

**Authorised Version No. 062**

**Land Tax Act 2005**

**No. 88 of 2005**

Authorised Version incorporating amendments as at  
13 June 2018

**TABLE OF PROVISIONS**

<i>Section</i>		<i>Page</i>
<b>Part 1—Preliminary</b>		<b>1</b>
1	Purposes	1
2	Commencement	1
3	Definitions	1
3A	Absentee controlling interest	18
3B	Exemptions from holding absentee controlling interests	20
3BA	Exemption—land held on trust under absentee trusts	21
3BB	Absentee exemption requirements	22
3C	Delegation of exemption power	23
3D	Meaning of <i>chain of trusts</i>	24
3E	Meaning of <i>ultimate trust</i>	25
4	Transmission easement holders	25
5	Taxation Administration Act 1997	27
6	Act binds the Crown	27
<b>Part 2—Imposition of land tax</b>		<b>28</b>
<b>Division 1—Imposition of land tax</b>		<b>28</b>
7	General imposition of land tax	28
8	Who is liable for land tax?	28
9	When must land tax be paid?	28
<b>Division 2—Owners of land</b>		<b>28</b>
10	Who is the owner of land?	28
11	Life tenants	29
12	Home units	29
13	Person in possession of land deemed owner despite disposition of it	30
14	Purchaser of land on credit or deferred payment	30
15	Purchaser of land under contract of sale	30
16	Vendors of land	31
16A	Transfer of land for no consideration	32
17	Mortgagees in possession	33
18	Holders of beneficial interests	33

<i>Section</i>	<i>Page</i>
18A Managers of title-based time-sharing schemes	33
<b>Division 3—What is the taxable value of land?</b>	<b>33</b>
19 Taxable value of land	33
21 Use of valuations	35
22 Taxable value of parts of land not separately valued	35
23 Taxable value of home units not valued separately	36
<b>Division 4—Land tax on transmission easements</b>	<b>36</b>
24 Imposition of land tax on transmission easements	36
25 Who is liable for land tax on transmission easements?	37
26 When must land tax be paid?	37
27 What is the taxable value of a transmission easement?	37
28 Agreements relating to the payment of tax	38
<b>Division 5—Special land tax</b>	<b>38</b>
29 Imposition of special land tax	38
30 What land is subject to special land tax?	38
31 Who is liable for special land tax?	40
32 When does a liability for special land tax arise?	40
33 When must special land tax be paid?	40
34 Deferral of special land tax in certain circumstances	41
<b>Division 6—Vacant residential land tax</b>	<b>41</b>
34A Imposition of vacant residential land tax	41
34B What is <i>residential land</i> ?	41
34C When is residential land vacant?	42
34D What is the <i>specified geographic area</i> ?	44
34E Who is liable for vacant residential land tax?	44
34F When must vacant residential land tax be paid?	44
34G Owner of land subject to vacant residential land tax must notify Commissioner	44
<b>Part 3—Assessment of land tax</b>	<b>46</b>
<b>Division 1—Rate of land tax</b>	<b>46</b>
35 What is the rate of land tax?	46
<b>Division 2—How is land tax assessed?</b>	<b>46</b>
36 Land tax assessed on aggregated basis	46
37 Certain taxable land assessed separately	47
37A Certain taxable land assessed separately—vacant residential land tax	48
38 Assessment of joint owners of land	48
38A Assessment of joint owners—vacant residential land tax	51
39 Joint assessments in the case of principal place of residence land	51

<i>Section</i>	<i>Page</i>	
40	Assessment of joint occupiers of land	52
41	Assessment of joint transmission easement holders	53
42	Assessment of owner of land on which there are home units	55
43	Mortgagees in possession of land	56
45	Certain long-term lessees of private land	56
46	Land tax on parts of land	57
46AA	Title-based time-sharing schemes	57
<b>Division 2A—Land held on trust</b>		<b>58</b>
46A	General land tax surcharge for trusts	58
46B	Land tax for fixed trust if beneficial interests notified to Commissioner	59
46C	Land tax for unit trust scheme if unitholdings notified to Commissioner	62
46D	Land tax for beneficiary/trustees	64
46E	Land tax for excluded trusts and administration trusts	66
46F	Nomination of beneficiary of pre-2006 discretionary trust for land tax purposes	66
46G	Land tax for discretionary trust with nominated beneficiary	69
46H	Nomination of PPR beneficiary of unit trust scheme or discretionary trust for land tax purposes	70
46I	Land tax for PPR land if nominated PPR beneficiary	72
<b>Division 2AB—Land held on trust under absentee trusts</b>		<b>73</b>
46IAA	Absentee proportion of interests in land subject to a trust in a chain of trusts	73
46IA	Land tax surcharge for absentee trusts	74
46IB	Land tax for absentee fixed trust if beneficial interests notified to Commissioner	76
46IC	Land tax for absentee unit trust scheme if unitholdings notified to Commissioner	83
46ID	Land tax for beneficiary/trustees	89
46IE	Land tax for absentee discretionary trust with nominated beneficiary	95
46IF	Land tax for PPR land if nominated PPR beneficiary	97
<b>Division 2AC—Miscellaneous trust land provisions</b>		<b>99</b>
46J	Trustee's right of reimbursement	99
46K	Requirements for trustees to notify Commissioner	99
<b>Division 2B—Land held on implied or constructive trust</b>		<b>101</b>
46L	Land held on implied or constructive trust	101
46M	Trustee's right to reimbursement under implied trust or constructive trust	102

<i>Section</i>	<i>Page</i>
<b>Division 3—Grouping of related corporations</b>	<b>102</b>
47 What are related corporations?	102
48 What is a <i>controlling interest</i> in a corporation?	103
49 Further provisions for determining whether corporations are related corporations	104
50 Grouping of related corporations	105
<b>Division 3A—Land held by related absentee corporations</b>	<b>106</b>
50A Land tax surcharge for related absentee corporations	106
<b>Division 4—General</b>	<b>107</b>
51 Reassessments	107
<b>Part 4—Exemptions and concessions</b>	<b>108</b>
<b>Division 1—Principal place of residence</b>	<b>108</b>
52 Definitions	108
53 What is a principal place of residence?	110
53A What is a right to reside?	110
54 Principal place of residence exemption	111
55 Deferral of tax on certain residential land for 6 months	113
55A Deferral of tax for residential land to be used during tax year	113
56 Absence from principal place of residence	114
57 Exemption continues on death of resident	117
58 Exemption continues if land becomes unfit for occupation	118
59 Purchase of new principal residence	119
60 Sale of old principal residence	120
61 Unoccupied land subsequently used as principal residence	121
62 Partial exemption if land used for business activities	124
62A Partial exemption if separate residence is leased for residential purposes	125
63 Partial exemption or refund for trustees	126
<b>Division 2—Primary production land</b>	<b>126</b>
64 Definitions	126
65 Exemption of primary production land outside greater Melbourne	129
66 Exemption of primary production land in greater Melbourne but not in an urban zone	129
67 Exemption of primary production land in an urban zone in greater Melbourne	129
68 Exemption of land being prepared for use for primary production	134
69 Application for exemption under section 66, 67 or 68	134
70 Parcels of land	135

<i>Section</i>	<i>Page</i>
<b>Division 3—Sporting, recreational and cultural land</b>	<b>135</b>
71 Land leased for sporting, recreational or cultural activities by members of the public	135
72 Sporting, recreational or cultural land owned by certain non-profit organisations	136
73 Concessional tax rate for club land	137
<b>Division 4—Charities and health services</b>	<b>138</b>
74 Charitable institutions and purposes	138
74A Health centres and services	139
<b>Division 5—Accommodation</b>	<b>140</b>
75 Rooming houses	140
76 Residential care facilities and supported residential services	142
76A Residential services for people with disabilities	144
77 Caravan parks	144
78 Retirement villages	145
78A Exemption of land under construction for certain exempt uses	146
<b>Division 6—Public, government and municipal land</b>	<b>149</b>
79 Crown land	149
80 Public statutory authorities	149
81 Municipal and public land	151
82 Application of Division 6	152
<b>Division 7—General exemptions</b>	<b>153</b>
83 Armed services personnel	153
84 Friendly societies	154
85 Land used for agricultural shows or farm field machinery days	154
86 Mines	155
<b>Division 8—Exemptions from land tax on transmission easements</b>	<b>156</b>
87 Governor in Council may exempt	156
88 Dispositions of transmission easements	156
<b>Division 9—Exemptions from vacant residential land tax</b>	<b>157</b>
88A Holiday home exemption	157
88B Exemption for land occupied for purposes of attending place of business or employment	158
88C Residential land transferred during tax year	158
88D Land becomes residential land during tax year	159

<i>Section</i>	<i>Page</i>
<b>Part 5—Relief from or postponement of land tax</b>	<b>160</b>
<b>Division 1—Preliminary</b>	<b>160</b>
89    Definition	160
90    Arrangements for payment of tax	160
<b>Division 2—Relief</b>	<b>160</b>
91    Taxpayer may apply for relief	160
92    Relief granted by the Commissioner	161
93    Relief granted by the Board	162
94    Reconsideration of postponed land tax	162
<b>Division 3—Land Tax Hardship Relief Board</b>	<b>163</b>
95    Establishment and procedure	163
<b>Part 6—Security, recovery and enforcement</b>	<b>164</b>
<b>Division 1—Security for land tax</b>	<b>164</b>
96    Land tax is a first charge on land	164
97    Registration of charge	164
<b>Division 2—Recovery of land tax</b>	<b>165</b>
98    Recovery from lessee, mortgagee or occupier	165
<b>Division 3—Prohibition on passing on land tax</b>	<b>166</b>
99    Prohibition on passing on land tax	166
100   Prohibition on passing on land tax on transmission easements	167
<b>Division 4—Tax avoidance schemes</b>	<b>167</b>
101   What is a tax avoidance scheme?	167
102   Anti-avoidance provision	169
<b>Part 7—General</b>	<b>170</b>
<b>Division 1—Notices and certificates</b>	<b>170</b>
103   Notice of acquisition of land	170
104   Notice of acquisition of transmission easement	170
104A  Notice of errors in notice of assessment of land tax	171
104B  Notification of absentee owner status	171
105   Land tax certificates	172
<b>Division 2—General</b>	<b>172</b>
106   Stating case to Supreme Court	172
107   Regulations	173

<i>Section</i>	<i>Page</i>
<b>Part 9—Further amendments, repeals and transitional provisions</b>	<b>174</b>
116    Repeal of Land Tax Act 1958	174
118    Transitional provisions	174
<b>Schedules</b>	<b>175</b>
<b>Schedule 1—Land tax rates</b>	<b>175</b>
<b>Schedule 1A—Examples of absentee proportion</b>	<b>190</b>
<b>Schedule 2—Greater Melbourne</b>	<b>201</b>
<b>Schedule 2A—Specified geographic area</b>	<b>203</b>
<b>Schedule 3—Transitional provisions</b>	<b>204</b>
<hr/> <hr/>	
<b>Endnotes</b>	<b>214</b>
1    General information	214
2    Table of Amendments	216
3    Amendments Not in Operation	221
4    Explanatory details	222

*Section*

*Page*

---

---

**Authorised Version No. 062**

**Land Tax Act 2005**

**No. 88 of 2005**

Authorised Version incorporating amendments as at  
13 June 2018

**The Parliament of Victoria enacts as follows:**

**Part 1—Preliminary**

**1 Purposes**

The purposes of this Act are—

- (a) to re-enact and modernise the law relating to land tax;
- (b) to repeal the **Land Tax Act 1958**;
- (c) to amend the **Taxation Administration Act 1997** so that it will apply to the administration and enforcement of land tax;
- (d) to make consequential amendments to other Acts.

**2 Commencement**

This Act comes into operation on 1 January 2006.

**3 Definitions**

(1) In this Act—

*absentee beneficiary* means—

- (a) a natural person absentee who or an absentee corporation that (not acting in the capacity of a trustee of a trust)—
  - (i) has a beneficial interest in land subject to a fixed trust; or
  - (ii) is a unitholder in a unit trust scheme; or

S. 3(1) def. of *absentee beneficiary* inserted by No. 26/2015 s. 25, substituted by No. 40/2016 s. 18.

(iii) is a specified beneficiary of a discretionary trust; or

(b) any person who—

(i) has a beneficial interest in land subject to a fixed trust and holds that interest as a trustee of an absentee trust; or

(ii) is a unitholder in a unit trust scheme and holds unitholdings in that unit trust scheme as a trustee of an absentee trust; or

(iii) is a specified beneficiary of a discretionary trust in the capacity as a trustee of an absentee trust;

S. 3(1) def. of *absentee controlling interest* inserted by No. 26/2015 s. 25.

*absentee controlling interest* has the meaning given in section 3A;

S. 3(1) def. of *absentee corporation* inserted by No. 26/2015 s. 25.

*absentee corporation* means—

(a) a corporation that is incorporated outside Australia; or

(b) a corporation in which an absentee person has an absentee controlling interest;

S. 3(1) def. of *absentee owner* inserted by No. 26/2015 s. 25.

*absentee owner* means an absentee person who is an owner of land;

S. 3(1) def. of *absentee person* inserted by No. 26/2015 s. 25.

*absentee person* means—

(a) a natural person absentee; or

(b) an absentee corporation; or

(c) a trustee of an absentee trust;

***absentee trust*** means a trust under which at least one absentee beneficiary—

S. 3(1) def. of *absentee trust* inserted by No. 26/2015 s. 25.

- (a) has a beneficial interest in land subject to a fixed trust; or
- (b) is a unitholder in a unit trust scheme; or
- (c) is a specified beneficiary of a discretionary trust;

***administration trust*** means 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—

S. 3(1) def. of *administration trust* inserted by No. 68/2007 s. 8(2).

- (a) the completion of administration of the deceased estate; or
- (b) the third anniversary of the death of the deceased person or the further period approved by the Commissioner under subsection (3);

\* \* \* \* \*

S. 3(1) def. of *applicable general valuation* repealed by No. 84/2006 s. 8.

***approved*** means approved by the Commissioner;

***Australian citizen or resident*** means—

S. 3(1) def. of *Australian citizen or resident* inserted by No. 26/2015 s. 25.

- (a) an Australian citizen within the meaning of the Australian Citizenship Act 2007 of the Commonwealth; or
- (b) the holder of a permanent visa within the meaning of section 30(1) of the Migration Act 1958 of the Commonwealth; or

(c) a New Zealand citizen who is the holder of a special category visa within the meaning of section 32(1) of the Migration Act 1958 of the Commonwealth;

S. 3(1) def. of *beneficiary* inserted by No. 85/2005 s. 22(1)(a), amended by No. 69/2011 s. 30.

*beneficiary* of a discretionary trust, means (except in Division 2 of Part 4) 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;

S. 3(1) def. of *capital improved value* inserted by No. 28/2017 s. 50.

*capital improved value* has the same meaning as in the **Valuation of Land Act 1960**;

S. 3(1) def. of *chain of trusts* inserted by No. 67/2017 s. 10.

*chain of trusts* has the meaning given in section 3D;

S. 3(1) def. of *child maintenance land* inserted by No. 85/2005 s. 22(1)(a).

*child maintenance land* means land held on trust that was transferred to the trustee for the benefit of a beneficiary as the result of a family breakdown within the meaning of section 102AGA of the Income Tax Assessment Act 1936 of the Commonwealth;

S. 3(1) def. of *commercial residential premises* inserted by No. 28/2017 s. 50.

*commercial residential premises* has the same meaning as in the A New Tax System (Goods and Services Tax) Act 1999 of the Commonwealth;

***Commonwealth Superannuation Act*** means the Superannuation Industry (Supervision) Act 1993 of the Commonwealth;

S. 3(1) def. of *Commonwealth Superannuation Act* inserted by No. 85/2005 s. 22(1)(a).

***concessional trust*** means—

S. 3(1) def. of *concessional trust* inserted by No. 85/2005 s. 22(1)(a), amended by No. 23/2006 s. 245.

(a) a trust of which each beneficiary is—

(i) a person in respect of whom a guardianship order or an administration order is in force under the **Guardianship and Administration Act 1986**; or

(ii) a person with a disability within the meaning of the **Disability Act 2006**; or

(b) a trust created under an order of the Supreme Court for the benefit of a person under disability;

***controlling interest*** has the meaning given in section 48;

***corporation*** has the same meaning as in section 9 of the Corporations Act;

***Council*** has the same meaning as in the **Local Government Act 1989**;

S. 3(1) def. of *Council* inserted by No. 40/2014 s. 13(a).

***discretionary trust*** means a trust under which the vesting of the whole or any part of the trust property—

S. 3(1) def. of *discretionary trust* inserted by No. 85/2005 s. 22(1)(a), amended by No. 76/2012 s. 3.

(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;

*domestic partner* of a person means—

S. 3(1) def. of *domestic partner* substituted by No. 12/2008 s. 73(1)(Sch. 1 item 34.1), amended by No. 4/2009 s. 37(Sch. 1 item 16.1).

(a) a person who is in a registered domestic relationship with the person; or

(b) a person to whom the person is not married but with whom the person is living as a couple on a genuine domestic basis (irrespective of gender);

*electronic instrument* means a registry instrument that is prepared in an electronic form to be lodged electronically for the purposes of land titles legislation by means of an ELN;

S. 3(1) def. of *electronic instrument* inserted by No. 40/2014 s. 27.

*ELN* means ELN within the meaning of the Electronic Conveyancing National Law (Victoria);

S. 3(1) def. of *ELN* inserted by No. 40/2014 s. 27.

*excluded trust* means—

S. 3(1) def. of *excluded trust* inserted by No. 85/2005 s. 22(1)(a), amended by No. 68/2007 s. 8(1).

(a) a charitable trust;

(b) a concessional trust;

(c) a public unit trust scheme;

(d) a wholesale unit trust scheme;

(e) a trust the sole beneficiary or beneficiaries of which is or are—

(i) a club referred to in section 73; or

(ii) the members of such a club;

\* \* \* \* \*

(g) a trust, for any tax year in relation to which it is a superannuation trust;

***exempt land*** means land that is declared by or under this Act to be exempt land;

***exempt transmission easement*** means a transmission easement that is exempt from land tax under section 87(1)(b);

***exempt transmission easement holder*** means a transmission easement holder who is exempt from land tax on the easement under section 87(1)(a);

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

S. 3(1) def. of ***fixed trust*** inserted by No. 85/2005 s. 22(1)(a).

***general valuation*** has the same meaning as in the **Valuation of Land Act 1968**;

S. 3(1) def. of ***general valuation*** inserted by No. 66/2016 s. 3, substituted by No. 67/2017 s. 76.

***home unit*** means a building or part of a building that—

(a) is designed for use as a self-contained unit for living purposes; and

(b) is situated on land owned—

(i) by 2 or more persons as tenants in common, each of whom is the registered proprietor under the **Transfer of Land Act 1958** of one or more undivided shares in the whole of the land and is lawfully entitled, by virtue of an agreement between the person or

the person's predecessor in title and all other owners of undivided shares in the land or their predecessors in title, to the exclusive right to occupy a specified building or part of a building on the land; or

- (ii) by a body corporate in which all issued shares are owned by 2 or more persons, each of whom is lawfully entitled, by virtue of that share ownership, to the exclusive right to occupy a specified building or part of a building on the land and is not required to make any payments of a rental nature for that right;

*joint owners* means persons—

- (a) who own land jointly or in common, whether as partners or otherwise; or  
(b) who are deemed by this Act to be joint owners;

*land* includes—

- (a) all land and tenements;  
(b) all interests in land;

S. 3(1) def. of *land titles legislation* inserted by No. 40/2014 s. 27.

*land titles legislation* has the same meaning as in section 5 of the **Electronic Conveyancing (Adoption of National Law) Act 2013**;

S. 3(1) def. of *listed trust* inserted by No. 85/2005 s. 22(1)(a).

*listed trust* has the same meaning as in the **Duties Act 2000**;

***mortgage*** means—

- (a) a security by way of mortgage or charge over land; or
- (b) a security by way of a transfer of land held in trust to be sold and redeemable before the sale, except if the transfer is for the benefit of creditors who accept it in full satisfaction of debts owed to them; or
- (c) a transfer, assignment or disposition of any estate or interest in land that is apparently absolute but intended only as a security; or
- (d) an instrument that, on the deposit of documents of title to land, authority to control title or a pledge to provide that control, becomes a mortgage or evidences the terms of a mortgage;

***municipal district*** has the same meaning as in the **Local Government Act 1989**;

S. 3(1) def. of *municipal district* inserted by No. 40/2014 s. 13(a).

***natural person absentee*** means a natural person who is not an Australian citizen or resident and—

- (a) who does not ordinarily reside in Australia; and
- (b) who—
  - (i) was absent from Australia on 31 December in the year immediately preceding the tax year; or

S. 3(1) def. of *natural person absentee* inserted by No. 26/2015 s. 25.

- (ii) in the year immediately preceding the tax year, was absent from Australia for a period of at least 6 months or for periods that when added together equal a period of at least 6 months;

S. 3(1) def. of *nominated beneficiary* inserted by No. 85/2005 s. 22(1)(a).

*nominated beneficiary* of a discretionary trust, means a person nominated under section 46F;

S. 3(1) def. of *nominated PPR beneficiary* inserted by No. 85/2005 s. 22(1)(a).

*nominated PPR beneficiary* means a person nominated under section 46H;

S. 3(1) def. of *non-rateable leviable land* inserted by No. 40/2014 s. 13(a).

*non-rateable leviable land* has the same meaning as in the **Fire Services Property Levy Act 2012**;

S. 3(1) def. of *non-rateable non-leviable land* inserted by No. 66/2016 s. 3.

*non-rateable non-leviable land* has the same meaning as in the **Valuation of Land Act 1960**;

*owner*—

- (a) of land, has the meaning given in section 10;
- (b) of a home unit, has the meaning given in section 12;

*parcel* of land means any land that is—

(a) contiguous or separated only by a road, railway or other similar area across or around which movement is reasonably possible; and

(b) owned by the same person;

*personal representative* means a person acting in the capacity of an executor or administrator of a deceased estate;

S. 3(1) def. of *personal representative* inserted by No. 68/2007 s. 8(2).

*post-2006 land*, in relation to a trust, means land that became subject to that trust on or after 1 January 2006;

S. 3(1) def. of *post-2006 land* inserted by No. 85/2005 s. 22(1)(a).

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

S. 3(1) def. of *pre-2006 land* inserted by No. 85/2005 s. 22(1)(a).

*principal place of residence* includes sole place of residence;

*public sector superannuation authority* means a public body within the meaning of the **Financial Management Act 1994** that is required to submit an annual report under Part 7 of that Act in relation to a public sector superannuation fund;

*public statutory authority* means a public statutory body constituted under an Act but does not include a public sector superannuation authority;

*public unit trust scheme* means—

(a) a listed trust; or

(b) a widely held trust; or

S. 3(1) def. of *public unit trust scheme* inserted by No. 85/2005 s. 22(1)(a).

- (c) a registered imminent public unit trust scheme or registered declared public unit trust scheme (within the meaning of the **Duties Act 2000**);

S. 3(1) def. of *rateable land* inserted by No. 40/2014 s. 13(a).

*rateable land* has the same meaning as in the **Local Government Act 1989**;

S. 3(1) def. of *registry instrument* inserted by No. 40/2014 s. 27.

*registry instrument* has the same meaning as in section 4(1) of the **Transfer of Land Act 1958**;

*related corporations* has the meaning given in section 47;

*relative* in relation to a person means—

- (a) a spouse or domestic partner of the person;
- (b) a lineal ancestor or lineal descendant of the person or of the spouse or domestic partner of the person;
- (c) a brother or sister, or child of a brother or sister, of the person or of the spouse or domestic partner of the person;
- (d) a spouse or domestic partner of a child of the person;
- (e) a spouse or domestic partner of a brother or sister of the person;

S. 3(1) def. of *residential care facility* inserted by No. 28/2017 s. 50.

*residential care facility* has the meaning given in section 76(4);

S. 3(1) def. of *retirement village* inserted by No. 28/2017 s. 50.

*retirement village* has the meaning given in section 78(3);

***return date***, in relation to a valuation, is the date on which the valuation is returned to the valuation authority by the person who carried it out;

S. 3(1) def. of *return date* amended by Nos 94/2009 s. 33(1)(a), 69/2011 s. 34(2).

***site value*** has the same meaning as in the **Valuation of Land Act 1960**;

***special land tax*** means land tax imposed under Division 5 of Part 2;

***specified beneficiary***, of a discretionary trust, means a beneficiary who is specifically named in the trust deed or specifically declared in writing pursuant to the trust deed as a beneficiary to or in whom, by the terms of the trust, the whole or any part of the trust income or property may be distributed or vested—

S. 3(1) def. of *specified beneficiary* inserted by No. 26/2015 s. 25.

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

***spouse*** of a person means a person to whom the person is married;

\* \* \* \* \*

S. 3(1) def. of *subsequent general valuation* repealed by No. 84/2006 s. 8.

S. 3(1) def. of  
*super-  
annuation  
trust*  
inserted by  
No. 85/2005  
s. 22(1)(a).

*superannuation trust* means, in relation to a tax year—

- (a) a trust established on or before 30 June in the year preceding the tax year that, in relation to the year of income ending in that year, is—
  - (i) a complying superannuation fund (within the meaning of section 42 or 42A of the Commonwealth Superannuation Act); or
  - (ii) a complying approved deposit fund (within the meaning of section 43 of the Commonwealth Superannuation Act); or
  - (iii) a pooled superannuation trust (within the meaning of section 44 of the Commonwealth Superannuation Act); or
- (b) a trust established after 30 June in the year preceding the tax year that, as at midnight on 31 December in that year, is—
  - (i) a regulated superannuation fund (within the meaning of the Commonwealth Superannuation Act) or is taken to be a regulated superannuation fund under that Act; or
  - (ii) an approved deposit fund (within the meaning of the Commonwealth Superannuation Act); or
  - (iii) a pooled superannuation trust (within the meaning of the Commonwealth Superannuation Act);

*supplementary valuation* means a valuation made under section 13DF or 13L of the **Valuation of Land Act 1960** that is supplementary to the last general valuation returned to the valuation authority before 1 January in the year immediately preceding the tax year;

S. 3(1) def. of *supplementary valuation* amended by Nos 94/2009 s. 33(1)(b), 40/2014 s. 13(b).

*supported residential service* has the meaning given in section 76(4);

S. 3(1) def. of *supported residential service* inserted by No. 28/2017 s. 50.

*taxable land* means land that is not exempt land;

*taxable value*—

- (a) of land, has the meaning given in Division 3 of Part 2;
- (b) of transmission easements, has the meaning given in section 27;

*tax year* means a year for or in which land tax is being assessed;

*title-based time-sharing scheme* means a scheme under which participants are—

S. 3(1) def. of *title-based time-sharing scheme* inserted by No. 69/2011 s. 27.

- (a) entitled to use, occupy and possess land to which the scheme relates for 2 or more periods during the scheme's operation; and
- (b) the registered proprietors of a share interest in respect of which a folio is created under section 98D of the **Transfer of Land Act 1958**;

*transfer* of land includes conveyance of the land;

*transmission company* has the same meaning as in the **Electricity Industry Act 2000**;

*transmission easement* means an easement held by a transmission company;

***transmission easement holder*** has the meaning given in section 4;

S. 3(1) def. of *trust* inserted by No. 85/2005 s. 22(1)(a), substituted by No. 68/2007 s. 8(3), amended by No. 83/2009 s. 4.

