

Changes to Land Tax on Trusts

14 November 2005

The Victorian Government has announced it intends to pass new legislation in the current session of parliament, in relation to new land tax legislation and its treatment of trusts.

On 27 February 2005, in his Second Reading Speech before the Legislative Assembly for *The Duties and Land Tax Acts (Amendment) Bill*, the Victorian Treasurer, the Hon. Mr. Brumby, announced the key elements of the new land tax trusts model as follows:

Repeal of the existing trust provisions, contained in sections 51 and 52 of the Land Tax Act 1958, and clauses 18 and 44 of the Land Tax Bill 2005.

Introduction of a tax surcharge of 0.375 per cent for trusts with aggregate property holdings above \$20,000. The default position is that trustees will be assessed at the new surcharge rates, on the aggregate value of land held in each trust.

A mechanism has been introduced to ensure existing trusts will be able to nominate a beneficiary and therefore the trust will not be required to pay a surcharge. The trustee will be assessed at ordinary land tax rates on the trust land. The nominated beneficiary will also be assessed, at ordinary rates, on the aggregate value of the trust land and any other land owned by the beneficiary, subject to a deduction for any tax payable by the trustee.

Land acquired by a discretionary trust after 31 December 2005 will be taxed solely in the hands of the trustee at the surcharge rate.

Trustees of fixed trusts will be able to provide the State Revenue Office with details of the beneficial interests in trust land. Equally, trustees of unit trust schemes will be able to furnish details of unit holdings. Trustees that take up this option will be assessed on the trust land at ordinary land tax rates. Beneficiaries and unit holders will also be assessed, at ordinary rates, on the aggregate value of a proportion of the trust land (calculated by reference to their proportionate beneficial interest or unit holding) and any other land they own. This assessment will be subject to a deduction for tax payable by the trustee.

In most cases, land held in a trust which is used as a principal place of residence of a beneficiary of the trust, and which is not otherwise exempt from land tax, will not be subject to the trusts surcharge.

Current exemptions for land which is held in a trust will not be affected by the new provisions.

All trustees holding Victorian land in trust will be required to submit a one-off return prior to 31 December 2005.

There will also be various ongoing reporting requirements for trustees in certain circumstances.

Exemptions

Certain types of trusts will be excluded from the above surcharge. These are:

- Charitable trusts;
- Complying superannuation funds;
- Trusts established under a will, for a period of three years;
- Public unit trusts & wholesale unit trusts;
- Trusts established solely for disabled beneficiaries;
- Trusts established solely for beneficiaries of a guardianship or administration order;
- Child maintenance trusts; and
- Trusts holding land for members of a club.

New Tax Scale

The revised land tax scale (allowing for the surcharge) in the new legislation is as follows:

Total Unimproved Value	Special Trust Rate
\$0 - \$19,999	Nil
\$20,000 - \$199,999	\$75 + 0.375% value over \$20,000
\$200,000 - \$539,999	\$950 + 0.575% value over \$200,000
\$540,000 - \$899,999	\$2,905 + 0.875% value over \$540,000
\$900,000 - \$1,189,999	\$6,055 + 1.375% value over \$900,000
\$1,190,000 - \$1,619,999	\$10,043 + 1.875% value over \$1,190,000
\$1,620,000 - \$2,699,999	\$18,105 + 2.585% value over \$1,620,000
\$2,700,000 and over	\$36,330 + 3.5% value over \$2,700,000

It is expected that the new legislation will come into effect on 1 January 2006. Further notification of any details or proposals when they become publicly available will be announced by us in the "news and articles" web page.

*Angelo Simonetto
Wainwright Ryan*