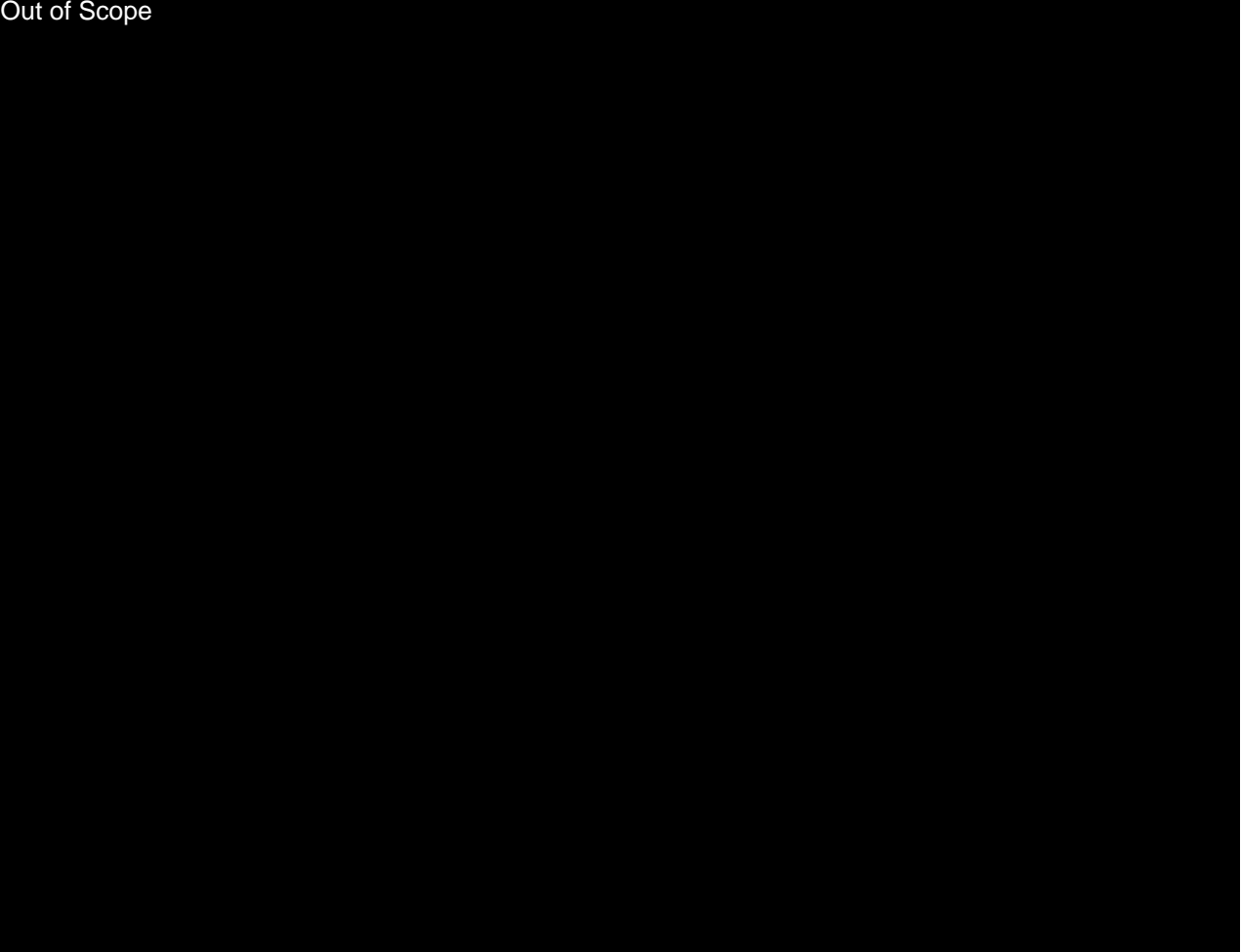
CHIEF MINISTER, TREASURY AND ECONOMIC DEVELOPMENT DIRECTORATE

Fairer revenue – Foreign investor land tax surcharge (CMTEDD-TSY R01 CB1)


	2017-18	2018-19	2019-20	2020-21	Total
	\$'000	\$'000	\$'000	\$'000	\$'000
Revenue		900	1,300	1,800	4,000
Associated Expenses					
Net Expenses					
Associated Capital					

The Government will introduce a land tax surcharge on foreign investors who own residential property in the ACT from 1 July 2018. The surcharge will be 0.75 per cent of the property's average unimproved land value.

Out of Scope



Out of Scope



From: [Craemer, Raoul](#)
To: [Asmus, Conrad](#)
Subject: RE: Budget Review Briefs [SEC=UNCLASSIFIED, DLM=Sensitive: Cabinet]
Date: Friday, 2 February 2018 11:46:02 AM

Hi Conrad, this is what I have cobbled together. Cheers, Raoul

Land tax – foreign investor surcharge

- A surcharge of 0.75% would raise an estimated \$4.0 million over the three years from 2018-19 to 2020-21, based on forecast growth in average unimproved values (AUVs) and the estimated number of properties purchased. A 0.75% surcharge would increase the land tax for the median unit by around \$760 and the median house by around \$2,470 in 2018-19. The estimate of foreign purchases is based on the Foreign Investment Review Board's 2015-16 Annual Report which listed the volume of approved residential property investments by jurisdiction, and the revenue projection has been adjusted to account for potential non-compliance.
- Similar surcharges have been applied in NSW and Victoria, primarily in an attempt to cool the housing market in those States. As the ACT housing market has not experienced similarly dramatic increases in property values, and the number of foreign purchases is relatively small, the surcharge is not expected to have a cooling impact in the ACT. The ACT Revenue Office will develop the ongoing compliance system for this surcharge as there are currently no existing records that indicate whether an owner is a foreign investor.

From: Fell, Jacob
Sent: Friday, 2 February 2018 10:50 AM
To: Craemer, Raoul <Raoul.Craemer@act.gov.au>; Das, Sean <Sean.Das@act.gov.au>; Asmus, Conrad <Conrad.Asmus@act.gov.au>
Subject: FW: Budget Review Briefs [SEC=UNCLASSIFIED, DLM=Sensitive: Cabinet]

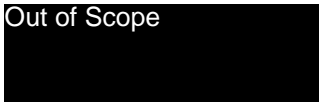
Hi all

We need to draft the Budget Review Revenue Initiatives Brief. We have four initiatives but we will include them all in a single brief. See the attached Revenue Initiatives template to see how they need to be drafted. They don't need to be long. The idea is to provide a little more information than is currently in the Initiative Descriptions.

Can each of you do a part please?

Raoul – Foreign investor land tax surcharge;

Out of Scope



See the Business cases and initiative descriptions attached for info.

Can you please email your completed sections to Conrad. Conrad – can you please put them all in a single brief using the attached template and then forward to me?

Would be good if we could aim to finish this today if possible please.

Thanks

Jake

From: [Fell, Jacob](#)
To: [Asmus, Conrad](#)
Cc: [Das, Sean](#); [Craemer, Raoul](#)
Subject: RE: Budget Review Briefs [SEC=UNCLASSIFIED, DLM=Sensitive: Cabinet]
Date: Friday, 2 February 2018 2:00:25 PM

Thanks for this. I've made some minor edits in tracked changes. Can you all please review. Once you receive the information from ACTRO can you please accept changes and forward to Kathy for clearance.

Thanks

Jake

From: Asmus, Conrad
Sent: Friday, 2 February 2018 12:33 PM
To: Fell, Jacob <Jacob.Fell@act.gov.au>
Cc: Das, Sean <Sean.Das@act.gov.au>; Craemer, Raoul <Raoul.Craemer@act.gov.au>
Subject: FW: Budget Review Briefs [SEC=UNCLASSIFIED, DLM=Sensitive: Cabinet]

Hi Jake,

The draft is here:

<\\act.gov.au\treasury\dt\ECONOMICS\2017-18\2. Government Business\Budget Review Briefs\03. Revenue initiatives contained in the 2017-18 Budget Review.docx>

Out of Scope

Happy to discuss,

Conrad

From: Fell, Jacob
Sent: Friday, 2 February 2018 10:50 AM
To: Craemer, Raoul <Raoul.Craemer@act.gov.au>; Das, Sean <Sean.Das@act.gov.au>; Asmus, Conrad <Conrad.Asmus@act.gov.au>
Subject: FW: Budget Review Briefs [SEC=UNCLASSIFIED, DLM=Sensitive: Cabinet]

Hi all

We need to draft the Budget Review Revenue Initiatives Brief. We have four initiatives but we will include them all in a single brief. See the attached Revenue Initiatives template to see how they need to be drafted. They don't need to be long. The idea is to provide a little more information than is currently in the Initiative Descriptions.

Can each of you do a part please?

Raoul – Foreign investor land tax surcharge;

Out of Scope

See the Business cases and initiative descriptions attached for info.

Portfolio Treasury

**ISSUE: REVENUE INITIATIVES CONTAINED IN THE 2017-18 BUDGET
REVIEW****Key Information*****Foreign investor land tax surcharge***


- From 1 July 2018, foreign investors will be charged an annual land tax surcharge of 0.75 per cent on residential land they own in the ACT.
- The charge will not apply to ACT residents and is designed to help local home buyers compete with foreign investors.
- The surcharge will increase land tax for the median unit with an average unimproved value (AUV) of \$101,372 by around \$760 and the median house with an AUV of \$329,130 by around \$2,470 in 2018-19.
- Similar surcharges have been applied in NSW, Victoria and Queensland. The ACT Revenue Office will develop the ongoing compliance system for this surcharge.
- The surcharge will raise an estimated \$4 million over three years from 2018-19 to 2020-21, based on forecast growth in AUVs and the estimated number of properties purchased.

