

28th February 2006

Land Tax and Trusts

Changes to the law in Victoria from 1 January 2006

New land tax provisions have been introduced in Victoria from 1 January 2006 which may significantly impact land held through trusts. Broadly, these changes are:

- Introduction of a 0.375% surcharge applying to land held by trusts, and
- Reduction of tax-free threshold to \$20,000 down from \$200,000 applies to trusts.

These changes may result in a significantly higher tax being paid on land held by trusts. The table below highlights the tax payable by trustees compared to individuals or other entities.

Land value	Trust	Individual	Extra tax
\$ 500,000	\$ 2,475	\$ 800	\$1,675
\$1,000,000	\$ 7,230	\$ 3,680	\$3,550
\$1,500,000	\$16,655	\$10,230	\$6,425
\$2,000,000	\$24,387	\$20,580	\$3,807

The land value is the aggregate unimproved property value above \$20,000. The good news is that there are some measures which will provide some relief, which are outlined below. Discretionary trusts which acquired land on or before 31 December 2005 will be able to nominate a beneficiary who will be deemed to be the "owner" of the pre-31 December 2005 land and land tax will be assessed at the rate of the nominated beneficiary rather than at the higher trust rate.

Unit trusts and fixed trusts will also be impacted upon by the new laws, however, these forms of trusts may provide notice of who their unitholders or beneficiaries are and thereby potentially achieve a reduced rate of duty in relation to both pre and post 31 December 2005.

Discretionary trusts:

As a transitional measure, trustees of existing discretionary trusts will have a one-off opportunity to nominate a beneficiary of the trust. The trustee will then be assessed at the ordinary Land Tax rates on trust property acquired on or before 31 December 2005. The nominated beneficiary will be assessed at the ordinary Land Tax rates on the aggregate unimproved value of the trust property acquired on or before 31 December 2005 and any other land they own, subject to a deduction for tax payable by the trustee. If the nominated beneficiary does not own any other land, or only owns exempt land, this deduction will reduce their liability to nil, and they will not receive a Land Tax assessment.

Unit trusts:

Trustees of unit trust schemes will have two options: pay the trust surcharge rates or notify the State Revenue Office (SRO) of the unitholdings in the trust. Trustees that choose the latter option will be assessed at the ordinary Land Tax rates. Notified unitholders will be assessed at the ordinary Land Tax rates on the aggregate unimproved value of a proportion of the trust property (calculated by reference to their proportionate share of unitholdings in the trust) and any other land they own, subject to a deduction for

the proportional tax payable by the trustee. If a notified unitholder does not own any other land, or only owns exempt land, this deduction will reduce their liability to nil, and they will not receive a Land Tax assessment.

Fixed trusts:

Trustees of fixed trusts will have two options: pay the trust surcharge rates or notify the SRO of the beneficial interests in the trust property. Trustees that choose the latter option will be assessed at the ordinary Land Tax rates. Notified beneficiaries will be assessed at the ordinary Land Tax rates on the aggregate unimproved value of their proportionate share of the trust property and any other land they own, subject to a deduction for the proportional tax payable by the trustee. If a notified beneficiary does not own any other land, or only owns exempt land, this deduction will reduce their liability to nil, and they will not receive a Land Tax assessment.

Some trusts are excluded from the new provisions, including charitable trusts, complying superannuation funds, testamentary trusts (for a limited period), trusts for disabled persons and public unit trusts.

The new legislation is complex and the aim of this alert is simply to advise you of the key dates to remember and review issues to consider now.

What you need to do

- **By 31 March 2006** - *All trusts are required* to lodge a return with the SRO advising land holdings, except if they are "Excluded Trusts". A copy of the notification form is attached (refer page 2 for a list of Excluded Trusts). You will need to complete with details of the trust, address of the property and land title references. More forms are available at www.sro.vic.gov.au.
- **By 30 June 2006** – Discretionary trusts wishing to nominate a beneficiary to take advantage of transitional provisions must do so. Unit trusts and fixed trusts may elect to advise the SRO of unitholdings or beneficial interests in trust properties.

Key Considerations

To help you determine whether or not it is in your interests to pay the surcharge or to notify the SRO of beneficiaries or unitholders, you may consider the following items. A set of decision flow charts is also provided on the next page.

- Aggregate unimproved land values in each trust
- Previous Land Tax charges
- Discretionary trusts – date trust established and land purchased, beneficiaries
- Unit and Fixed trusts – beneficiaries or unit holders and their respective interests
- Aggregate unimproved land values for each beneficiary where they are being considered being nominated to the SRO. Include here non-trust properties in the name of each beneficiary.
- Implications of Land Tax chargeable for each nominated beneficiary
- Implications of the surcharge chargeable for each trust if no nominations are made

Please note that this is general information only. Please contact us if you wish to discuss this matter further, or would like assistance in assessing your options.

