

Land Tax Bill



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FCPA TEP CTA FTIA




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Land Tax Bill

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- Land Tax (Miscellaneous) Amendment Bill 2019
 - Introduced into state parliament 16 October 2019
 - Amends Land Tax Act 1936
 - assessment of land held by more than one entity
 - assessment of land held by a trustee
 - grouping of land holding companies




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- Tax applied on one of two schedules
- Not trustee

Taxable Value of land	Amount of tax
Not exceeding \$450,000	Nil
Exceeding \$450,000 but not exceeding Threshold B	\$0.50 for every \$100 or fractional part of \$100 over \$450,000
Exceeding Threshold B but not exceeding Threshold B2	LT (TB) plus \$1.65 for every \$100 or fractional part of \$100 over Threshold B
Exceeding Threshold B2 but not exceeding Threshold C	LT (TB2) plus \$2 for every \$100 or fractional part of \$100 over Threshold B2
Exceeding Threshold C	LT (TC) plus \$2.40 for every \$100 or fractional part of \$100 over Threshold C




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- Land is owned by a person as Trustee

Taxable value of land	Amount of tax
Not exceeding \$25 000	Nil
Exceeding \$25 000 but not exceeding \$450,000	\$125 plus \$0.50 for every \$100 or fractional part of \$100 over \$25 000
Exceeding \$450,000 but not exceeding Threshold B	LT (TA) plus \$1.00 for every \$100 or fractional part of \$100 over \$450,000
Exceeding Threshold B but not exceeding Threshold B2	LT (TB) plus \$2.15 for every \$100 or fractional part of \$100 over Threshold B
Exceeding Threshold B2 but not exceeding Threshold C	LT (TB2) plus \$2.50? for every \$100 or fractional part of \$100 over Threshold B2
Exceeding Threshold C	LT (TC) plus \$2.40 for every \$100 or fractional part of \$100 over Threshold C




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- More than one owner
 - Jointly assessed as if single owner
 - Each owner then separately assessed on:
 - Owner's proportion of that land
 - Other land held by that owner
 - Owner's interests in other land
 - Via trust or other joint ownership




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- More than one owner
 - Does not include land in an excluded trust
 - Credit granted to avoid double tax
 - Credit equal to owner's proportion of tax assessed to joint ownership



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- More than one owner
 - Langdon and Victoria hold \$1m property jointly
 - Langdon as to 40%
 - Victoria as to 60%
 - Land tax assessed to them jointly and severally c\$8,250
- Langdon owns property in own name \$800,000
 - Langdon assessed on $\$800,000 + (\$1m \times 40\%) = \$1.2m$
 - Land tax assessed to Langdon c\$6,050
 - Credit for tax paid $\$8,250 \times 40\% = c\$3,300$
 - Payable c\$2,750



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- Trusts
 - Implied, constructive or resulting trust
 - Land tax at lower rates
 - Trustee assessed separately from beneficially held land
 - Trustee right to reimbursement for land tax paid legislated



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- Trusts
 - Fixed Trust
 - a trust that is not
 - an excluded trust
 - a discretionary trust
 - a trust to which a unit trust scheme relates



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- Trusts
 - Fixed Trust
 - Trustee can give notice of beneficial interests
 - No time limit
 - Remains in force until withdrawn by trustee
 - If withdrawn no further notice can be lodged
 - Beneficiary deemed holder of land in proportion to interest in trust



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- Trusts
 - Excluded Trust
 - charitable
 - concessional
 - sole beneficiary is government, non profit, etc
 - superannuation trust
 - custodian trust arrangement for superannuation
 - trust that holds child maintenance land
 - administration trust



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- Trusts
 - Excluded Trust
 - A trustee of an excluded trust or of a public unit trust scheme is liable for land tax on the whole of the land subject to the trust assessed, in accordance with section 8A(1) at the rates set out in Schedule 1 Part 2, as if the land were the only land owned by them as a trustee




