Transfer duty - taxing for buyers and ultimately also sellers

By Andrew Golding

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Taxing a sale between a willing home owner and buyer is controversial in most countries in which it is levied; no less so than in South Africa, where it is termed transfer duty. Its critics argue that it is simply a tax for which there is no specific reason or rationale, other than to help fill national coffers. In reality it imposes a further burden on the already onerous list of costs involved in selling and buying property.

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Looking internationally, the reform of the UK's stamp duty land tax by Chancellor George Osborne is a windfall for potential home buyers in England and Wales, and is estimated to deliver savings to 98% of the lower and middle end of the residential property market. Its introduction immediately fanned the current housing boom.

Britons will now pay no stamp duty on the first 125,000 pounds (R2,250,000) of the purchase price, 2% beyond that threshold up to 250,000 pounds (R4.5 million), 5% up to 925,000 pounds (R16.65 million, and so on. Tax on transactions above 1.5 million pounds (R27 million) will carry a 12% tax.

A so-called "mansion tax"

Reaction to the reforms has been mixed, ranging from "just another pre-election ploy" to "about time; it's a bad tax - archaic and punitive." There has also been criticism that the government is targeting the rich with a so-called "mansion tax".

Incidentally, in an ironic twist, Scots will not benefit. They will have their own graduated land tax system after April - and nowhere near as generous as Osborne's reforms.

By comparison, in South Africa there is no transfer duty on the acquisition of properties below R600,000, 3% is levied on properties above R600,000 and below R1 million, R12,000 plus 5% on the value above R1 million but not exceeding R1.5 million, while properties purchased for R1.5 million and above incur transfer duty of R37,000 plus 8% on the value above

R1.5 million.

In 2013, transfer duty, by far the largest component of the cost burden, amounted to in excess of R8 billion. This year alone South Africa's transfer duty receipts in May (2014) were 25.7% higher than in the corresponding month last year. Conveyancing fees run second. They also increase in line with the purchase price - for what many buyers feel must be the same amount of work. Barbara Whittle, communications manager of the Law Society of South Africa, explains: "Risk is a factor. The money placed in trust for the transaction will be held in the attorney's trust account. Money in trust is guaranteed by the Attorneys Fidelity Fund against theft. Also, the Attorneys' Insurance Indemnity Fund provides insurance against negligence. This is for the protection of the client as the risk and responsibility lies with the attorney."

Transfer duty depresses selling prices

Transfer duty also has some intriguing properties. It is hard to work out the incidence of who actually ends up paying. Economists argue that while the money is physically paid by home buyers, it is actually home sellers who end up bearing the real cost. The reason is that transfer duty depresses selling prices. The overall market price, determined by the forces of supply and demand, includes transfer duty, so the portion of the value that remains for home sellers falls each time the tax is increased.

The tax has another detrimental effect; it reduces liquidity in the housing market. People who want to buy a house need to find a chunk of cash in addition to the deposit. This not only depresses prices but reduces geographical mobility, making it more difficult for people to move (changing jobs, for example).

One can argue the economic consequences are negative. By reducing growth, productivity, jobs and incomes, this in turn impacts adversely on the growth of tax receipts generated in the rest of the economy. For this reason alone, the value of transfer duty is called into question.

US economist Arthur Laffer, who sat on President Ronald Reagan's advisory board in the 80s, made his name by highlighting instances when cutting tax rates actually increased tax receipts by boosting economic activity. He drew up what became known as the Laffer Curve, which shows the relationship between tax rates and tax revenue collected by governments. A simplified view of Laffer's theory is that tax revenues would be zero if tax rates were either 0% or 100% (at which latter point people would give up working altogether). Somewhere between is a tax rate which maximises total revenue.

South Africa's Treasury is struggling to raise revenues; GDP growth is slipping; the trade deficit continues to widen. The rand is crumbling. It is, admittedly, a difficult balancing act to adjust taxes before an election (in 2015). Is one partial solution to slash levies which are counter-productively high such as transfer duty? Could we dare expect a wave of Laffer-style tax cuts?

One thing is sure; doing away with transfer duty - or at least reducing it substantially - would certainly boost the housing market and ease the burden on home buyers.

ABOUT ANDREW GOLDING

Dr Andrew Golding, chief executive of the Pam Golding Property group, was originally in private practice as a General Practitioner on the Atlantic Seaboard from 1991 to 1996, after which he joined the family business as MD in 1996, followed by his present position.

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