Out of Scope

Cleared as complete and accurate: 12/02/2018
Cleared by: Deputy Under Treasurer Ext: 75071
Contact Officer Name: Stephen Miners
Lead Directorate: Chief Minister, Treasury and
Economic Development

TRIM Ref:

Out of Scope



Cleared as complete and accurate: 12/02/2018
Cleared by: Deputy Under Treasurer Ext: 75071
Contact Officer Name: Stephen Miners
Lead Directorate: Chief Minister, Treasury and
Economic Development

TRIM Ref:

From: [Mason, Andrea](#)
To: [Fell, Jacob](#); [Goth, Kathy](#)
Subject: For approval - Increased land tax for foreign investors [SEC=UNCLASSIFIED]
Date: Friday, 2 February 2018 11:08:00 AM
Attachments: [Media Release - Foreign investors to pay increased land tax in the ACT.docx](#)
Importance: High

Hi Jacob & Kathy,

Please see attached a CM's media release to go out on Monday re increased land tax for foreign investors – are you happy with this?

Thanks,

Andrea

Andrea Mason | **Senior Communications Officer, Strategic Communications and Media**

Phone: 02 6207 7272

Communications | Chief Minister, Treasury and Economic Development Directorate | **ACT Government**

Level 4, Canberra Nara Centre, 1 Constitution Avenue, Canberra City | GPO Box 158 Canberra City ACT

2601 | www.act.gov.au



Media release

Andrew Barr MLA

Chief Minister

Treasurer

Minister for Economic Development

Minister for Tourism and Major Events

Member for Kurrajong

5 February 2018

Increased land tax for foreign investors

Beginning 1 July 2018, foreign investors in the ACT will pay an additional annual land tax surcharge of 0.75 per cent on the average unimproved value of their residential properties in the ACT.

The ACT Government is implementing these changes to ensure more Canberrans can afford to purchase a home and to ease the pressure on local buyers.

The new tax which is included in the upcoming ACT Budget Review, realises a 2016 election commitment – and is just one of a suite of measures including a reduction in stamp duty, to make housing more affordable in the Territory.

With a thriving ACT economy, we are in a strong position to deliver a better Canberra for everyone, particularly for young people and families who may be struggling to enter the property market.

The charge is estimated to raise around \$4 million in additional revenue from 2018-19 to 2020-21.

The charge will only apply to existing foreign investors and any new purchases made in the ACT by foreign investors. Further details of the surcharge will be released as legislation is developed.

ENDS

Statement ends

Date:

Media contact/s:

Mark Paviour T (02) 6205 2775 M 0466 521 634 E mark.paviour@act.gov.au

ACT LEGISLATIVE ASSEMBLY

Phone (02) 6205 0011

Email barr@act.gov.au



@ABarrMLA

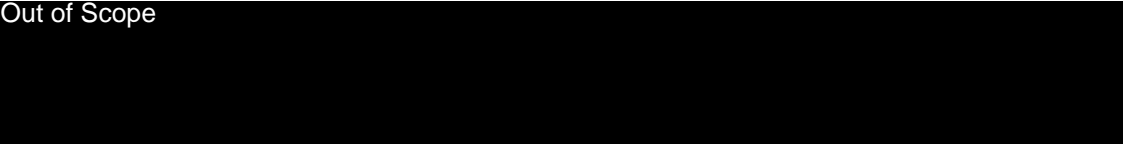


AndrewBarrMLA



andrewbarr

Out of Scope



Attachments: [Media Release - Foreign investors to pay increased land tax in the ACT.docx](#)
Importance: High

From: Goth, Kathy
Sent: Friday, 2 February 2018 12:09 PM
To: Mason, Andrea <Andrea.Mason@act.gov.au>
Subject: FW: For approval - Increased land tax for foreign investors [SEC=UNCLASSIFIED]
Importance: High

Hi Andrea

We're happy with it, except for the small change to the final para as below.

Thanks
Jake and Kathy

The charge will only apply to ~~existing foreign investors and any new purchases made in the ACT by foreign investors.~~ **ACT residents will not pay the new charge.** Further details of the surcharge will be released as legislation is developed.

From: Mason, Andrea
Sent: Friday, 2 February 2018 11:09 AM
To: Fell, Jacob <Jacob.Fell@act.gov.au>; Goth, Kathy <Kathy.Goth@act.gov.au>
Subject: For approval - Increased land tax for foreign investors [SEC=UNCLASSIFIED]
Importance: High

Hi Jacob & Kathy,

Please see attached a CM's media release to go out on Monday re increased land tax for foreign investors – are you happy with this?

Thanks,

Andrea

Andrea Mason | **Senior Communications Officer, Strategic Communications and Media**
Phone: 02 6207 7272
Communications | Chief Minister, Treasury and Economic Development Directorate | **ACT Government**
Level 4, Canberra Nara Centre, 1 Constitution Avenue, Canberra City | GPO Box 158 Canberra City ACT 2601 | www.act.gov.au

From: [Mason, Andrea](#)
To: [Paviour, Mark](#)
Cc: [Le, Joanna](#)
Subject: Increased land tax for foreign investors release [SEC=UNCLASSIFIED]
Date: Friday, 2 February 2018 12:21:00 PM
Attachments: [Media Release - Foreign investors to pay increased land tax in the ACT - final.docx](#)

Hi Mark,

Please see attached the foreign investors release to go out on Monday – this has been fact checked/approved by Treasury.

Thanks,

Andrea

Andrea Mason | **Senior Communications Officer, Strategic Communications and Media**

Phone: 02 6207 7272

Communications | Chief Minister, Treasury and Economic Development Directorate | **ACT Government**

Level 4, Canberra Nara Centre, 1 Constitution Avenue, Canberra City | GPO Box 158 Canberra City ACT

2601 | www.act.gov.au



Media release

Andrew Barr MLA

Chief Minister

Treasurer

Minister for Economic Development

Minister for Tourism and Major Events

Member for Kurrajong

5 February 2018

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Beginning 1 July 2018, foreign investors in the ACT will pay an additional annual land tax surcharge of 0.75 per cent on the average unimproved value of their residential properties in the ACT.

The ACT Government is implementing these changes to ensure more Canberrans can afford to purchase a home and to ease the pressure on local buyers.

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With a thriving ACT economy, we are in a strong position to deliver a better Canberra for everyone, particularly for young people and families who may be struggling to enter the property market.

The charge is estimated to raise around \$4 million in additional revenue from 2018-19 to 2020-21.

The charge will only-apply to-foreign investors. ACT residents will not pay the new charge. Further details of the surcharge will be released as legislation is developed.

ENDS

Statement ends

Date:

Media contact/s:

Mark Paviour T (02) 6205 2775 M 0466 521 634 E mark.paviour@act.gov.au

ACT LEGISLATIVE ASSEMBLY

Phone (02) 6205 0011

Email barr@act.gov.au



@ABarrMLA



AndrewBarrMLA



andrewbarr

From: [Asmus, Conrad](#)
To: [Fell, Jacob](#); [Das, Sean](#); [Craemer, Raoul](#)
Subject: FYI: land tax article [SEC=UNCLASSIFIED]
Date: Monday, 5 February 2018 11:27:00 AM

<http://www.canberratimes.com.au/act-news/act-government-to-increase-land-tax-for-foreign-investors-to-rebalance-market-20180202-h0sgjb.html>

Conrad Asmus | Policy Analyst

Phone: +61 2 6207 0648 | Email: conrad.asmus@act.gov.au

Taxation and Revenue Reform | Chief Minister, Treasury and Economic Development Directorate | ACT Government

Level 1 Nara Centre | GPO Box 158, Canberra ACT 2601 | act.gov.au

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Feed ACT Government | Andrew Barr MLA: Media Releases

Posted On Mon 05/02/2018 12:00 AM

Author ACT Government | Andrew Barr MLA: Media Releases

Subject **Minister Barr: Increased land tax for foreign investors**

Message Full article.htm (23 KB)

Increased land tax for foreign investors

[View article...](#)

From: [Fell, Jacob](#)
To: [Asmus, Conrad](#)
Subject: FW: Foreign investors [SEC=UNCLASSIFIED]
Date: Monday, 5 February 2018 12:09:25 PM

Conrad, for your info.

From: Goth, Kathy
Sent: Monday, 5 February 2018 12:01 PM
To: Fell, Jacob <Jacob.Fell@act.gov.au>
Subject: RE: Foreign investors [SEC=UNCLASSIFIED]

Jake

Just spoke to Jen and approved these words

From: Rayner, Jennifer
Sent: Monday, 5 February 2018 11:40 AM
To: Goth, Kathy <Kathy.Goth@act.gov.au>; Fell, Jacob <Jacob.Fell@act.gov.au>
Subject: Foreign investors

Morning guys,

A quick one we'd like to clarify with you re the foreign investor land tax surcharge announcement today – can we please have an ok (or not) on the below by midday?

The query is about how many properties are owned by foreign investors in the ACT. Can we say:

The Foreign Investment Review Board's Annual Report provides data on the number of foreign purchases of residential property in the ACT each year. For example, in 2015-16 there were 283 approved purchases of residential property by foreign buyers.

This annual data was used to inform the revenue estimates for this budget initiative.