***trust***—

- (a) includes a trust under which the assets of a deceased person are held by a personal representative; and
- (b) does not include an implied or constructive trust, except where expressly provided by this Act;

S. 3(1) def. of *trustee* amended by No. 85/2005 s. 22(1)(b).

***trustee***, except in Division 1 of Part 4, includes trustee, executor, administrator, guardian, liquidator and any person having or taking upon themselves the possession, administration, or control of land, income, or other property of any description affected by any trust, or having the possession, control, or management of land of a person under any legal or other disability;

S. 3(1) def. of *ultimate trust* inserted by No. 67/2017 s. 10.

***ultimate trust***, in a chain of trusts, has the meaning given in section 3E;

S. 3(1) def. of *unit* inserted by No. 85/2005 s. 22(1)(a).

***unit*** in a unit trust scheme, means—

- (a) a right or interest (whether described as a unit or a 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;

S. 3(1) def. of *unit trust scheme* inserted by No. 85/2005 s. 22(1)(a).

***unit trust scheme*** means 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;

***vacant residential land tax*** means land tax imposed under Division 6 of Part 2;

S. 3(1) def. of *vacant residential land tax* inserted by No. 28/2017 s. 50.

***valuation authority*** has the same meaning as in section 2(1) of the **Valuation of Land Act 1960**;

S. 3(1) def. of *valuation authority* inserted by No. 69/2011 s. 34(1).

***Victorian Minister*** means a Minister of the Crown in right of Victoria;

***VRT land*** means taxable land that is—

S. 3(1) def. of *VRT land* inserted by No. 28/2017 s. 50.

- (a) residential land within the meaning of section 34B; and
- (b) vacant under section 34C; and
- (c) within the specified geographic area within the meaning of section 34D;

***wholesale unit trust scheme*** means a unit trust scheme that is registered under Division 7 of Part 2 of Chapter 3 of the **Duties Act 2000** as a wholesale unit trust scheme, an imminent wholesale unit trust scheme or a declared wholesale unit trust scheme;

S. 3(1) def. of *wholesale unit trust scheme* inserted by No. 85/2005 s. 22(1)(a).

***widely held trust*** has the same meaning as that term would have in the **Duties Act 2000** if a reference in paragraph (b) of the definition of ***widely held trust*** in section 3(1) of that Act to "300 registered unitholders" were a reference to "50 registered unitholders";

S. 3(1) def. of *widely held trust* inserted by No. 85/2005 s. 22(1)(a).

***year*** means a calendar year.

S. 3(2)  
substituted by  
No. 12/2008  
s. 73(1)(Sch. 1  
item 34.2).

(2) For the purposes of the definition of *domestic partner* in subsection (1)—

S. 3(2)(a)  
amended by  
No. 4/2009  
s. 37(Sch. 1  
item 16.2(a)).

(a) *registered domestic relationship* has the same meaning as in the **Relationships Act 2008**; and

S. 3(2)(b)  
amended by  
No. 4/2009  
s. 37(Sch. 1  
item 16.2(b)).

(b) in determining whether persons who are not in a registered domestic relationship are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 35(2) of the **Relationships Act 2008** as may be relevant in a particular case.

S. 3(3)  
inserted by  
No. 85/2005  
s. 22(2),  
amended by  
No. 68/2007  
s. 8(4).

(3) For the purposes of paragraph (b) of the definition of *administration trust* in subsection (1), the Commissioner may approve a further period in any particular case.

S. 3A  
inserted by  
No. 26/2015  
s. 26,  
amended by  
No. 40/2016  
s. 19(2) (ILA  
s. 39B(1)).

### 3A Absentee controlling interest

(1) For the purposes of this Act, an absentee person holds an *absentee controlling interest* in a corporation if—

(a) the absentee person, or that person acting together with another absentee person, can control the composition of the board of the corporation; or

(b) the absentee person, or that person acting together with another absentee person, is in a position to cast or control the casting of more than 50% of the maximum number of votes that might be cast at a general meeting of the corporation; or

- (c) the absentee person holds, or that person acting together with another absentee person hold, more than 50% of the issued share capital of the corporation. **S. 3A(1)(c) amended by No. 40/2016 s. 19(1).**
- (2) For the purposes of subsection (1)— **S. 3A(2) inserted by No. 40/2016 s. 19(2).**
- (a) a reference to the issued share capital of a corporation does not include a reference to any part of it that carries no right to participate beyond a specified amount in a distribution of either profits or capital; and
- (b) subject to paragraphs (c) and (d), any shares held or power exercisable by a person or nominee for an absentee person are taken to be also held or exercisable by the absentee person; and
- (c) any shares held or power exercisable by an absentee person by virtue of the provisions of any debentures of another corporation, or of a trust deed for securing any issue of any such debentures, must be disregarded; and
- (d) any shares held or power exercisable by, or by a nominee for, an absentee person (not being held or exercisable as mentioned in paragraph (c)) are taken to be not held or exercisable by that person if—
- (i) the ordinary business of that person includes the lending of money; and
- (ii) the shares are held or the power is exercisable only by way of security given for the purposes of a transaction entered into in the ordinary course of business in connection with the lending of money, not being a transaction entered into with an associate of that person within the meaning of the Corporations Act; and

(e) the composition of a corporation's board is taken to be controlled by an absentee person if the absentee person, by the exercise of a power exercisable whether or not with the consent or concurrence of any other person, can appoint or remove all or a majority of the members of the board.

S. 3A(3)  
inserted by  
No. 40/2016  
s. 19(2).

(3) Subsection (2)(e) does not limit the circumstances in which the composition of a corporation's board is to be taken to be controlled by an absentee person.

S. 3B  
inserted by  
No. 26/2015  
s. 26.

### **3B Exemptions from holding absentee controlling interests**

- (1) Despite section 3A, an absentee person is taken not to hold an absentee controlling interest in a corporation if the absentee person holds an exemption under subsection (2).
- (2) The Treasurer, for the purposes of subsection (1), may, in writing, exempt an absentee person who holds an absentee controlling interest in a corporation if the Treasurer is satisfied that, having regard to any one or more of the following matters, the absentee person should not be taken to hold that interest—
  - (a) the nature and degree of ownership and control the absentee person, or that person acting together with another absentee person, has in the corporation;
  - (b) the practical influence the absentee person, or that person acting together with another absentee person, exerts to determine or influence, directly or indirectly, the outcome of decisions about the corporation's financial and operating policies;

- (c) any practice or behaviour of the absentee person, or that person acting together with another absentee person, which affects the corporation's financial or operating policies;
- (d) any other relevant circumstances.

\* \* \* \* \*

S. 3B(3)–(6)  
repealed by  
No. 67/2017  
s. 11.

**3BA Exemption—land held on trust under absentee trusts**

S. 3BA  
inserted by  
No. 67/2017  
s. 12.

- (1) For the purposes of Part 3, if an absentee beneficiary holds an exemption under subsection (2) in relation to an absentee trust that is—
  - (a) a fixed trust, the absentee beneficiary is taken to hold their beneficial interest in the trust as a beneficiary who is not an absentee beneficiary; or
  - (b) a unit trust scheme, the absentee beneficiary is taken to be a unitholder in the scheme who is not an absentee beneficiary; or
  - (c) a discretionary trust, the absentee beneficiary is taken to be a specified beneficiary of the trust who is not an absentee beneficiary.
- (2) The Treasurer, for the purposes of subsection (1), may, in writing, exempt an absentee beneficiary in relation to an absentee trust if the Treasurer is satisfied that, having regard to any one or more of the following matters, the absentee beneficiary should not be treated as an absentee beneficiary in relation to the trust—
  - (a) the nature and degree of the absentee beneficiary's interest in the trust;

- (b) the practical influence the absentee beneficiary exerts or any rights the absentee beneficiary enforces to determine or influence, directly or indirectly, the outcome of decisions about the administration and conduct of the trust;
- (c) any practice or behaviour of the absentee beneficiary affecting the trustee's administration and conduct of the trust;
- (d) any other relevant circumstances.

S. 3BB  
inserted by  
No. 67/2017  
s. 12.

### **3BB Absentee exemption requirements**

- (1) At least once every 6 months the Treasurer must cause to be laid before each House of Parliament, and publish on an appropriate government website, a report setting out—
  - (a) in respect of the exemptions (if any) granted by the Treasurer under sections 3B and 3BA during the period covered by the report—
    - (i) the number of exemptions; and
    - (ii) the name of each corporation or trust in relation to which an exemption was granted; and
    - (iii) the value of each exemption, being the amount of land tax foregone, or likely to be foregone, by the State because of the exemption; and
  - (b) in respect of the exemptions (if any) granted by the Commissioner or a member of staff of the State Revenue Office during the period covered by the report under a delegation under section 3C—
    - (i) the number of exemptions; and

- (ii) the total value of the exemptions, being the total amount of land tax foregone, or likely to be foregone, by the State because of the exemptions.
- (2) The Treasurer must issue guidelines for the exercise of the power of exemption under sections 3B and 3BA.
- (3) The Treasurer must cause guidelines issued under subsection (2) to be published in the Government Gazette.
- (4) Guidelines issued under subsection (2) are not a legislative instrument within the meaning of the **Subordinate Legislation Act 1994**.

### **3C Delegation of exemption power**

- (1) The Treasurer may delegate, by instrument, to the Commissioner—
  - (a) the power of the Treasurer to exempt an absentee person under section 3B(2);
  - (ab) the power of the Treasurer to exempt an absentee beneficiary under section 3BA(2);
  - (b) the power to delegate the power delegated under paragraph (a) or (ab).
- (2) If power has been delegated under subsection (1)(b), the Commissioner may, subject to the terms of the instrument of delegation, sub-delegate, by instrument, to a member of staff of the State Revenue Office the power that is the subject of the delegation, other than the power of sub-delegation.

S. 3C  
inserted by  
No. 26/2015  
s. 26.

S. 3C(1)(ab)  
inserted by  
No. 67/2017  
s. 13(1)(a).

S. 3C(1)(b)  
amended by  
No. 67/2017  
s. 13(1)(b).

S. 3C(4)  
substituted by  
No. 67/2017  
s. 13(2).

- (3) Subject to subsection (4), sections 42 and 42A of the **Interpretation of Legislation Act 1984** apply in relation to a sub-delegation in the same manner as they apply in relation to a delegation.
- (4) Despite section 42A(1)(a) of the **Interpretation of Legislation Act 1984**, the Treasurer cannot exercise the power to—
- (a) exempt an absentee person under section 3B(2) while a delegation under subsection (1)(a) is in effect; or
  - (b) exempt an absentee beneficiary under section 3BA(2) while a delegation under subsection (1)(ab) is in effect.
- (5) In this section—
- member of staff of the State Revenue Office*  
means—
- (a) an employee referred to in section 67 of the **Taxation Administration Act 1997**; or
  - (b) a consultant or contractor engaged under section 68 of that Act.

S. 3D  
inserted by  
No. 67/2017  
s. 14.

### 3D Meaning of *chain of trusts*

- (1) For the purposes of this Act, a *chain of trusts* is 2 or more trusts where at least one of the following conditions is satisfied for each of the trusts—
- (a) the trustee of the trust has a specified interest under another of the trusts;
  - (b) the trustee of another of the trusts has a specified interest under the trust.

- (2) For the purposes of this section, a person has a ***specified interest*** under a trust if—
- (a) in the case of a trust that is a fixed trust, the person has a beneficial interest under the trust; or
  - (b) in the case of a trust that is a unit trust scheme, the person is a unitholder in the scheme; or
  - (c) in the case of a trust that is a discretionary trust, the person is a specified beneficiary of the trust.

### **3E Meaning of *ultimate trust***

S. 3E  
inserted by  
No. 67/2017  
s. 14.

- (1) For the purposes of this Act, an ***ultimate trust*** is a trust—
- (a) in a chain of trusts; and
  - (b) under which no person who has a specified interest holds that interest as a trustee of a trust for another person.
- (2) For the purposes of this section, a person has a ***specified interest*** under an ultimate trust if—
- (a) in the case of a trust that is a fixed trust, the person has a beneficial interest under the trust; or
  - (b) in the case of a trust that is a unit trust scheme, the person is a unitholder in the scheme; or
  - (c) in the case of a trust that is a discretionary trust, the person is a specified beneficiary of the trust.

## **4 Transmission easement holders**

- (1) For the purposes of this Act, a ***transmission easement holder*** is a transmission company that holds a transmission easement.

- (2) A transmission company holds a transmission easement if the transmission easement has been—
- (a) acquired by the transmission company; or
  - (b) granted to, or reserved in favour of, the transmission company; or
  - (c) created by statute in favour of, or vested by statute in, the transmission company.
- (3) If a transmission company uses an easement of a related body corporate of that company—
- (a) that easement is, for the purposes of this Act, deemed to be a transmission easement; and
  - (b) the transmission company is, for the purposes of this Act, deemed to be a transmission easement holder and may be assessed for tax as if it held the transmission easement.
- (4) If the Commissioner is satisfied that a transmission company should not be liable for land tax under Division 4 of Part 2 on an easement referred to in subsection (3), having regard to—
- (a) the nature of the easement; and
  - (b) any other matters the Commissioner considers relevant—
- the Commissioner may treat the easement as not being a transmission easement for the purposes of this Act.
- (5) In this section—
- related body corporate*** has the same meaning as in section 50 of the Corporations Act.

## **5 Taxation Administration Act 1997**

This Act is to be read together with the **Taxation Administration Act 1997** which provides for the administration and enforcement of this Act and other taxation laws.

## **6 Act binds the Crown**

- (1) This Act binds the Crown in right of Victoria and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.
- (2) Nothing in this Act makes the Crown in any of its capacities liable to be prosecuted for an offence.

## **Part 2—Imposition of land tax**

### **Division 1—Imposition of land tax**

#### **7 General imposition of land tax**

Land tax is imposed in respect of each year on all taxable land in Victoria.

**Note to s. 7**  
substituted by  
**No. 28/2017**  
s. 51.

#### **Note**

For land tax on transition easements, see Division 4. For special land tax, see Division 5. For vacant residential land tax, see Division 6.

#### **8 Who is liable for land tax?**

The owner of taxable land is liable to pay land tax on the land.

#### **9 When must land tax be paid?**

The day specified in a notice of assessment of land tax must be not less than 14 days after the day the notice is served on the taxpayer.

#### **Note**

Section 14 of the Taxation Administration Act 1997 provides for notices of assessment and provides that tax is payable on or before the day specified in the notice.

### **Division 2—Owners of land**

#### **10 Who is the owner of land?**

**S. 10**  
amended by  
**No. 83/2009**  
s. 6(3) (ILA  
s. 39B(1)).

- (1) The following persons are owners of land for the purposes of this Act—
  - (a) a person entitled to land for a freehold estate in possession;
  - (b) a person entitled to land under a lease of Crown land;

**S. 10(b)**  
amended by  
**No. 83/2009**  
s. 6(1).

- (c) a person entitled to land under a licence of Crown land if the person has a right, absolute or conditional, of acquiring the fee simple; **S. 10(c) amended by No. 83/2009 s. 6(2).**
- (d) a person who is a licensee of vested land under Part 3A of the **Victorian Plantations Corporation Act 1993**;
- (e) a person deemed by this Act to be the owner of land.
- (2) Subsection (1)(b) does not apply to a person entitled to land under a sub-lease of Crown land. **S. 10(2) inserted by No. 83/2009 s. 6(3).**

## 11 Life tenants

For the purposes of this Act, a person who holds a life estate in possession in land is deemed to be the owner of the land instead of the person entitled to the fee simple in reversion or remainder.

## 12 Home units

- (1) This section applies if there are 2 or more home units on land.
- (2) For the purposes of this Act, an owner of a home unit is deemed to be the owner of land having a taxable value that is the taxable value of the home unit.
- (3) In this section—

**land** means the land on which the building or buildings of which a home unit is part is or are situated;

**owner** of a home unit, means the person who is entitled to the exclusive right to occupy the home unit because he or she—

- (a) is the owner of an undivided share in the land on which the home unit is situated; or
- (b) is a shareholder in the body corporate which owns the land on which the home unit is situated.

**13 Person in possession of land deemed owner despite disposition of it**

- (1) A person who disposes of land but retains possession of the land is deemed to be the owner of the land (but not to the exclusion of any other person) while the person retains possession.
- (2) In this section—  
*dispose* includes dispose by way of transfer, settlement, declaration of trust or any other method.

**14 Purchaser of land on credit or deferred payment**

For the purposes of this Act, each of the following is deemed to be the owner of land—

- (a) a purchaser on credit or deferred payment;
- (b) an assignee or transferee of a purchaser on credit or deferred payment.

**15 Purchaser of land under contract of sale**

- (1) For the purposes of this Act, a purchaser under a contract of sale of land is deemed to be the owner of the land (but not to the exclusion of any other person) if the purchaser has taken possession of the land.
- (2) Subsection (1) applies whether or not the contract of sale has been completed by the transfer of the land.

## **16 Vendors of land**

- (1) For the purposes of this Act, the vendor of land under a contract of sale of land is deemed to be the owner of the land (but not to the exclusion of any other person) until—
  - (a) the purchaser has taken possession of the land; and
  - (b) subject to subsection (3), at least 15% of the purchase money has been paid.
- (2) Subsection (1) applies whether or not the contract of sale has been completed by the transfer of the land.
- (3) The Commissioner may determine that the vendor is deemed not to be the owner of land despite the fact that 15% of the purchase money has not been paid if the Commissioner is satisfied that—
  - (a) the contract of sale was made in good faith and not for the purpose of evading the payment of land tax; and
  - (b) the contract of sale is still in force.
- (4) In determining the percentage of purchase money that has been paid, the following amounts must be considered to be unpaid purchase money—
  - (a) all money owing by the purchaser to the vendor and secured by a mortgage over the land;
  - (b) all money lent to the purchaser by the vendor;
  - (c) all money owing by the purchaser to any other person that is directly or indirectly guaranteed by the vendor.

- (5) If the vendor and the purchaser are both deemed to be the owners of land under this Part, there is to be deducted from any land tax payable on the land by the vendor any land tax payable on the land by the purchaser.

S. 16A  
inserted by  
No. 83/2009  
s. 7.

#### **16A Transfer of land for no consideration**

- (1) The Commissioner may determine that a person who has disposed of land is to be deemed not to be the owner of that land if the Commissioner is satisfied that—
- (a) the person has disposed of the land for no valuable consideration; and
  - (b) the disposition of the land was made in good faith and not for the purpose of evading the payment of land tax; and
  - (c) the person to whom the land was disposed of had taken possession of the land on or before midnight on 31 December in the year immediately preceding the tax year.
- (2) If the Commissioner makes a determination under subsection (1)—
- (a) the person who disposed of the land is deemed not to be the owner of the land; and
  - (b) the person to whom the land was disposed of for no valuable consideration is deemed to be the owner of the land.
- (3) Subsection (2) applies whether or not the person to whom the land was disposed of is the registered proprietor of the land.
- (4) In this section—

*dispose of* means dispose of by way of settlement, grant, assignment, transfer or conveyance.

## **17 Mortgagees in possession**

- (1) A mortgagee in possession of land is deemed to be the owner of the land for the purposes of this Act, but not to the exclusion of the mortgagor or other owner of the land.

### **Note**

Section 43 sets out how land tax is to be assessed in the case of mortgagees in possession.

- (2) There is to be deducted from any land tax payable on land by the mortgagee in possession any land tax paid on the land by the mortgagor or other owner.

## **18 Holders of beneficial interests**

The holders of beneficial interests in certain trusts are deemed to be the owners of land by Division 2A or 2AB of Part 3.

S. 18  
substituted by  
No. 85/2005  
s. 23,  
amended by  
No. 26/2015  
s. 27.

## **18A Managers of title-based time-sharing schemes**

For the purposes of this Act, a person who manages a title-based time-sharing scheme is deemed to be the owner of the land to which that scheme relates instead of the participants under that scheme.

S. 18A  
inserted by  
No. 69/2011  
s. 28.

## **Division 3—What is the taxable value of land?**

### **19 Taxable value of land**

- (1) Subject to subsection (1A), the taxable value of land for a tax year is an amount equal to the site value of the land as at the relevant date.

S. 19  
substituted by  
No. 84/2006  
s. 9.

S. 19(1)  
amended by  
No. 28/2017  
s. 52(1).

- (1A) For the purposes of calculating vacant residential land tax, the taxable value of land for a tax year is an amount equal to the capital improved value of the land as at the relevant date.

S. 19(1A)  
inserted by  
No. 28/2017  
s. 52(2).

Land Tax Act 2005  
No. 88 of 2005  
Part 2—Imposition of land tax

---

S. 19(2)  
amended by  
No. 69/2011  
s. 35,  
substituted by  
Nos 40/2014  
s. 14, 66/2016  
s. 4.

(2) The *relevant date* is—

- (a) for land that is rateable land or non-rateable  
leviable land—
  - (i) subject to subparagraph (ii), the date  
as at which that land was valued for the  
purposes of the last general valuation  
returned to the valuation authority  
before 1 January in the tax year; or
  - (ii) if that land has been valued for the  
purposes of a supplementary valuation  
after the return date of the last general  
valuation referred to in subparagraph (i)  
but before 1 January in the tax year, the  
return date of the supplementary  
valuation; and
- (b) for land that is non-rateable non-leviable  
land—
  - (i) subject to subparagraph (ii), the date as  
at which rateable land or non-rateable  
leviable land was valued for the  
purposes of the last general valuation  
referred to in paragraph (a)(i); or
  - (ii) the date as at which the land was valued  
for and on behalf of the Commissioner  
before 1 January in the tax year by the  
Valuer-General or a valuer nominated  
by the Valuer-General.

S. 19(3)  
repealed by  
No. 40/2014  
s. 14.

\* \* \* \* \*

S. 20  
repealed by  
No. 84/2006  
s. 9.

\* \* \* \* \*

## 21 Use of valuations

- |   |  |
|---|--|
| (1) For the purposes of assessing land tax, the Commissioner may use—   | S. 21 amended by No. 68/2007 s. 9 (ILA s. 39B(1)).                   |
| (a) valuations made by a valuation authority; or  | S. 21(1)(a) amended by Nos 69/2011 s. 36(a), 40/2014 s. 15.          |
| (b) valuations made for and on behalf of the Commissioner by the Valuer-General or a valuer nominated by the Valuer-General.                            | S. 21(1)(b) amended by No. 69/2011 s. 36(b).                         |
| (2) Without limiting subsection (1), the Commissioner may—  | S. 21(2) inserted by No. 68/2007 s. 9.                               |
| (a) use a valuation made under the <b>Valuation of Land Act 1960</b> that has determined the value of each separate occupancy on land; and              |  |
| (b) include in a notice of assessment a description of the occupancy on land.   |  |
| (3) A valuation of occupancy on land made under the <b>Valuation of Land Act 1960</b> is deemed to be a valuation of land for the purposes of this Act. | S. 21(3) inserted by No. 68/2007 s. 9.                               |
| *           *           *           *           *   | S. 21A inserted by No. 84/2006 s. 10, repealed by No. 67/2017 s. 77. |

## 22 Taxable value of parts of land not separately valued

- (1) This section applies if—
- (a) it is necessary to determine the taxable value of part of land (*the part*) for or in a tax year; and

- (b) the part was not valued separately as at the relevant date (within the meaning of section 19) in relation to that year; and
  - (c) the whole land was valued separately as at the relevant date.
- (2) The taxable value of the part is the same proportion of the taxable value of the whole land as the area of the part bears to the area of the whole land.

### **23 Taxable value of home units not valued separately**

- (1) This section applies if there are 2 or more home units on land.
- (2) If a home unit is not valued separately as at the relevant date (within the meaning of section 19) in relation to a tax year, the taxable value of the home unit is determined in accordance with the formula—

$$\frac{A}{B} \times C$$

where—

- A is the net annual value of the home unit;
- B is the net annual value of all home units on the land;
- C is the taxable value of the land.

- (3) In this section—

*net annual value* has the same meaning as in the **Valuation of Land Act 1960**.

## **Division 4—Land tax on transmission easements**

### **24 Imposition of land tax on transmission easements**

Land tax is imposed in respect of each year on all transmission easements in Victoria other than exempt transmission easements.

**25 Who is liable for land tax on transmission easements?**

The transmission easement holder is liable to pay land tax on a transmission easement.

**26 When must land tax be paid?**

The day specified in a notice of assessment of land tax on transmission easements must be not less than 14 days after the day the notice is served on the taxpayer.

**Note**

Section 14 of the Taxation Administration Act 1997 provides for notices of assessment and provides that tax is payable on or before the day specified in the notice.

**27 What is the taxable value of a transmission easement?**

(1) The *taxable value* of a transmission easement is—

(a) in respect of the 2006 tax year—the value as at 1 January 2004 determined in a valuation made under section 5B of the **Valuation of Land Act 1960**;

(b) in respect of every tax year after 2006, the value as at the relevant easement valuation date determined in a valuation made under section 5B of the **Valuation of Land Act 1960**.

S. 27(1)(b) substituted by No. 84/2006 s. 11(1).

\* \* \* \* \*

S. 27(1)(c)(d) repealed by No. 84/2006 s. 11(1).

(2) In this section—

*relevant easement valuation date*, for a transmission easement in respect of a tax year, means the date as at which a valuation of the transmission easement was last made in accordance with section 5B of the

S. 27(2) substituted by No. 84/2006 s. 11(2).

**Valuation of Land Act 1960**, being a date before 1 January in the tax year.

## **28 Agreements relating to the payment of tax**

- (1) The Commissioner may enter into an agreement with a transmission easement holder in relation to the payment of land tax imposed on the transmission easement.
- (2) An agreement under subsection (1)—
  - (a) may, despite anything to the contrary in this Act, permit the payment of the tax to be by instalments within such time as is set out in the agreement; and
  - (b) must not be for a period exceeding 5 years.
- (3) Nothing in this section limits the operation of section 49 of the **Taxation Administration Act 1997**.

## **Division 5—Special land tax**

### **29 Imposition of special land tax**

Special land tax is imposed in accordance with this Division on certain land that ceases to be exempt land.

