The Manager
Individuals & Indirect Tax Division
The Treasury
Langton Crescent
Parkes
ACT 2600

RE: Draft Legislation and Explanatory Notes: - Budget Measures Affecting Tax Depreciation

Thank you for the opportunity to provide feedback on the draft legislation: - Treasury Laws Amendment (Housing Tax Integrity) Bill 2017.

The Australian Institute of Quantity Surveyors (AIQS) is supportive of measures associated with reducing pressure on housing affordability, and integrity aspects associated with removing the ability for investors to claim deductions against plant and equipment which has already been fully depreciated.

That said, the Institute has very real concerns that the proposed Bill, in its current form, will;

- Adversely affect the residential rental market
- Establish a two-tiered residential property market
- Not address housing affordability issues created by the Governments' foreign investment Policy
- Establish a complicated Capital Gains Tax regime
- Not provide a consistent approach to determining the depreciation of assets.

The Institute provides the following commentary in relation to the draft Bill.

Travel Expenditure for residential rental property.
The Institute does not have an issue with the removal of travel expenditure as a deductible expense incurred in gaining or producing assessable income from residential premises.

Limiting deductions for plant and equipment in residential premises.
The draft Bill, as written, removes the ability for subsequent investors of residential premises to claim depreciation for plant and equipment which has not been fully depreciated in accordance with the Australian Tax Office's list of effective lives for plant and equipment.

Impact on housing affordability
Introduction of the proposed budget measures may well impact housing rental affordability. For those who recall the impact the removal of Negative Gearing had in the 1980's, this resulted in worsening housing affordability in some markets. The proposed changes limiting deductions for plant and equipment in previously used residential premises could have a similar impact.

Coupled with the governments' current policy on foreign investment for new residential premises, which allows property developers and other vendors to sell new dwellings in a specified development to foreign persons, without each foreign person purchaser being required to seek their own foreign investment approval.

This has resulted in a significant portion of new residential premises being sold to foreign investors, often at inflated prices, at the expense of Australian residents. There is a subsequent ripple effect on neighbouring suburbs, further adding to affordability issues through increasing demand and prices. Placing Australian residents housing requirements before foreign investors may have a more positive impact on housing affordability.

According to the Governor of the Reserve Bank (February 2017), "*We certainly don't solve the problem of high house prices by adding to demand. We solve it by increasing supply*."

The problem is that current supply is often being directed to satisfy foreign demand.

The draft Bill amendments appear to be based on the assumption that investors will move to purchase new residential premises at the expense of second-hand premises in order to maximise returns. This ignores the fact that new residential premises are often more expensive than existing stock and that individual Australian investors may not be able to pay higher prices. This may impact the ability for retirees to invest in residential premises they can afford as a mechanism for self-sufficient retirement.

Inequitable burden on Individual residential investors

The Institute is concerned that the proposed measures infer that only owners of residential premises are claiming excessive deductions for plant and equipment. It is highly likely that most commercial property owners are also claiming deductions for plant and equipment that has already been fully depreciated.

Surely there would be improved budgetary outcomes if the proposal covered all forms of property investment; commercial, industrial and residential. This would be a more equitable approach to the reasoning noted in 2.17 of the Explanatory Notes.

A possible consequence of the draft Bill. Could be an increase in companies being established by individual investors to gain coverage as a Corporate Tax Entity in order to be able to claim plant and equipment deductions for previously used residential premises. Certainly, this could put some investors at risk unless they are prepared to pay for professional services to ensure they meet the requirements of the Corporations and Tax Acts.

Establishment of a two-tiered market

It is arguable that limiting deductions against existing plant and equipment in second-hand residential premises will create a two-tiered market, with prices for new housing stock being marketed at inflated prices (particularly to investors) due to the ability to claim deductions for plant and equipment.

There are concerns on the impact this may create downstream when existing investors attempt to dispose of those residential premises as part of their retirement plan.

Capital Gains Tax Implications

The draft Bill (as elaborated in the Explanatory Notes), creates a significant problem for investors of second-hand property that are mixed use in nature (combination of residential and retail and residential. The consequence of this will be a significant increase in professional service fees in order to ascertain any capital gains tax implications.

Presumably a capital loss will be increased where the residential premises are sold at a loss, particularly if the plant and equipment have no residual value.

Other inconsistencies.

At present there is no legal requirement for a Tax Agent to physically inspect the assets being depreciated. On the contrary, the Defence Housing Authority contract expressly precludes the requirement for an inspection of residential premises for tax depreciation purposes.

This tends to reinforce the view that two tiers of investor are being established, one in favour of government and corporate investors, the other at the expense of individual Australian investors.

Proposed Solution.

The Institute recommends that a new methodology, and more equitable approach, should be adopted for subsequent investors to claim depreciation on plant equipment without exceeding the original cost of that item.

Property investors should be able to claim depreciation on previously used assets based upon the historical cost of the item and have regard to its effective life. In addressing the governments' Integrity Measures, previously used assets should only be depreciated using the Prime Cost method.

To ensure this process is followed, there would be a requirement for the vendor to provide the purchaser with the requisite information to enable them to calculate the available deduction. This could include the requirement to provide proof of purchase documentation in order for a depreciation to be claimed.

This would ensure that the opening written down value for the incoming purchaser would always be lower than the original cost of the asset. In addition, this should be applied equally across all classes of property.

About the AIQS

The AIQS is the peak national professional standards body of over 4,000 industry professionals including Quantity Surveyors, Building and Construction Economists, Cost Engineers and Cost Estimators. Through its leadership, standards and code of ethics, it ensures that practicing Quantity Surveyors are dedicated to maintaining the highest standards of professional excellence.

Yours Sincerely

Grant Warner
Chief Executive Officer
Australian Institute of Quantity Surveyors