Thanks for your help,

Jen

From: [Fell, Jacob](#)
To: [Craemer, Raoul](#); [Das, Sean](#); [Asmus, Conrad](#)
Subject: FW: land tax cabinet submission [DLM=Sensitive: Cabinet]
Date: Wednesday, 7 February 2018 12:49:58 PM
Attachments: [CAB18 3879 17-483 Land Tax Bill Amendment Bill 2018 - policy approval.docx](#)

Fyi – proposed changes to land tax.

From: Ellis, David
Sent: Wednesday, 7 February 2018 12:32 PM
To: Goth, Kathy <Kathy.Goth@act.gov.au>; Fell, Jacob <Jacob.Fell@act.gov.au>
Subject: land tax cabinet submission [DLM=Sensitive: Cabinet]

Land tax cabinet submission as discussed.

Thanks

David

David Ellis | Manager | Objections and Policy Unit

Ph: 02 6205 4811 | david.ellis@act.gov.au

ACT Revenue Office | Chief Minister, Treasury and Economic Development Directorate | ACT Government

PO Box 293 Civic Square 2608 | www.revenue.act.gov.au

Respect, Integrity, Collaboration, Innovation - Better, Faster, Smarter

Please consider the environment before printing this email - or if printing is necessary, please print double-sided.

**Chief Minister, Treasury and Economic
Development Directorate**

SENSITIVE: CABINET

To: Treasurer

Tracking No.: CMTEDD2018/426

CC:

From: Executive Director, Revenue Management Division

Subject: Land Tax Amendment Bill 2018 – agreement to exposure draft

Critical Date: 5 February 2018

Critical Reason: Lodgement for exposure draft circulation is scheduled for 6 February 2018.

- UT .../.../...
- DUT .../.../...

Purpose

The Land Tax Amendment Bill 2018 will amend the *Land Tax Act 2004* to implement a **Out of Scope** and foreign investor surcharge from 1 July 2018.

Recommendations

That you agree to endorse the Cabinet Submission (Attachment A) for exposure draft circulation.

Agreed / Not Agreed / Please Discuss

Andrew Barr MLA/...../.....

Minister's Office Feedback

SENSITIVE: CABINET

SENSITIVE: CABINET

Background

1. On 18 January 2018 you approved legislative amendments to be included in the Land Tax Amendment Bill 2018 (CMTEDD2018/159).

Issues

2. The attached Cabinet submission ([Attachment A](#)) is for circulation as an exposure draft and reflects the policy details agreed to by you on 18 January 2018.
3. Cabinet is scheduled to consider the final Bill on 6 March 2018 for introduction in the April sitting.

Financial Implications

4. Nil.

ConsultationInternal

5. Nil.

Cross Directorate

6. All directorates will be consulted during the Cabinet process.

External

7. Nil.

Benefits/Sensitivities

8. Nil.

Media Implications

9. Nil.

Signatory Name: Kim Salisbury Phone: 70010
 Action Officer: Tim Hitches Phone: 70077

Attachments

Attachment	Title
Attachment A	17/483 Land Tax Amendment Bill 2018 – Cabinet Submission
Attachment B	Table of Final Comments
Attachment C	Triple Bottom Line Assessment

SENSITIVE: CABINET



MINISTERIAL BRIEF

Chief Minister, Treasury and Economic
Development Directorate

SENSITIVE: CABINET

To: Treasurer

Tracking No.: CMTEDD2018/426

CC:

From: Executive Director, Revenue Management Division

Subject: Land Tax Amendment Bill 2018 – agreement to exposure draft

Critical Date: 6 February 2018

Critical Reason: Lodgement for exposure draft circulation is scheduled for 6 February 2018.

- UT *AV 8/2/18*
- DUT *.../.../...*

Purpose

The Land Tax Amendment Bill 2018 will amend the *Land Tax Act 2004* to implement a **Out of Scope** and foreign investor surcharge from 1 July 2018.

Recommendations

That you agree to endorse the Cabinet Submission (Attachment A) for exposure draft circulation.

AV
Agreed / Not Agreed / Please Discuss

Andrew Barr MLA *Andrew Barr* 7./2/18

Minister's Office Feedback

SENSITIVE: CABINET



Two key changes to land tax are being introduced from 1 July 2018:

1. **Out of Scope**
2. New foreign investor land tax surcharge.

Note: the overall policy has been announced and approved by the Treasurer, and can be communicated to customers. However there may be some changes to the detail in the final Bill.

Foreign investor land tax surcharge

- Applies to residential land owned by a foreign person on first day of quarter
- Surcharge is proportional to interest
- 0.75% pa of AUV



ACT will be introducing a foreign surcharge of land tax. Most States now have foreign duty surcharges, while NSW, Qld and Victoria have a foreign or absentee land tax. We are only introducing the land tax as the Government is progressively abolishing conveyance duty under tax reform.

The surcharge in 2017-18 will be 0.75% of AUV.

Who is a foreign person?

- Foreign citizen who is not a resident of Australia
 - Australian citizens and PRs not liable
 - Foreign citizens not liable if they ordinarily reside in Australia
- Foreign companies
- Australian companies and trusts controlled by foreign people (50% or more)




A foreign individual is anyone who is not an:

- Australian citizen
- Permanent resident
- New Zealand citizen on Special Category Visa (444)
- Person 'ordinarily resident' in Australia

Ordinarily resident test is based on:

- Visa status
- Person's intention for being in Australia
- Family and relationship links
- Nature of employment in Australia
- Location of accounts and assets
- Living arrangements


Australian citizens aren't liable while overseas. Foreign citizens aren't liable while in Australia.

Company and trust rules are more complicated, but work similarly to payroll tax grouping or landholder duty.

- For **companies** control is based on 50% or more of the shares or voting power.

- For **trusts** control is based on the value of the beneficial interests. The interests of associated people must be aggregated with foreign people. Discretionary trusts are only foreign if the specified beneficiary is the foreign person.

Foreign surcharge



- Exemptions
- Notify the ACT Revenue Office within 30 days
 - Foreign buyers (Barrier Free)
 - Foreign owners (1 Jul 2018)
 - Becoming a foreign person
 - Leaving the country permanently

ACT Government

Exemptions: Mostly the same as land tax – in particular, compassionate cases, uninhabitable properties, and moving out of PPR.

PPRs are exempt, meaning the ACT PPR of a foreign citizen is not liable for the surcharge.

Foreign developers are exempt during construction.

However, the nil/nominal rent exemption will not apply – foreign owners must pay the surcharge (but not the land tax) if property is occupied rent-free.

Foreign owners have 30 days to notify the ACT Revenue Office of change of circumstances.

This will also integrate with Barrier Free. We have some foreign owner data, but will refine the questions in the Buyer Verification Declaration/Transfer forms.

From: [Fell, Jacob](#)
To: [Das, Sean](#); [Asmus, Conrad](#); [Craemer, Raoul](#)
Subject: FW: I think this is the article UT is referring to [SEC=UNOFFICIAL]
Date: Friday, 9 February 2018 9:58:39 AM

Fyi

From: Salisbury, Kim
Sent: Friday, 9 February 2018 9:53 AM
To: Goth, Kathy <Kathy.Goth@act.gov.au>; Beaumont, Andrew <Andrew.Beaumont@act.gov.au>; Fell, Jacob <Jacob.Fell@act.gov.au>
Subject: I think this is the article UT is referring to [SEC=UNOFFICIAL]

<https://www.allhomes.com.au/news/will-increased-land-tax-for-foreign-investors-favour-act-home-buyers-20180207-h0v8lw/>

From: [Fell, Jacob](#)
To: [Craemer, Raoul](#)
Cc: [Das, Sean](#); [Asmus, Conrad](#)
Subject: FW: Tax article [DLM=For-Official-Use-Only]
Date: Friday, 9 February 2018 2:56:38 PM

Hi Raoul

Can you please review the email below and prepare a brief covering the points in Kathy's email. Let's discuss once you've had a chance to review.

Thanks

Jake

From: Goth, Kathy
Sent: Friday, 9 February 2018 2:47 PM
To: Fell, Jacob <Jacob.Fell@act.gov.au>
Subject: FW: Tax article [DLM=For-Official-Use-Only]

Jake

FYI too perhaps one of the team could prepare a short brief on Monday which incorporates the comments below? I'll also send through the article.

From: Nicol, David
Sent: Friday, 9 February 2018 2:40 PM
To: Goth, Kathy <Kathy.Goth@act.gov.au>
Subject: RE: Tax article [DLM=For-Official-Use-Only]

Noted, thanks Kathy. It might be worth preparing a formal brief to the Chief Minister on these arguments.

David

From: Goth, Kathy
Sent: Friday, 9 February 2018 2:38 PM
To: Nicol, David <David.Nicol@act.gov.au>
Cc: Salisbury, Kim <Kim.Salisbury@act.gov.au>; Vroombout, Sue <Sue.Vroombout@act.gov.au>; Beaumont, Andrew <Andrew.Beaumont@act.gov.au>
Subject: RE: Tax article [DLM=For-Official-Use-Only]

Hi David

The key points raised by industry from my reading are

- Lead to increase cost of housing and further constraint on supply in the ACT

Adina is referring to the LVC – not the new FI surcharge on this point. LVC increases costs for

some developments depending on the lease conditions. Important to note that many developments do not require a lease variation.

- Will discourage foreign investors from the ACT.

Unlikely in my view. I suspect that most foreign investors purchase properties for children attending University in Canberra and the decision on where to attend university in Australia will be the key driver of demand.

Most other jurisdictions charge similar taxes at similar or higher rates as mentioned in the article.

- Vic, NSW and Qld Exemptions for foreign owned companies

This refers to incentives for foreign companies who undertake residential construction and is aimed at increasing the supply of properties available to be purchased.