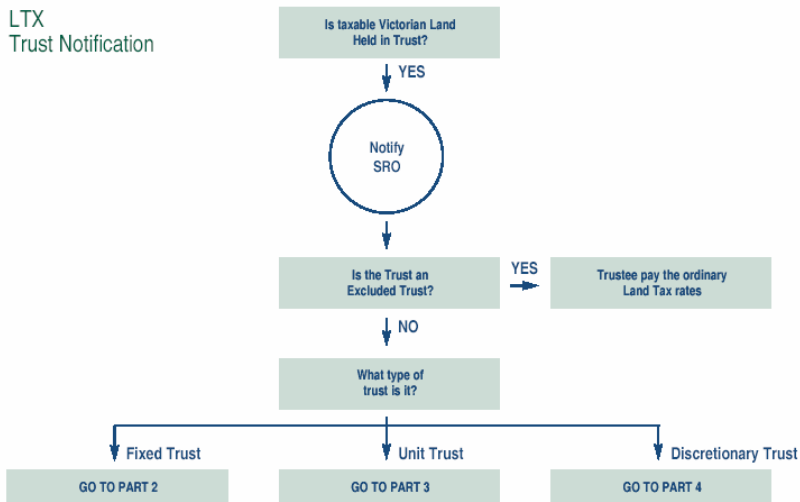
For further information, please contact:

David Sharrock, General Manager
Darren Price, Manager
Dianne Gibert, Manager

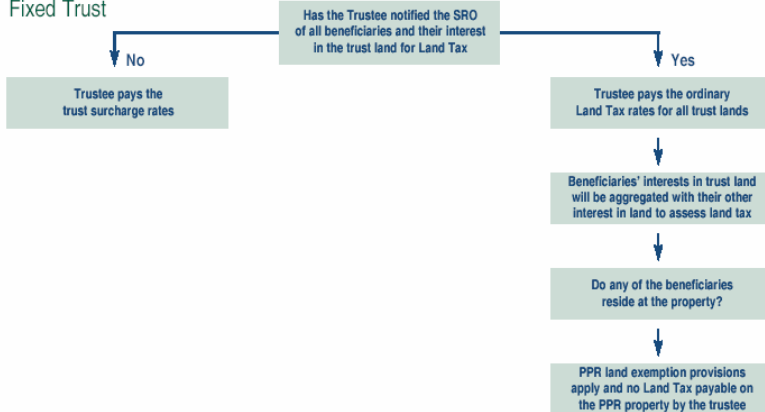
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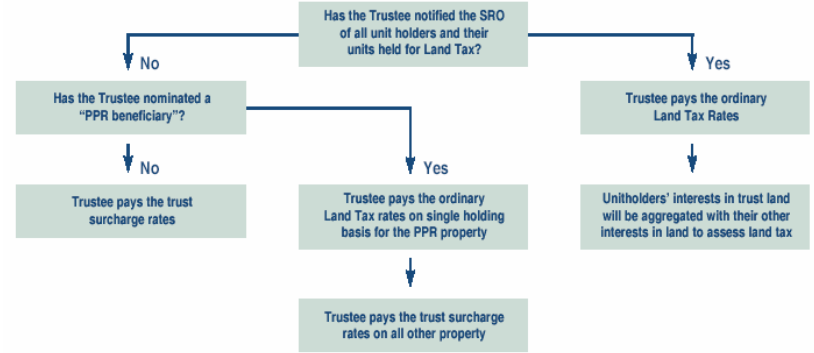
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Trust Notification



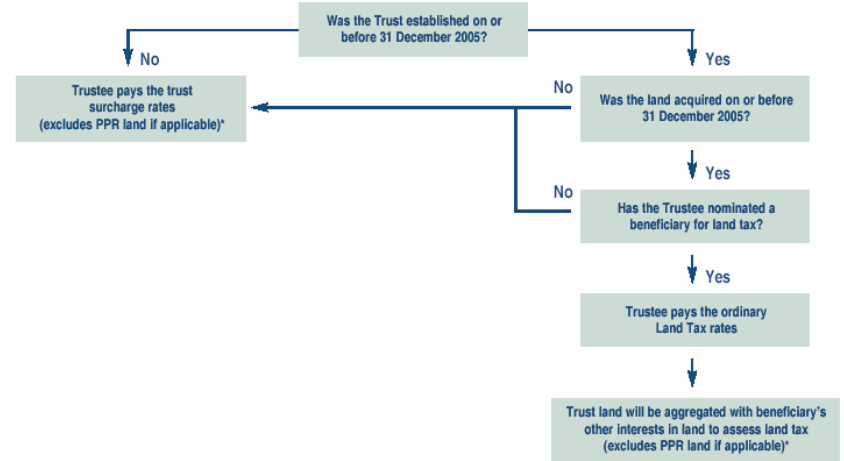
Part 2
Fixed Trust



Part 3
Unit Trusts



Part 4
Discretionary Trust



* See "Principal Places of Residence in a Trust" section above.

Source: "Land Tax Trust Provisions – Practitioner's Guide", State Revenue Office, Victoria, 2005.