### **30 What land is subject to special land tax?**

- (1) Special land tax is imposed on the following land that ceases to be exempt land—

S. 30(1)(a)(b)  
repealed by  
No. 22/2007  
s. 6(1).

\* \* \* \* \*

- (c) land referred to in section 72 (sporting, recreational or cultural land);
- (d) land referred to in section 75 (rooming houses);

Land Tax Act 2005  
No. 88 of 2005  
Part 2—Imposition of land tax

---

- (e) land referred to in section 76 (residential care facilities and supported residential services);
  - (ea) land referred to in section 76A (residential service); **S. 30(1)(ea) inserted by No. 31/2008 s. 17(1).**
  - (f) land referred to in section 77 (caravan parks);
  - (g) land referred to in section 80(1) (land owned by public statutory authority);
  - (h) land referred to in section 86(1) (land used as a mine).
- (2) Special land tax is not imposed on a parcel of land referred to in subsection (1)(g) if at the time the land ceases to be exempt land—
- (a) the taxable value of the parcel does not exceed \$249 999; and **S. 30(2)(a) amended by Nos 22/2007 s. 6(2), 31/2008 s. 17(2).**
  - (b) it is used or proposed to be used exclusively by the owner, or by any one or more of joint owners, as his, her or their principal place of residence.
- (3) Special land tax is not imposed if the land ceases to be exempt land only because the relevant section referred to in subsection (1) is amended or repealed.
- (4) Special land tax is not imposed if the land ceases to be exempt land only because— **S. 30(4) inserted by No. 22/2007 s. 6(3).**
- (a) the land vests in an authority that acquires it under a compulsory acquisition law; or
  - (b) an authority that is acquiring the land under a compulsory acquisition law takes possession of the land.

S. 30(5)  
inserted by  
No. 22/2007  
s. 6(3).

(5) In subsection (4)—

*authority* means a person who or body that is given power to acquire land under a compulsory acquisition law;

*compulsory acquisition law* means a law of Victoria or the Commonwealth that provides for the compulsory acquisition of land.

### 31 Who is liable for special land tax?

- (1) If the land ceases to be exempt land immediately on a change of ownership, or within 60 days after a change of ownership, the person who was the owner immediately before the change of ownership is liable to pay special land tax on the land.
- (2) In any other case, the person who owned the land immediately after it ceased to be exempt land is liable to pay special land tax on the land.

Note to s. 31  
inserted by  
No. 26/2015  
s. 28.

#### Note

See section 35(1A) and (2).

### 32 When does a liability for special land tax arise?

A liability for special land tax arises when the land on which the tax is imposed ceases to be exempt land.

### 33 When must special land tax be paid?

The day specified in a notice of assessment of special land tax must be not less than 14 days after the day the notice is served on the taxpayer.

#### Note

Section 14 of the **Taxation Administration Act 1997** provides for notices of assessment and provides that tax is payable on or before the day specified in the notice.

### **34 Deferral of special land tax in certain circumstances**

- (1) This section applies to any land referred to in section 30(1) except where the land ceases to be exempt land immediately on a change of ownership, or within 60 days after a change of ownership.
- (2) Despite section 32 or 33, the taxpayer may elect to defer the payment of the special land tax until the sooner of—
  - (a) a change of ownership of the land, or any part of it; or
  - (b) 3 years after the day on which the land ceased to be exempt land.

### **Division 6—Vacant residential land tax**

Pt 2 Div. 6  
(Heading and  
ss 34A–34G)  
inserted by  
No. 28/2017  
s. 53.

#### **34A Imposition of vacant residential land tax**

S. 34A  
inserted by  
No. 28/2017  
s. 53.

- (1) Vacant residential land tax is imposed each year on taxable land in Victoria that is—
  - (a) residential land which is vacant; and
  - (b) within the specified geographic area.
- (2) Vacant residential land tax is imposed in addition to any other land tax imposed under this Act.

#### **Note**

Certain taxable land is exempt from vacant residential land tax—see Division 9 of Part 4.

#### **34B What is *residential land*?**

S. 34B  
inserted by  
No. 28/2017  
s. 53.

- (1) For the purposes of this Division, *residential land* is land that is capable of being used solely or primarily for residential purposes.

- (2) Land is also *residential land* for the purposes of this Division if—
- (a) a residence is being constructed or renovated on the land; and
  - (b) the land was capable of being used solely or primarily for residential purposes before the commencement of the construction or renovation; and
  - (c) on the completion of the construction or renovation, the land will be capable of being used solely or primarily for residential purposes.
- (3) Despite subsections (1) and (2), *residential land* does not include land that is capable of being used and occupied solely or primarily as—
- (a) commercial residential premises and that may lawfully be used and occupied in that way; or
  - (b) a residential care facility and that may lawfully be used and occupied in that way; or
  - (c) a supported residential service and that may lawfully be used and occupied in that way; or
  - (d) a retirement village service and that may lawfully be used and occupied in that way.

S. 34C  
inserted by  
No. 28/2017  
s. 53.

### **34C When is residential land vacant?**

- (1) For the purposes of this Division, residential land referred to in section 34B(1) is vacant in a tax year if it has not been used and occupied for a period (whether continuous or aggregate) of greater than 6 months in the year preceding the tax year by—

- (a) the owner of the residential land as the principal place of residence of the owner; or
  - (b) the owner's permitted occupant as the principal place of residence of the occupant; or
  - (c) a natural person under a lease or short-term letting arrangement made in good faith and not for the purpose of avoiding the payment of vacant residential land tax.
- (2) For the purposes of this Division, residential land referred to in section 34B(2) is vacant in a tax year if, at the end of the year preceding the tax year—
- (a) the construction or renovation referred to in section 34B(2)(a) was not completed; and
  - (b) more than 2 years have elapsed since that construction or renovation commenced.
- (3) Despite subsection (2), residential land referred to in section 34B(2) is not vacant in a tax year if the Commissioner is satisfied there is an acceptable reason for the construction or renovation not being completed by the end of the year preceding the tax year.
- (4) For the purposes of subsection (2), the date on which construction or renovation commences is the date of issue of the building permit for the construction or renovation.
- (5) In this section—
- permitted occupant*** means a person (other than a tenant) who uses and occupies land with the permission of the owner.

S. 34D  
inserted by  
No. 28/2017  
s. 53.

**34D What is the *specified geographic area*?**

For the purposes of this Division, the *specified geographic area* is the area comprising all of the areas of the municipal districts of the Councils listed in Schedule 2A.

S. 34E  
inserted by  
No. 28/2017  
s. 53.

**34E Who is liable for vacant residential land tax?**

- (1) Subject to this section, the owner of VRT land is liable to pay vacant residential land tax on the land.
- (2) A mortgagee in possession who is deemed by section 17 to be an owner of VRT land is not liable to pay vacant residential land tax on the land.
- (3) The holder of a beneficial interest in a trust who is deemed by Division 2A or 2AB of Part 3 to be the owner of VRT land is not liable to pay vacant residential land tax on the land.

S. 34F  
inserted by  
No. 28/2017  
s. 53.

**34F When must vacant residential land tax be paid?**

The day specified in a notice of assessment of vacant residential land tax must not be less than 14 days after the day the notice is served on the taxpayer.

**Note**

Section 14 of the **Taxation Administration Act 1997** provides for notices of assessment and provides that tax is payable on or before the day specified in the notice.

S. 34G  
inserted by  
No. 28/2017  
s. 53.

**34G Owner of land subject to vacant residential land tax must notify Commissioner**

- (1) An owner of VRT land (other than an owner referred to in section 34E(2) or (3)) must lodge a written notice with the Commissioner before 15 January in each year.

- (2) A notice under this section must—
- (a) be in the form and contain the information determined by the Commissioner; and
  - (b) be accompanied by any documents or other evidence determined by the Commissioner.

## Part 3—Assessment of land tax

### Division 1—Rate of land tax

#### 35 What is the rate of land tax?

S. 35(1)  
amended by  
No. 28/2017  
s. 54(1).

- (1) The rate of land tax (other than special land tax and vacant residential land tax) is set out in Schedule 1.

Note to  
s. 35(1)  
inserted by  
No. 85/2005  
s. 24,  
substituted by  
No. 26/2015  
s. 29(1).

#### Note

Schedule 1 sets out 5 different rates of land tax. Part 1 sets out the general rates of land tax, Part 2 sets out the rate of land tax on transmission easements, Part 3 sets out the land tax surcharge rates for trusts (see also Division 2A of this Part), Part 4 sets out the general absentee owner land tax surcharge rates and Part 5 sets out the land tax surcharge rates for absentee trusts (see also Division 2AB of this Part).

S. 35(1A)  
inserted by  
No. 26/2015  
s. 29(2),  
amended by  
No. 40/2016  
s. 20.

- (1A) In the case of land owned by an absentee owner, the rate of special land tax is 6.5% of the taxable value of the land.

S. 35(2)  
amended by  
No. 26/2015  
s. 29(3).

- (2) In any other case, the rate of special land tax is 5% of the taxable value of the land.

S. 35(3)  
inserted by  
No. 28/2017  
s. 54(2).

- (3) The rate of vacant residential land tax is 1% of the taxable value of the land.

#### Note

For the purposes of the vacant residential land tax, the taxable value of the land is the capital improved value of the land as at the relevant date—see section 19(1A).

### Division 2—How is land tax assessed?

#### 36 Land tax assessed on aggregated basis

- (1) Subject to this Act, a taxpayer is to be assessed for land tax on land for a tax year on the total taxable value of all taxable land of which the taxpayer

was the owner at midnight on 31 December immediately preceding that tax year.

- (2) Subject to this Act, a taxpayer is to be assessed for land tax on transmission easements for a tax year on the total taxable value of all transmission easements of which the taxpayer was the holder at midnight on 31 December immediately preceding the tax year.
- (3) For the purposes of an assessment, the applicable rate of land tax in Schedule 1 is to be applied to the total taxable value of that land or transmission easements (as the case requires).

### **37 Certain taxable land assessed separately**

- (1) This section applies for the purposes of assessing land tax (other than vacant residential land tax) payable on the following land—
  - (a) taxable land owned by a charitable institution or held by a trustee on trust for charitable purposes;
  - (b) land referred to in section 81(1) that is taxable land because of section 81(2).
- (2) Land tax is to be assessed for a year on each parcel of land referred to in subsection (1) of which the taxpayer was the owner at midnight on 31 December immediately preceding that year as if that parcel were the only land owned by the taxpayer.
- (3) For that purpose, the applicable rate of land tax in Schedule 1 is to be applied separately to the taxable value of each parcel.
- (4) Part of a parcel of land (other than part of a building) is to be regarded as a separate parcel of land for the purposes of this section if the part—

**S. 37(1)  
amended by  
No. 28/2017  
s. 55.**

- (a) is occupied separately from other land in the parcel; or
- (b) is obviously adapted to being so occupied.

S. 37A  
inserted by  
No. 28/2017  
s. 56.

**37A Certain taxable land assessed separately—vacant residential land tax**

Subject to this Act, a taxpayer is to be assessed for vacant residential land tax for a tax year on the taxable value of VRT land of which the taxpayer was the owner on 31 December immediately preceding that tax year as if that land were the only land owned by the taxpayer.

**38 Assessment of joint owners of land**

S. 38(1)  
amended by  
No. 28/2017  
s. 57.

- (1) Joint owners of taxable land are to be assessed for land tax (other than vacant residential land tax) on land in accordance with this section.

Note to  
s. 38(1)  
inserted by  
No. 26/2015  
s. 30(1).

**Note**

Joint owners of taxable land include absentee owners who own land jointly and absentee owners who own land jointly with owners who are not absentee owners.

S. 38(2)  
amended by  
No. 26/2015  
s. 30(2).

- (2) Subject to subsections (2A) and (2B), joint owners of taxable land are to be jointly assessed for land tax on the land as if it were owned by a single person, without regard to—
  - (a) the separate interest of each joint owner; or
  - (b) any other land owned by any joint owner (either alone or jointly with someone else).

S. 38(2A)  
inserted by  
No. 26/2015  
s. 30(3).

- (2A) In the case where all of the joint owners of taxable land are absentee owners, the joint owners are to be jointly assessed for land tax on the land as if it were owned by an absentee owner who is not a trustee of an absentee trust.

**Note**

Under subsection (2A), the joint absentee owners will be jointly assessed for land tax at the applicable rates set out in Part 4 of Schedule 1. In addition, subsections (3) to (6)

Land Tax Act 2005  
No. 88 of 2005  
Part 3—Assessment of land tax

---

apply in relation to how each joint owner is to be separately assessed.

- (2B) In the case where at least one but not all of the joint owners of taxable land is not an absentee owner, the joint owners are to be jointly assessed for land tax on the land as if it were owned by an owner who was not an absentee owner.

S. 38(2B)  
inserted by  
No. 26/2015  
s. 30(3).

**Note**

Under subsection (2B), the joint owners will be jointly assessed for land tax at the applicable rates set out in Part 1 of Schedule 1. In addition, subsections (3) to (6) apply in relation to how each joint owner is to be separately assessed.

- (3) In addition, each joint owner of taxable land is to be separately assessed for land tax on—
- (a) the owner's individual interest in the land (as if the owner were the owner of a part of the land in proportion to that interest); and
  - (b) any other taxable land owned by the owner alone; and
  - (c) the owner's individual interest in any other taxable land.
- (4) There is to be deducted from the land tax assessed for a joint owner under subsection (3) an amount (if any) necessary to avoid double taxation, being the lesser of—

S. 38(3)  
amended by  
No. 26/2015  
s. 30(4).

- (a) the amount determined by the formula—

$$A \times B$$

where—

A is the proportion of the owner's individual interest in the jointly-owned land to the total interests in that land;

B is the total amount of land tax assessed on the jointly-owned land under subsection (2), (2A) or (2B); and

S. 38(4)(a)  
amended by  
No. 26/2015  
s. 30(5).

S. 38(4)(b)  
amended by  
No. 26/2015  
s. 30(6).

(b) the amount determined by the formula—

$$\frac{C}{D} \times E$$

where—

C is the value of the joint owner's individual interest in the jointly-owned land (as determined under subsection (3)(a));

D is the total value of all taxable land of the joint owner assessed under subsection (3);

E is—

(a) in the case where subsection (2) or (2A) applies, the amount of land tax assessed under subsection (3);

(b) in the case where subsection (2B) applies—

(i) if the joint owner is not an absentee owner, the amount of land tax assessed under subsection (3); or

(ii) if the joint owner is an absentee owner, the amount of land tax that would have been assessed under subsection (3) if that owner were not an absentee owner or a trustee of a trust.

S. 38(5)  
amended by  
No. 26/2015  
s. 30(5).

(5) For the purposes of this section a joint owner may be separately assessed under subsection (3) in respect of land even though no land tax is jointly assessable in respect of that land under subsection (2), (2A) or (2B).

- (6) If a joint owner of land is a trustee of a trust or an absentee trust to which the land is subject, no regard is to be had to the existence of the trust in relation to the joint assessment of the joint owners of the land as referred to in subsection (2), (2A) or (2B), but regard is to be had to the existence of the trust in relation to the separate assessment of the joint owners as referred to in subsection (3).

S. 38(6)  
inserted by  
No. 85/2005  
s. 25,  
amended by  
No. 26/2015  
s. 30(7).

**38A Assessment of joint owners—vacant residential land tax**

S. 38A  
inserted by  
No. 28/2017  
s. 58.

Joint owners of land are to be jointly assessed for vacant residential land tax on the land as if it were owned by a single person.

**39 Joint assessments in the case of principal place of residence land**

- (1) For the purposes of section 38 and subject to this section, if land that is jointly owned is exempt land because it is the principal place of residence of one or more, but not all, of the joint owners—

(a) no land tax is jointly assessable in respect of that land under section 38(2), (2A) or (2B);

S. 39(1)(a)  
amended by  
No. 26/2015  
s. 31.

(b) each joint owner who does not use and occupy the land as his or her principal place of residence may be separately assessed in respect of that land under section 38(3).

- (2) A joint owner of land (*joint owner 1*) that is exempt land in respect of a tax year because of its use and occupation as the principal place of residence of another joint owner of the land (*joint owner 2*) is not, in respect of the tax year, liable to pay or be assessed under section 38(3) for land tax on the land—

- (a) if, at any time during the year immediately preceding the tax year, the land was used and occupied as the principal place of residence of joint owner 1 and joint owner 2; or
- (b) if—
  - (i) at any time during the second year preceding the tax year the land was used and occupied as the principal place of residence of joint owner 1 and joint owner 2; and
  - (ii) there is no other land that is exempt land in respect of the tax year because of its use and occupation as the principal place of residence of joint owner 1.
- (3) Despite anything to the contrary in this section or Division 1 of Part 4, if a joint owner of land (*the PPR land*) who, because of subsection (2), is not liable to be assessed under section 38(3) for land tax in respect of the PPR land in respect of a tax year, resumes use and occupation of the PPR land during the tax year, the joint owner is liable for land tax in respect of the tax year in respect of any other land that, but for this subsection, would be exempt land under Division 1 of Part 4 in respect of the tax year.
- (4) Except to the extent set out in subsection (3), nothing in this section takes away from or affects the operation of Division 1 of Part 4.

#### **40 Assessment of joint occupiers of land**

- (1) This section applies if 2 or more persons own land in severalty but occupy it jointly.
- (2) Land tax is to be assessed on the persons as if they were joint owners of the land.

- (3) For the purposes of this Act, persons (the *joint occupiers*) are taken to occupy land jointly if the land is occupied, worked or managed—
- (a) by any one or more of the joint occupiers on behalf of all of the joint occupiers or on a joint account; or
  - (b) by any other person as trustee for or otherwise on behalf of all of the joint occupiers.
- (4) Subsection (3) does not limit the circumstances in which persons may be taken to occupy land jointly.

#### **41 Assessment of joint transmission easement holders**

- (1) Joint transmission easement holders are to be assessed for land tax on transmission easements in accordance with this section.
- (2) Joint transmission easement holders are to be jointly assessed in respect of a transmission easement as if held by a single person, without regard to—
  - (a) the separate interest of each joint transmission easement holder in that transmission easement;
  - (b) any other transmission easement held by a joint transmission easement holder (either alone or jointly with someone else).
- (3) Each joint transmission easement holder is also to be separately assessed in respect of—
  - (a) the joint transmission easement holder's individual interest in the transmission easement as if the transmission easement holder were the holder of a part of the transmission easement in proportion to that interest; and

- (b) any other transmission easement held by a joint transmission easement holder alone; and
  - (c) the joint transmission easement holder's individual interest in any other transmission easement.
- (4) There is to be deducted from the land tax assessed for a joint transmission easement holder under subsection (3) an amount (if any) necessary to avoid double taxation, being the lesser of—
- (a) the amount determined by the formula—
$$A \times B$$
where—
    - A is the proportion of the transmission easement holder's individual interest in the jointly-owned transmission easement to the total interests in that easement;
    - B is the total amount of land tax assessed on the jointly-owned transmission easement under subsection (2); and
  - (b) the amount determined by the formula—
$$\frac{C}{D} \times E$$
where—
    - C is the value of the joint transmission easement holder's individual interest in the jointly-owned transmission easement (as determined under subsection (3)(a));

D is the total value of all transmission easements of the joint transmission easement holder assessed under subsection (3);

E is the amount of land tax assessed under subsection (3).

- (5) For the purposes of this section, a joint transmission easement holder may be separately assessed under subsection (3) in respect of a transmission easement even though no land tax is jointly assessable in respect of that easement under subsection (2).
- (6) In this section—

*joint transmission easement holder* means a transmission easement holder who holds a transmission easement jointly with another person.

#### **42 Assessment of owner of land on which there are home units**

- (1) For the purposes of assessing the land tax (other than vacant residential land tax) payable on land on which home units are situated by the owner of the land, the amount of the taxable value of the home units is to be deducted from the taxable value of the land.
- (2) In subsection (1), the owner of land on which home units are situated means the person who is the owner of the land, whether or not that person is also the owner of one or more of the home units.
- (3) For the purposes of this section, section 12(2) does not apply in determining who the owner of land is.

S. 42(1)  
amended by  
No. 28/2017  
s. 59.

### 43 Mortgagees in possession of land

- (1) If there is a mortgagee in possession of land, land tax on the land is to be assessed at the rate that would have applied if the mortgagee had not been in possession of the land.
- (2) Subsection (1) applies until the earlier of—
  - (a) the mortgagee ceasing to be in possession of the land; or
  - (b) 31 December in the 3rd year after the mortgagee took possession of the land.

S. 44  
repealed by  
No. 85/2005  
s. 26.

\* \* \* \* \*

### 45 Certain long-term lessees of private land

- (1) This section applies if—
  - (a) a person (the *lessee*) has a leasehold estate in land (other than under a lease of Crown land); and
  - (b) the lessee became entitled to that estate before 30 December 1978.
- (2) If this section applies, both the lessee and the owner of the freehold estate in the land are to be assessed for land tax on the land and, for the purpose of this Act, a reference to the owner of the land includes a reference to the lessee.
- (3) The Commissioner may apportion the land tax payable on the land as between the owner of the freehold estate and the lessee if the Commissioner is of the opinion that the value of the freehold owner's interest in the land is lessened by the covenants of the lease.

S. 45(1)(a)  
amended by  
No. 83/2009  
s. 8.

- (4) If the Commissioner apportions the land tax under subsection (3), the owner of the freehold estate and the lessee are each liable to pay the proportion of the tax determined by the Commissioner.

**46 Land tax on parts of land**

- (1) If it is necessary to assess land tax (other than vacant residential land tax) on a part of land, the land tax applicable to that part is the proportion of the land tax, assessed on the taxable value of the whole land, that the taxable value of the part bears to the total taxable value of the whole land.

S. 46  
amended by  
No. 28/2017  
s. 60(1)(2) (ILA  
s. 39B(1)).

- (2) If it is necessary to assess vacant residential and tax on part of land, the vacant residential land tax applicable to that part is the proportion of the vacant residential land tax, assessed on the taxable value of the whole of the land, that the taxable value of the part bears to the total taxable value of the whole land.

S. 46(2)  
inserted by  
No. 28/2017  
s. 60(2).

**46AA Title-based time-sharing schemes**

- (1) The owner of land to which a title-based time-sharing scheme relates is to be assessed on the total value of all taxable land to which the scheme relates as if the land were the only land owned by that person.
- (2) A participant in a title-based time-sharing scheme incurs a debt in an amount equivalent to the proportion of the participant's interest in the land to the person who—
- (a) is the owner of the land to which the title-based time-sharing scheme relates; and
  - (b) has been assessed for land tax under subsection (1).

S. 46AA  
inserted by  
No. 69/2011  
s. 29.

## Division 2A—Land held on trust

Pt 3 Div. 2A  
(Heading and  
ss 46A–46K)  
inserted by  
No. 85/2005  
s. 27.

S. 46A  
inserted by  
No. 85/2005  
s. 27.

### 46A General land tax surcharge for trusts

- (1) A person who is the owner of land as trustee of a trust is liable for land tax on the land at the applicable rate set out in Part 3 of Schedule 1.
- (2) The trustee is to be assessed for land tax on the whole of the land subject to the trust as if the land were the only land owned by the trustee.
- (3) This section does not apply to—

S. 46A(3)(a)  
substituted by  
No. 83/2009  
s. 9(1)(a).

- (a) land subject to a unit trust scheme if an appointment of a nominated PPR beneficiary for the scheme is in force and the land is—
  - (i) used and occupied as the principal place of residence of the nominated PPR beneficiary; and
  - (ii) not used to carry on a substantial business activity; or

- (b) land subject to a discretionary trust if—

S. 46A(3)(b)(ii)  
substituted by  
No. 83/2009  
s. 9(1)(b).

- (i) an appointment of a nominated beneficiary for the trust is in force; or
- (ii) an appointment of a nominated PPR beneficiary for the trust is in force and the land is—
  - (A) used and occupied as the principal place of residence of the nominated PPR beneficiary; and
  - (B) not used to carry on a substantial business activity; or

- |   |   |
|---|---|
| (c) land subject to an excluded trust; or   | S. 46A(3)(c)<br>amended by<br>No. 68/2007<br>s. 10(a).                                      |
| (d) land subject to an administration trust.  | S. 46A(3)(d)<br>inserted by<br>No. 68/2007<br>s. 10(b).                                     |
| <br>  |   |
| (4) This section is subject to sections 46B and 46C.  |   |
| (5) A trustee of child maintenance land who would be liable to land tax in accordance with subsection (1) but for this subsection is liable for land tax at the applicable rate set out in Part 1 of Schedule 1, and is to be assessed for that tax as if the child maintenance land were the only land owned by the trustee. |   |
| (6) In determining whether land is used by a person to carry on a substantial business activity, account must be taken of the factors referred to in section 62(2).   | S. 46A(6)<br>inserted by<br>No. 83/2009<br>s. 9(2).   |
| <br>  |   |
| <b>46B Land tax for fixed trust if beneficial interests notified to Commissioner</b>  | S. 46B<br>inserted by<br>No. 85/2005<br>s. 27.  |
| (1) A trustee of a fixed trust to which land is subject may lodge with the Commissioner a written notice of the beneficial interests in the land.   |   |
| (2) A notice must be in the form, and contain the information, determined by the Commissioner.  | S. 46B(2)<br>substituted by<br>No. 40/2014<br>s. 16.  |
| (3) A notice takes effect for the tax year following the year in which the notice is lodged and remains in force until it is withdrawn by the trustee.  | S. 46B(3)<br>amended by<br>No. 68/2007<br>s. 11,<br>substituted by<br>No. 40/2014<br>s. 16. |

**S. 46B(3A)**  
inserted by  
**No. 40/2014**  
s. 16.

(3A) Despite subsection (1), if a trustee withdraws a notice that is in force under this section in respect of a fixed trust, the trustee cannot lodge another notice under this section in respect of that fixed trust.

(4) If a notice is in force under this section for a fixed trust—

**S. 46B(4)(a)**  
amended by  
**No. 76/2012**  
s. 17.

(a) a beneficiary of the trust is deemed, for the purposes of this Act other than Division 1 of Part 4, to be the owner (but not to the exclusion of the trustee) of land subject to the trust that bears the same proportion to the whole of the land subject to the trust as the beneficiary's beneficial interest in land subject to the trust bears to the total beneficial interests in land subject to the trust, and is to be assessed for land tax on that land accordingly, together with any other taxable land owned by the beneficiary, at the applicable rate set out in Part 1 of Schedule 1; and

(b) the trustee of the trust is to be assessed for land tax on the whole of the land subject to the trust at the applicable rate set out in Part 1 of Schedule 1, as if the land were the only land owned by the trustee.

(5) There is to be deducted from the land tax payable by a beneficiary under subsection (4)(a) an amount (if any) necessary to avoid double taxation, being the lesser of—

(a) the amount determined by the formula:

$$A \times B$$

where—

A is the proportion of the beneficiary's beneficial interest in land subject to the trust to the total beneficial interests in land subject to the trust;

B is the total amount of tax assessed on the trustee under subsection (4)(b); and

(b) the amount determined by the formula:

$$\frac{C}{D} \times E$$

where—

C is the taxable value of the land of which the beneficiary is deemed by subsection (4)(a) to be the owner;

D is the total taxable value of all taxable land owned by the beneficiary;

E is the amount of tax assessed on the beneficiary under subsection (4)(a).

(6) For the purposes of this section, the trustee's right of indemnity from the trust property is taken not to be a beneficial interest in the land subject to the trust.

(7) Subsection (4)(a) does not apply to a beneficiary who holds a beneficial interest as trustee of another trust.

**Note**

Section 46D(1)(a) deems such a person to be the owner of land.