The FI surcharge is targeted to foreign investors who purchase investment properties.

Regards

Kathy

From: Nicol, David

Sent: Thursday, 8 February 2018 6:31 PM

To: Goth, Kathy <Kathy.Goth@act.gov.au>; Vroombout, Susan <Susan.Vroombout@act.gov.au>; Salisbury, Kim <Kim.Salisbury@act.gov.au>

Cc: Beaumont, Andrew <Andrew.Beaumont@act.gov.au>

Subject: RE: Tax article [DLM=For-Official-Use-Only]

Sorry- I thought I attached it. It's about the foreign buyer land tax levy we are introducing.

From: Goth, Kathy

Sent: Thursday, 8 February 2018 6:11 PM

To: Nicol, David <David.Nicol@act.gov.au>; Vroombout, Susan <Susan.Vroombout@act.gov.au>; Salisbury, Kim <Kim.Salisbury@act.gov.au>

Cc: Beaumont, Andrew <Andrew.Beaumont@act.gov.au>

Subject: RE: Tax article [DLM=For-Official-Use-Only]

David

Are you referring to the Peter Martin article regarding the US tax cuts being funded through debt (rather than budget savings) and subsequent impact in proposed income tax cuts here?

If so Andrew and I discussed and comments are nuanced and accurate.

Let me know if you were referring to another one as we has trouble finding another article.

From: Nicol, David

Sent: Thursday, 8 February 2018 5:00 PM

To: Vroombout, Susan <Susan.Vroombout@act.gov.au>; Goth, Kathy <Kathy.Goth@act.gov.au>;
Salisbury, Kim <Kim.Salisbury@act.gov.au>

Subject: Tax article [DLM=For-Official-Use-Only]

Interesting article in the CT today. Kathy – can I have your reaction to the comments?

Thanks

David

From: [Craemer, Raoul](#)
To: [Fell, Jacob](#)
Cc: [Das, Sean](#); [Asmus, Conrad](#)
Subject: RE: Tax article [DLM=For-Official-Use-Only]
Date: Monday, 12 February 2018 2:05:56 PM
Attachments: [20180212 - brief to Treasurer.docx](#)

Hi Team,

I've drafted a short Brief as requested by Jake. If one of you has time, could you please look at it before we pass it on to Kathy?

Thanks,
Raoul

From: Fell, Jacob
Sent: Friday, 9 February 2018 2:57 PM
To: Craemer, Raoul <Raoul.Craemer@act.gov.au>
Cc: Das, Sean <Sean.Das@act.gov.au>; Asmus, Conrad <Conrad.Asmus@act.gov.au>
Subject: FW: Tax article [DLM=For-Official-Use-Only]

Hi Raoul

Can you please review the email below and prepare a brief covering the points in Kathy's email. Let's discuss once you've had a chance to review.

Thanks

Jake

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Sent: Friday, 9 February 2018 2:47 PM
To: Fell, Jacob <Jacob.Fell@act.gov.au>
Subject: FW: Tax article [DLM=For-Official-Use-Only]

Jake

FYI too perhaps one of the team could prepare a short brief on Monday which incorporates the comments below? I'll also send through the article.

From: Nicol, David
Sent: Friday, 9 February 2018 2:40 PM
To: Goth, Kathy <Kathy.Goth@act.gov.au>
Subject: RE: Tax article [DLM=For-Official-Use-Only]

Noted, thanks Kathy. It might be worth preparing a formal brief to the Chief Minister on these arguments.

**Chief Minister, Treasury and Economic
Development Directorate**

UNCLASSIFIED

To: Treasurer

Tracking No.: Click here to enter text.

Date: February 2018

From: Director, Economic and Financial Analysis

Subject: Industry response to the Foreign Investor Land Tax Surcharge

Critical Date: N/A

Critical Reason: Response to industry arguments

- A/g UT .../.../...
- A/g ED .../.../...

Purpose

To provide further information in response to the industry comments recently reported in the print media and online, including the Canberra Times and the allhomes website.

Signed / Not Signed / Please Discuss

Andrew Barr MLA/...../.....

Minister's Office Feedback

UNCLASSIFIED

Tracking No.: Click here to enter text.

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Background

The foreign investor land tax surcharge announced on 5 February 2018 prompted several articles in the local media (links provided below). The articles featured opinions from industry representatives and other commentators, which are briefly reviewed and addressed here.

Issues

The Executive Director of the Property Council of Australia ACT was quoted as saying that the “new taxes” would not address the underlying causes of high house prices and potentially further constrain supply. This statement is in line with a general sentiment reflected in the media coverage that the surcharge may discourage foreign investors.

Response

1. The industry representative appears to be referring to the Lease Variation Charge (LVC) and not the foreign investor land tax surcharge. LVC may increase costs for some developments depending on the lease conditions, but many developments do not require a lease variation.
2. The strength of the potential link, if any, between the foreign investor land tax surcharge and the supply of housing in the ACT is likely to be weak.

At around 4% of approvals for new houses and units, foreign investment accounts for a small proportion of activity in the residential real estate sector in the ACT. The Foreign Investment Review Board (FIRB) Annual Report 2015-16 reveals that only 189 new dwellings were approved in 2015-16.

The FIRB also estimates proposed foreign investment in ACT commercial real estate at \$0.73 billion, with the number of approvals unspecified but below 10. The nature and composition of these approvals cannot be ascertained from FIRB data.

3. Foreign investors purchasing properties for children attending University in Canberra are likely to be undeterred by the surcharge. Their decision to invest is more likely to depend on the decision on where to attend university in Australia.
4. The media coverage noted that most other Australian jurisdictions levy foreign investor surcharges at similar or higher rates, but that there are exemptions for foreign owned companies in Victoria, New South Wales and Queensland. This refers to incentives for foreign companies who undertake residential construction and is aimed at increasing the supply of properties available to be purchased. The ACT’s foreign investor land tax surcharge targets foreign investors who purchase investment properties.
5. One article noted that the falling stamp duty in the ACT contrast with high levels of stamp duty collected in other States and Territories. This makes investing in property in the ACT more attractive to foreign buyers and reinforces the effect of having relatively lower foreign investor surcharges in the ACT than in other States and Territories.

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Links to media coverage

allhomes (7 February 2018) 'Will increased land tax for foreign investors favour ACT home buyers?' <https://www.allhomes.com.au/news/will-increased-land-tax-for-foreign-investors-favour-act-home-buyers-20180207-h0v8lw/>

Canberra Times (5 February 2018) 'ACT government to increase land tax for foreign investors to 'rebalance' market' <http://www.canberratimes.com.au/act-news/act-government-to-increase-land-tax-for-foreign-investors-to-rebalance-market-20180202-h0sgjb.html>

Canberra Times (7 February 2018) 'Foreign investors land tax hike only one piece of affordability problem' <http://www.canberratimes.com.au/comment/ct-editorial/foreign-investors-land-tax-hike-only-one-piece-of-affordability-problem-20180206-h0uq38.html>

Benefits/Sensitivities

1. Nil

Media Implications

2. Nil

Signatory Name:	Kathy Goth	Phone:	50772
Action Officer:	Raoul Craemer	Phone:	58475

UNCLASSIFIED

From: [Craemer, Raoul](#)
To: [Asmus, Conrad](#)
Subject: FW: Tax article [DLM=For-Official-Use-Only]
Date: Monday, 12 February 2018 4:35:08 PM
Attachments: [20180212 - Brief to Treasurer.docx](#)

From: Craemer, Raoul
Sent: Monday, 12 February 2018 3:42 PM
To: Fell, Jacob <Jacob.Fell@act.gov.au>
Subject: RE: Tax article [DLM=For-Official-Use-Only]

Hi Jake

Sean had a look at the draft Brief I sent through earlier and I have updated it accordingly (attached).

The attachments are on the G: drive.

Cheers,
Raoul

From: Fell, Jacob
Sent: Friday, 9 February 2018 2:57 PM
To: Craemer, Raoul <Raoul.Craemer@act.gov.au>
Cc: Das, Sean <Sean.Das@act.gov.au>; Asmus, Conrad <Conrad.Asmus@act.gov.au>
Subject: FW: Tax article [DLM=For-Official-Use-Only]

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Sent: Friday, 9 February 2018 2:47 PM
To: Fell, Jacob <Jacob.Fell@act.gov.au>
Subject: FW: Tax article [DLM=For-Official-Use-Only]

Jake

FYI too perhaps one of the team could prepare a short brief on Monday which incorporates the comments below? I'll also send through the article.

**Chief Minister, Treasury and Economic
Development Directorate**

UNCLASSIFIED

To: Treasurer

Tracking No.: Click here to enter text.

Date: 12 February 2018

From: Director, Economic and Financial Analysis

Subject: Industry response to the Foreign Investor Land Tax Surcharge

Critical Date: N/A

Critical Reason: Response to industry arguments

- UT .../.../...

Purpose

To provide further information in response to the industry comments recently reported in the print media and online, including the Canberra Times and the allhomes website.

Recommendations

That you:

1. Note the information contained in this brief;

Noted / Please Discuss

MLA/...../.....

Minister's Office Feedback

Background

1. The foreign investor land tax surcharge announced on 5 February 2018 prompted several articles in the local media. The articles featured opinions from industry representatives and other commentators, which are briefly reviewed and addressed here.

