



## New Tax Surcharge on Trusts

### What is the New Land Tax on Trusts?

The Brack's Government has introduced a new tax surcharge on land held by Trusts. It will be applicable from the 2006 tax year onwards. i.e. July 2006 to June 2007 and the following years

### What is the surcharge rate?

Total Unimproved Value (\$)	Surcharge Rate
0 - 19,999	Nil
20,000 - 199,999	\$75 + 0.375%
200,000 - 539,999	\$750 + 0.575%
540,000 - 899,999	\$2,705 + 0.875%
900,000 - 1,189,999	\$5,855 + 1.375%
1,190,000 - 1,169,999	\$9,843 + 1.875%
1,620,000 - 2,699,999	\$17,905 + 1.706%
2,700,000 and over	\$36,330 + 3.5%

So if the unimproved value of the land is \$250,000 the Trustees will attract a surcharge of \$2,187.50 per annum.

### Are there exemptions for the new surcharge?

Yes as follows:

**Excluded Trusts** are exempted from the new surcharge. Excluded Trusts are a charitable trust, a concessional trust, a public unit trust scheme, a wholesale unit trust scheme, a trust the sole beneficiary of which is a club or other members of a club, a trust established by a will and a superannuation trust.

**Land already exempted** from Land Tax pursuant to the **Land Tax Act 2005** are exempt from the new surcharge

When a nominated beneficiary uses the land as a **Principal Place of Residence (PPR)** and provided that the land was purchased before the 31<sup>st</sup> December 2005 the land is exempted from the new surcharge

Trustees of a **Discretionary Trust**, provided the land was purchased before the 31<sup>st</sup> December 2005 can nominate to the State Revenue Office ("SRO") a beneficiary as the taxpayer. If no nomination is made by the due date the Trustee is subject to the surcharge. If the nominated beneficiary owns other taxable land, the ordinary Land Tax rate will be

applicable based on the aggregate value of the trust property (acquired before 31<sup>st</sup> December 2005) and the nominated beneficiary's other land. Land acquired after the 31<sup>st</sup> December 2005 by a Trustee will attract the surcharge regardless of the nomination of a beneficiary.

Trustees of a **Fixed Trust** can notify the SRO of the beneficial interests in trust property by the due date, if no notification is made to the SRO the Trustees will be subject to the surcharge. If the nominated beneficiary owns other taxable land, the ordinary Land Tax will be applicable based on the aggregate value of the trust property and the nominated beneficiary's other land.

Trustees of a **Unit Trust** can notify the SRO of the unit holdings in the trust, if no notification is made by the due date the Trustees will be subject to the surcharge. If the nominated beneficiary owns other taxable land, the ordinary Land Tax will be applicable based on the aggregate value of the trust property and the nominated beneficiary's other land.

### Does every Trustee have to lodge a form?

**Yes.** All Trustees holding Victorian land on trust has to lodge a notification form with

the SRO by the 31<sup>st</sup> of March 2006. The nomination or notification form of beneficiaries must be lodged by the 30<sup>th</sup> of June 2006.

### **Are there unintended consequences?**

Probably yes.

For instance at the present time we are not aware of any process whereby the SRO have knowledge that any particular registered proprietor of land is acting in a Trustee Capacity.

So the lodging of the notification form will now provide that information.

Taxpayers will also need to be aware that the State Revenue Office and the Australian Taxation Office's data matching processes will now have this additional data available.

Taxpayers will need to consider the effect of a beneficiary nomination on:

### **The Trust Constitution**

You will need to ensure that the nominated beneficiary is a beneficiary of the Trust.

### **Effect on Centrelink payments**

The value of your own residence, that is your principal home is not an assessable asset under Centrelink regulations. Therefore, if a nominated beneficiary uses land as a principal place of residence you should check that this does not affect the beneficiary's Centrelink payments.

### **Effect on First Home Owner's Grant**

Provided that the nomination goes no further than a nomination for Land Tax purposes then that beneficiary's entitlement under the First Home Owner's Grant is not adversely effected by reason of the nomination.

### **What do I do next?**

Complete the attached form and return it to the SRO by the 31<sup>st</sup> March 2006. Should you require further information or assistance with the lodging of the forms do not hesitate to contact us on (03) 9428 1033.