S. 46C  
inserted by  
No. 85/2005  
s. 27.

**46C Land tax for unit trust scheme if unitholdings notified to Commissioner**

S. 46C(2)  
substituted by  
No. 40/2014  
s. 17.

S. 46C(3)  
amended by  
No. 68/2007  
s. 12,  
substituted by  
No. 40/2014  
s. 17.

S. 46C(3A)  
inserted by  
No. 40/2014  
s. 17.

- (1) A trustee of a unit trust scheme to which land is subject may lodge with the Commissioner a written notice of the unitholdings in the scheme.
  - (2) A notice must be in the form, and contain the information, determined by the Commissioner.
  - (3) A notice takes effect for the tax year following the year in which the notice is lodged and remains in force until it is withdrawn by the trustee.
- (3A) Despite subsection (1), if a trustee withdraws a notice that is in force under this section in respect of a unit trust scheme, the trustee cannot lodge another notice under this section in respect of that unit trust scheme.
- (4) If a notice is in force under this section for a unit trust scheme—
    - (a) a unitholder in the scheme is deemed, for the purposes of this Act other than Division 1 of Part 4, to be the owner (but not to the exclusion of the trustee) of land subject to the scheme that bears the same proportion to the whole of the land subject to the scheme as the unitholder's unitholding in the scheme bears to the total unitholdings in the scheme, and is to be assessed for land tax on that land accordingly, together with any other taxable land owned by the unitholder, at the applicable rate set out in Part 1 of Schedule 1; and

- (b) the trustee of the scheme is to be assessed for land tax on the whole of the land subject to the scheme at the applicable rate set out in Part 1 of Schedule 1, as if the land were the only land owned by the trustee.
- (5) There is to be deducted from the land tax payable by a unitholder under subsection (4)(a) an amount (if any) necessary to avoid double taxation, being the lesser of—
- (a) the amount determined by the formula:
- $$A \times B$$
- where—
- A is the proportion of the unitholder's unitholding in the scheme to the total unitholdings in the scheme;
- B is the total amount of tax assessed on the trustee under subsection (4)(b); and
- (b) the amount determined by the formula:
- $$\frac{C}{D} \times E$$
- where—
- C is the taxable value of the land of which the unitholder is deemed by subsection (4)(a) to be the owner;
- D is the total taxable value of all taxable land owned by the unitholder;
- E is the amount of tax assessed on the unitholder under subsection (4)(a).
- (6) Subsection (4)(a) does not apply to a unitholder who holds units as trustee of another trust.

**Note**

Section 46D(1)(b) deems such a person to be the owner of land.

S. 46D  
inserted by  
No. 85/2005  
s. 27.

#### 46D Land tax for beneficiary/trustees

(1) For the purposes of this Act—

S. 46D(1)(a)  
amended by  
No. 76/2012  
s. 17.

- (a) a person who holds a beneficial interest in land subject to a fixed trust in respect of which a notice is in force under section 46B (*the first trust*) as trustee of another trust (*the second trust*) is deemed, for the purposes of this Act other than Division 1 of Part 4, to be the owner of land subject to the first trust that bears the same proportion to the whole of the land subject to the first trust as the person's beneficial interest in the land subject to the first trust bears to the total beneficial interests in land subject to the first trust;
- (b) a person who holds units in a unit trust scheme in respect of which a notice is in force under section 46C (*the first scheme*) as trustee of another trust (*the second trust*) is deemed, for the purposes of this Act other than Division 1 of Part 4, to be the owner of land subject to the first scheme that bears the same proportion to the whole of the land subject to the first scheme as the person's unitholding in the first scheme bears to the total unitholdings in the first scheme.
- (2) For the purposes of this section, a person referred to in subsection (1) is called a *beneficiary/trustee*.
- (3) There is to be deducted from any land tax payable by a beneficiary/trustee on land that is subject to the second trust an amount (if any) necessary to avoid double taxation, being the lesser of—

(a) the amount determined by the formula:

$$A \times B$$

where—

A is—

- (a) the proportion of the beneficiary/trustee's beneficial interest in land subject to the first trust to the total beneficial interests in land subject to the first trust; or
- (b) the proportion of the beneficiary/trustee's unitholding in the first scheme to the total unitholdings in the first scheme;

B is the total amount of tax assessed on the trustee of the first trust or the first scheme on the whole of the land subject to the first trust or first scheme; and

(b) the amount determined by the formula:

$$\frac{C}{D} \times E$$

where—

C is the taxable value of the land of which the beneficiary/trustee is deemed by subsection (1) to be the owner;

D is the total taxable value of all taxable land owned by the beneficiary/trustee that is subject to the second trust;

E is the amount of tax assessed under this Act on the beneficiary/trustee in respect of all taxable land owned by the beneficiary/trustee that is subject to the second trust.

S. 46E  
(Heading)  
amended by  
No. 40/2014  
s. 18(1).  
S. 46E  
inserted by  
No. 85/2005  
s. 27,  
amended by  
No. 40/2014  
s. 18(2).

**46E Land tax for excluded trusts and administration trusts**

A trustee of an excluded trust or of an administration trust is to be assessed for land tax on the whole of the land subject to the trust as if the land were the only land owned by the trustee.

**Note**

The rate of land tax for this assessment is the applicable rate set out in Part 1 of Schedule 1.

S. 46F  
inserted by  
No. 85/2005  
s. 27.

**46F Nomination of beneficiary of pre-2006 discretionary trust for land tax purposes**

- (1) This section applies to a discretionary trust if the trust property includes any pre-2006 land.
- (2) The trustee of the trust may nominate a person to be the nominated beneficiary of the trust for the purposes of this Act.
- (3) The person nominated must be—
  - (a) a natural person who—
    - (i) is a beneficiary of the trust; and
    - (ii) is of or over the age of 18 years on 31 December 2005; and
    - (iii) signifies in writing his or her acceptance of the nomination; or
  - (b) the trustee, if all beneficiaries of the trust are under the age of 18 years on 31 December 2005.
- (4) A nomination under subsection (2) must—
  - (a) be in the form, and contain the information, determined by the Commissioner; and
  - (b) be lodged with the Commissioner on or before the later of—
    - (i) 30 June 2006; or

- (ii) 3 months after the day on which a liability first arises for land tax on land subject to the trust.
- (5) A nomination lodged in accordance with subsection (4)—
- (a) takes effect—
    - (i) for the 2006 tax year if made on or before 30 June 2006; or
    - (ii) in any other case, for the tax year in respect of which the nomination is lodged; and
  - (b) remains in force until—
    - (i) revoked by the nominated beneficiary in writing given to the Commissioner; or
    - (ii) the nominated beneficiary dies.
- (6) If the nominated beneficiary revokes the nomination, the trustee of the trust may nominate as the nominated beneficiary—
- (a) a natural person who—
    - (i) is a beneficiary of the trust; and
    - (ii) is of or over the age of 18 years on the date of the nomination; and
    - (iii) signifies in writing his or her acceptance of the nomination; or
  - (b) the trustee, if all beneficiaries of the trust are under the age of 18 years on the date of the nomination—

**S. 46F(5)(a)(ii)  
substituted by  
No. 68/2007  
s. 13(1).**

if the Commissioner considers that the nomination of a beneficiary under this subsection is just and reasonable in the particular case.

- (7) If the nominated beneficiary dies, the trustee of the trust may nominate as the nominated beneficiary—
- (a) a natural person who—
    - (i) is a beneficiary of the trust; and
    - (ii) is of or over the age of 18 years on the date of the nomination; and
    - (iii) signifies in writing his or her acceptance of the nomination; or
  - (b) the trustee, if all beneficiaries of the trust are under the age of 18 years on the date of the nomination.
- (8) A nomination lodged under subsection (6) or (7)—
- (a) must be in the form, and contain the information, determined by the Commissioner; and
  - (b) takes effect for the tax year following the tax year in which the nomination is lodged; and
  - (c) remains in force until—
    - (i) revoked by the nominated beneficiary in writing given to the Commissioner; or
    - (ii) the nominated beneficiary dies.
- (9) A nomination may be lodged under subsection (6) or (7) (as the case requires) on more than one occasion.

S. 46F(8)(b)  
substituted by  
No. 68/2007  
s. 13(2),  
amended by  
No. 40/2014  
s. 19.

---

**46G Land tax for discretionary trust with nominated beneficiary**

S. 46G  
inserted by  
No. 85/2005  
s. 27.

- (1) This section applies if the nomination of a nominated beneficiary for a discretionary trust is in force under section 46F.
- (2) The nominated beneficiary is deemed, for the purposes of this Act (other than Division 1 of Part 4) but for no other purpose, to be the owner of the pre-2006 land subject to the trust (but not to the exclusion of the trustee) and is to be assessed for land tax on that land accordingly, together with any other taxable land owned by the nominated beneficiary.

**Note**

The rate of land tax for this assessment is the applicable rate set out in Part 1 of Schedule 1.

- (3) The trustee of the trust is to be assessed for land tax on the whole of the land subject to the trust as if the land were the only land owned by the trustee—
  - (a) in respect of any pre-2006 land—at the applicable rate set out in Part 1 of Schedule 1; and
  - (b) in respect of any post-2006 land—at the applicable rate set out in Part 3 of Schedule 1.
- (4) For the purposes of subsection (3), if the trust property includes both pre-2006 land and post-2006 land, the trustee is to be assessed in accordance with the following formula—

$$L = \left[ (R_1 \times T) \times \left( \frac{A}{T} \right) \right] + \left[ (R_2 \times T) \times \left( \frac{B}{T} \right) \right]$$

where—

L is the land tax assessed for the trustee;

$R_1$  is the applicable rate of land tax set out in Part 1 of Schedule 1;

$R_2$  is the applicable rate of land tax set out in Part 3 of Schedule 1;

T is the total taxable value of all taxable land subject to the trust;

A is the total taxable value of the pre-2006 land subject to the trust;

B is the total taxable value of the post-2006 land subject to the trust.

- (5) There is to be deducted from any land tax payable by the nominated beneficiary under subsection (2) any land tax payable by the trustee under subsection (3) in respect of pre-2006 land.
- (6) Subsection (2) does not apply if the nominated beneficiary is the trustee.

S. 46H  
inserted by  
No. 85/2005  
s. 27.

**46H Nomination of PPR beneficiary of unit trust scheme or discretionary trust for land tax purposes**

- (1) The trustee of a unit trust scheme or discretionary trust may nominate a person to be the nominated PPR beneficiary of the scheme or trust for the purposes of this Act.
- (2) The person nominated must be a natural person who is a unitholder in the scheme or a beneficiary of the trust.
- (3) A nomination under subsection (1) must be lodged with the Commissioner in the form, and containing the information, determined by the Commissioner.

- (4) A nomination lodged in accordance with subsection (3)—
- (a) takes effect for the tax year in which the nomination is lodged; and  
S. 46H(4)(a) amended by No. 68/2007 s. 14(1), substituted by No. 40/2014 s. 20(1).
  - (b) remains in force until whichever of the following occurs first—
    - (i) the nominated PPR beneficiary dies; or
    - (ii) the nominated PPR beneficiary ceases to use and occupy the land as his or her principal place of residence.  
S. 46H(4)(b) substituted by No. 68/2007 s. 14(2).
- (5) The trustee of the scheme or trust may nominate a natural person who is a unitholder in the scheme or a beneficiary of the trust as the nominated PPR beneficiary if—  
S. 46H(5) substituted by No. 68/2007 s. 14(3).
- (a) the nominated PPR beneficiary dies; or
  - (b) the nominated PPR beneficiary ceases to use and occupy the land as his or her principal place of residence and the Commissioner considers that the nomination of a PPR beneficiary under this subsection is just and reasonable in the particular case.
- (6) A nomination lodged under subsection (5)—
- (a) must be in the form, and contain the information, determined by the Commissioner; and
  - (b) takes effect for the tax year in which the nomination is lodged; and  
S. 46H(6)(b) substituted by No. 68/2007 s. 14(4)(a), amended by No. 40/2014 s. 20(2).

S. 46H(6)(c)  
substituted by  
No. 68/2007  
s. 14(4)(b).

- (c) remains in force until whichever of the following occurs first—
- (i) the nominated PPR beneficiary dies; or
  - (ii) the nominated PPR beneficiary ceases to use and occupy the land as his or her principal place of residence.
- (7) A nomination may be lodged under subsection (5) on more than one occasion.
- (8) This section does not apply to a unit trust scheme if a notice is in force for the scheme under section 46C.

S. 46I  
inserted by  
No. 85/2005  
s. 27.

**46I Land tax for PPR land if nominated PPR beneficiary**

- (1) This section applies if the nomination of a nominated PPR beneficiary for a unit trust scheme or discretionary trust is in force under section 46H.
- (2) The trustee of the unit trust scheme or discretionary trust is to be assessed for land tax on land subject to the scheme or trust that is used and occupied as the principal place of residence of the nominated PPR beneficiary as if the land were the only land owned by the trustee.

**Note**

The rate of land tax for this assessment is the applicable rate set out in Part 1 of Schedule 1.

S. 46I(2)  
amended by  
No. 68/2007  
s. 15(1).

- (3) Subsection (2) applies only if the land has been used and occupied as the principal place of residence of the nominated PPR beneficiary—
- (a) since 1 July in the year preceding the tax year in which the nomination for that PPR beneficiary is lodged under section 46H; or

S. 46I(3)  
inserted by  
No. 68/2007  
s. 15(2).

- (b) if the trustee became owner of the land on or after 1 July in the year preceding the tax year in which the nomination for that PPR beneficiary is lodged under section 46H, since a later date during that year.
- (4) Subsection (2) does not apply if the land for which a nomination is in force is used to carry on a substantial business activity. **S. 46I(4) inserted by No. 83/2009 s. 10.**
- (5) In determining whether land is used by a person to carry on a substantial business activity, account must be taken of the factors referred to in section 62(2). **S. 46I(5) inserted by No. 83/2009 s. 10.**

**Division 2AB—Land held on trust  
under absentee trusts**

**Pt 3 Div. 2AB  
(Heading and  
ss 46IA–46AF)  
inserted by  
No. 26/2015  
s. 32.**

**46IAA Absentee proportion of interests in land subject to a trust in a chain of trusts**

**S. 46IAA  
inserted by  
No. 67/2017  
s. 15.**

- (1) The absentee proportion of interests in land subject to a trust to the total interests in the land is the proportion of all the interests in that land that—
- (a) natural person absentees or absentee corporations have in that land directly or indirectly through one or more chains of trusts that they do not hold on trust for another person; or
- (b) persons have in that land directly or indirectly through one or more chains of trusts as trustee of an absentee trust that is a discretionary trust.

- (2) Without limiting subsection (1), in calculating the absentee proportion of interests in land subject to a trust, a unitholding in a unit trust scheme is to be treated as an interest in the land.

**Examples**

Schedule 1A sets out examples of how the absentee proportion of interests in land subject to a trust that is in a chain of trusts is calculated.

S. 46IA  
inserted by  
No. 26/2015  
s. 32.

**46IA Land tax surcharge for absentee trusts**

S. 46IA(1)  
amended by  
No. 40/2016  
s. 21,  
substituted by  
No. 67/2017  
s. 16(1).

- (1) A person who is the owner of land as a trustee of an absentee trust that is a fixed trust is liable for land tax determined using the formula—

$$A = B + (C \times 1.5\%)$$

where—

A is the amount of assessed land tax that is payable;

B is the amount determined by applying the applicable rate set out in Part 3 of Schedule 1;

C is—

- (a) if the absentee trust is not in a chain of trusts or is an ultimate trust, the value of all land subject to the trust that would be taken under section 46IB to be owned by an absentee beneficiary if a notice were in force under section 46B in respect of the beneficial interests of that absentee beneficiary in that land; or
- (b) if the absentee trust is in a chain of trusts and is not an ultimate trust, an amount determined by the formula—

$D \times E$

where—

D is the absentee proportion of interests in all land subject to the trust;

E is the taxable value of all land subject to the trust.

(1A) A person who is the owner of land as a trustee of an absentee trust that is a unit trust scheme is liable for land tax determined using the formula—

$$A = B + (C \times 1.5\%)$$

where—

A is the amount of assessed land tax that is payable;

B is the amount determined by applying the applicable rate set out in Part 3 of Schedule 1;

C is—

(a) if the unit trust scheme is not in a chain of trusts or is an ultimate trust, the value of all land subject to the scheme that would be taken under section 46IC to be owned by an absentee beneficiary if a notice were in force under section 46C in respect of the unitholdings in the scheme held by that absentee beneficiary; or

(b) if the unit trust scheme is in a chain of trusts and is not an ultimate trust, an amount determined by the formula—

$D \times E$

where—

D is the absentee proportion of interests in all land subject to the scheme;

E is the taxable value of all land subject to the scheme.

S. 46IA(1B)  
inserted by  
No. 67/2017  
s. 16(1).

(1B) A person who is the owner of land as trustee of an absentee trust that is a discretionary trust is liable for land tax determined at the applicable rate set out in Part 5 of Schedule 1.

(2) The trustee is to be assessed for land tax on the whole of the land subject to the absentee trust as if the land were the only land owned by the trustee for the purposes of—

S. 46IA(2)(a)  
amended by  
No. 67/2017  
s. 16(2)(a).

(a) the variable "B" in the formula in subsections (1) and (1A); and

S. 46IA(2)(b)  
substituted by  
No. 67/2017  
s. 16(2)(b).

(b) subsection (1B).

(3) This section does not apply to—

(a) land subject to an excluded trust; or

(b) land subject to an administration trust; or

(c) child maintenance land.

(4) This section is subject to sections 46IB, 46IC and 46IE.

S. 46IB  
inserted by  
No. 26/2015  
s. 32.

**46IB Land tax for absentee fixed trust if beneficial interests notified to Commissioner**

(1) If a notice is in force under section 46B for a fixed trust (that is an absentee trust) and all of the

beneficial interests in the land are beneficial interests of absentee beneficiaries—

- (a) an absentee beneficiary of the trust is taken, for the purposes of this Act other than Division 1 of Part 4, to be the owner (but not to the exclusion of the trustee) of land subject to the trust that bears the same proportion to the whole of the land subject to the trust as the absentee beneficiary's beneficial interest in land subject to the trust bears to the total beneficial interests in land subject to the trust, and is to be assessed for land tax on that land accordingly, together with any other taxable land owned by the absentee beneficiary, at the applicable rate set out in Part 4 of Schedule 1; and

**S. 46IB(1)(a)**  
amended by  
**No. 40/2016**  
s. 22(1).

- (b) the trustee of the trust is to be assessed for land tax on the whole of the land subject to the trust—
- (i) if the trust is not in a chain of trusts or is an ultimate trust, at the applicable rate set out in Part 4 of Schedule 1, as if the land were the only land owned by the trustee; or
- (ii) if the trust is in a chain of trusts and is not an ultimate trust, using the formula—

**S. 46IB(1)(b)**  
substituted by  
**No. 67/2017**  
s. 17(1).

$$A = B + (C \times D \times 1.5\%)$$

where—

**A** is the amount of assessed land tax that is payable;

**B** is the amount determined by applying the applicable rate set out in Part 1 of Schedule 1 on the whole of the land subject to the

trust (as if that land were the only land owned by the trustee);

C is the absentee proportion of interests in all land subject to the trust;

D is the taxable value of all land subject to the trust.

(2) There is to be deducted from the land tax payable under subsection (1)(a) by an absentee beneficiary an amount (if any) necessary to avoid double taxation, being the lesser of—

(a) the amount determined by the formula—

$$A \times B$$

where—

A is the proportion of the absentee beneficiary's beneficial interest in land subject to the trust to the total beneficial interests in land subject to the trust;

B is the total amount of tax assessed on the trustee under subsection (1)(b); and

(b) the amount determined by the formula—

$$\frac{C}{D} \times E$$

where—

C is the taxable value of the land of which the absentee beneficiary is taken by subsection (1)(a) to be the owner;

D is the total taxable value of all taxable land owned by the absentee beneficiary;

E is the amount of tax assessed on the absentee beneficiary under subsection (1)(a).

(3) If a notice is in force under section 46B for a fixed trust (that is an absentee trust) for all of the beneficial interests in the land and at least one, but not all, of those interests is a beneficial interest of a beneficiary who is not an absentee beneficiary—

(a) a beneficiary of the trust is taken, for the purposes of this Act other than Division 1 of Part 4, to be the owner (but not to the exclusion of the trustee) of land subject to the trust that bears the same proportion to the whole of the land subject to the trust as the beneficiary's beneficial interest in land subject to the trust bears to the total beneficial interests in land subject to the trust, and is to be assessed for land tax on that land accordingly, together with any other taxable land owned by the beneficiary—

**S. 46B(3)(a)  
amended by  
No. 40/2016  
s. 22(2)(a).**

(i) in the case of an absentee beneficiary, at the applicable rate set out in Part 4 of Schedule 1; and

(ii) in the case of any other beneficiary, at the applicable rate set out in Part 1 of Schedule 1; and

(b) the trustee of the trust is to be assessed for land tax on the whole of the land subject to the trust using the formula—

**S. 46B(3)(b)  
amended by  
Nos 40/2016  
s. 22(2)(b),  
67/2017  
s. 17(2).**

$$A = B + (C \times 1.5\%)$$

where—

A is the amount of assessed land tax that is payable;

B is the amount determined by applying the applicable rate set out in Part 1 of Schedule 1 on the whole of the land subject to the trust (as if that land were the only land owned by the trustee);

C is—

- (a) if the trust is not in a chain of trusts or is an ultimate trust, the taxable value of all land owned by an absentee beneficiary; or
- (b) if the trust is in a chain of trusts and is not an ultimate trust, an amount determined by the formula—

$$D \times E$$

where—

D is the absentee proportion of interests in all land subject to the trust;

E is the taxable value of all land subject to the trust.

(4) There is to be deducted from the land tax payable under subsection (3)(a) by an absentee beneficiary an amount (if any) necessary to avoid double taxation, being the lesser of—

(a) the amount determined by the formula—

$$(A \times B) + (C \times 1.5\%)$$

where—

A is the proportion of the absentee beneficiary's beneficial interest in

S. 46B(4)(a)  
amended by  
No. 40/2016  
s. 22(3).

land subject to the trust to the total beneficial interests in land subject to the trust;

B is that part of the total amount of tax assessed on the trustee under subsection (3)(b) determined by applying the applicable rate set out in Part 1 of Schedule 1 on the whole of the land subject to the trust (as if that land were the only land owned by the trustee);

C is the taxable value of the land of which the absentee beneficiary is taken by subsection (3)(a) to be the owner; and

(b) the amount determined by the formula—

$$\frac{C}{D} \times E$$

where—

C is the taxable value of the land of which the absentee beneficiary is taken by subsection (3)(a) to be the owner;

D is the total taxable value of all taxable land owned by the absentee beneficiary;

E is the amount of tax assessed on the absentee beneficiary under subsection (3)(a)(i).

(5) There is to be deducted from the land tax payable under subsection (3)(a) by a beneficiary who is not an absentee beneficiary an amount (if any)

necessary to avoid double taxation, being the lesser of—

(a) the amount determined by the formula—

$$A \times B$$

where—

A is the proportion of the beneficiary's beneficial interest in land subject to the trust to the total beneficial interests in land subject to the trust;

B is that part of the total amount of tax assessed on the trustee under subsection (3)(b) determined by applying the applicable rate set out in Part 1 of Schedule 1 on the whole of the land subject to the trust (as if that land were the only land owned by the trustee); and

(b) the amount determined by the formula—

$$\frac{C}{D} \times E$$

where—

C is the taxable value of the land of which the beneficiary is taken by subsection (3)(a) to be the owner;

D is the total taxable value of all taxable land owned by the beneficiary;

E is the amount of tax assessed on the beneficiary under subsection (3)(a)(ii).

(6) Subsection (1)(a) or (3)(a) does not apply to a beneficiary who holds a beneficial interest as trustee of another trust.

**Note**

Under section 46ID(1)(a) such a person is taken to be the owner of land.

**46IC Land tax for absentee unit trust scheme if unitholdings notified to Commissioner**

S. 46IC  
inserted by  
No. 26/2015  
s. 32.

- (1) If a notice is in force under section 46C for all of the unitholdings in a unit trust scheme (that is an absentee trust) and all of those unitholdings are held by unitholders who are absentee beneficiaries—
- (a) a unitholder in the scheme is taken, for the purposes of this Act other than Division 1 of Part 4, to be the owner (but not to the exclusion of the trustee) of land subject to the scheme that bears the same proportion to the whole of the land subject to the scheme as the unitholder's unitholding in the scheme bears to the total unitholdings in the scheme, and is to be assessed for land tax on that land accordingly, together with any other taxable land owned by the unitholder, at the applicable rate set out in Part 4 of Schedule 1; and
- (b) the trustee of the scheme is to be assessed for land tax on the whole of the land subject to the scheme—
- (i) if the scheme is not in a chain of trusts or is an ultimate trust, at the applicable rate set out in Part 4 of Schedule 1, as if the land were the only land owned by the trustee; or
- (ii) if the scheme is in a chain of trusts and is not an ultimate trust, an amount determined using the formula—

S. 46IC(1)(b)  
substituted by  
No. 67/2017  
s. 18(1).

$$A = B + (C \times D \times 1.5\%)$$

where—

A is the amount of assessed land tax that is payable;

B is the amount determined by applying the applicable rate set out in Part 1 of Schedule 1 on the whole of the land subject to the scheme (as if that land were the only land owned by the trustee);

C is the absentee proportion of interests in all land subject to the scheme;

D is the taxable value of all land subject to the scheme.

(2) There is to be deducted from the land tax payable under subsection (1)(a) by an absentee beneficiary an amount (if any) necessary to avoid double taxation, being the lesser of—

(a) the amount determined by the formula—

$$A \times B$$

where—

A is the proportion of the unitholder's unitholding in the scheme to the total unitholdings in the scheme;

B is the total amount of tax assessed on the trustee under subsection (1)(b); and

(b) the amount determined by the formula—

$$\frac{C}{D} \times E$$

where—

C is the taxable value of the land of which the unitholder is taken by subsection (1)(a) to be the owner;

D is the total taxable value of all taxable land owned by the unitholder;

E is the amount of tax assessed on the unitholder under subsection (1)(a).

(3) If a notice is in force under section 46C for all of the unitholdings in a unit trust scheme (that is an absentee trust) and at least one, but not all, of those unitholdings is held by a unitholder who is not an absentee beneficiary—

(a) a unitholder in the scheme is taken, for the purposes of this Act other than Division 1 of Part 4, to be the owner (but not to the exclusion of the trustee) of land subject to the scheme that bears the same proportion to the whole of the land subject to the scheme as the unitholder's unitholding in the scheme bears to the total unitholdings in the scheme, and is to be assessed for land tax on that land accordingly, together with any other taxable land owned by the unitholder—

(i) in the case of a unitholder who is an absentee beneficiary, at the applicable rate set out in Part 4 of Schedule 1; and

(ii) in the case of any other unitholder, at the applicable rate set out in Part 1 of Schedule 1; and

(b) the trustee of the scheme is to be assessed for land tax on the whole of the land subject to the scheme using the formula—

$$A = B + (C \times 1.5\%)$$

where—

**S. 461C(3)(b)**  
**amended by**  
**Nos 40/2016**  
**s. 23, 67/2017**  
**s. 18(2).**

A is the amount of assessed land tax that is payable;

B is the amount determined by applying the applicable rate set out in Part 1 of Schedule 1 on the whole of the land subject to the scheme (as if that land were the only land owned by the trustee);

C is—

(a) if the unit trust scheme is not in a chain of trusts or is an ultimate trust, the taxable value of all land subject to the scheme owned by a unitholder who is an absentee beneficiary; or

(b) if the unit trust scheme is in a chain of trusts and is not an ultimate trust, an amount determined by the formula—

$$D \times E$$

where—

D is the absentee proportion of interests in all land subject to the scheme;

E is the taxable value of all land subject to the scheme.