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Issues

2. The Executive Director of the Property Council of Australia ACT was quoted as saying that the “new taxes” would not address the underlying causes of high house prices and potentially further constrain supply ([Attachment A](#)). This statement is in line with a general sentiment that the surcharge may discourage foreign investors.
3. The industry representative appears to be referring to the Lease Variation Charge (LVC) and not the foreign investor land tax surcharge. LVC may increase costs for some developments depending on the lease conditions, but many developments do not require a lease variation.
4. The strength of the potential link, if any, between the foreign investor land tax surcharge and the supply of housing in the ACT is likely to be weak.
 - a. At around 4% of approvals for new houses and units, foreign investment accounts for a small proportion of activity in the residential real estate sector in the ACT. The Foreign Investment Review Board (FIRB) Annual Report 2015-16 reveals that only 189 new dwellings were approved in 2015-16.
 - b. The FIRB also estimates proposed foreign investment in ACT commercial real estate at \$0.73 billion, with the number of approvals unspecified but below 10. The nature and composition of these approvals cannot be ascertained from FIRB data.
5. Foreign investors purchasing properties for children attending university in Canberra are likely to be undeterred by the surcharge. Their decision to invest is more likely to depend on the decision on where to attend university in Australia.
6. The media coverage noted that most other Australian jurisdictions levy foreign investor surcharges at similar or higher rates ([Attachment B](#)), but that there are exemptions for foreign owned companies in Victoria, New South Wales and Queensland. This refers to incentives for foreign companies who undertake residential construction and is aimed at increasing the supply of properties available to be purchased. The ACT’s foreign investor land tax surcharge targets foreign investors who purchase investment properties.
7. One article noted that the falling stamp duty in the ACT contrast with high levels of stamp duty collected in other States and Territories ([Attachment C](#)). This makes investing in property in the ACT more attractive to foreign buyers and reinforces the effect of having relatively lower foreign investor surcharges in the ACT than in other States and Territories.

Financial Implications

8. Nil.

ConsultationInternal

9. Not required.

UNCLASSIFIED

UNCLASSIFIED

Cross Directorate

10. Not required.

External

11. Not required.

Benefits/Sensitivities

12. Nil.

Media Implications

13. Nil.

Signatory Name:	Kathy Goth	Phone:	50772
Action Officer:	Raoul Craemer	Phone:	58475

Attachments

Attachment	Title
Attachment A	Will increased land tax for foreign investors favour ACT home buyers?
Attachment B	ACT government to increase land tax for foreign investors to 'rebalance' market
Attachment C	Foreign investors land tax hike only one piece of affordability problem

UNCLASSIFIED

Tracking No.: [Click here to enter text.](#)

From: [Craemer, Raoul](#)
To: [Fell, Jacob](#)
Cc: [Das, Sean](#); [Asmus, Conrad](#)
Subject: RE: Tax article [DLM=For-Official-Use-Only]
Date: Tuesday, 13 February 2018 3:39:44 PM

Hi Jake

I have updated the Brief following feedback from both Sean and Conrad (thanks guys!):

[\\act.gov.au\treasury\DT\ECONOMICS\2017-18\4. Taxation and Revenue Reform\4. Projects\Request for information\Canberra Times article on foreign investor surcharge\20180212 - Brief to Treasurer.docx](#)

Please have a look and let me know if you want me to change anything.

Cheers,
Raoul

From: Fell, Jacob
Sent: Friday, 9 February 2018 2:57 PM
To: Craemer, Raoul <Raoul.Craemer@act.gov.au>
Cc: Das, Sean <Sean.Das@act.gov.au>; Asmus, Conrad <Conrad.Asmus@act.gov.au>
Subject: FW: Tax article [DLM=For-Official-Use-Only]

Hi Raoul

Can you please review the email below and prepare a brief covering the points in Kathy's email. Let's discuss once you've had a chance to review.

Thanks

Jake

From: Goth, Kathy
Sent: Friday, 9 February 2018 2:47 PM
To: Fell, Jacob <Jacob.Fell@act.gov.au>
Subject: FW: Tax article [DLM=For-Official-Use-Only]

Jake

FYI too perhaps one of the team could prepare a short brief on Monday which incorporates the comments below? I'll also send through the article.

From: Nicol, David
Sent: Friday, 9 February 2018 2:40 PM
To: Goth, Kathy <Kathy.Goth@act.gov.au>



MINISTERIAL BRIEF

Chief Minister, Treasury and Economic Development Directorate

UNCLASSIFIED

To: Treasurer Tracking No.: Click here to enter text.

Date: 12 February 2018

From: Director, Economic and Financial Analysis

Subject: Industry response to the Foreign Investor Land Tax Surcharge

Critical Date: N/A

Critical Reason: Response to industry arguments

- UT .../.../...

Purpose

To provide further information in response to the industry comments recently reported in the print media and online, including the Canberra Times and the allhomes website.

Recommendations

That you:

1. Note the information contained in this brief;

Noted / Please Discuss

[Andrew Barr](#) MLA/...../.....

Minister's Office Feedback

Tracking No.: Click here to enter text.

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Background

1. On 5 February 2018, as part of the Budget Review process, the Treasurer announced that the foreign investor land tax surcharge beginning 1 July 2018, foreign investors in the ACT will pay an additional annual land tax surcharge of 0.75 per cent on the average unimproved value of their residential properties in the ACT. The announcement announced on 5 February 2018 prompted several articles in the local media. The articles featured opinions from industry representatives and other commentators, which are briefly reviewed and addressed here.

Commented [AC1]: What is this? Also mention Budget Review

Issues

2. It is important to note that there appears to be some confusion in the media due to the fact that land tax in the ACT refers to an annual charge that is levied on residential properties which are either rented out or not the owner's primary place of residence. The surcharge which will come into effect in the ACT therefore differs from the foreign investor surcharges or duties levied since 2015-16 in New South Wales, Victoria and Queensland. Surcharges in those States are levied on purchases, i.e., they are one-off stamp or conveyance duty surcharges.

- a. Consequently, exemption schemes mentioned in the media refer to exemptions for these one-off surcharges. The 7 per cent surcharge levied in Victoria can therefore not be compared directly to the 0.75 per cent surcharge which will come into effect in the ACT.

Formatted

3. Exemptions regimes. In Victoria, the Treasurer may grant an exemption, based on whether the foreign purchaser is Australian-based and their commercial activities add to the supply of housing stock in Victoria, either through new development or re-development that is primarily residential. A range of other considerations however also apply. Queensland also has a Treasurer's exemption regime in place.

- 2-4. The Executive Director of the Property Council of Australia ACT was quoted as saying that the "new taxes" would not address the underlying causes of high house prices and potentially further constrain supply (Attachment A). This statement is in line with a general sentiment that the surcharge may discourage foreign investors.

- 2-5. The industry representative appears to be referring to the Lease Variation Charge (LVC) and not the foreign investor land tax surcharge. LVC may increase costs for some developments depending on the lease conditions, but many developments do not require a lease variation.

- 4-6. The strength of the potential link, if any, between the foreign investor land tax surcharge and the supply of housing in the ACT is likely to be weak.
 - a. At around 4% of approvals for new houses and units, foreign investment accounts for a small proportion of activity in the residential real estate sector in the ACT. The Foreign Investment Review Board (FIRB) Annual Report 2015-16 reveals that only 189 new dwellings were approved in 2015-16.
 - b. The FIRB also estimates proposed foreign investment in ACT commercial real estate at \$0.73 billion, with the number of approvals unspecified but below ~~40~~ten. The nature and composition of these approvals cannot be ascertained from FIRB data.

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~~5-7.~~ Foreign investors purchasing properties for children attending university in Canberra are likely to be undeterred by the surcharge. Their decision to invest is more likely to depend on the decision on where to attend university in Australia.

~~6-8.~~ The media coverage noted that most other Australian jurisdictions levy foreign investor surcharges at similar or higher rates ([Attachment B](#)), but that there are exemptions for foreign owned companies in Victoria, New South Wales and Queensland. This refers to incentives for foreign companies who undertake residential construction and is aimed at increasing the supply of properties available to be purchased. The ACT's foreign investor land tax surcharge targets foreign investors who purchase investment properties.

~~7-9.~~ One article noted that the falling stamp duty in the ACT contrast with high levels of stamp duty collected in other States and Territories ([Attachment C](#)). This makes investing in property in the ACT more attractive to foreign buyers and reinforces the effect of having relatively lower foreign investor surcharges in the ACT than in other States and Territories.

Financial Implications

~~8-10.~~ Nil.

ConsultationInternal

~~9-11.~~ Not required.

Cross Directorate

~~10-12.~~ Not required.

External

~~11-13.~~ Not required.

Benefits/Sensitivities

~~12-14.~~ Nil.

Media Implications

~~13-15.~~ Nil.

Signatory Name: Kathy Goth Phone: 50772
Action Officer: Raoul Craemer Phone: 58475

Attachments

Attachment	Title
Attachment A	Will increased land tax for foreign investors favour ACT home buyers?

