

Article Information

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SA Land Tax Ready Reckoner

A very general summary and not intended as legal advice.

Individuals, companies and public unit trusts (i.e. listed) are to be taxed (estimates):

- up to \$450,000 in land value, nil tax
- then 0.5% to \$755,000
- then \$1,525 plus 1.65% to \$1,098,000
- then \$7,184.50 plus 2.4% on the excess

So, \$16,832.50 on a \$1,500,000 holding compared to \$20,570 under the current regime unless the holding was de-aggregated, as presently permitted, into, for example, 2 x \$750,000 holdings which under the current regime would be 2 x \$2,186 = 4,372.

There will be a tightening to existing aggregation principles such that an owner's interest in each piece of land will be aggregated with the value of any other land (or interest in land) that the owner owns (i.e. aggregation will no longer be limited to the aggregation of land held in the same ownership structure). The South Australian landholdings of related companies will also be aggregated.

Unlisted **Unit Trusts** will pay tax at the higher "surcharge" rates (outlined below) unless unitholding details are lodged with the Commissioner in which case the Unit Trust (ie the trustee of the trust) will be taxed at the standard rates outlined above.

Where the unitholding details are lodged with the Commissioner, a proportionate share of the unit trust's landholding value gets added to, or is treated as being, land owned by the unitholder although, the consequences of such unitholder being a trustee of another trust are not entirely clear (sections 13(6) and (8) and section 13B(1)(b)), but it appears likely that such a trustee unitholder would be assessed for land tax in respect of its deemed interest at the trust surcharge rates. The unitholder receives a deduction from the tax payable by it by virtue of its unitholding of a proportion of the tax assessed to the trustee (calculated by reference to the portion of the unit trust owned by the unitholder) although the deduction will not exceed the amount of tax payable by the unitholder as a result of its unitholding (i.e. there cannot be an excess deduction to be used against land tax payable by the unitholder as a result of other landholdings it owns).

Discretionary Trusts are subject to the higher surcharge rates unless, in the case of existing landholdings (ie held before introduction of the draft legislation to parliament), the trustee of the discretionary trust nominates to the Commissioner a designated beneficiary. The consequences of such designated beneficiary being a trustee of another trust are not entirely clear (sections 13A(7) and (10) and section 13B(1)(c)), but it appears likely that such a trustee beneficiary would be assessed for land tax in respect of its deemed interest at the trust surcharge rates. In the case of such a nomination, the discretionary trust's land will be deemed to be the nominated beneficiary's land and taxed accordingly at non-surcharge rates to the trustee and to the nominated beneficiary, but the nominated beneficiary gets deducted from its liability the land tax which the trustee has paid.

In the case of land acquired ("held") by a **discretionary trust** after the day the draft legislation is introduced to parliament, the trustee will be taxed at the higher "surcharge" rates.

Superannuation funds, estates and charitable trusts are **not aggregated** and do not have pay the tax at the surcharge rate.

Bare trusts and other **fixed trusts** are generally treated similarly to discretionary trusts.

The surcharge rates (estimated) are:

- nil up to \$25,000 land value
- then \$125 plus 0.05% up to \$450,000
- then \$2,250 plus 1% from \$450,000 to \$755,000
- then \$5,300 plus 2.15% from \$755,000 to \$1,098,000
- then \$12,674.50 plus 2.4% on the excess above \$1,098,000

So, \$22,332.50 on a \$1,500,000 holding compared to \$20,570 under the current regime, unless the holding was de-aggregated, as presently permitted, into, for example, 2 x \$750,000 holdings which under the current regime would be 2 x \$2,186 = 4,372.