(4) There is to be deducted from the land tax payable under subsection (3)(a) by a unitholder who is an absentee beneficiary an amount (if any) necessary to avoid double taxation, being the lesser of—

(a) the amount determined by the formula—

$$(A \times B) + (C \times 1.5\%)$$

S. 461C(4)(a)  
amended by  
No. 40/2016  
s. 23.

where—

A is the proportion of the unitholder's unitholding in the scheme to the total unitholdings in the scheme;

B is that part of the total amount of tax assessed on the trustee under subsection (3)(b) determined by applying the applicable rate set out in Part 1 of Schedule 1 on the whole of the land subject to the scheme (as if that land were the only land owned by the trustee);

C is the taxable value of the land of which the unitholder is taken by subsection (3)(a) to be the owner; and

(b) the amount determined by the formula—

$$\frac{C}{D} \times E$$

where—

C is the taxable value of the land of which the unitholder is taken by subsection (3)(a) to be the owner;

D is the total taxable value of all taxable land owned by the unitholder;

E is the amount of tax assessed on the unitholder under subsection (3)(a)(i).

(5) There is to be deducted from the land tax payable under subsection (3)(a) by a unitholder who is not an absentee beneficiary an amount (if any) necessary to avoid double taxation, being the lesser of—

(a) the amount determined by the formula—

$$A \times B$$

where—

A is the proportion of the unitholder's unitholding in the scheme to the total unitholdings in the scheme;

B is that part of the total amount of tax assessed on the trustee under subsection (3)(b) determined by applying the applicable rate set out in Part 1 of Schedule 1 on the whole of the land subject to the scheme (as if that land were the only land owned by the trustee); and

(b) the amount determined by the formula—

$$\frac{C}{D} \times E$$

where—

C is the taxable value of the land of which the unitholder is taken by subsection (3)(a) to be the owner;

D is the total taxable value of all taxable land owned by the unitholder;

E is the amount of tax assessed on the unitholder under subsection (3)(a)(ii).

(6) Subsection (1)(a) or (3)(a) does not apply to a unitholder who holds units as trustee of another trust.

**Note**

Under section 46ID(1)(b) such a person is taken to be the owner of land.

**46ID Land tax for beneficiary/trustees**

S. 46ID  
inserted by  
No. 26/2015  
s. 32.

- (1) For the purposes of this Act—
- (a) a person who holds a beneficial interest in land subject to a fixed trust (that is an absentee trust) in respect of which a notice is in force under section 46B (*the first trust*) as trustee of another trust (*the second trust*) is taken, for the purposes of this Act, to be the owner of land subject to the first trust that bears the same proportion to the whole of the land subject to the first trust as the person's beneficial interest in the land subject to the first trust bears to the total beneficial interests in land subject to the first trust; and
  - (b) a person who holds units in a unit trust scheme (that is an absentee trust) in respect of which a notice is in force under section 46C (*the first scheme*) as trustee of another trust (*the second trust*) is taken, for the purposes of this Act other than Division 1 of Part 4, to be the owner of land subject to the first scheme that bears the same proportion to the whole of the land subject to the first scheme as the person's unitholding in the first scheme bears to the total unitholdings in the first scheme.

(2) For the purposes of this section, a person referred to in subsection (1) is called a *beneficiary/trustee*.

(2A) Subsection (3) applies to—

- (a) a beneficiary/trustee who holds a beneficial interest in the land subject to the first trust as an absentee beneficiary and all of the beneficial interests in the land subject to the

S. 46ID(2A)  
inserted by  
No. 40/2016  
s. 24(1).

first trust are beneficial interests of absentee beneficiaries; or

(b) a beneficiary/trustee who holds a unitholding in the first scheme as an absentee beneficiary and all of the unitholdings in the first scheme are held by unitholders who are absentee beneficiaries.

(3) There is to be deducted from any land tax payable by a beneficiary/trustee on land that is subject to the second trust an amount (if any) necessary to avoid double taxation, being the lesser of—

(a) the amount determined by the formula—

$$(A \times B) + (C \times D \times 1.5\%)$$

where—

A is—

(a) the proportion of the beneficiary/trustee's beneficial interest in land subject to the first trust to the total beneficial interests in land subject to the first trust; or

(b) the proportion of the beneficiary/trustee's unitholding in the first scheme to the total unitholdings in the first scheme;

B is that part of the total amount of tax assessed on the trustee of the first trust or the first scheme on the whole of the land subject to the first trust or first scheme determined by applying the applicable rate set out in Part 1 of Schedule 1 on the whole of the land subject to the first trust or first scheme;

C is—

S. 46D(3)(a)  
substituted by  
Nos 40/2016  
s. 24(2),  
67/2017  
s. 19(1).

(a) if the second trust is an absentee trust that is a discretionary trust, 100% of interests in all land subject to the discretionary trust; or

(b) in all other cases, the absentee proportion of interests in all land subject to the second trust;

D is the taxable value of the land of which the beneficiary/trustee is taken by subsection (1) to be the owner; and

(b) the amount determined by the formula—

$$\frac{C}{D} \times E$$

where—

C is the taxable value of the land of which the beneficiary/trustee is taken by subsection (1) to be the owner;

D is the total taxable value of all taxable land owned by the beneficiary/trustee that is subject to the second trust;

E is the amount of tax assessed under this Act on the beneficiary/trustee in respect of all taxable land owned by the beneficiary/trustee that is subject to the second trust.

(4) Subsection (5) applies to—

(a) a beneficiary/trustee who holds a beneficial interest in the land subject to the first trust as an absentee beneficiary and at least one, but not all, of the beneficial interests in the land subject to the first trust is a beneficial

S. 46ID(4)  
inserted by  
No. 40/2016  
s. 24(3).

interest of a beneficiary who is not an absentee beneficiary; or

- (b) a beneficiary/trustee who holds a unitholding in the first scheme as an absentee beneficiary and at least one, but not all, of the unitholdings in the first scheme is held by a unitholder who is not an absentee beneficiary.

S. 46D(5)  
inserted by  
No. 40/2016  
s. 24(3).

- (5) There is to be deducted from any land tax payable by a beneficiary/trustee on land that is subject to the second trust an amount (if any) necessary to avoid double taxation, being the lesser of—

- (a) the amount determined by the formula—

$$(A \times B) + (C \times D \times 1.5\%)$$

where—

A is—

- (a) the proportion of the beneficiary/trustee's beneficial interest in land subject to the first trust to the total beneficial interests in land subject to the first trust; or
- (b) the proportion of the beneficiary/trustee's unitholding in the first scheme to the total unitholdings in the first scheme;

B is that part of the total amount of tax assessed on the trustee of the first trust or the first scheme on the whole of the land subject to the first trust or first scheme determined by applying the applicable rate set out in Part 1 of

Schedule 1 on the whole of the land  
subject to the first trust or first scheme;

C is—

- (a) if the second trust is an absentee trust that is a discretionary trust, 100% of interests in all land subject to the discretionary trust; or
- (b) in all other cases, the absentee proportion of interests in all land subject to the second trust;

D is the taxable value of the land of which the beneficiary/trustee is taken by subsection (1) to be the owner; and

(b) the amount determined by the formula—

$$\frac{C}{D} \times E$$

where—

C is the taxable value of the land of which the beneficiary/trustee is taken by subsection (1) to be the owner;

D is the total taxable value of all taxable land owned by the beneficiary/trustee that is subject to the second trust;

E is the amount of tax assessed under this Act on the beneficiary/trustee in respect of all taxable land owned by the beneficiary/trustee that is subject to the second trust.

(6) Subsection (7) applies to—

- (a) a beneficiary/trustee who holds a beneficial interest in the land subject to the first trust not as an absentee beneficiary and at least one, but not all, of the beneficial interests

S. 46ID(6)  
inserted by  
No. 40/2016  
s. 24(3).

in the land subject to the first trust is a beneficial interest of a beneficiary who is an absentee beneficiary; or

(b) a beneficiary/trustee who holds a unitholding in the first scheme not as an absentee beneficiary and at least one, but not all, of the unitholdings in the first scheme is held by a unitholder who is an absentee beneficiary.

S. 46D(7)  
inserted by  
No. 40/2016  
s. 24(3).

(7) There is to be deducted from any land tax payable by a beneficiary/trustee on land that is subject to the second trust an amount (if any) necessary to avoid double taxation, being the lesser of—

(a) the amount determined by the formula—

$$A \times B$$

where—

A is—

(a) the proportion of the beneficiary/trustee's beneficial interest in land subject to the first trust to the total beneficial interests in land subject to the first trust; or

(b) the proportion of the beneficiary/trustee's unitholding in the first scheme to the total unitholdings in the first scheme;

B is that part of the total amount of tax assessed on the trustee of the first trust or the first scheme on the whole of the land subject to the first trust or first scheme determined by applying the applicable rate set out in Part 1 of Schedule 1 on the whole of the land

subject to the first trust or first scheme;  
and

(b) the amount determined by the formula—

$$\frac{C}{D} \times E$$

where—

C is the taxable value of the land of which the beneficiary/trustee is taken by subsection (1) to be the owner;

D is the total taxable value of all taxable land owned by the beneficiary/trustee that is subject to the second trust;

E is the amount of tax assessed under this Act on the beneficiary/trustee in respect of all taxable land owned by the beneficiary/trustee that is subject to the second trust.

**46IE Land tax for absentee discretionary trust with nominated beneficiary**

S. 46IE  
inserted by  
No. 26/2015  
s. 32.

- (1) This section applies if the nomination of a nominated beneficiary for a discretionary trust that is an absentee trust is in force under section 46F.
- (2) The nominated beneficiary is taken, for the purposes of this Act (other than Division 1 of Part 4) but for no other purpose, to be the owner of the pre-2006 land subject to the trust (but not to the exclusion of the trustee) and is to be assessed for land tax on that land accordingly, together with any other taxable land owned by the nominated beneficiary—
  - (a) if the nominated beneficiary is an absentee beneficiary, at the applicable rate set out in Part 4 of Schedule 1; and

- (b) if the nominated beneficiary is not an absentee beneficiary, at the applicable rate set out in Part 1 of Schedule 1.
- (3) The trustee of the trust is to be assessed for land tax on the whole of the land subject to the trust as if the land were the only land owned by the trustee—
- (a) in respect of any pre-2006 land—at the applicable rate set out in Part 4 of Schedule 1; and
- (b) in respect of any post-2006 land—at the applicable rate set out in Part 5 of Schedule 1.
- (4) For the purposes of subsection (3), if the trust property includes both pre-2006 land and post-2006 land, the trustee is to be assessed in accordance with the following formula—

$$L = \left[ (R_1 \times T) \times \left( \frac{A}{T} \right) \right] + \left[ (R_2 \times T) \times \left( \frac{B}{T} \right) \right]$$

where—

L is the land tax assessed for the trustee;

R<sub>1</sub> is the applicable rate of land tax set out in Part 4 of Schedule 1;

R<sub>2</sub> is the applicable rate of land tax set out in Part 5 of Schedule 1;

T is the total taxable value of all taxable land subject to the trust;

A is the total taxable value of the pre-2006 land subject to the trust;

B is the total taxable value of the post-2006 land subject to the trust.

- (5) There is to be deducted from any land tax payable by the nominated beneficiary under

subsection (2) any land tax payable by the trustee under subsection (3) in respect of pre-2006 land.

- (6) Subsection (2) does not apply if the nominated beneficiary is the trustee.

**46IF Land tax for PPR land if nominated PPR beneficiary**

S. 46IF  
inserted by  
No. 26/2015  
s. 32.

- (1) This section applies if a nomination of a nominated PPR beneficiary for a unit trust scheme or discretionary trust that is an absentee trust is in force under section 46H.
- (2) The trustee of a unit trust scheme (other than a scheme that is in a chain of trusts) or discretionary trust is to be assessed for land tax on land subject to the scheme or trust—
- (a) if that land that is used and occupied as the principal place of residence of the nominated PPR beneficiary—
- (i) as if the land were the only land owned by the trustee; and
- (ii) at the applicable rate set out in Part 4 of Schedule 1; or
- (b) if that land that is not used and occupied as the principal place of residence of the nominated PPR beneficiary, at the applicable rate set out in Part 5 of Schedule 1.

S. 46IF(2)  
amended by  
No. 67/2017  
s. 20(1).

- (2A) The trustee of a unit trust scheme that is in a chain of trusts is to be assessed for land tax on land subject to the scheme—

S. 46IF(2A)  
inserted by  
No. 67/2017  
s. 20(2).

- (a) if that land is used and occupied as the principal place of residence of the nominated PPR beneficiary—
- (i) as if the land were the only land owned by the trustee; and
- (ii) using the formula—

$$A = B + (C \times D \times 1.5\%)$$

where—

A is the amount of assessed land tax that is payable;

B is the amount determined by applying the applicable rate set out in Part 1 of Schedule 1 on the whole of the land subject to the scheme (as if that land were the only land owned by the trustee);

C is the absentee proportion of interests in all the land subject to the scheme;

D is the taxable value of all land subject to the scheme; or

- (b) if that land is not used and occupied as the principal place of residence of the nominated PPR beneficiary, using the formula—

$$A = B + (C \times D \times 1.5\%)$$

where—

A is the amount of assessed land tax that is payable;

B is the amount determined by applying the applicable rate set out in Part 3 of Schedule 1 on the whole of the land subject to the scheme (as if that land were the only land owned by the trustee);

C is the absentee proportion of interests in all the land subject to the scheme;

D is the taxable value of all land subject to the scheme.

- (3) Subsection (2)(a) or (2A)(a) applies only if the land has been used and occupied as the principal place of residence of the nominated PPR beneficiary—
- (a) since 1 July in the year preceding the tax year in which the nomination for that PPR beneficiary is lodged under section 46H; or
- (b) if the trustee became owner of the land on or after 1 July in the year preceding the tax year in which the nomination for that PPR beneficiary is lodged under section 46H, since a later date during that year.
- (4) Subsection (2)(a) or (2A)(a) does not apply if the land for which a nomination is in force is used to carry on a substantial business activity.
- (5) In determining whether land is used by a person to carry on a substantial business activity, account must be taken of the factors referred to in section 62(2).

S. 46IF(3)  
amended by  
No. 67/2017  
s. 20(3).

S. 46IF(4)  
amended by  
No. 67/2017  
s. 20(4).

## **Division 2AC—Miscellaneous trust land provisions**

Pt 3 Div. 2AC  
(Heading)  
inserted by  
No. 26/2015  
s. 33.

### **46J Trustee's right of reimbursement**

A trustee of a trust who pays any land tax assessed on land subject to the trust under Division 2A or 2AB is entitled to recoup the amount of the tax from any trust property that is subject to the trust or any like trust.

S. 46J  
inserted by  
No. 85/2005  
s. 27,  
amended by  
No. 26/2015  
s. 34.

### **46K Requirements for trustees to notify Commissioner**

S. 46K  
inserted by  
No. 85/2005  
s. 27.

S. 46K(1)  
amended by  
No. 40/2014  
s. 21(1).

- (1) A person who becomes trustee of land in Victoria, including a person who is already a trustee of land and acquires further land as trustee, must lodge a written notice with the Commissioner within one month after becoming trustee of the land.
- (2) A trustee who disposes of any land that is subject to the trust must lodge a written notice with the Commissioner within one month after disposing of the land.
- (3) If—
  - (a) a person is trustee of land in Victoria; and
  - (b) anything happens that results in the trust to which the land is subject becoming a different category of trust—

the person must lodge a written notice with the Commissioner within one month after the thing happens.

**Example**

If a trust deed is varied so that a discretionary trust becomes an excluded trust, the trustee must notify the Commissioner within one month. Under subsection (6) the Commissioner could, for example, require the trustee to include information about the variation of the trust deed (including a copy of the deed and variation) and any other information necessary to prove that the trust has become an excluded trust.

- (4) A trustee of a fixed trust in respect of which a notice is in force under section 46B must lodge a written notice with the Commissioner within one month after any change to the beneficial interests in land subject to the trust.
- (5) A trustee of a unit trust scheme in respect of which a notice is in force under section 46C must lodge a written notice with the Commissioner within one month after any change to the unitholdings in the scheme.

(5A) A person who was a personal representative of a deceased estate that includes land in Victoria must lodge a written notice with the Commissioner within one month after the administration of that estate is completed.

S. 46K(5A)  
inserted by  
No. 68/2007  
s. 16.

(5B) If a nomination lodged under section 46H is in force and the nominated PPR beneficiary for the land ceases to use and occupy the land as his or her principal place of residence, the trustee of the land must lodge a written notice with the Commissioner within one month of that beneficiary ceasing to use or occupy the land as his or her principal place of residence.

S. 46K(5B)  
inserted by  
No. 40/2014  
s. 21(2).

(6) A notice under this section must be in the form, contain the information and be accompanied by any documents or other evidence determined by the Commissioner.

(7) A notice under this section is in addition to any notice that the person is required to give under section 103.

(8) In this section—

*category of trust* means—

- (a) a fixed trust;
- (b) a unit trust scheme;
- (c) a discretionary trust;
- (d) an excluded trust.

## **Division 2B—Land held on implied or constructive trust**

Pt 3 Div. 2B  
(Heading and  
ss 46L, 46M)  
inserted by  
No. 83/2009  
s. 5.

### **46L Land held on implied or constructive trust**

S. 46L  
inserted by  
No. 83/2009  
s. 5.

- (1) A person who is the owner of land as trustee of an implied or constructive trust is liable for land tax on the land at the general rate set out in Part 1 of Schedule 1.
- (2) The trustee is to be assessed for land tax on the whole of the land subject to the implied or constructive trust as if the land were the only land owned by the trustee.
- (3) Despite subsection (2), if the trustee holds land as trustee of more than one implied or constructive trust for the same beneficiary or beneficiaries, the trustee is to be assessed for land tax on the whole of the land subject to those implied or constructive trusts as if that land were the only land owned by the trustee.

S. 46M  
inserted by  
No. 83/2009  
s. 5.

**46M Trustee's right to reimbursement under implied trust or constructive trust**

A trustee of an implied or constructive trust who pays any land tax assessed on land subject to the trust is entitled to recoup the amount of the tax from any trust property that is subject to the trust.

**Division 3—Grouping of related corporations**

**47 What are related corporations?**

- (1) For the purposes of this Division, corporations are related corporations in any of the circumstances specified in this section.
- (2) Corporations are *related corporations* if one of those corporations—
  - (a) controls the composition of the board of the other corporation; or
  - (b) is in a position to cast, or control the casting of, more than 50% of the maximum number

- of votes that might be cast at a general meeting of the other corporation; or
- (c) holds more than 50% of the issued share capital of the other corporation.
- (3) Corporations are *related corporations* if the same person has, or the same persons have together, a controlling interest in each of the corporations.

**Note**

*controlling interest* is defined in section 48.

- (4) Corporations are *related corporations* if—
- (a) more than 50% of the issued share capital of one of those corporations (*corporation 1*) is held by the other corporation (*corporation 2*) together with the shareholders of corporation 2; and
- (b) the percentage of the issued share capital of corporation 2 held by shareholders of corporation 1 is more than the difference between 50% and the percentage of the issued share capital of corporation 1 held by corporation 2.
- (5) Corporations are *related corporations* if one of those corporations is a related corporation of a corporation of which the other of those corporations is a related corporation (including a corporation that is a related corporation of the other of those corporations because of one or more other applications of this subsection).

**48 What is a *controlling interest* in a corporation?**

For the purposes of this Division, a person has, or persons have together, a *controlling interest* in a corporation if—

- (a) that person, or those persons acting together, can control the composition of the board of the corporation; or
- (b) that person is, or those persons acting together are, in a position to cast or control the casting of more than 50% of the maximum number of votes that might be cast at a general meeting of the corporation; or
- (c) that person holds, or those persons acting together hold, more than 50% of the issued share capital of the corporation.

**49 Further provisions for determining whether corporations are related corporations**

- (1) For the purposes of this Division—
  - (a) corporations may be related corporations whether or not they own land in Victoria;
  - (b) a reference to the issued share capital of a corporation does not include a reference to any part of it that carries no right to participate beyond a specified amount in a distribution of either profits or capital;
  - (c) subject to paragraphs (d) and (e), any shares held or power exercisable by a person or corporation as a trustee or nominee for another person or corporation are taken to be also held or exercisable by the other person or corporation;
  - (d) any shares held or power exercisable by a person or corporation by virtue of the provisions of any debentures of another corporation, or of a trust deed for securing any issue of any such debentures, must be disregarded;
  - (e) any shares held or power exercisable by, or by a nominee for, a person or corporation

(not being held or exercisable as mentioned in paragraph (d)) are taken to be not held or exercisable by that person or corporation if—

- (i) the ordinary business of that person or corporation includes the lending of money; and
  - (ii) the shares are held or the power is exercisable only by way of security given for the purposes of a transaction entered into in the ordinary course of business in connection with the lending of money, not being a transaction entered into with an associate of that person or corporation within the meaning of the Corporations Act;
- (f) the composition of a corporation's board is taken to be controlled by a person or another corporation if the person or other corporation, by the exercise of a power exercisable whether or not with the consent or concurrence of any other person, can appoint or remove all or a majority of the members of the board.
- (2) Subsection (1)(f) does not limit the circumstances in which the composition of a corporation's board is to be taken to be controlled by a person or another corporation.

## **50 Grouping of related corporations**

- (1) Subject to subsection (3), the Commissioner may treat related corporations as a single corporation for the purposes of this Act.
- (2) If the Commissioner does so—
  - (a) the Commissioner must assess the related corporations jointly for land tax (other than vacant residential land tax); and

**S. 50(1)**  
amended by  
**No. 28/2017**  
s. 61(1).

**S. 50(2)(a)**  
amended by  
**No. 28/2017**  
s. 61(2).

S. 50(2)(b)  
amended by  
No. 28/2017  
s. 61(2).

(b) the related corporations are jointly and severally liable for the land tax (other than vacant residential land tax); and

(c) section 46 of the **Taxation Administration Act 1997** applies accordingly.

S. 50(3)  
inserted by  
No. 28/2017  
s. 61(3).

(3) The Commissioner must not treat related corporations as a single corporation for the purposes of assessing vacant residential land tax.

Pt 3 Div. 3A  
(Heading and  
s. 50A)  
inserted by  
No. 26/2015  
s. 35.

### **Division 3A—Land held by related absentee corporations**

S. 50A  
inserted by  
No. 26/2015  
s. 35.

#### **50A Land tax surcharge for related absentee corporations**

- (1) This section applies if—
- (a) for the purposes of this Act, the Commissioner has treated related corporations as a single corporation; and

**Note**

See section 50.

- (b) at least one of those related corporations is an absentee owner that is an absentee corporation.

S. 50A(2)  
amended by  
No. 40/2016  
s. 25.

- (2) Each of the related corporations is jointly and severally liable for land tax on the land all of the corporations own determined using the following formula—

$$A = B + (C \times 1.5\%)$$

where—

- A is the amount of assessed land tax that is payable;
- B is the amount determined by applying the applicable rate set out in Part 1 of Schedule 1 on the taxable value of all of the land owned by the corporations;
- C is the taxable value of all of the land owned by the absentee corporations.

#### **Division 4—General**

##### **51 Reassessments**

The Commissioner may make a reassessment of land tax under section 9 of the **Taxation Administration Act 1997** more than 5 years after the initial assessment.

S. 51  
amended by  
No. 26/2007  
s. 112.

## Part 4—Exemptions and concessions

### Division 1—Principal place of residence

#### 52 Definitions

(1) In this Division—

*acceptable delay* means a delay in the commencement or completion of a building or other work necessary to enable the intended use and occupation of the land to become its actual use and occupation that is due to reasons beyond the control of the owner or trustee;

S. 52(1) def. of *discretionary trust* repealed by No. 85/2005 s. 28(1)(a).

\* \* \* \* \*

S. 52(1) def. of *principal beneficiary* inserted by No. 69/2013 s. 14(1).

*principal beneficiary*, of a special disability trust—

- (a) has the meaning given in section 1209M(1) of the Social Security Act, in the case of a special disability trust within the meaning of section 1209L of that Act;
- (b) has the meaning given in section 52ZZZWA(1) of the Veterans' Entitlements Act, in the case of a special disability trust within the meaning of section 52ZZZW of that Act;

S. 52(1) def. of *separate residence* inserted by No. 76/2012 s. 4.

*separate residence* means a building affixed to land that is capable of separate occupation as a residence;

***Social Security Act*** means the Social Security Act 1991 of the Commonwealth;

S. 52(1) def. of *Social Security Act* inserted by No. 69/2013 s. 14(1).

***special disability trust*** means—

- (a) a special disability trust within the meaning of section 1209L of the Social Security Act; or
- (b) a special disability trust within the meaning of section 52ZZZW of the Veterans' Entitlements Act;

S. 52(1) def. of *special disability trust* inserted by No. 69/2013 s. 14(1).

***trustee*** means trustee within the meaning of section 3(1) but does not include—

- (a) a trustee of a discretionary trust; or
- (b) a trustee of a trust to which a unit trust scheme relates; or
- (c) a liquidator;

\* \* \* \* \*

S. 52(1) def. of *unit trust scheme* repealed by No. 85/2005 s. 28(1)(a).

***vested beneficiary***, in relation to land held on trust, means a beneficiary of the trust who—

- (a) is a natural person; and
- (b) has a vested beneficial interest in possession in the land or is the principal beneficiary of a special disability trust;

S. 52(1) def. of *vested beneficiary* inserted by No. 76/2012 s. 4, amended by No. 69/2013 s. 14(2).

***Veterans' Entitlements Act*** means the Veterans' Entitlements Act 1986 of the Commonwealth.

S. 52(1) def. of *Veterans' Entitlements Act* inserted by No. 69/2013 s. 14(1).

S. 52(2)  
repealed by  
No. 85/2005  
s. 28(1)(b).

\* \* \* \* \*

### **53 What is a principal place of residence?**

- (1) For the purposes of this Division, land is not taken to be occupied as a place of residence unless there is a building affixed to the land (including a home unit) that, in the Commissioner's opinion—
  - (a) is designed and constructed primarily for residential purposes; and
  - (b) may lawfully be used as a place of residence.
- (2) In determining whether land is used or occupied as the principal place of residence of a person, account must be taken of every place of residence of the person, whether in Victoria or elsewhere.
- (3) For the purposes of this Division, if land on which home units are situated is owned by a body corporate, the land is deemed to be owned by the shareholders of the body corporate who are entitled to exclusive occupancy of the home units.