UNCLASSIFIED

Tracking No.: [Click here to enter text.](#)

UNCLASSIFIED

Attachment B	ACT government to increase land tax for foreign investors to 'rebalance' market
Attachment C	Foreign investors land tax hike only one piece of affordability problem

UNCLASSIFIED

Tracking No.: [Click here to enter text.](#)

		2015/16				
Approvals	Houses	1093	189	189 new dwellings	2014-15	Growth 2014-15 to 2015-16
	Units	3329	203	77 existing property	166	14%
		4422		14 vacant land		
			0.042741	280		
			0.045907			
	Investment 2015-16					
	FIRB (\$)	100,000,000.00	ACT			
	Per foreign	529,101				

From: [Asmus, Conrad](#)
To: [Fell, Jacob](#)
Subject: surcharge question [SEC=UNCLASSIFIED]
Date: Wednesday, 14 February 2018 5:29:00 PM

<\\act.gov.au\treasury\dt\ECONOMICS\2017-18\4. Taxation and Revenue Reform\2. Tax Reform\Land Tax\20180214 - Assembly question on Foreign investor surcharge impact on rent rates.docx>

<\\act.gov.au\treasury\dt\ECONOMICS\2017-18\4. Taxation and Revenue Reform\2. Tax Reform\Land Tax\20180214 - Assembly question on Foreign investor surcharge impact on rent rates.xlsx>

Conrad Asmus | Policy Analyst

Phone: +61 2 6207 0648 | Email: conrad.asmus@act.gov.au

Taxation and Revenue Reform | Chief Minister, Treasury and Economic Development Directorate | ACT Government

Level 1 Nara Centre | GPO Box 158, Canberra ACT 2601 | act.gov.au

Question

MR COE: Minister, what modelling has the government done with regard to the foreign tax that has now been placed on foreign investment here in the ACT with regard to the impact it will have on the private rental market?

MR GENTLEMAN: I do not have the detailed modelling in front of me but I will get hold of it and present it back to the Assembly.

Answer

Modelling of the Foreign Investor Surcharge is based on estimated median property average unimproved values (AUVs) and number of properties. The estimate of foreign purchases is based on data from the Foreign Investment Review Board 2015-16 Annual Report which reports the volume of approved residential property investments in each jurisdiction.

Analysis undertaken as part of Budget Cabinet considerations indicated that rents in the ACT are predominantly determined by supply and demand and are unlikely to be greatly affected by costs associated with land tax.

FIRB 2015-16 annual report

New Dw elling		Existing Property		Vacant land	
No.	\$b	No.	\$b	No.	\$b
189		0.1		77	0.06
				14	

Macroeconomics

Access Canberra full transactions

House turnover	4,498
Unit turnover	4,098
Both types	8,596

ABS Building Activity (cat no 8752.0), Table 39. The a Note:

New houses	1,117	This is private sector only (ABS includes public)
New apartments (uni	2,111	
New dwellings	3,228	

Proportion of new dwellings	6%
Proportion of total turnover	3%

From: [Fell, Jacob](#)
To: [Goth, Kathy](#)
Cc: [Asmus, Conrad](#)
Subject: QoN re Foreign Investor LT Surcharge [DLM=For-Official-Use-Only]
Date: Wednesday, 14 February 2018 6:05:09 PM

Hi Kathy

Proposed response to the QoN about modelling the effect of the Foreign Investor LT Surcharge on the rental market saved at the link below.

<\\act.gov.au\treasury\dt\ECONOMICS\2017-18\4. Taxation and Revenue Reform\2. Tax Reform\Land Tax\20180214 - Assembly question on Foreign investor surcharge impact on rent rates.docx>



Thanks

Jake

Jacob Fell

Manager | Taxation and Revenue Reform

Treasury (CMTEDD) | ACT Government

 (02) 6205 2528 |  jacob.fell@act.gov.au | Nara Building, Canberra City.



please consider the environment before printing this e-mail

From: [Goth, Kathy](#)
To: [Vroombout, Sue](#)
Cc: [Asmus, Conrad](#); [Fell, Jacob](#)
Subject: RE: Question taken on Notice today [DLM=For-Official-Use-Only]
Date: Wednesday, 14 February 2018 6:18:21 PM
Attachments: [20180214 - Assembly question on Foreign investor surcharge impact on ren....docx](#)
[image001.jpg](#)

Dear Sue

Please see our proposed response attached.

Happy to discuss further.

Regards

Kathy

From: Heath, Kylie **On Behalf Of** Treasury DLO
Sent: Wednesday, 14 February 2018 5:26 PM
To: Fell, Jacob <Jacob.Fell@act.gov.au>
Cc: Goth, Kathy <Kathy.Goth@act.gov.au>; Vroombout, Sue <Sue.Vroombout@act.gov.au>
Subject: Question taken on Notice today [DLM=For-Official-Use-Only]

Hi Jacob

The wording of the question was:


MR COE: Minister, what modelling has the government done with regard to the foreign tax that has now been placed on foreign investment here in the ACT with regard to the impact it will have on the private rental market?

MR GENTLEMAN: I do not have the detailed modelling in front of me but I will get hold of it and present it back to the Assembly.

The full unedited transcript is attached for your reference.

Thanks

Kylie

Kylie Heath | Treasury & WSIR Directorate Liaison Officer - Legislative Assembly
Chief Minister, Treasury and Economic Development Directorate | ACT Government
Phone: +61 2 6205 3033 |
www.act.gov.au  Please consider the environment before printing this e-mail

From: Heath, Kylie **On Behalf Of** Treasury DLO
Sent: Wednesday, 14 February 2018 3:14 PM
To: Fell, Jacob <Jacob.Fell@act.gov.au>
Cc: Goth, Kathy <Kathy.Goth@act.gov.au>


Subject: Question taken on Notice today [DLM=For-Official-Use-Only]

Hi Jacob

As discussed, Minister Gentleman took a question on notice during question time today about what kind of modelling has been done on foreign investments, are you please able to provide some information? Would be great if we could provide a short statement that the Minister can read out in the chamber so that we don't need to do a formal response.

Thanks

Kylie

Kylie Heath | Treasury & WSIR Directorate Liaison Officer - Legislative Assembly
Chief Minister, Treasury and Economic Development Directorate | ACT Government
Phone: +61 2 6205 3033 |
www.act.gov.au  Please consider the environment before printing this e-mail



Media release

Andrew Barr MLA

Chief Minister

Treasurer

Minister for Economic Development

Minister for Tourism and Major Events

Member for Kurrajong

14 February 2018

Out of Scope

Beginning 1 July 2018, foreign investors in the ACT will pay an additional annual land tax surcharge of 0.75 per cent on the average unimproved value of their residential properties in the ACT.

The ACT Government is implementing these changes to ensure more Canberrans can afford to purchase a home and to ease the pressure on local buyers.

The new tax which is included in the upcoming ACT Budget Review, realises a 2016 election commitment – and is just one of a suite of measures introduced by my Government, including a reduction in stamp duty to make housing more affordable in the Territory.

With a thriving ACT economy, we are in a strong position to deliver a better Canberra for everyone, particularly for young people and families who may be struggling to enter the property market.

The charge is estimated to raise around \$4 million in additional revenue from 2018-19 to 2020-21.

The charge will only-apply to-foreign investors. ACT residents will not pay the new charge. Further details of the surcharge will be released as legislation is developed.

ENDS

Statement ends

Date:

Media contact/s:

Mark Paviour T (02) 6205 2775 M 0466 521 634 E mark.paviour@act.gov.au

ACT LEGISLATIVE ASSEMBLY

Phone (02) 6205 0011

Email barr@act.gov.au



@ABarrMLA



AndrewBarrMLA



andrewbarr

From: [Vroombout, Sue](#)
To: [Goth, Kathy](#)
Cc: [Fell, Jacob](#); [Asmus, Conrad](#)
Subject: 20180214 - Assembly question on Foreign investor surcharge inpact on ren.._ (002) [SEC=UNCLASSIFIED]
Date: Thursday, 15 February 2018 8:57:09 AM
Attachments: [20180214 - Assembly question on Foreign investor surcharge inpact on ren.._ \(002\).docx](#)

Kathy,

I've made a few suggestions that I'd be happy to discuss.

Regards,

Sue

Question

MR COE: Minister, what modelling has the government done with regard to the foreign tax that has now been placed on foreign investment here in the ACT with regard to the impact it will have on the private rental market?

MR GENTLEMAN: I do not have the detailed modelling in front of me but I will get hold of it and present it back to the Assembly.

Answer

Modelling of the Foreign Investor Surcharge is based on estimated median property average unimproved values (AUVs) and the number of properties. The estimate of foreign purchases is based on data from the Foreign Investment Review Board 2015-16 Annual Report which reports the volume of approved residential property investments in each jurisdiction.

Analysis undertaken as part of Budget Cabinet considerations indicated that rents in the ACT are predominantly determined by supply and demand and are unlikely to be greatly affected by costs associated with land tax the surcharge is unlikely to have any significant effect on the private rental market.

Commented [VS1]: Is it usual to refer to Budget Cabinet matters? Could we say 'Analysis undertaken in developing the measure'?

Question

MR COE: Minister, what modelling has the government done with regard to the foreign tax that has now been placed on foreign investment here in the ACT with regard to the impact it will have on the private rental market?

MR GENTLEMAN: I do not have the detailed modelling in front of me but I will get hold of it and present it back to the Assembly.

Answer

Modelling of the Foreign Investor Surcharge is based on estimated median property average unimproved values (AUVs) and the number of properties. The estimate of foreign purchases is based on data from the Foreign Investment Review Board 2015-16 Annual Report which reports the volume of approved residential property investments in each jurisdiction.

Analysis undertaken in developing the measure indicated that rents in the ACT are predominantly determined by supply and demand and the surcharge is unlikely to have any significant affect on the private rental market.