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- Trusts
 - Unit Trust Scheme
 - an arrangement made for the purpose, or having the effect, of providing facilities for participation by a person, as a beneficiary under a trust, in any profit or income arising from the acquisition, holding, management or disposal of property under the trust, but does not include an excluded trust
 - Unit
 - Right or interest entitling holder to proportionate distribution on vesting

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- Trusts
 - Unit Trust Scheme
 - Notice can be given of unit holdings
 - No time limit
 - Remains in force until withdrawn by trustee
 - If withdrawn no further notice can be lodged
 - Unitholder deemed holder of land in proportion to holding of interest in unit trust

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- Trusts
 - Discretionary Trust
 - Either
 - who takes; or
 - how much trust property is taken is determined by the trustee, or will occur if a discretion of the trustee is not exercised
 - Beneficiary
 - One who may benefit if trustee does/ does not exercise discretion

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- Trusts
 - Discretionary Trust
 - Notice can be given by 30 June 2020
 - Designated person must be
 - Natural person
 - Beneficiary at prescribed time
 - Over 18
 - Verified consent by statutory declaration
 - No beneficiary over 18 – may designate individual trustee

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- Many 'unit trusts' meet both definitions
 - Which notice?
 - Commissioner has the choice
 - Procedural fairness

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Notices



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- Notices
 - Trustee **must** lodge a written notice within 1 month of:
 - commencing to hold land
 - commencing to hold more land
 - the Bill becoming law unless the Commissioner was previously notified
 - land which was exempt ceasing to be so
 - disposing of land if no change in legal owner

Notice in form etc determined by the Commissioner

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- Notices
 - Trustee **must** lodge a written notice within 1 month of:
 - trust becoming a different category of trust
 - if notice in place a change in beneficial interests of a fixed trust
 - if notice in place a change in unit holdings in a unit trust scheme
 - a corporate trustee of fixed or unit trust if other corporation(s) become owner of more than 50% of interests in the land

Notice in form etc determined by the Commissioner


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- Principal Place of Residence
 - Can apply to owner whether or not sole owner
 - New rules disregard minor ownership (5% or less)
 - Commissioner may disregard ownership 5% to <50% if created to reduce land tax


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- Principal Place of Residence
 - Fixed trusts - if beneficial interests notified to the Commissioner and all beneficiaries reside
 - Unit trusts – if unit holdings notified to the Commissioner and all unit holders reside
 - Discretionary trust - if designated beneficiary notified to the Commissioner and he/she resides on pre-existing trust land


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- Deceased estate is a trust
- Executor or administrator is a trustee
- Life Interest
- LT001 ex gratia relief


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- Administration Trust
 - a trust under which the assets of a deceased person are held by a personal representative, but only during the period ending on the earlier of:
 - the completion of administration of the deceased estate; or
 - the third anniversary of the death of the deceased person or the further period (if any) approved by the Commissioner under subsection (1a)

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- Company
 - Grouped with related companies
 - Variety of tests for related
 - Limited concession for property developers
 - Not all companies in a group need own land



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- Company A and company B are related if:
 - A controls the composition of the board of B
 - A can cast or control >50% of votes at a general meeting of B
 - A holds >50% issued share capital of B
 - same person(s) have a controlling interest in A and B
 - A & A's shareholders hold >50% issued share capital of B
 - and shareholders of B hold sufficient shares in A



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- Company A and company B are related if:
 - A is trustee of a unit or fixed trust and B holds >50% beneficial interests or units
 - both are related to company C
- Not related because same trustee holds a controlling interest in both if on different trusts



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- Jointly assessed for land tax
 - Joint and several liability
 - Commissioner can issue notice to any one or more
 - Up to companies to seek contribution



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- Property development
 - If relationship: A is trustee of a unit or fixed trust and B or B & associates hold >50% beneficial interests or units
 - Apply to Commissioner
 - Land held solely for development
 - Residential 10 allotments or more
 - Commercial or industrial
 - Exemption from grouping for limited term - up to 5 years
 - Will cease on completion of development



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Questions

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