S. 53A  
inserted by  
No. 68/2007  
s. 17.

### **53A What is a right to reside?**

- (1) For the purposes of this Division, a person has a right to reside on land if—
  - (a) the right was granted on the death of the person previously occupying the land; and
  - (b) the right was granted in writing under a will or testamentary instrument; and
  - (c) the right was not granted or acquired for monetary consideration.
- (2) For the purposes of this Division, a right to reside on land does not include—
  - (a) a right to occupy land as a lessee; or

- (b) a right to occupy land as a beneficiary of a discretionary trust or as a unitholder in a unit trust scheme.

#### **54 Principal place of residence exemption**

- (1) Subject to this Division, the following land is exempt land—

- (a) land owned by a natural person that is used and occupied as the principal place of residence of that person;

- (ab) land owned by a person that is used and occupied as the principal place of residence of a natural person who has a right to reside on that land; S. 54(1)(ab)  
inserted by  
No. 68/2007  
s. 18(1).

- (b) land owned by a trustee of a trust that is used and occupied as the principal place of residence of a vested beneficiary in relation to the land. S. 54(1)(b)  
amended by  
No. 76/2012  
s. 5(1).

- (1A) Despite subsection (1)(ab), land referred to in that subsection is not exempt land unless— S. 54(1A)  
inserted by  
No. 68/2007  
s. 18(2).

- (a) immediately before the natural person who has a right to reside on the land was granted the right, the land was exempt land under section 54(1)(a) or (b); and

- (b) that person is not entitled to—

- (i) an exemption under this Division in respect of any land; or S. 54(1A)(b)(i)  
amended by  
No. 76/2012  
s. 5(2).

- (ii) an exemption from land tax under a law of any other State or Territory that corresponds to this Division. S. 54(1A)(b)(ii)  
amended by  
No. 76/2012  
s. 5(2).

- (2) Subject to section 55, subsection (1)(a) or (b) only applies if the land has been used and occupied as the principal place of residence of the owner or vested beneficiary— S. 54(2)  
amended by  
Nos 68/2007  
s. 18(3),  
76/2012  
s. 5(3).

- (a) since 1 July in the year preceding the tax year; or
  - (b) if the owner or trustee became the owner of the land on or after 1 July in the year preceding the tax year, since a later date during that year.
- (3) In addition to land of an owner that is used and occupied as a person's principal place of residence (*the PPR land*), land is also exempt land if it is owned by that owner and—
- (a) is contiguous with the PPR land or separated from the PPR land only by a road or railway or other similar area across or around which movement is reasonably possible; and
  - (b) enhances the PPR land; and
  - (c) is used solely for the private benefit and enjoyment of the person who uses and occupies the PPR land and has been so used—
    - (i) since 1 July in the year preceding the tax year; or
    - (ii) if the owner or trustee became the owner of the land on or after 1 July in the year preceding the tax year, so used and occupied since a later date during that year; and
  - (d) does not contain a separate residence.
- (4) This section applies to land whether owned by a sole owner or joint owners.

S. 54(3)(c)(ii)  
amended by  
No. 76/2012  
s. 5(4)(a).

S. 54(3)(d)  
inserted by  
No. 76/2012  
s. 5(4)(b).

**55 Deferral of tax on certain residential land for 6 months**

(1) If—

- (a) land would be exempt land in respect of a year under section 54 but for section 54(2); and
- (b) the owner satisfies the Commissioner that the land is intended to be continuously used and occupied as the principal place of residence of the owner or, in the case of a trustee, as the principal place of residence of a vested beneficiary in relation to the land, for a period of at least 6 months from the date that the land was first so used and occupied—

S. 55(1)(b)  
amended by  
No. 76/2012  
s. 6.

the Commissioner may determine that land tax in respect of the land for that year is not payable until the expiry of that 6 month period.

- (2) If land that would be exempt land in respect of a year but for section 54(2) has been continuously used and occupied as the person's principal place of residence for the period of 6 months, the land becomes exempt land in respect of that year at the end of that period.

**55A Deferral of tax for residential land to be used during tax year**

S. 55A  
inserted by  
No. 76/2012  
s. 7.

- (1) The Commissioner may determine that land tax in respect of land for a year is not payable until the expiry of a 6 month period that begins and ends in that year if—
- (a) a person becomes the owner of the land on or after 1 July in the preceding year; and
  - (b) as at 31 December in the preceding year, the person does not use or occupy the land as his or her principal place of residence; and

- (c) the Commissioner is satisfied that the person intends to continuously use and occupy the land as his or her principal place of residence for the 6 month period.
- (2) The Commissioner may determine that land tax in respect of land for a year is not payable until the expiry of a 6 month period that begins and ends in that year if—
- (a) a trustee becomes the owner of the land on or after 1 July in the preceding year; and
  - (b) as at 31 December in the preceding year, there is no vested beneficiary in relation to that land using and occupying it as his or her principal place of residence; and
  - (c) the Commissioner is satisfied that a vested beneficiary in relation to that land intends to continuously use and occupy it as his or her principal place of residence for the 6 month period.
- (3) If land referred to in subsection (1) or (2) that would have been exempt land in respect of a year but for section 54(2) has been continuously used and occupied as the person's principal place of residence for the period of 6 months, the land becomes exempt land in respect of that year at the end of that period.

S. 56  
(Heading)  
amended by  
No. 76/2012  
s. 8(1).

## **56 Absence from principal place of residence**

- (1) For the purposes of this Division, land is taken to be used and occupied as the principal place of residence of a person despite the person's absence from the land if the Commissioner is satisfied—
- (a) that the absence is temporary in nature; and
  - (b) that the person intends to resume use or occupation of the land as his or her principal place of residence after the absence; and

(c) that, in respect of the period of absence, no other land is exempt land under this Division or under a law of another jurisdiction (whether in or outside Australia) as the principal place of residence of the owner or, in the case of a trustee, as the principal place of residence of a vested beneficiary in relation to the land.

S. 56(1)(c)  
substituted by  
No. 76/2012  
s. 8(2).

\* \* \* \* \*

S. 56(1)(d)  
repealed by  
No. 76/2012  
s. 8(2).

(1A) For the purposes of this Division, land is taken to be used and occupied as the principal place of residence of a person despite the person's absence from the land if—

S. 56(1A)  
inserted by  
No. 76/2012  
s. 8(3).

(a) the person has lost the ability to live independently; and

(b) the person resides—

(i) at a hospital as a patient of the hospital;  
or

(ii) at a residential care facility or supported residential service, or a residential service within the meaning of the **Disability Act 2006**, and receives residential or respite care at the facility or service; or

S. 56(1A)(b)(ii)  
amended by  
No. 28/2017  
s. 62.

(iii) with another person who provides personal support to the person on a daily basis.

(2) For the purposes of section 62, land to which subsection (1) or (1A) applies is not to be taken to be land used by a person to carry on a substantial business activity only because the owner lets the land for residential purposes during the absence.

S. 56(2)  
amended by  
No. 76/2012  
s. 8(4).

Land Tax Act 2005  
No. 88 of 2005  
Part 4—Exemptions and concessions

---

S. 56(3)  
substituted by  
No. 76/2012  
s. 8(5).

(3) Land will not be taken to be used and occupied as the principal place of residence of a person under this section unless the conditions set out in subsections (4) and (5) are both satisfied.

S. 56(4)  
inserted by  
No. 76/2012  
s. 8(5).

(4) The condition in this subsection is that the land—

- (a) was exempt land under section 54 immediately before the person's absence; or
- (b) was used and occupied—
  - (i) in the case of an owner—by the owner as his or her principal place of residence for a period of at least 6 consecutive months immediately before the owner's absence; or
  - (ii) in the case of a trustee—by a vested beneficiary in relation to the land as his or her principal place of residence for a period of at least 6 consecutive months immediately before the vested beneficiary's absence.

S. 56(5)  
inserted by  
No. 76/2012  
s. 8(5).

(5) The condition in this subsection is that the owner or trustee has not rented out the land for a period which is 6 months or more, or for periods which total 6 months or more, in the year preceding the tax year.

S. 56(6)  
inserted by  
No. 76/2012  
s. 8(5),  
amended by  
No. 69/2013  
s. 15(1).

(6) The maximum period for which land can be taken to be used and occupied as the principal place of residence of a person despite the person's absence from the land under subsection (1) is 6 years from the date of the person's absence.

Note to  
s. 56(6)  
amended by  
No. 69/2013  
s. 15(2).

**Note**

If a person has been absent for more than 6 years and land ceases to be taken under subsection (1) to be used and occupied as the principal place of residence of the person, the land will no longer be exempt land under this Division unless another exemption applies.

(7) In this section—

*personal support* means the provision of one or more of the following—

S. 56(7)  
inserted by  
No. 76/2012  
s. 8(5).

- (a) assistance with personal hygiene, toileting or dressing;
- (b) assistance to achieve and maintain mobility;
- (c) support to seek out and maintain contact with health professionals, social networks, family, friends and the community;
- (d) emotional wellbeing support;
- (e) assistance with or supervision in administering medication;
- (f) assistance with eating and maintaining adequate nutrition.

#### **57 Exemption continues on death of resident**

(1) If land is used and occupied as the principal place of residence of a person and the person dies, liability for tax is to be assessed as if the person had not died but had continued to use and occupy the land as his or her principal place of residence.

(2) Subsection (1) operates only until the earlier of—

- (a) the third anniversary of the person's death or the expiry of the further period approved by the Commissioner under subsection (3); or
- (b) the day on which the person's interest in the land vests in another person under a trust; or
- (c) the day on which the person's interest in the land vests in a person (other than the person's personal representative) under the administration of the person's estate.

S. 57(2)(a)  
substituted by  
No. 68/2007  
s. 19(1).

S. 57(3)  
inserted by  
No. 68/2007  
s. 19(2).

- (3) For the purposes of subsection (2)(a), the Commissioner may approve a further period in any particular case.

**58 Exemption continues if land becomes unfit for occupation**

- (1) If land that is exempt land under section 54(1) becomes unfit for occupation as the principal place of residence of a person because of damage or destruction caused by an event such as fire, earthquake, storm, accident or malicious damage, the land continues to be exempt land while the owner continues to own the land as if it had continued to be used and occupied as the person's principal place of residence.
- (2) Subsection (1) operates until the second anniversary of the day on which the land became unfit for occupation as the person's principal place of residence.
- (3) The Commissioner may extend the period of operation of subsection (1) beyond the period referred to in subsection (2) for a further period of not more than 2 years in any particular case if the Commissioner is satisfied that there has been an acceptable delay in that case.
- (4) Subsection (1) does not apply if, at any time during which it would otherwise apply, any other land is exempt land under section 54(1) as the principal place of residence of the owner or, in the case of a trustee, as the principal place of residence of a vested beneficiary in relation to the land.

S. 58(4)  
amended by  
No. 76/2012  
s. 9.

## 59 Purchase of new principal residence

- (1) Land is exempt land in respect of a year if—
- (a) a person becomes the owner of the land in the preceding year for use and occupation as his or her principal place of residence; and
  - (b) as at 31 December in the preceding year, the person is the owner of other land that he or she uses and occupies as his or her principal place of residence.

S. 59(1)  
substituted by  
No. 76/2012  
s. 10(1).

### Note

In this situation, the land referred to in paragraph (b) will be exempt land in the circumstances set out in section 54(1)(a).

- (2) Land is exempt land in respect of a year if—
- (a) a trustee becomes the owner of the land in the preceding year for use and occupation of a vested beneficiary in relation to the land as his or her principal place of residence; and
  - (b) as at 31 December in the preceding year, the trustee is the owner of other land that the vested beneficiary uses and occupies as his or her principal place of residence.

S. 59(2)  
substituted by  
No. 76/2012  
s. 10(1).

### Note

In this situation, the land referred to in paragraph (b) will be exempt land in the circumstances set out in section 54(1)(b).

- (3) The Commissioner may revoke an exemption under subsection (1) or (2) if the owner or vested beneficiary in relation to the land does not continuously use and occupy the land as his or her principal place of residence for at least 6 months, commencing within 12 months after the date on which the owner or trustee became the owner of the land.

S. 59(3)  
amended by  
No. 76/2012  
s. 10(2).

S. 59(4)  
substituted by  
No. 76/2012  
s. 10(3).

(4) Subsection (1) does not apply to land in respect of a year if the owner derived any income from the land at any time when it was not occupied as the principal place of residence of the owner.

S. 59(5)  
inserted by  
No. 76/2012  
s. 10(3).

(5) Subsection (2) does not apply to land in respect of a year if the trustee derived any income from the land at any time when it was not occupied as the principal place of residence of a vested beneficiary in relation to the land.

## 60 Sale of old principal residence

S. 60(1)  
substituted by  
No. 76/2012  
s. 11(1).

(1) Land owned by a person is exempt land in respect of a year if—

(a) either—

(i) the land was exempt land under section 54(1) for the preceding year; or

(ii) the person used and occupied the land as his or her principal place of residence for a period of at least 6 months during the preceding year; and

(b) as at 31 December in the preceding year, the person was the owner of other land that he or she used and occupied as his or her principal place of residence.

### Note

In this situation, the land referred to in paragraph (b) will be exempt land in the circumstances set out in section 54(1)(a).

S. 60(2)  
substituted by  
No. 76/2012  
s. 11(1).

(2) Land owned by a trustee is exempt land in respect of a year if—

(a) either—

(i) the land was exempt land under section 54(1) for the preceding year; or

- (ii) a vested beneficiary in relation to the land used and occupied it as his or her principal place of residence for a period of at least 6 months during the preceding year; and
- (b) as at 31 December in the preceding year, the trustee was the owner of other land that a vested beneficiary referred to in paragraph (a) used and occupied as his or her principal place of residence.

**Note**

In this situation, the land referred to in paragraph (b) will be exempt land in the circumstances set out in section 54(1)(b).

- (3) The Commissioner may revoke an exemption under subsection (1) or (2) if the owner or trustee is still the sole or joint owner of the land referred to in subsection (1)(a) or (2)(a) at the end of the year in respect of which the land is exempt. **S. 60(3) amended by Nos 76/2012 s. 11(2), 69/2013 s. 16.**
- (4) Subsection (1) does not apply to land in respect of a year if the owner derived income from the land at any time when it was not occupied as the principal place of residence of the owner. **S. 60(4) substituted by No. 76/2012 s. 11(3).**
- (5) Subsection (2) does not apply to land in respect of a year if the trustee derived any income from the land at any time when it was not occupied as the principal place of residence of a vested beneficiary in relation to the land. **S. 60(5) inserted by No. 76/2012 s. 11(3).**

**61 Unoccupied land subsequently used as principal residence**

- (1) An owner who was assessed for and paid land tax in respect of a year in respect of land that is not occupied as the principal place of residence of the owner is entitled to a refund of that land tax if—
  - (a) the owner was unable to occupy that land as his or her principal place of residence as at 31 December in the preceding year because a **S. 61(1)(a) substituted by No. 76/2012 s. 12(1).**

residence was being constructed or renovated on it; and

**S. 61(1)(ab)**  
inserted by  
**No. 76/2012**  
s. 12(1).

- (ab) once construction or renovation of that residence has been completed, the owner continuously uses and occupies the land as his or her principal place of residence for at least 6 months commencing in that year; and
- (b) an application for a refund is made before the end of the next following year.

**S. 61(2)**  
substituted by  
**No. 76/2012**  
s. 12(2).

- (2) A trustee who was assessed for and paid land tax in respect of a year in respect of land that is not occupied as the principal place of residence of a vested beneficiary in relation to the land is entitled to a refund of that land tax if—
  - (a) the vested beneficiary was unable to occupy the land as his or her principal place of residence as at 31 December the preceding year because a residence was being constructed or renovated on it; and
  - (b) once construction or renovation of that residence has been completed, the vested beneficiary continuously uses and occupies the land as his or her principal place of residence for at least 6 months commencing in that year; and
  - (c) an application for a refund is made before the end of the next following year.
- (3) If—
  - (a) an owner or trustee is entitled under subsection (1) or (2) to a refund of land tax in respect of a tax year in respect of land; and
  - (b) the owner or trustee was assessed for and paid land tax in respect of that land in respect of the year preceding the tax year; and

- (c) the owner or trustee was not entitled to an exemption under this Division in respect of any other land in respect of the year preceding the tax year—

S. 61(3)(c)  
amended by  
No. 83/2009  
s. 11.

the owner or trustee is entitled to a refund of the land tax referred to in paragraph (b).

- (4) If—

- (a) an owner or trustee is entitled under subsection (3) to a refund of land tax in respect of the first year preceding the tax year referred to in that subsection (*the first year*) in respect of land; and
- (b) the owner or trustee was assessed for and paid land tax in respect of that land in respect of the year or 2 years immediately preceding the first year; and
- (c) the owner or trustee was not entitled to an exemption under this Division in respect of any other land in respect of the year or years referred to in paragraph (b)—

S. 61(4)(c)  
amended by  
No. 83/2009  
s. 11.

the Commissioner may refund to the owner or trustee the land tax paid in respect of the year or years referred to in paragraph (b) in a particular case if the Commissioner is satisfied that there has been an acceptable delay in that case.

\* \* \* \* \*

Note to  
s. 61(4)  
repealed by  
No. 76/2012  
s. 12(3).

- (5) Subsections (1), (2), (3) and (4) do not apply if the owner or trustee derived any income from the land at any time during which it was not occupied as a principal place of residence of the owner or of a vested beneficiary in relation to land, as the case may be.

S. 61(5)  
amended by  
No. 76/2012  
s. 12(4).

- (6) For the purposes of calculating the amount of a refund under this section, the land referred to in subsection (1), (2), (3) or (4) is to be taken to have been exempt from land tax in respect of the tax year in respect of which the refund is payable.

**Example**

At midnight on 31 December 2005, A owned a block of unoccupied land valued at \$100 000 and an investment property valued at \$250 000. A's land tax for 2006 will be calculated on the aggregated value of both landholdings, that is \$350 000. If A occupies the block as A's principal place of residence for at least 6 months commencing at some time in 2005, A's refund under subsection (1) will be calculated as if the block had been exempt from land tax for 2005. Therefore, A's refund will be the difference between the land tax A paid on a land value of \$350 000 and the land tax A would have paid on a land value of \$250 000.

**62 Partial exemption if land used for business activities**

S. 62(1)  
amended by  
No. 76/2012  
s. 13(1).

- (1) Despite anything to the contrary in this Division, if land that would be exempt land under another provision of this Division, but for this section, is used by any person to carry on a substantial business activity, the exemption applies only to the extent that the land is used and occupied for residential purposes by the owner, a vested beneficiary in relation to the land or a natural person who has a right to reside on the land (as the case requires).
- (2) In determining whether land is used by a person to carry on a substantial business activity, account must be taken of—
- (a) whether paid employees or contractors (other than employees or contractors who are relatives of, and who ordinarily reside with, the person who uses and occupies the land as his or her principal place of residence) work on the land; and

- (b) whether any part of the land is used or allocated solely for business purposes; and
- (c) if part of the land is used or allocated (whether solely or partly) for business purposes, the proportion of the area of the land, or of the floor space of buildings on the land, that is so used or allocated; and
- (d) the amount of income (if any), and the proportion of the person's total income, that is derived from business activities carried on on the land; and
- (e) any other matters the Commissioner considers relevant.

S. 62(2)(e)  
substituted by  
No. 76/2012  
s. 13(2).

- (3) If subsection (1) applies, the Commissioner must apportion the value of the land as between use and occupation for residential purposes and use for business purposes, having regard to the proportion of the land used for each purpose and the extent to which each proportion is so used.
- (4) The Commissioner may consult the Valuer-General in relation to an apportionment under this section.

**62A Partial exemption if separate residence is leased for residential purposes**

S. 62A  
inserted by  
No. 76/2012  
s. 14.

If land that would be exempt under this Division contains a separate residence that is leased for residential purposes—

- (a) land tax is assessable on the part of the land that is leased for residential purposes; and
- (b) section 22 applies, if necessary, for that purpose.

S. 63  
substituted by  
No. 76/2012  
s. 15.

### 63 Partial exemption or refund for trustees

- (1) This section applies if—
  - (a) a trustee would be entitled to an exemption from or refund of land tax under this Division in respect of land because a vested beneficiary in relation to the land has used and occupied it as his or her principal place of residence; and
  - (b) there are other vested beneficiaries in relation to the land who have not used and occupied it as their principal place of residence.
- (2) Despite anything to the contrary in this Division, the amount of the exemption or refund is determined as if the value of the land were the proportion of the value of the land that is equal to the proportion that the interest in the land held by the vested beneficiary in relation to the land referred to in subsection (1)(a) bears to the total interests of all vested beneficiaries in relation to that land.
- (3) Nothing in this section applies in the case of a person entitled to a life estate in possession.

## Division 2—Primary production land

### 64 Definitions

- (1) In this Division—

*discretionary trust* means a trust under which the distribution or vesting of the whole or any part of the trust income or 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

S. 64(1) def. of  
*discretionary trust*  
inserted by  
No. 69/2011  
s. 31(1).

- (b) will occur in the event that a discretion conferred under the trust is not exercised;

*greater Melbourne* means the aggregate area consisting of—

- (a) the area within the municipal district of each Council listed in Part 1 of Schedule 2; and
- (b) the area within an urban growth boundary specified in a planning scheme that is in force in the municipal district of each Council listed in Part 2 of Schedule 2;

S. 64(1) def. of *greater Melbourne* substituted by Nos 85/2006 s. 173(Sch. 1 item 3.1), 40/2014 s. 22(1)(b).

*planning scheme* means a planning scheme to which the **Planning and Environment Act 1987** applies;

S. 64(1) def. of *planning scheme* inserted by No. 40/2014 s. 22(1)(a).

*primary production* means—

- (a) cultivation for the purpose of selling the produce of cultivation (whether in a natural, processed or converted state); or
- (b) the maintenance of animals or poultry for the purpose of selling them or their natural increase or bodily produce; or
- (c) the keeping of bees for the purpose of selling their honey; or
- (d) commercial fishing, including the preparation for commercial fishing or the storage or preservation of fish or fishing gear; or
- (e) the cultivation or propagation for sale of plants seedlings mushrooms or orchids;

*proprietary company* has the same meaning as in the Corporations Act;

*relevant period*, in relation to a proprietary company means, for any point in time—

- (a) the previous 3 years; or
- (b) the period since the incorporation of the company—

whichever is the shorter;

S. 64(1) def. of *specified beneficiary* inserted by No. 69/2011 s. 31(1), repealed by No. 26/2015 s. 36.

\* \* \* \* \*

S. 64(1) def. of *urban growth boundary* inserted by No. 40/2014 s. 22(1)(a).

*urban growth boundary* has the same meaning as in the **Planning and Environment Act 1987**;

S. 64(1) def. of *urban zone* amended by No. 69/2011 s. 31(2).

*urban zone* means a zone, or part of a zone, under a planning scheme in force under the **Planning and Environment Act 1987** of a type declared under subsection (2) to be an urban zone for the purposes of this Division.

- (2) The Governor in Council may by Order published in the Government Gazette declare specified types of zones under planning schemes to be urban zones for the purposes of this Division.

S. 64(3)–(5) inserted by No. 85/2006 s. 173(Sch. 1 item 3.2), repealed by No. 40/2014 s. 22(2).

\* \* \* \* \*

**65 Exemption of primary production land outside greater Melbourne**

- (1) Land outside greater Melbourne that is used primarily for primary production is exempt land.
- (2) If a part of any land outside greater Melbourne is used primarily for primary production that part is exempt land even if an activity other than primary production is carried on on any other part of the land.

S. 65(2)  
amended by  
No. 40/2014  
s. 23.

**66 Exemption of primary production land in greater Melbourne but not in an urban zone**

Land is exempt land if the Commissioner determines that the land comprises one parcel—

- (a) that is wholly or partly in greater Melbourne; and
- (b) none of which is within an urban zone; and
- (c) that is used primarily for primary production.

**67 Exemption of primary production land in an urban zone in greater Melbourne**

- (1) Land is exempt land if the Commissioner determines that—
  - (a) the land comprises one parcel that is—
    - (i) wholly or partly in greater Melbourne; and
    - (ii) wholly or partly in an urban zone; and
    - (iii) used solely or primarily for the business of primary production; and
  - (b) the owner of the land is a person specified in subsection (2).

(2) The owner of the land must be—

S. 67(2)(b)  
amended by  
No. 69/2011  
s. 32(1)(a).

- (a) a natural person who is normally engaged in a substantially full-time capacity in the business of primary production of the type carried on on the land; or
- (b) a proprietary company (not acting in the capacity of trustee of a trust)—
  - (i) in which all the shares are beneficially owned by natural persons; and
  - (ii) the principal business of which is primary production of the type carried on on the land; or

S. 67(2)(c)  
amended by  
No. 69/2011  
s. 32(1)(b)(i).

- (c) a trustee of a trust (other than a discretionary trust) of which—

S. 67(2)(c)(i)  
amended by  
No. 69/2011  
s. 32(1)(b)(ii).

- (i) the principal business is primary production of the type carried on on the land; and
- (ii) each beneficiary is a natural person who is entitled under the trust deed to an annual distribution of the trust income; and

S. 67(2)(c)(iii)  
amended by  
No. 69/2011  
s. 32(1)(b)(iii).

- (iii) at least one of the beneficiaries, or a relative of at least one of the beneficiaries, is normally engaged in a substantially full-time capacity in the business of primary production of the type carried on on the land; or

S. 67(2)(d)  
inserted by  
No. 69/2011  
s. 32(1)(c).

- (d) a trustee of a discretionary trust of which—
  - (i) the principal business must be primary production of the type carried on on the land; and

(ii) either—

- (A) each specified beneficiary is a natural person; or
- (B) at least one of the specified beneficiaries is a natural person and each of the specified beneficiaries who is not a natural person is either—
  - (a) a charitable institution or a trustee of a charitable trust; or
  - (b) a company all of the shares in which are owned by one or more of the specified beneficiaries who are natural persons; or
  - (c) a trustee of a trust (except a charitable trust), all of the beneficiaries or specified beneficiaries of which are specified beneficiaries of the discretionary trust who are natural persons; and

(iii) either—

- (A) at least one of the specified beneficiaries is a natural person who is normally engaged in a substantially full-time capacity in the business of primary production of the type carried on on the land; or

S. 67  
(2)(d)(iii)(B)  
amended by  
No. 40/2016  
s. 26(1).

(B) a relative of at least one of the specified beneficiaries is normally engaged in a substantially full-time capacity in the business of primary production of the type carried on on the land; or

S. 67(2)(e)  
inserted by  
No. 40/2016  
s. 26(2).

- (e) a trustee of a superannuation trust of which—
- (i) all the members or beneficiaries (as the case requires) of the trust are relatives; and
  - (ii) at least one member or beneficiary (as the case requires) of the trust is normally engaged in a substantially full-time capacity in the business of primary production of the type carried on on the land.