Formulas

Formula	Formula – normal properties	Formula - units
FULL land tax	$FC + (AUV \times P)$	$FC + (((AUV \times \frac{TUER}{TUE}) \times P) \times \frac{UE}{TUER})$
Multiple dwelling land tax	$(FC \times \frac{FA}{TFA}) + ((AUV \times \frac{FA}{TFA}) \times P)$	Doesn't apply
Part company/trust land tax (takes precedence over Multiple dwellings)	$(FC \times \frac{C\&TI}{AI}) + ((AUV \times \frac{C\&TI}{AI}) \times P)$ Note: unclear how to calculate C&TI/AI in case of joint tenants – propose calculating as if they were equal shares (1/owners)	$(FC \times \frac{C\&TI}{AI}) + (((AUV \times \frac{TUER}{TUE}) \times P) \times \frac{UE}{TUER}) \times \frac{C\&TI}{AI}$
FULL foreign surcharge	$AUV \times PS$	$((AUV \times \frac{TUER}{TUE}) \times PS) \times \frac{UE}{TUER}$
Part foreign surcharge	$(AUV \times \frac{FI}{AI}) \times PS$	$((AUV \times \frac{TUER}{TUE}) \times PS) \times \frac{UE}{TUER} \times \frac{FI}{AI}$

- AUV = Average Unimproved Value for rates purposes
- FC = fixed charge
- P = marginal rate for land tax
- PS = flat rate of surcharge (0.75%)
- FA = rented floor area
- TFA = total floor area
- C&TI = value of company/trust interests in parcel
- AI = value of all interests in parcel
- FI = value of foreign person's interest in parcel
- TUER = total residential unit entitlements (according to strata)
- TUE = total unit entitlements
- **TUER/TUE = % of the unit subdivision that is residential (100% for a residential complex, <100% for mixed use)**
- UE = unit entitlement
- **TUE/TUER = your unit entitlement divided by all unit entitlements (e.g. 50/1000)**

Tables

Principal place of residence

	Australian individual	Australian company/trustee	Foreign individual	Foreign company/trustee
Australian individual	NIL land tax NIL surcharge	-	-	-
Australian company/trustee	Part company/trust land tax NIL surcharge	FULL land tax NIL surcharge	-	-
Foreign individual	NIL land tax NIL surcharge	FULL land tax Part foreign surcharge	FULL land tax FULL surcharge	-
Foreign company/trustee	Part company/trust land tax Part foreign surcharge	FULL land tax Part foreign surcharge	FULL land tax FULL surcharge	FULL land tax FULL surcharge

Principal place of residence with rented secondary dwelling

	Australian individual	Australian company/trustee	Foreign individual	Foreign company/trustee
Australian individual	Multiple dwelling land tax NIL surcharge	-	-	-
Australian company/trustee	Part company/trust land tax NIL surcharge	FULL land tax NIL surcharge	-	-
Foreign individual	Multiple dwelling land tax NIL surcharge	FULL land tax Part foreign surcharge	FULL land tax FULL surcharge	-
Foreign company/trustee	Part company/trust land tax Part foreign surcharge	FULL land tax Part foreign surcharge	FULL land tax FULL surcharge	FULL land tax FULL surcharge

Not principal place of residence

	Australian individual	Australian company/trustee	Foreign individual	Foreign company/trustee
Australian individual	FULL land tax NIL surcharge	-	-	-
Australian company/trustee	FULL land tax NIL surcharge	FULL land tax NIL surcharge	-	-
Foreign individual	FULL land tax Part foreign surcharge	FULL land tax Part foreign surcharge	FULL land tax FULL surcharge	-
Foreign company/trustee	FULL land tax Part foreign surcharge	FULL land tax FULL surcharge	FULL land tax FULL surcharge	FULL land tax FULL surcharge

Nominal rent arrangement

	Australian individual	Australian company/trustee	Foreign individual	Foreign company/trustee
Australian individual	NIL land tax NIL surcharge	-	-	-
Australian company/trustee	Part company/trust land tax NIL surcharge	FULL land tax NIL surcharge	-	-
Foreign individual	NIL land tax Part foreign surcharge	FULL land tax Part foreign surcharge	NIL land tax FULL surcharge	-
Foreign company/trustee	Part company/trust land tax Part foreign surcharge	FULL land tax Part foreign surcharge	Part company/trust land tax FULL surcharge	FULL land tax FULL surcharge

Otherwise exempt

NIL land tax + NIL surcharge

Out of Scope

From: Ellis, David

Sent: Tuesday, 6 March 2018 9:35 AM

To: Ellis, David; Pearse, Timothy; Ryan, Lachlan; Harrison, Steven; Arugay, Fred

Subject: land tax changes

When: Thursday, 8 March 2018 2:00 PM-3:00 PM (UTC+10:00) Canberra, Melbourne, Sydney.

Where: DPM House

Hi all,

It would be good to have an initial meeting to discuss the data collection systems which are needed to support the upcoming changes to land tax from 1 July.

The Revenue Office will need to capture additional answers about a property's principal place of residence status as well as foreign person status – some foreign ID data will be available through the Buyer Verification Declaration which could make that form a starting point.

Tim – can you please organise a room at DPM House?

Thanks

David

David Ellis | Senior Manager | Objections and Policy Unit

Ph: 02 6205 4811 | david.ellis@act.gov.au

**ACT Revenue Office | Chief Minister, Treasury and Economic Development Directorate
| ACT Government**

PO Box 293 Civic Square 2608 | www.revenue.act.gov.au

Respect, Integrity, Collaboration, Innovation - Better, Faster, Smarter

Please consider the environment before printing this email - or if printing is necessary, please print double-sided.

**Chief Minister, Treasury and Economic
Development Directorate**

SENSITIVE: CABINET

To: Treasurer

Tracking No.: CMTEDD2018/726

From: Executive Director, Revenue Management Division

Subject: Land Tax Amendment Bill 2018 – final agency comment

Critical Date: 8 March 2018

Critical Reason: To meet Cabinet Office final lodgement timeframes

- UT .../.../...

Purpose

To seek your agreement to circulate the Cabinet submission for final agency comment.

Recommendations

That you:

1. **Agree** to and **sign** the final Cabinet submission 17/483 *Land Tax Amendment Bill 2018* (Attachment A).

Signed / Not Signed / Please Discuss

Andrew Barr MLA/...../.....

Minister's Office Feedback

SENSITIVE: CABINET

SENSITIVE: CABINET

Background

1. On 7 February 2018 there was agreement to circulate the Cabinet submission for the Land Tax Amendment Bill 2018 on exposure draft. The submission proposes the introduction of land tax on **Out of Scope** and proposes a foreigner investor surcharge on residential properties.
2. All directorates supported the submission.
3. CSD supported the submission in principle and commented the Commissioner for Housing does not pay land tax on public housing properties. There are no changes to the Commissioner for Housing's land tax exemption.

Issues

4. The Cabinet submission for final agency comment is at Attachment A.

Financial Implications

5. Nil.

ConsultationInternal

6. Nil.

Cross Directorate

7. Directorates have been consulted through the exposure draft circulation process.

External

8. Nil.

Benefits/Sensitivities

9. Nil.

Media Implications

10. Nil.

Signatory Name:	Kim Salisbury	Phone:	70010
Action Officer:	David Ellis	Phone:	54811

Attachments

Attachment	Title
Attachment A	Cabinet submission – Land Tax Amendment Bill 2018

SENSITIVE: CABINET

From: [Heath, Kylie](#)
To: [Ellis, David](#)
Cc: [Lalliard, MaryJane](#); [Cabinet Office](#)
Subject: CMTEDD2018/726 Cabinet submission signed [DLM=For-Official-Use-Only]
Date: Tuesday, 6 March 2018 11:34:29 AM
Attachments: [image001.jpg](#)

Hi David

Just letting you know that this cabinet submission has now been signed. A scanned copy is in TRIM for your reference, and the original has been forwarded to the Cabinet Office.

Can you please liaise directly with the Cabinet Office to arrange lodgement?

Thanks

Kylie

Kylie Heath | Treasury & WSIR Directorate Liaison Officer - Legislative Assembly
Chief Minister, Treasury and Economic Development Directorate | [ACT Government](#)

Phone: +61 2 6205 3033 |

www.act.gov.au  Please consider the environment before printing this e-mail

**Chief Minister, Treasury and Economic
Development Directorate**

SENSITIVE: CABINET

To: Acting Treasurer

Tracking No.: CMTEDD2018/726

From: Executive Director, Revenue Management Division

Subject: Land Tax Amendment Bill 2018 – final agency comment

Critical Date: 26 February 2018

Critical Reason: The cabinet submission requires final circulation before it is lodged on 2 March 2018, with Cabinet consideration on 6 March 2018.

• UT

JW 21/2/18

Purpose

To seek your agreement to circulate the Cabinet submission for final agency comment.

Recommendations

That you:

1. Agree to the final Cabinet submission 17/483 *Land Tax Amendment Bill 2018* (Attachment A).

Agreed/ Not Agreed / Please Discuss

Yvette Berry MLA/...../.....

Minister's Office Feedback

*Edits then
okay to go
JW 21/2*

SENSITIVE: CABINET

SENSITIVE: CABINET

Background

1. On 7 February 2018, you agreed to circulate the Cabinet submission for the Land Tax Amendment Bill 2018 on exposure draft. The submission proposes the introduction of land tax on **Out of Scope** and proposes a foreigner investor surcharge on residential properties.
2. All directorates supported the submission.
3. CSD supported the submission in principle and commented the Commissioner for Housing does not pay land tax on public housing properties. There are no changes to the Commissioner for Housing's land tax exemption.

Issues

4. The Cabinet submission for final agency comment is at Attachment A.
5. A Cabinet brief for this submission is at Attachment B.

