

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 *Land Tax Act 2005*.

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).

Notification of Change of Details

If, after this form is lodged, there is a change to the beneficiary of the Fixed Trust, within one month of change, the trustee must lodge the "Fixed Trust-Change in Beneficial Interest in Land" form. This form is available on the SRO website (www.sro.vic.gov.au).

When and where does the form need to be lodged?

The nomination must list details of all persons who are beneficiaries in the Fixed Trust on the specified date.

Where any land was subject to the Fixed Trust at midnight on 31 December 2005 (pre-2006 land), to be a valid notification, this form must be lodged with the SRO on or before the later of the following dates:

- (a) 30 June 2006, or
- (b) before the expiry of 3 months after the day on which a liability first arises for land tax on the land and is effective for the tax year in respect of which the notice is lodged.

Where the only land subject to the Fixed Trust is post-2006 land (land purchased on or after 1 January 2006), the form must be lodged before the end of the year in which the land becomes subject to the trust.

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