- (3) For the purposes of subsection (2)(b)(ii), the principal business of a proprietary company is not primary production of the type carried on on the land unless—
- (a) the main undertaking of the company is primary production of that type; and
  - (b) either—
    - (i) dividends distributed during the relevant period were made to all the holders of the issued share capital of the company in proportion to their respective paid up shareholdings and 60% of those dividends were paid to persons normally engaged in a substantially full-time capacity in the business of primary production; or

- (ii) if no dividends were declared during the relevant period, ordinary shares representing more than 60% of the paid up capital of the company (excluding shares entitled to a fixed rate of dividend) have been beneficially owned for the relevant period by persons normally engaged in a substantially full-time capacity in the business of primary production.
- (4) If 2 or more persons are the owner of a parcel of land and—
- (a) at least one of them is normally engaged in a substantially full-time capacity in the business of primary production of the type carried on on the land; and
  - (b) the other or others are relatives of a person normally so engaged; and
  - (c) no other person is normally so engaged on that land—

S. 67(4)(a)  
amended by  
No. 69/2011  
s. 32(2).

the owners are deemed, for the purposes of subsection (2), to be normally so engaged.

- (5) If—
- (a) a person is, or 2 or more persons are, the owner of a parcel of land on which the business of primary production is carried on; and
  - (b) a relative of the person, or of each of the persons, is normally engaged in a substantially full-time capacity in that business (whether or not the person, or any of those persons, is also normally so engaged); and

(c) no other person is normally so engaged on that land—

the owner is deemed, for the purposes of subsection (2), to be normally so engaged.

S. 67(6)  
substituted by  
No. 85/2005  
s. 28(2).

(6) For the purposes of this section—

- (a) a reference to the issued share capital of a company does not include a reference to any part of it that carries no right to participate beyond a specified amount in a distribution of either profits or capital;
- (b) a reference to an owner of land does not include a reference to a beneficiary of a trust or a unitholder in a unit trust scheme to which the land is subject.

### **68 Exemption of land being prepared for use for primary production**

- (1) Land is exempt land for a tax year if the Commissioner is satisfied that—
  - (a) the land is being prepared for use primarily for primary production; and
  - (b) the land will become exempt land under section 65, 66 or 67 within 12 months after the day on which the preparation referred to in paragraph (a) commenced.
- (2) The Commissioner may extend the period referred to in subsection (1)(b) by a further period of 12 months.

### **69 Application for exemption under section 66, 67 or 68**

To obtain an exemption from land tax under section 66, 67 or 68, the owner of the land must—

- (a) apply to the Commissioner for an exemption under the section; and

- (b) give the Commissioner any information the Commissioner requests for the purpose of enabling the Commissioner to determine whether the land is exempt under the section.

### **70 Parcels of land**

- (1) For the purposes of section 66, a part of a parcel of land is to be regarded as a separate parcel of land if that part is occupied separately from or is obviously adapted to being occupied separately from other land in the parcel.
- (2) For the purposes of section 67, a part of a parcel of land is to be regarded as a separate parcel of land if—
  - (a) that part is occupied separately from or is obviously adapted to being occupied separately from other land in the parcel; and
  - (b) the owner of the parcel of land is the owner of the land within the meaning of section 67(2).

**S. 70**  
amended by  
**No. 69/2011**  
s. 33,  
substituted by  
**No. 40/2014**  
s. 24.

## **Division 3—Sporting, recreational and cultural land**

### **71 Land leased for sporting, recreational or cultural activities by members of the public**

- (1) Land vested in a person or body is exempt land if the Commissioner determines that—
  - (a) it is leased for outdoor sporting, outdoor recreational, outdoor cultural or similar outdoor activities and is available for use for one or more of those activities by members of the public; and
  - (b) the proceeds from the leasing are applied exclusively by the person or body for charitable purposes.

- (2) To obtain an exemption from land tax under this section, the owner of the land must—
- (a) apply to the Commissioner for the exemption; and
  - (b) give the Commissioner any information the Commissioner requests for the purpose of enabling the Commissioner to determine whether the land is exempt under this section.

**72 Sporting, recreational or cultural land owned by certain non-profit organisations**

- (1) This section applies to land owned—
- (a) by a non-profit organisation; or
  - (b) in the case of a non-profit organisation that is unincorporated, by a person on trust for the non-profit organisation.
- (2) The land is exempt land if the Commissioner determines that—
- (a) the land is used by the non-profit organisation primarily or substantially for—
    - (i) sporting activities; or
    - (ii) outdoor recreational, outdoor cultural or similar outdoor activities; and
  - (b) the primary purpose or objective of the non-profit organisation is to conduct the sporting activities or outdoor recreational, outdoor cultural or similar outdoor activities for which the land is primarily or substantially used.
- (3) To obtain an exemption from land tax under this section, the owner of the land must—
- (a) apply to the Commissioner for the exemption; and

(b) give the Commissioner any information the Commissioner requests for the purpose of enabling the Commissioner to determine whether the land is exempt under this section.

(4) In this section—

*non-profit organisation* means a body (whether incorporated or not) that—

- (a) applies its profits in promoting its purposes or objectives; and
- (b) prohibits the payment of any dividends to members—

but does not include a body that promotes or controls horse racing, pony racing or harness racing in Victoria.

### **73 Concessional tax rate for club land**

- (1) Land or part of land that is owned and solely occupied by a club is not liable for land tax at a rate greater than 0.357% of the taxable value of the land or part.
- (2) For the purposes of subsection (1) and assessing land tax on any part of the land that is not solely occupied by a club, the land tax that is or that would be, but for the operation of subsection (1), attributable to a part of land is the proportion of the land tax that would, but for the operation of subsection (1), be payable on the whole of the land owned by a club.
- (3) In this section, *club* means a society, club or association that—
  - (a) is not carried on for the purposes of the profit or gain to its individual members; and

- (b) is carried on exclusively for one or more of the following purposes—
  - (i) providing for the social, cultural, recreational, literary or educational interests of its members;
  - (ii) promoting or controlling horse racing, pony racing or harness racing in Victoria.

Pt 4 Div. 4  
(Heading)  
amended by  
No. 84/2006  
s. 12.

## **Division 4—Charities and health services**

### **74 Charitable institutions and purposes**

- (1) Land is exempt land if the Commissioner determines that—
  - (a) it is used by a charitable institution exclusively for charitable purposes; or
  - (b) it is—
    - (i) owned by a charitable institution; and
    - (ii) vacant; and
    - (iii) declared by its owner to be held for future use for charitable purposes.
- (2) If the Commissioner is satisfied that only a part of land is used by a charitable institution exclusively for charitable purposes—
  - (a) land tax is assessable on the remaining part of the land, unless another exemption applies to that part; and
  - (b) section 22 applies, if necessary, for that purpose.
- (3) To obtain an exemption from land tax under this section, the owner of the land must—
  - (a) apply to the Commissioner for the exemption; and

- (b) give the Commissioner any information the Commissioner requests for the purpose of enabling the Commissioner to determine whether the land is exempt under this section.

**74A Health centres and services**

- (1) Land is exempt land if it is used by any of the following bodies exclusively for the purposes of that body—

- (a) an ambulance service;
- (b) a registered community health centre;
- (c) a denominational hospital;
- (d) a multi-purpose service;
- (e) a public health service;
- (f) a public hospital;
- (g) the Victorian Institute of Forensic Mental Health established by section 328 of the **Mental Health Act 2014**.

S. 74A  
inserted by  
No. 84/2006  
s. 13.

S. 74A(1)(b)  
substituted by  
No. 79/2008  
s. 18(1).

S. 74A(1)(g)  
amended by  
No. 26/2014  
s. 455(Sch.  
item 19).

- (2) Nothing in this section limits the application of any other exemption.

**Example**

If a denominational hospital is also a charitable institution, the exemption for charitable institutions under section 74 may still apply.

- (3) In this section—

***ambulance service*** means an ambulance service created under section 23 of the **Ambulance Services Act 1986**;

S. 74A(3)  
def. of  
*community  
health centre*  
repealed by  
No. 79/2008  
s. 18(2)(a).

\* \* \* \* \*

*denominational hospital* means a hospital listed in Schedule 2 to the **Health Services Act 1988**;

*multi-purpose service* means—

- (a) a body referred to in section 115V(2) of the **Health Services Act 1988**; or
- (b) a body declared under Part 4A of that Act to be a multi purpose service;

*public health service* means a public health service listed in Schedule 5 to the **Health Services Act 1988**;

S. 74A(3)  
def. of  
*public  
hospital*  
amended by  
No. 79/2008  
s. 18(2)(b).

*public hospital* means a hospital listed in Schedule 1 to the **Health Services Act 1988**;

S. 74A(3)  
def. of  
*registered  
community  
health centre*  
inserted by  
No. 79/2008  
s. 18(2)(c).

*registered community health centre* means a community health centre registered under Division 6 of Part 3 of the **Health Services Act 1988**.

## Division 5—Accommodation

### 75 Rooming houses

- (1) Land is exempt land if the Commissioner determines that the land is used and occupied—

- (a) as a rooming house (within the meaning of the **Residential Tenancies Act 1997**) that is registered under Part 6 of the **Public Health and Wellbeing Act 2008**; and
  - (b) primarily for low cost accommodation by people with low incomes, in accordance with guidelines issued by the Commissioner for the purposes of this section.
- (2) The guidelines may include provisions with respect to the following—
- (a) the circumstances in which accommodation is taken to be low cost accommodation;
  - (b) the types and location of premises in which low cost accommodation may be provided;
  - (c) the number and types of persons for whom the accommodation must be provided;
  - (d) the circumstances in which, and the arrangements under which, the accommodation is provided;
  - (e) maximum tariffs for the accommodation;
  - (f) periods within which tariffs may not be increased;
  - (g) the circumstances in which the applicant is required to give an undertaking to pass on the benefit of the exemption from taxation to the persons for whom the accommodation is provided in the form of lower tariffs.
- (3) A guideline—
- (a) may be of general or limited application;
  - (b) may differ according to differences in time, place or circumstances.

S.75(1)(a)  
amended by  
No. 46/2008  
s. 279.

- (4) To obtain an exemption from land tax under this section, the owner of the land must—
  - (a) apply to the Commissioner for the exemption; and
  - (b) give the Commissioner any information the Commissioner requests for the purpose of enabling the Commissioner to determine whether the land is exempt under this section.
- (5) If the Commissioner is satisfied that only a part of land is used and occupied as a rooming house or primarily for low cost accommodation by people with low incomes—
  - (a) land tax is assessable on the remaining part of the land, unless another exemption applies to that part; and
  - (b) section 22 applies, if necessary, for that purpose.
- (6) Without limiting the other ways in which land ceases to be exempt under this section, land ceases to be exempt if a person breaches an undertaking given as referred to in subsection (2)(g).

**76 Residential care facilities and supported residential services**

- (1) Land is exempt land if the Commissioner determines that it is occupied, or currently available for occupation, as—
  - (a) a residential care facility; or
  - (b) a supported residential service.
- (2) To obtain an exemption from land tax under this section, the owner of the land must—
  - (a) apply to the Commissioner for the exemption; and

- (b) give the Commissioner any information the Commissioner requests for the purpose of enabling the Commissioner to determine whether the land is exempt under this section.
- (3) If the Commissioner is satisfied that only a part of land is occupied or currently available for occupation as a residential care facility or supported residential service—
- (a) land tax is assessable on the remaining part of the land, unless another exemption applies to that part; and
- (b) section 22 applies, if necessary, for that purpose.
- (4) In this section—
- residential care facility*** means any premises—
- (a) in which—
- (i) a residential care service; or
- (ii) a multi purpose service—
- within the meaning of the Aged Care Act 1997 of the Commonwealth, is operated by an approved provider within the meaning of that Act; and
- (b) in respect of which an allocation of residential care places is in effect under Division 15 of that Act;

***supported residential service*** has the same meaning as in the **Supported Residential Services (Private Proprietors) Act 2010**.

S. 76(4) def. of *supported residential service* amended by No. 49/2010 s. 230.

S. 76A  
inserted by  
No. 31/2008  
s. 18.

### **76A Residential services for people with disabilities**

- (1) Land is exempt land if the Commissioner determines that it is occupied, or currently available for occupation, as a residential service within the meaning of the **Disability Act 2006**.
- (2) To obtain an exemption from land tax under this section, the owner of the land must—
  - (a) apply to the Commissioner for the exemption; and
  - (b) give the Commissioner any information the Commissioner requests for the purpose of enabling the Commissioner to determine whether the land is exempt under this section.
- (3) If the Commissioner is satisfied that only a part of land is occupied or currently available for occupation as a residential service—
  - (a) land tax is assessable on the remaining part of the land, unless another exemption applies to that part; and
  - (b) section 22 applies, if necessary, for that purpose.

### **77 Caravan parks**

- (1) Land is exempt land if the Commissioner determines that it is used as a registered caravan park.
- (2) To obtain an exemption from land tax under this section, the owner of the land must—
  - (a) apply to the Commissioner for the exemption; and
  - (b) give the Commissioner any information the Commissioner requests for the purpose of enabling the Commissioner to determine

whether the land is exempt under this section.

- (3) If the Commissioner is satisfied that only a part of land is used as a registered caravan park—
- (a) land tax is assessable on the remaining part of the land, unless another exemption applies to that part; and
  - (b) section 22 applies, if necessary, for that purpose.
- (4) In this section—

*registered caravan park* means a caravan park within the meaning of the **Residential Tenancies Act 1997** that is registered in accordance with regulations made under section 515 of that Act.

## **78 Retirement villages**

- (1) Land is exempt land if it is occupied, or currently available for occupation, as a retirement village.
- (2) If the Commissioner is satisfied that only a part of land is occupied, or currently available for occupation, as a retirement village—
- (a) land tax is assessable on the remaining part of the land, unless another exemption applies to that part; and
  - (b) section 22 applies, if necessary, for that purpose.
- (3) In this section—

*retirement village* means a complex containing residential premises (whether or not including hostel units) predominantly or exclusively occupied, or available for occupation, by retired persons under—

**S. 78(3) def. of retirement village amended by No. 28/2017 s. 63.**

- (a) a residential tenancy agreement or any other lease or licence; or
- (b) a right conferred by shares; or
- (c) the ownership of residential premises subject to a right or option of repurchase on conditions restricting the subsequent disposal of the premises—  
other than a complex or premises that is or are a residential care facility or supported residential service.

S. 78A  
inserted by  
No. 36/2010  
s. 12.

**78A Exemption of land under construction for certain exempt uses**

- (1) Land is exempt land if the Commissioner is satisfied that any of the following is being constructed on that land—
  - (a) a residential care facility; or
  - (b) a supported residential service; or
  - (c) a residential service; or
  - (d) a retirement village.
- (2) An exemption under this section will apply in respect of the land until the earlier of—
  - (a) the date of completion of construction of the residential care facility, supported residential service, residential service or retirement village on the land; or
  - (b) the expiry of 2 tax years following the date of commencement of construction.
- (3) For the purposes of this section, the date of commencement of construction is—
  - (a) if a building permit for the construction of a residential care facility, supported residential service, residential service or retirement village on the land was issued on or before

- 31 December 2010 and construction is not completed at that date—31 December 2010;  
or
- (b) in any other case—the date of issue of the building permit for the construction of the residential care facility, supported residential service, residential service or retirement village on the land.
- (4) For the purposes of this section, the date of completion of construction is—
- (a) if the building permit for the construction states that an occupancy permit is required—the date of issue of the occupancy permit under the **Building Act 1993**; or
- (b) in any other case—the date of issue of the certificate of final inspection under that Act.
- (5) If a building permit for the construction of a residential care facility, supported residential service, residential service or retirement village lapses before the applicable date under subsection (2) and a subsequent building permit is issued in respect of that construction, the date of issue of the building permit referred to in subsection (3) is the date of issue of the first building permit.
- (6) To obtain an exemption from land tax under this section, the owner of the land must—
- (a) apply to the Commissioner for the exemption; and
- (b) give to the Commissioner any information the Commissioner requests for the purpose of enabling the Commissioner to determine whether the land is exempt under this section.

Land Tax Act 2005  
No. 88 of 2005  
Part 4—Exemptions and concessions

---

- (7) If the Commissioner is satisfied that only a part of land is being used for the construction of a residential care facility, supported residential service, residential service or retirement village—
- (a) land tax is assessable on the remaining part of the land, unless another exemption applies to that part; and
  - (b) section 22 applies, if necessary, to the land.
- (8) In this section—

S. 78A(8)  
def. of  
*residential  
care facility*  
repealed by  
No. 28/2017  
s. 64(b).

\*            \*            \*            \*            \*

S. 78A(8)  
def. of  
*residential  
service*  
amended by  
No. 28/2017  
s. 64(a).

*residential service* has the same meaning as in  
section 76A.

S. 78A(8)  
def. of  
*retirement  
village*  
repealed by  
No. 28/2017  
s. 64(b).

\*            \*            \*            \*            \*

S. 78A(8)  
def. of  
*supported  
residential  
service*  
repealed by  
No. 28/2017  
s. 64(b).

\*            \*            \*            \*            \*

## Division 6—Public, government and municipal land

### 79 Crown land

- (1) Land is exempt land if it is—
- (a) the property of the Crown in right of Victoria; or
  - (b) vested in a Victorian Minister.
- (2) Subsection (1) does not apply to land that is held by—
- (a) a person who is entitled to the land under a lease of Crown land, unless the lease is a retail premises lease within the meaning of the **Retail Leases Act 2003**; or S. 79(2)(a) substituted by No. 83/2009 s. 12(a).
  - (b) a licensee of vested land under Part 3A of the **Victorian Plantations Corporation Act 1993**; or S. 79(2)(b) amended by No. 83/2009 s. 12(b).
  - (c) a person who is entitled to the land under a licence of Crown land under which the person has a right, absolute or conditional, of acquiring the fee simple. S. 79(2)(c) inserted by No. 83/2009 s. 12(c).

### 80 Public statutory authorities

- (1) Land is exempt land if the Commissioner determines that the land—
- (a) is owned by a public statutory authority; and
  - (b) is not land to which subsection (2) applies.
- (2) Land or a part of land owned by a public statutory authority is not exempt land if—
- (a) the land or part is leased or occupied for any business purposes by a person or body other than—
    - (i) a public statutory authority; or

Land Tax Act 2005  
No. 88 of 2005  
Part 4—Exemptions and concessions

---

**S. 80(2)(a)(ii)**  
substituted by  
No. 67/2017  
s. 22.

(ii) a person or body referred to in section 72(1) that satisfies the requirements of section 72(2); or

**S. 80(2)(a)(iii)**  
inserted by  
No. 67/2017  
s. 22.

(iii) a person or body referred to in section 81(1), 83(1) or 84(1); or

(b) the land or part is—

(i) owned by a public statutory authority declared under subsection (4) to be an authority to which this subparagraph applies; and

(ii) not used exclusively as a public open space or as a park.

**S. 80(3)**  
substituted by  
No. 85/2005  
s. 29(1).

(3) Subsection (2)(a) does not apply to land or part of land—

(a) that is leased or occupied under or in accordance with an arrangement made with a municipal council for the purpose of promoting or assisting a decentralised industry; or

(b) that is used or occupied by persons carrying on business in movable stalls in a market during some but not all of the ordinary business hours in a week.

(4) The Governor in Council may, by Order published in the Government Gazette, declare a public statutory authority to be an authority to which subsection (2)(b) applies.

(5) To obtain an exemption from land tax under this section, the owner of the land must—

(a) apply to the Commissioner for the exemption; and

- (b) give the Commissioner any information the Commissioner requests for the purpose of enabling the Commissioner to determine whether the land is exempt under this section.

## **81 Municipal and public land**

- (1) Land is exempt land if it is—
  - (a) owned by a municipal council; or
  - (b) vested in trustees appointed under an Act and held in trust for a municipal purpose; or
  - (c) vested in trustees appointed under an Act and held in trust for a public purpose.
- (2) Despite subsection (1), land or a part of land referred to in that subsection is not exempt land if the land or part is leased or occupied for any business purposes by a person or body other than—
  - (a) a municipal council or trustees of a kind referred to in subsection (1)(b) or (c); or
  - (b) a person or body referred to in section 72(1) that satisfies the requirements of section 72(2); or S. 81(2)(b) substituted by No. 67/2017 s. 23.
  - (c) a person or body referred to in section 80(1), 83(1) or 84(1). S. 81(2)(c) inserted by No. 67/2017 s. 23.
- (3) Subsection (2) does not apply to land or part of land—S. 81(3) substituted by No. 85/2005 s. 29(2).
  - (a) that is leased or occupied under or in accordance with an arrangement made with a municipal council for the purpose of promoting or assisting a decentralised industry; or

- (b) that is used or occupied by persons carrying on business in movable stalls in a market during some but not all of the ordinary business hours in a week; or
  - (c) that is used exclusively for or in connection with a business the primary purpose of which is to provide outdoor sporting or recreational facilities.
- (4) Subsection (1) does not apply to land vested in or held in trust for, or for the purposes of, or for purposes that include the purposes of, a trade union, trades hall or council of trade unions.

## 82 Application of Division 6

- (1) Nothing in this Division applies to land—
- (a) owned or occupied by the Transport Accident Commission; or
  - (b) owned or occupied by Development Victoria, other than—
    - (i) land to which a declaration under subsection (2) applies; or
    - (ii) land in the docklands area within the meaning of the **Docklands Act 1991**.
- (2) The Treasurer, on the recommendation of the Minister administering the **Development Victoria Act 2003**, may, by instrument, declare land owned or occupied by Development Victoria to be exempt land if the Treasurer is satisfied that the land is, or is to be, used for the provision of rental housing in accordance with a housing agreement in force between the Commonwealth and the State.

S. 82(1)(b)  
amended by  
Nos 35/2011  
s. 19(1),  
10/2017  
s. 35(1).

S. 82(2)  
amended by  
Nos 35/2011  
s. 19(2),  
10/2017  
s. 35(2).

## Division 7—General exemptions

### 83 Armed services personnel

- (1) Land is exempt land if—
- (a) it is owned by, or held in trust for, an association of armed services personnel or the dependants of armed services personnel; and
  - (b) it is used by the members of the association for the purposes of the association.

- (2) Despite subsection (1), land or a part of land referred to in that subsection is not exempt land if the land or part is leased or occupied for any business purposes by a person or body other than—

- (a) an association referred to in subsection (1);  
or

- (b) a person or body referred to in section 72(1) that satisfies the requirements of section 72(2); or

S. 83(2)(b)  
substituted by  
No. 67/2017  
s. 24.

- (c) a person or body referred to in section 80(1), 81(1) or 84(1).

S. 83(2)(c)  
inserted by  
No. 67/2017  
s. 24.

- (3) Subsection (2) does not apply to land or part of land that is leased or occupied under or in accordance with an arrangement made with a municipal council for the purpose of promoting or assisting a decentralised industry.

- (4) In this section—

***armed services personnel*** means members or former members of—

- (a) the armed forces of the Commonwealth; or

- (b) the armed forces of any current or former ally of the Commonwealth.

#### **84 Friendly societies**

- (1) Land is exempt land if it is owned by, or held in trust for, a friendly society.
- (2) Despite subsection (1), land or a part of land referred to in that subsection is not exempt land if the land or part is—
  - (a) used for banking or insurance purposes; or
  - (b) leased or occupied for any other business purposes by a person or body other than—
    - (i) a friendly society; or
    - (ii) a person or body referred to in section 72(1) that satisfies the requirements of section 72(2); or
    - (iii) a person or body referred to in section 80(1), 81(1) or 83(1).
- (3) Subsection (2) does not apply to land or part of land that is leased or occupied under or in accordance with an arrangement made with a municipal council for the purpose of promoting or assisting a decentralised industry.

S. 84(2)(b)(ii)  
substituted by  
No. 67/2017  
s. 25.

S. 84(2)(b)(iii)  
inserted by  
No. 67/2017  
s. 25.

#### **85 Land used for agricultural shows or farm field machinery days**

Land is exempt land if—

- (a) it is owned by, or held in trust for, a body (whether incorporated or not) established to conduct agricultural shows, farm field machinery days or similar activities where the activities are not carried on for the purpose of profit or gain to the members of the body; and

(b) it is used for the purposes of the body.

## 86 Mines

- (1) Land is exempt land if the Commissioner determines that it is used exclusively as a mine.
- (2) To obtain an exemption from land tax under this section, the owner of the land must—
  - (a) apply to the Commissioner for the exemption; and
  - (b) give the Commissioner any information the Commissioner requests for the purpose of enabling the Commissioner to determine whether the land is exempt under this section.
- (3) In this section, *mine* means—
  - (a) any land covered by a mining licence issued under the **Mineral Resources (Sustainable Development) Act 1990**; or
  - (b) any land in the Latrobe area within the meaning of the **Electricity Industry (Residual Provisions) Act 1993** where a generation company or other body authorised under that Act mines coal for use in the generation of electricity.
- (4) Despite subsection (3), the surface of any land is not at any time a mine unless at that time it is—
  - (a) occupied by or used for shafts or approaches to shafts, or occupied by buildings enclosing or covering those shafts or approaches; or
  - (b) used for the storage of debris or mining machinery.

S. 86(3) def. of *mine* amended by No. 63/2006 s. 61(Sch. item 20).

## **Division 8—Exemptions from land tax on transmission easements**

### **87 Governor in Council may exempt**

- (1) The Governor in Council, on the recommendation of the Treasurer, may by Order published in the Government Gazette exempt—
  - (a) a transmission easement holder from liability to pay land tax on the transmission easement; or
  - (b) a transmission easement from land tax.
- (2) In considering whether to recommend an exemption under subsection (1), the Treasurer may have regard to—
  - (a) the need to promote the economic development of Victoria;
  - (b) the need to promote and not hinder the development of energy infrastructure in Victoria;
  - (c) any other factor that the Treasurer considers is appropriate.

### **88 Dispositions of transmission easements**

- (1) A disposition of a transmission easement by a transmission easement holder, whether made before, on or after the commencement of this section, is not effective to exempt the transmission easement holder from any land tax that would have become payable on the easement had the disposition not taken place if, following the disposition, the easement continues to be, or may be, used by the transmission easement holder.

(2) If the Commissioner is satisfied, having regard to—

- (a) the nature of the easement that is disposed of;
- (b) any other matters the Commissioner considers relevant—

that a transmission easement holder should not pay any tax in respect of that easement that may become payable by reason of subsection (1), the Commissioner may exempt that transmission easement holder from tax payable under this Part.

(3) In this section, *disposition* includes disposition by way of conveyance, transfer, settlement, declaration of trust or any other method.

## **Division 9—Exemptions from vacant residential land tax**

Pt 4 Div. 9  
(Heading and  
ss 88A–88D)  
inserted by  
No. 28/2017  
s. 65.

### **88A Holiday home exemption**

S. 88A  
inserted by  
No. 28/2017  
s. 65.

- (1) Land is exempt from vacant residential land tax if—
- (a) in the year preceding the tax year, the owner of the land—
    - (i) used and occupied other land in Australia as a principal place of residence; and
    - (ii) used and occupied the land as a holiday home for a period of at least 4 weeks (whether continuous or aggregate); and
  - (b) the Commissioner is satisfied that the land was used and occupied as a holiday home in that year.

- (2) In considering whether or not the Commissioner is satisfied for the purposes of subsection (1)(b), the Commissioner must have regard to—
- (a) the location of the land; and
  - (b) the distance between the location of the land and the owner's principal place of residence; and
  - (c) the nature and frequency of the use of the land.
- (3) An owner who is entitled to an exemption from vacant residential land tax under this section in a tax year is not entitled to an exemption under this section in respect of any other land in that tax year.