Financial Implications

6. Nil.

ConsultationInternal

7. Nil.

Cross Directorate

8. Directorates have been consulted through the exposure draft circulation process.

External

9. Nil.

Benefits/Sensitivities

10. Nil.

Media Implications

11. Nil.

Signatory Name:	Kim Salisbury	Phone:	70010
Action Officer:	David Ellis	Phone:	54811

Attachments

Attachment	Title
Attachment A	Cabinet submission – Land Tax Amendment Bill 2018
Attachment B	Cabinet brief

SENSITIVE: CABINET



MINISTERIAL BRIEF

Chief Minister, Treasury and Economic
Development Directorate

SENSITIVE: CABINET

To: Treasurer

Tracking No.: CMTEDD2018/726

From: Executive Director, Revenue Management Division

Subject: Land Tax Amendment Bill 2018 – final agency comment

Critical Date: 8 March 2018

Critical Reason: To meet Cabinet Office final lodgement timeframes

- UT .../.../...

Purpose

To seek your agreement to circulate the Cabinet submission for final agency comment.

Recommendations

That you:

1. **Agree to and sign** the final Cabinet submission 17/483 *Land Tax Amendment Bill 2018* (Attachment A).

Signed / Not Signed / Please Discuss

Andrew Barr MLA

5/3/18

Minister's Office Feedback

SENSITIVE: CABINET

SENSITIVE: CABINET

Background

1. On 7 February 2018 there was agreement to circulate the Cabinet submission for the Land Tax Amendment Bill 2018 on exposure draft. The submission proposes the introduction of land tax on **Out of Scope** and proposes a foreigner investor surcharge on residential properties.
2. All directorates supported the submission.
3. CSD supported the submission in principle and commented the Commissioner for Housing does not pay land tax on public housing properties. There are no changes to the Commissioner for Housing's land tax exemption.

Issues

4. The Cabinet submission for final agency comment is at Attachment A.

Financial Implications

5. Nil.

ConsultationInternal

6. Nil.

Cross Directorate

7. Directorates have been consulted through the exposure draft circulation process.

External

8. Nil.

Benefits/Sensitivities

9. Nil.

Media Implications

10. Nil.

Signatory Name: Kim Salisbury Phone: 70010
 Action Officer: David Ellis Phone: 54811

Attachments

Attachment	Title
Attachment A	Cabinet submission – Land Tax Amendment Bill 2018

SENSITIVE: CABINET



ACT REVENUE OFFICE

REVENUE CIRCULAR LTA004
Foreign Person Land Tax Surcharge – <i>Land Tax Act 2004</i>
Issue Date: 1 July 2018
Status: Current – Effective 1 July 2018
Previous Circular: N/A

Introduction

Land tax is imposed under the *Land Tax Act 2004* (the Act) on all parcels of rateable residential land in the ACT, unless the parcel is the principal place of residence of the owner or another exemption applies.

[explain surcharge briefly]

Imposition

The exemption is available for a parcel of land, which the Commissioner is satisfied cannot be occupied as a place of residence.

Foreign individuals

Ordinarily resident test

[see other states particularly Victoria; see also the Australian resident requirements for claiming Age Pension and other social security]

The ACT Revenue Office will generally consider a person to be ordinarily resident in Australia if they have a principal place of residence located in Australia.

Examples

Foreign corporations

Examples

Foreign trusts

Examples

Signed

Kim Salisbury
Commissioner for ACT Revenue
1 July 2018

Land Tax Amendment Bill 2017
Drafting instructions on version D01

General instructions

Out of Scope



Foreign ownership surcharge

The relationship between land tax of the surcharge could be addressed by broadening the language from 'land tax' to 'tax payable under this Act' (or 'an amount payable under this Act') in:

- Part 2 heading?;
- Section 8A;
- section 10 – replace 'land tax imposed under section 9';
- section 11;
- section 11A;
- section 11B;
- section 11C;
- section 11G (2) and (3);
- section 11H;
- section 12, including note 1 to section 12 (2);
- section 13;
- section 14;
- section 15 – for section 9 land tax the dwelling can be a PPR or nominally rented, but for the surcharge the dwelling must only be a PPR;
- section 17;
- section 18;
- section 19;
- section 19A;
- section 26 (2) (a) and (b) (i);
- section 27 (1) to (3);
- section 34;
- section 35;
- section 36;

- section 37; and
- section 38 – mentions of ‘from land tax’ and ‘in relation to land tax’.

Section 41 and 43 of this Act are already expressed to cover any amount payable under the Act.

Also, please insert a provision that parallels sch 1, s 2.2 of the *Rates Act 2004* – references to land tax in other instruments (apart from under this Act or the *Taxation Administration Act 1999*).

The *Taxation Administration Act 1999* does not require consequential amendment as it refers generically to tax under the *Land Tax Act 2004*.

Clause instructions

Clause	Section	Question	
2	1	Q1	The commencement is satisfactory.
5	7	Q2	This reference will be satisfactory.
7	7	Q3	This reference will be satisfactory.
10	8 (3) to (5)	Q4	We confirm these rules should be omitted.
13	9 (3)	Q5	Noted
14	10 (1)		Please omit references to section 11D and 11F.
16	11 (3)	Q6	The definition of substantial renovations should also be omitted.
17	11A	Q7	(1): please omit ‘an owner’s domestic partner’. (2): please replace ‘land tax’ with ‘tax payable under this Act’. Q7: Subsection (3) is broadly in line with our policy, please omit ‘or posting’ from the example. (4): Please replace ‘the partnership has ended’ with ‘the people have separated and there is no reasonable likelihood of cohabitation being resumed’ (see s 232G (. Please omit ‘1991’ from the note to subsection (4) (typo).
17	11D	Q8	Q8: the focus of the exemption is vacant properties caused by the owner’s death, thus if other people continue to live in the proeprty the exemption is not activated (they are nil/nominal rent exempt). (2): would it be better to replace ‘registered in the name of’ with ‘owned by’? (3) and (4): please omit. In place of these provisions and s 11E we would allow the personal representative to seek a compassionate reasons exemption if warranted.
17	11E	Q9-11	Q9-10: please omit section 11E. Q11: as a general comment, we prefer the reviewable decision regime for tax laws.

Clause	Section	Question	
			Q12: as a general comment, we intend to permit applications for land tax exemption after the relevant period expires (the <i>Taxation Administration Act 1999</i> governs late applications and objections).
17	11F	Q13-14	Q13-14: this section can also be omitted as an occupant not paying rent will be exempt under section 11G. As with questions 9-11, an occupied property where the occupant does not pay rent will be covered by that exemption indefinitely.
17	11G		Could the following changes please be made: <ol style="list-style-type: none"> 1. Mention 'dwelling' alongside parcel of land; 2. Require the parcel or dwelling to be owned by an individual or a personal representative (to allow a corporate personal representative to be eligible); 3. Ensure the exemption applies to rent-free occupation (e.g. replace 'liable only to pay for' with 'liable to pay not more than?') 4. Prevent exemption from applying if the liability arises under an arrangement entered into on a commercial basis (e.g. for short-term or holiday accommodation).
17	11H		(2): please omit '1991' from note 2.
18	12 (1)		After 'individual' please add 'or personal representative'.
19	14		Q15: the example is satisfactory. Q16: this is satisfactory.
21	15	Q17	(1) (a): Please ensure section 15 applies to a parcel of land owned by a personal representative. (1) (ab): please replace with at least 1 of the dwellings is— <ul style="list-style-type: none"> • Occupied as the principal place of residence of 1 or more owners of the parcel; or • Occupied under the conditions of section 11G (i.e. occupied rent free or by someone liable to pay only rates etc). (2): I believe this can be omitted. This section will only apply to section 9 land tax, not the surcharge.
22	15 (5)	Q18	This reference is satisfactory.
23	16		(1): please omit 'is not rented and' (not required because the PPR condition has been added). Under the Act, the part company/trust calculation (s 16) takes precedence over the multiple dwelling calculation (s 15).
24	17A	Q19	foreign person : please exclude a personal representative.

Clause	Section	Question	
			permanent resident (Q19): we are happy with the Qld definition.
	17B	Q20	The reference should be to an associated person.
24	17C	Q21	Yes please change to 'capital'.
24	17D	Q22-25	<p>Subsection (1): this is satisfactory.</p> <p>Subsection (2): omit as explained above, s 10 to 13 (except 11G) should apply to any tax payable under the Act. 'Liable for land tax' has been removed in the final lodged Cabinet submission.</p> <p>Q23: A person using their property as PPR would be taken to be ordinarily resident in Australia – therefore the deceased owner would not be foreign.</p> <p>Q24: To subsection (3), please add for units 'for a parcel of land that is a <i>unit that is part of a unit subdivision</i>'.</p> <p>Q25: it may be best to duplicate section 15 (1), (3) and (5) for multiple dwellings with one change – only eligible if at least 1 dwelling is the PPR (for general land tax, eligible if at least 1 dwelling is the PPR or nominally rented). Also, should not apply if section 17E would apply (i.e. the part foreign owner formula takes precedence).</p>
			New provision: please ensure that the foreign ownership surcharge includes penalty tax, costs and expenses, and interest as per the dictionary definition of land tax .
24	17E	Q26-28	<p>Q26-27: noted</p> <p>Q28: it should not be necessary to state 'or unit'.</p>
25	18	Q29	Section 18 should be kept to align with the <i>Rates Act 2004</i> (it is applied when a Crown lease commences).
	27 (3)		Please omit '(4)'.
	27 (5)		Please omit 'and that is not rented'.
31	27 (7)	Q30	Noted.
	39 (1)	Q31	Noted.
	40 (2)		Please omit any deleted section numbers.
36	Dict		Please omit this clause.