

Discretionary Trust – Nomination of Nominated Beneficiary

Note: For the purposes of the *Land Tax Act 2005* this form should be used by the trustee of a discretionary trust (Discretionary Trust), holding pre-2006 Lands in Victoria, who, intends to nominate a Nominated Beneficiary of the Discretionary Trust, to be assessed for Land Tax in respect of those landholdings.

See explanatory notes for definitions of Trust types, pre-2006 Lands, beneficiary and nomination details.

Trustee (*Name of Trustee*)

the trustee of (*Name of Trust*)

of (*Postal address*)

 Contact Telephone No

SRO Customer Number (*if known*) is*

hereby:

- declares that the Trustee holds pre-2006 Lands upon trust for the Discretionary Trust;
and
- nominates the following individual, who, as at midnight on 31 December 2005 or on the date of nomination:
 - was a beneficiary of the Discretionary Trust; and
 - was, or was over, 18 years of age; and
 - has signified in writing below the acceptance of this nomination;
to be the Nominated Beneficiary of the Discretionary Trust for the purposes of the *Land Tax Act 2005*.

DETAILS OF NOMINATED BENEFICIARY

Surname

Given names (*If applicable*)

Principal place of residence

Postal address (*If same as the principal place of residence above, say "As Above"*)

Date of birth

 / /

SRO Customer Number (*if known*) is*

OR

- nominates the Trustee as the Nominated Beneficiary of the Discretionary Trust because as on 31 December 2005 or on the date of nomination, the sole beneficiary of the Discretionary Trust, or all of the beneficiaries of that Trust were under the age of 18 years.

Details of beneficiaries under the age of 18 years (only applicable if the Trustee is nominated as the Nominated Beneficiary)

Surname

Given names *(If applicable)*

Principal place of residence

Postal address (If same as the principal place of residence above, say "As Above")

Date of birth

SRO Customer Number *(if known)* is*

(If there are more beneficiaries under the age of 18 years, attach details as above of the other beneficiaries to this form)

This Nomination will remain in force during the lifetime of the Nominated Beneficiary unless revoked by the Nominated Beneficiary.

Signature *(If Trustee is a Company, this form must be signed by a director, secretary or officer)*

Date

Name *(please print)*

Office of signatory: *(If trustee is a Company)*

Acceptance of Nomination by Beneficiary

I, the above named Nominated Beneficiary of the Discretionary Trust, hereby accept the above nomination for land tax purposes as required under Section 46(F) of the *Land Tax Act 2005*, and acknowledge that as long as this nomination remains in force, I may be liable for land tax in respect of the pre-2006 Lands as deemed owner of those lands under section 46(G) of the *Land Tax Act 2005*.

Signature *(Nominated beneficiary)*

Date

Name *(please print)*

*(SRO Customer No. can be found on the Land Tax Assessment Notice)

Definitions

Trust does not include an implied or constructive trust.

1. Unit Trust Scheme

"unit trust scheme" means an arrangement made for the purpose of, 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" in a unit trust scheme means

- (a) a right or interest (whether described as a unit or sub-unit or otherwise) of a beneficiary under the scheme; or
- (b) a right to any such right or interest -

that entitles the beneficiary to participate proportionately with other unitholders in a distribution of the property of the trust on its vesting.

2. Discretionary Trust

"discretionary trust" means a trust under which the vesting of the whole or any part of the trust property:

- (a) is required to be determined by a person either in respect of the identity of the beneficiaries or the quantum of interest to be taken, or both; or
- (b) will occur in the event that a discretion conferred under the trust is not exercised -

But does not include an excluded trust, a fixed trust or a trust to which a unit trust scheme relates

3. Fixed Trust

"fixed trust" means a trust that is not an excluded trust, a discretionary trust or a trust to which a unit trust scheme relates;

4. Excluded Trust

Certain trust types are excluded from the Land Tax Trust provisions and are not subject to the surcharge but are taxed under the normal rates. These "excluded trusts" include:

- (a) a charitable trust
- (b) a concessional trust;
- (c) a public unit trust scheme;
- (d) a wholesale unit trust scheme;
- (e) a trust in which the sole beneficiary of which is a club, or the sole beneficiaries of which are the members of a club;
- (f) a trust established by a will (where the testator died before 12 December 2007);
- (g) a superannuation trust.

5. Administration Trust

An Administration Trust is defined to mean a trust under which the assets of a deceased estate are held by a personal representative, but only during the period ending on the earlier of the:

- completion of the administration of the deceased estate, or
- third anniversary of the death of the deceased or further period approved by the Commissioner under the Act.

This definition applies to a deceased estate where the testator died on or after 12 December 2007.

The personal representative of an administration trust is not subject to the surcharge but is taxed under the normal rates.

Full details of each of these trust types can be found on the SRO website at www.sro.vic.gov.au or by phoning the SRO on 13 21 61 (toll free).

6. Pre-2006 Land

"pre-2006 land" in relation to a trust means land that was subject to that trust at midnight on 31 December 2005

7. Beneficiary

"Beneficiary" of a discretionary trust, means a person, or a member of a class of persons, in whom, by the terms of the trust, the whole or any part of the trust property may be vested

- (a) in the event of the exercise of a power or discretion in favour of the person (whether or not that power is presently exercisable); or
- (b) in the event that a discretion conferred under the trust is not exercised.

Nomination Details

- The trustee of a discretionary trust may nominate a person to be the nominated beneficiary of the trust for the purposes of the *Land Tax Act 2005*
- The person nominated (except where that person is the trustee) must signify the acceptance of the nomination in writing
- If all beneficiaries of the Discretionary Trust are under the age of 18 years on 31 December 2005 or on the date of nomination, the person nominated to be the Nominated Beneficiary of the Discretionary Trust must be the trustee of the trust
- When this nomination is in force, the trustee of the trust will be assessed at normal rates and the nominated beneficiary is deemed to be the owner of the pre-2006 Lands of the Discretionary Trust, and is liable to be assessed for land tax on those lands accordingly, together with any other land owned by the nominated beneficiary.
- This nomination remains in force until the nominated beneficiary revokes it by notice in writing given to the Commissioner, or if the nominated beneficiary dies. In both situations a new nomination may be made, however, if the nomination was revoked, the form will only be accepted if the Commissioner is satisfied that the subsequent nomination is just and reasonable in the particular case.

When and where does the form need to be lodged?

To be a valid nomination:

- (a) for 2006 Tax Year, this form must be lodged at the SRO on or before 30 June 2006; and
- (b) for any subsequent year, this form must be lodged at the SRO on or before 3 months after the day on which a liability first arises for land tax on the pre-2006 land. In that case, the nomination takes effect for the year in respect of which the nomination is lodged.

Objections and correspondence

The Manager, Land Tax Branch, State Revenue Office, GPO Box 1641 MELBOURNE VIC 3001

In person

Enquiries may be made in person, however, please phone 13 21 61 to arrange an appointment.

Internet

www.sro.vic.gov.au

Email

sro@sro.vic.gov.au
(Attn: Land Tax Branch)

Telephone

13 21 61 (Cost of a local call)

Facsimile

03 9628 6856