

Lombardi Partners Bulletin

Land Tax and Trusts

The *Land Tax Act 2005* contains special rules for trusts and sets out a surcharge rate of land tax, higher than the general land tax rate, if the total land value is between \$25,000 and \$3 million.

The State Revenue Office (“SRO”) is currently running a compliance program to ensure its records are accurate and that land tax is being appropriately paid in relation to land held on trust. As part of the SRO’s compliance program, they match data held in their systems against data held by external sources.

Lombardi Partners has commenced receiving a number of Land Held On Trust Investigation Notices from the SRO where they are questioning the accuracy of information they are using to assess land tax for trust landowners. In many cases, information is being obtained from the Australian Taxation Office (“ATO”) which confirms rental income is being declared in a trust tax return which is contrary to the SRO’s records. In some cases this may mean an amendment to prior years Land Tax Assessment Notices due to the incorrect calculation of land tax.

Below is an example of the information the SRO is requesting.

Action required

STEP 1: PREPARE THE REQUESTED DOCUMENTS

Please provide the following information to ensure the accuracy of our records and minimise any penalties that may be due, you need to:

1. Complete the enclosed Statement of Land Held on Trust form detailing all land held by [REDACTED] and [REDACTED] since 31 December 2017.
2. Provide supporting evidence if any of the land is held by [REDACTED] and [REDACTED] in their own right and for their own benefit.
3. Advise us if any beneficiaries or unit holders are absentee persons or corporations by providing a copy of:
 - o the trust deed with all schedules and amending deeds, and
 - o the complete and up-to-date unitholder register.

STEP 2: RESPOND TO THIS INVESTIGATION

Email the required information to [REDACTED] by no later than [REDACTED]

Next steps

Based on the information you provide, we will update your land tax records. If this results in a land tax liability, you will be assessed for land tax for the period covered by this investigation.

Will penalties apply?

If you previously received a land tax assessment where land was incorrectly specified as exempt or land you owned in Victoria (including all your interests in land) was not included, you were obliged to advise us within 60 days of receiving the assessment. Failure to notify us is known as an error or omission notification default.

Since 1 January 2010, trustees of land have also been obliged to notify us within one month of a trust event occurring, including the acquisition of land. Failure to provide this notification is known as a trust notification default. If this investigation finds that you are liable to pay further land tax because of a notification default you would ordinarily receive a 25% penalty on the unpaid tax amount. However, if you provide the required information by **1 April 2022** you may receive a reduced penalty rate.

If you don’t respond

Most land owners voluntarily provide the required information. If you choose not to do this, we will issue an assessment (with any applicable penalties) based on the evidence we have gathered.

You can manage your land tax information quickly and easily online via My Land Tax. Learn more and register at sro.vic.gov.au/mylandtax. For more information about land tax, visit sro.vic.gov.au/landtax.

We understand that our request for this information may come at a difficult time for you. If you would like to request an extension of the due date to properly respond and/or produce supporting evidence, please email me at [REDACTED]

The information in this bulletin is general in nature and should not be considered to be advice. Clients should not act solely on the basis of material contained in this bulletin and we recommend formal advice be sought in relation to the issues contained in this document and their application to you and your individual circumstances.

Given the SRO's focus on Land Held in Trust, we recommend you review your Land Tax Assessment Notices and contact us to ensure that your records are correct.

As previously advised, given the level of SRO audit activity, and potential costs involved it would be prudent for landowners to consider audit protection to cover professional fees associated with responding to the SRO.



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