S. 88B  
inserted by  
No. 28/2017  
s. 65.

**88B Exemption for land occupied for purposes of attending place of business or employment**

Land is exempt from vacant residential land tax if, in the year preceding the tax year, the owner of the land—

- (a) used and occupied other land in Australia as a principal place of residence; and
- (b) used and occupied the land as a residence for the purposes of attending the owner's place of business or employment and that place is in the specified geographic area (within the meaning of section 34D); and
- (c) used and occupied the land as a residence for the purposes referred to in paragraph (b) for an aggregate period of at least 140 days.

S. 88C  
inserted by  
No. 28/2017  
s. 65.

**88C Residential land transferred during tax year**

Land that has changed in ownership in the year preceding the tax year is exempt from vacant residential land tax.

**88D Land becomes residential land during tax year**

S. 88D  
inserted by  
No. 28/2017  
s. 65.

Land is exempt from vacant residential land tax for a tax year if—

- (a) at the commencement of the year preceding the tax year the land was not residential land within the meaning of section 34B(1); and
- (b) during the year preceding the tax year the land becomes residential land within the meaning of that subsection.

## **Part 5—Relief from or postponement of land tax**

### **Division 1—Preliminary**

#### **89 Definition**

In this Part, *Board* means the Land Tax Hardship Relief Board referred to in section 95.

#### **90 Arrangements for payment of tax**

Nothing in this Part limits the operation of section 49 of the **Taxation Administration Act 1997**.

### **Division 2—Relief**

#### **91 Taxpayer may apply for relief**

- (1) A taxpayer may apply for relief from the liability to pay land tax on one of the following grounds—
  - (a) if the taxpayer is a natural person—
    - (i) the taxpayer has suffered such a loss, or is in such circumstances, that payment of the full amount of the land tax would cause serious hardship; or
    - (ii) the taxpayer has died and his or her dependants are in such circumstances that payment of the full amount of the land tax would cause serious hardship;
  - (b) if the taxpayer is a company, persons holding more than 60% of the issued share capital of the company are in such circumstances that payment of the full amount of the land tax would cause serious hardship.

- (2) An application for relief must—
- (a) be in writing; and
  - (b) be made to—
    - (i) the Commissioner, if the land tax assessed for the applicant taxpayer for or in a tax year does not exceed \$1000; or
    - (ii) the Board, if the land tax assessed for the applicant taxpayer for or in a tax year exceeds \$1000; and
  - (c) be made within—
    - (i) one month after notice of assessment of the land tax has been given to the taxpayer; or
    - (ii) a further time allowed by the Commissioner or the Board, as the case requires.
- (3) For the purposes of this section, a reference to the issued share capital of a company does not include a reference to any part of it that carries no right to participate beyond a specified amount in a distribution of either profits or capital.

## **92 Relief granted by the Commissioner**

- (1) The Commissioner may grant relief from the liability to pay land tax to a taxpayer on application under section 91 if the Commissioner is satisfied that the grounds for the application are made out.
- (2) Before granting relief, the Commissioner must obtain the approval of the Treasurer.

- (3) In granting relief, the Commissioner may—
- (a) waive the payment of the land tax either wholly or in part;
  - (b) make a reassessment of the land tax;
  - (c) impose any conditions on the grant of relief that he or she considers appropriate.

### **93 Relief granted by the Board**

- (1) The Board may grant relief from the liability to pay land tax to a taxpayer on application under section 91 if the Board is satisfied that the grounds for the application are made out.
- (2) If the Board decides to grant relief, it may direct the Commissioner to make a reassessment of the land tax and—
- (a) postpone the payment of the land tax either wholly or in part until whichever of the following occurs first—
    - (i) the date the land is sold;
    - (ii) the expiration of a specified period of up to 5 years from the date the taxpayer applies for relief; or
  - (b) waive the payment of the land tax either wholly or in part.
- (3) The Board may grant relief subject to any conditions that the Board considers appropriate.

### **94 Reconsideration of postponed land tax**

- (1) This section applies if the Board directs the Commissioner to postpone the payment of land tax under section 93(2)(a).
- (2) The Board must reconsider the application for relief as soon as convenient after the date to which the payment of the land tax was postponed.

- (3) If, at the time of reconsideration, the Board is satisfied that the grounds for the application are still made out in relation to the amount of land tax postponed, the Board may direct the Commissioner to—
- (a) waive the payment of the postponed amount of land tax either wholly or in part; and
  - (b) make a reassessment of the land tax.

### **Division 3—Land Tax Hardship Relief Board**

#### **95 Establishment and procedure**

- (1) There is to be a Land Tax Hardship Relief Board.
- (2) The Board consists of the following 3 members—
  - (a) the Secretary to the Department of Treasury and Finance or his or her nominee;
  - (b) the Commissioner or his or her nominee;
  - (c) a person selected by the Commissioner or his or her nominee from a panel of 3 persons appointed by the Governor in Council on the recommendation of the Minister.
- (3) Before making a recommendation under subsection (2)(c), the Minister must consult with organisations that, in the Minister's opinion, represent persons engaged in the practice of law or accountancy or the valuation of land.
- (4) The Board may regulate its proceedings as it thinks fit.

## **Part 6—Security, recovery and enforcement**

### **Division 1—Security for land tax**

#### **96 Land tax is a first charge on land**

- (1) Unpaid land tax (including special land tax) is a first charge on the land on which the tax is payable.
- (2) The charge has priority over all other encumbrances to which the land is subject.
- (3) Subsections (1) and (2) do not apply to—
  - (a) land tax on Crown land or vested land under Part 3A of the **Victorian Plantations Corporation Act 1993**; or
  - (b) land tax on transmission easements.
- (4) If a person—
  - (a) is a bona fide purchaser for value of land; and
  - (b) obtains a certificate from the Commissioner under section 105 in respect of the land—the charge does not secure any amount of land tax on the land in excess of the amount set out in the certificate.

#### **97 Registration of charge**

- (1) The Commissioner may register a charge on land under section 96(1) by depositing with the Registrar of Titles a certificate describing the land charged and stating that there is unpaid land tax in respect of the land.
- (2) The Registrar of Titles must, without charge, make a recording of the certificate in the Register.

- (3) When the tax is paid, the Commissioner may request the Registrar of Titles—
  - (a) to remove or delete the charge; or
  - (b) to make a recording in the Register of the discharge of the charge.
- (4) The Registrar of Titles must, without charge, comply with a request made by the Commissioner under subsection (3).

## **Division 2—Recovery of land tax**

### **98 Recovery from lessee, mortgagee or occupier**

- (1) If a tax default occurs in relation to land tax, the Commissioner may require a lessee, mortgagee or occupier of the land to pay land tax that is payable but remains unpaid.
- (1A) The Commissioner cannot require a lessee or occupier—
  - (a) to pay an amount of land tax under this section that is greater than the amount of rent the lessee or occupier is required to pay the taxpayer; or
  - (b) to pay an amount of land tax under this section before the day on which the lessee or occupier is required to pay rent to the taxpayer.
- (1B) Subsection (1A) does not apply to a lessee or occupier that is a related corporation or relative of the taxpayer.
- (2) The Commissioner's requirement is to be made by notice in writing.
- (3) A copy of the notice must be served on the taxpayer.

**S. 98(1A)**  
inserted by  
No. 76/2012  
s. 16(1).

**S. 98(1B)**  
inserted by  
No. 76/2012  
s. 16(1).

S. 98(6A)  
inserted by  
No. 76/2012  
s. 16(2).

- (4) The tax must be paid to the Commissioner on receipt of the notice or by the date specified in the notice, whichever is the later.
- (5) Section 45 of the **Taxation Administration Act 1997** applies to tax payable under this section as if the person required to pay the tax were the taxpayer.
- (6) A person who pays an amount of tax under this section is entitled to recover that amount from the taxpayer as a debt, or to set off the amount against any money owing to the taxpayer.
- (6A) If a lessee or occupier pays an amount of tax under this section—
  - (a) the amount is deemed to have been paid to the Commissioner by the taxpayer; and
  - (b) the lessee or occupier is deemed to have paid an equal amount of rent to the taxpayer under the lease or agreement or under any applicable tenancy law.
- (7) If a mortgagee pays an amount of tax under this section, the amount is deemed to be secured by the mortgage in addition to any other amount secured by it.
- (8) This section does not apply to land tax on transmission easements.

**Note**

General provisions for the recovery of land tax can be found in Part 7 of the **Taxation Administration Act 1997**.

### **Division 3—Prohibition on passing on land tax**

#### **99 Prohibition on passing on land tax**

- (1) A provision in a residential tenancy agreement entered into on or after 1 January 1998 to the effect that the tenant is liable to pay, or to reimburse the landlord in respect of, any land tax

payable by the landlord in respect of the rented premises is void.

(2) In this section—

*residential tenancy agreement* means an agreement, whether or not in writing and whether express or implied, under which a person lets premises as a residence.

#### **100 Prohibition on passing on land tax on transmission easements**

- (1) A provision in an agreement to the effect that the owner of land encumbered by a transmission easement is liable, as owner, to pay, or to reimburse the transmission easement holder in respect of, any land tax on any transmission easement that is payable by the transmission easement holder is void.
- (2) This section applies to an agreement of the kind referred to in subsection (1) entered into before, on or after the commencement of this section.

### **Division 4—Tax avoidance schemes**

#### **101 What is a tax avoidance scheme?**

- (1) For the purposes of this Division, a *tax avoidance scheme* is a scheme—
  - (a) under or in connection with which a person has obtained a reduction in, or exemption from, land tax; and
  - (b) in respect of which, having regard to any one or more of the matters referred to in subsection (2), it would be concluded that a person, or one of the persons, who participated in the scheme did so for the purpose of enabling a person to obtain a reduction in, or exemption from, land tax under or in connection with the scheme.

- (2) The factors that may be considered for the purposes of subsection (1)(b) are—
- (a) the manner in which the scheme was entered into or carried out;
  - (b) the form and substance of the scheme;
  - (c) the time at which the scheme was entered into and the length of the period during which the scheme was carried out;
  - (d) the result in relation to the operation of this Division that, but for section 102, would have been achieved by the scheme;
  - (e) any change in the financial position of any person that has resulted, will result or may reasonably be expected to result from the scheme;
  - (f) any other consequence for the person, or for any other person referred to in paragraph (e), of the scheme having been entered into and carried out;
  - (g) the nature of any connection (whether of a business, family or other nature) between the person and any other person referred to in paragraph (e).
- (3) A reference in subsection (1) to a scheme being carried out by a person for a particular purpose includes a reference to the scheme being entered into or carried out by the person for 2 or more purposes of which that particular purpose is the main purpose.
- (4) This section applies to a scheme—
- (a) whenever entered into; and
  - (b) whether the scheme has been or is entered into or carried out in or outside Victoria or partly in and partly outside Victoria.

(5) In this section—

*scheme* includes the whole or any part of—

- (a) a contract, agreement, arrangement, understanding, promise or undertaking (including all steps and transactions by which it is carried into effect)—
  - (i) whether made or entered into orally or in writing;
  - (ii) whether express or implied;
  - (iii) whether or not enforceable; or
- (b) a plan, proposal, action, course of action or course of conduct, whether or not unilateral; or
- (c) a trust.

## **102 Anti-avoidance provision**

If the Commissioner considers that a person has participated in a tax avoidance scheme, the Commissioner may—

- (a) disregard the scheme; and
- (b) determine what land tax would have been payable but for the scheme; and
- (c) make an assessment or reassessment under the **Taxation Administration Act 1997** of the tax liability of the person or any other person to give effect to that determination.

## **Part 7—General**

### **Division 1—Notices and certificates**

Pt 7 Div. 1  
(Heading)  
substituted by  
No. 83/2009  
s. 13.

#### **103 Notice of acquisition of land**

- (1) A person who acquires land must give notice of the acquisition—
  - (a) to prescribed persons; and
  - (b) within a prescribed period.
- (2) The notice must—
  - (a) contain the prescribed information; and
  - (b) be in the prescribed form (if any); and
  - (c) be given in the prescribed manner.
- (3) Any information contained in a notice under this section may be disclosed to the Valuer-General.
- (4) This section does not apply to a person who acquires land in a manner that was effected by an electronic instrument lodged by means of an ELN.

S. 103(4)  
inserted by  
No. 40/2014  
s. 28.

#### **104 Notice of acquisition of transmission easement**

- (1) A transmission easement holder must, in relation to any transmission easement acquired by them, give notice—
  - (a) to prescribed persons; and
  - (b) within a prescribed period.
- (2) The notice must—
  - (a) contain the prescribed information; and
  - (b) be in the prescribed form (if any); and
  - (c) be given in the prescribed manner.

- (3) For the purposes of subsection (1), a transmission easement is taken to be acquired if it is granted to, reserved in favour of, created by statute in favour of or vested by statute in the transmission easement holder.
- (4) Subsection (3) does not limit the ways in which a transmission easement may be acquired.

**104A Notice of errors in notice of assessment of land tax**

S. 104A  
inserted by  
No. 83/2009  
s. 14.

- (1) A person who is served with a notice of assessment of land tax must notify the Commissioner of any error or omission in the notice relating to—
  - (a) any land in Victoria owned by the person that is not specified in the notice;
  - (b) in the case of a notice of assessment for land jointly owned by two or more owners, any land in Victoria owned by the joint owners that is not specified in the notice;
  - (c) any land specified in the notice as exempt land.
- (2) Notice of the error or omission must be given to the Commissioner within 60 days from the date of issue of the notice of assessment.
- (3) If there is more than one owner of the land specified in the notice of assessment, it is sufficient compliance with this section if one of the owners provides the required information on behalf of all of them.

**104B Notification of absentee owner status**

S. 104B  
inserted by  
No. 26/2015  
s. 37.

- (1) A person who is an absentee owner on 31 December every year must lodge a written notice with the Commissioner before 15 January in the following year.

- (2) A person who ceases to be an absentee owner in the 2016 tax year, or any tax year after the 2016 tax year, must lodge a written notice with the Commissioner before 15 January in the year after the 2016 year or the relevant tax year.
- (3) A notice under this section must be in the form, contain the information and be accompanied by any documents or other evidence determined by the Commissioner.

### **105 Land tax certificates**

- (1) An owner, purchaser or mortgagee of land may apply to the Commissioner for a certificate under this section.
- (2) An application must be accompanied by the prescribed fee.
- (3) If an application is duly made, the Commissioner must issue a certificate showing if there is any land tax due and unpaid on the land described in the application.
- (4) The Commissioner may include any other information in the certificate that he or she thinks appropriate.

## **Division 2—General**

### **106 Stating case to Supreme Court**

- (1) The Commissioner may state a case for the opinion of the Supreme Court on any question of law that arises with regard to any matter under this Act.
- (2) The Supreme Court may give its judgment on the case stated and make any orders, including orders for costs, the Court thinks fit.

## **107 Regulations**

- (1) The Governor in Council may make regulations for or with respect to any matter or thing that is required or permitted to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) Regulations made under this Act—
  - (a) may be of general or limited application; and
  - (b) may differ according to differences in time, place or circumstances.

\* \* \* \* \*

**Pt 8  
(Heading and  
ss 108–115)  
repealed by  
No. 28/2007  
s. 3(Sch.  
item 37).**

## **Part 9—Further amendments, repeals and transitional provisions**

### **116 Repeal of Land Tax Act 1958**

The **Land Tax Act 1958** is repealed.

S. 117  
repealed by  
No. 28/2007  
s. 3(Sch.  
item 37).

\* \* \* \* \*

### **118 Transitional provisions**

Schedule 3, which contains transitional provisions, has effect.

---

## Schedules

### Schedule 1—Land tax rates

Sections 35(1), 36(3), 37(3)

#### Part 1—General rates of land tax

##### 1.1 Land tax for 2006

The rate of land tax for 2006 is set out in Table 1.1.

<i>Item</i>	<i>Column 1 Taxable value not less than</i>	<i>Column 2 Taxable value less than</i>	<i>Column 3 Rate of land tax</i>
	\$	\$	
1.	0	200 000	Nil
2.	200 000	540 000	\$200 and 0.2% of the taxable value that exceeds \$200 000
3.	540 000	900 000	\$880 and 0.5% of the taxable value that exceeds \$540 000
4.	900 000	1 190 000	\$2680 and 1% of the taxable value that exceeds \$900 000
5.	1 190 000	1 620 000	\$5580 and 1.5% of the taxable value that exceeds \$1 190 000
6.	1 620 000	2 700 000	\$12 030 and 2.25% of the taxable value that exceeds \$1 620 000
7.	2 700 000		\$36 330 and 3.5% of the taxable value that exceeds \$2 700 000

Sch. 1 cl. 1.1  
(Table 1.1)  
amended by  
No. 22/2007  
s. 7(1)(a).

##### Note

Clause 5 of Schedule 3 has transitional provisions capping certain land tax increases in 2006.

Land Tax Act 2005  
No. 88 of 2005  
Schedule 1—Land tax rates

Sch. 1 cl. 1.2  
(Heading)  
amended by  
No. 22/2007  
s. 7(1)(b).

Sch. 1 cl. 1.2  
substituted by  
No. 38/2006  
s. 8(1),  
amended by  
No. 22/2007  
s. 7(1)(c).

Sch. 1 cl. 1.2  
(Table 1.2)  
amended by  
No. 22/2007  
s. 7(1)(d).

## 1.2 Land tax for 2007

The rate of land tax for 2007 is set out in Table 1.2.

**TABLE 1.2**

<i>Item</i>	<i>Column 1 Taxable value not less than</i>	<i>Column 2 Taxable value less than</i>	<i>Column 3 Rate of land tax</i>
	\$	\$	
1.	0	200 000	Nil
2.	200 000	540 000	\$200 and 0.2% of the taxable value that exceeds \$200 000
3.	540 000	900 000	\$880 and 0.5% of the taxable value that exceeds \$540 000
4.	900 000	1 190 000	\$2680 and 0.8% of the taxable value that exceeds \$900 000
5.	1 190 000	1 620 000	\$5000 and 1.2% of the taxable value that exceeds \$1 190 000
6.	1 620 000	2 700 000	\$10 160 and 1.8% of the taxable value that exceeds \$1 620 000
7.	2 700 000		\$29 600 and 3% of the taxable value that exceeds \$2 700 000

Land Tax Act 2005  
No. 88 of 2005  
Schedule 1—Land tax rates

**1.3 Land tax for 2008**

The rate of land tax for 2008 is set out in Table 1.3.

**TABLE 1.3**

<i>Item</i>	<i>Column 1 Taxable value not less than</i>	<i>Column 2 Taxable value less than</i>	<i>Column 3 Rate of land tax</i>
	\$	\$	
1	0	225 000	Nil
2	225 000	540 000	\$250 and 0.2% of the taxable value that exceeds \$225 000
3	540 000	900 000	\$880 and 0.5% of the taxable value that exceeds \$540 000
4	900 000	1 620 000	\$2680 and 0.8% of the taxable value that exceeds \$900 000
5	1 620 000	2 700 000	\$8440 and 1.3% of the taxable value that exceeds \$1 620 000
6	2 700 000		\$22 480 and 2.5% of the taxable value that exceeds \$2 700 000

Sch. 1 cl. 1.3 (Heading) amended by No. 31/2008 s. 19(1)(a).  
Sch. 1 cl. 1.3 repealed by No. 38/2006 s. 8(2), new Sch. 1 cl. 1.3 inserted by No. 22/2007 s. 7(2), amended by No. 31/2008 s. 19(1)(b).

Land Tax Act 2005  
No. 88 of 2005  
Schedule 1—Land tax rates

Sch. 1 cl. 1.4  
inserted by  
No. 31/2008  
s. 19(2).

### 1.4 Land tax for 2009 and subsequent years

The rate of land tax for 2009 and each subsequent year is set out in Table 1.4.

**TABLE 1.4**

<i>Item</i>	<i>Column 1 Taxable value not less than</i>	<i>Column 2 Taxable value less than</i>	<i>Column 3 Rate of land tax</i>
	\$	\$	
1	0	250 000	Nil
2	250 000	600 000	\$275 and 0.2% of the taxable value that exceeds \$250 000
3	600 000	1 000 000	\$975 and 0.5% of the taxable value that exceeds \$600 000
4	1 000 000	1 800 000	\$2975 and 0.8% of the taxable value that exceeds \$1 000 000
5	1 800 000	3 000 000	\$9375 and 1.3% of the taxable value that exceeds \$1 800 000
6	3 000 000		\$24 975 and 2.25% of the taxable value that exceeds \$3 000 000

## Part 2—Rate of land tax on transmission easements

### 2.1 Rate of land tax on transmission easements for 2007

The rate of land tax on transmission easements for 2007 is set out in Table 2.1.

Sch. 1 cl. 2.1 (Heading) amended by No. 22/2007 s. 7(3)(a).

Sch. 1 cl. 2.1 amended by No. 22/2007 s. 7(3)(b).

**TABLE 2.1**

<i>Item</i>	<i>Column 1 Taxable value not less than</i>	<i>Column 2 Taxable value less than</i>	<i>Column 3 Rate of land tax</i>
	\$	\$	
1.	0	200 000	Nil
2.	200 000	540 000	\$200 and 0.2% of the taxable value that exceeds \$200 000
3.	540 000	900 000	\$880 and 0.5% of the taxable value that exceeds \$540 000
4.	900 000	1 190 000	\$2680 and 0.8% of the taxable value that exceeds \$900 000
5.	1 190 000	1 620 000	\$5000 and 1.2% of the taxable value that exceeds \$1 190 000
6.	1 620 000	2 700 000	\$10 160 and 1.8% of the taxable value that exceeds \$1 620 000
7.	2 700 000		\$29 600 and 5% of the taxable value that exceeds \$2 700 000

Sch. 1 cl. 2.1 (Table 2.1) substituted by No. 38/2006 s. 8(3), amended by No. 22/2007 s. 7(3)(c).

Land Tax Act 2005  
No. 88 of 2005  
Schedule 1—Land tax rates

Sch. 1 cl. 2.2  
(Heading)  
amended by  
No. 31/2008  
s. 19(3)(a).  
Sch. 1 cl. 2.2  
inserted by  
No. 22/2007  
s. 7(4),  
amended by  
No. 31/2008  
s. 19(3)(b).

## 2.2 Rate of land tax on transmission easements for 2008

The rate of land tax on transmission easements for 2008 is set out in Table 2.2.

**TABLE 2.2**

<i>Item</i>	<i>Column 1 Taxable value not less than</i>	<i>Column 2 Taxable value less than</i>	<i>Column 3 Rate of land tax</i>
	\$	\$	
1	0	225 000	Nil
2	225 000	540 000	\$250 and 0.2% of the taxable value that exceeds \$225 000
3	540 000	900 000	\$880 and 0.5% of the taxable value that exceeds \$540 000
4	900 000	1 620 000	\$2680 and 0.8% of the taxable value that exceeds \$900 000
5	1 620 000	2 700 000	\$8440 and 1.3% of the taxable value that exceeds \$1 620 000
6	2 700 000		\$22 480 and 5% of the taxable value that exceeds \$2 700 000

**2.3 Rate of land tax on transmission easements for 2009 and subsequent years**

Sch. 1 cl. 2.3  
inserted by  
No. 31/2008  
s. 19(4).

The rate of land tax on transmission easements for 2009 and each subsequent year is set out in Table 2.3.

**TABLE 2.3**

<i>Item</i>	<i>Column 1 Taxable value not less than</i>	<i>Column 2 Taxable value less than</i>	<i>Column 3 Rate of land tax</i>
	\$	\$	
1	0	250 000	Nil
2	250 000	600 000	\$275 and 0.2% of the taxable value that exceeds \$250 000
3	600 000	1 000 000	\$975 and 0.5% of the taxable value that exceeds \$600 000
4	1 000 000	1 800 000	\$2975 and 0.8% of the taxable value that exceeds \$1 000 000
5	1 800 000	3 000 000	\$9375 and 1.3% of the taxable value that exceeds \$1 800 000
6	3 000 000		\$24 975 and 5% of the taxable value that exceeds \$3 000 000

Sch. 1 Pt 3  
(Heading and  
cls 3.1–3.3)  
inserted by  
No. 85/2005  
s. 30.

## Part 3—Surcharge rates of land tax for trusts

Sch. 1 cl. 3.1  
inserted by  
No. 85/2005  
s. 30.

### 3.1 Land tax for trusts for 2006

The rate of land tax for 2006 for land held by an owner subject to a trust is set out in Table 3.1.

**TABLE 3.1**

<i>Item</i>	<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
	\$	\$	
1.	0	20 000	Nil
2.	20 000	200 000	\$75 and 0.375% of the taxable value that exceeds \$20 000
3.	200 000	540 000	\$750 and 0.575% of the taxable value that exceeds \$200 000
4.	540 000	900 000	\$2705 and 0.875% of the taxable value that exceeds \$540 000
5.	900 000	1 190 000	\$5855 and 1.375% of the taxable value that exceeds \$900 000
6.	1 190 000	1 620 000	\$9843 and 1.875% of the taxable value that exceeds \$1 190 000
7.	1 620 000	2 700 000	\$17 905 and 1.706% of the taxable value that exceeds \$1 620 000
8.	2 700 000		\$36 330 and 3.5% of the taxable value that exceeds \$2 700 000

Land Tax Act 2005  
No. 88 of 2005  
Schedule 1—Land tax rates

**3.2 Land tax for trusts for 2007**

The rate of land tax for 2007 for land held by an owner subject to a trust is set out in Table 3.2.

**TABLE 3.2**

<i>Item</i>	<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
	\$	\$	
1.	0	20 000	Nil
2.	20 000	200 000	\$75 and 0.375% of the taxable value that exceeds \$20 000
3.	200 000	540 000	\$750 and 0.575% of the taxable value that exceeds \$200 000
4.	540 000	900 000	\$2705 and 0.875% of the taxable value that exceeds \$540 000
5.	900 000	1 190 000	\$5855 and 1.175% of the taxable value that exceeds \$900 000
6.	1 190 000	1 620 000	\$9263 and 1.575% of the taxable value that exceeds \$1 190 000
7.	1 620 000	2 700 000	\$16 035 and 1.256% of the taxable value that exceeds \$1 620 000
8.	2 700 000		\$29 600 and 3% of the taxable value that exceeds \$2 700 000

Sch. 1 cl. 3.2 (Heading) amended by No. 22/2007 s. 7(5)(a).  
Sch. 1 cl. 3.2 inserted by No. 85/2005 s. 30, substituted by No. 38/2006 s. 8(4), amended by No. 22/2007 s. 7(5)(b).

Sch. 1 cl. 3.3  
(Heading)  
amended by  
No. 31/2008  
s. 19(5)(a).  
Sch. 1 cl. 3.3  
inserted by  
No. 85/2005  
s. 30,  
repealed by  
No. 38/2006  
s. 8(5), new  
Sch. 1 cl. 3.3  
inserted by  
No. 22/2007  
s. 7(6),  
amended by  
No. 31/2008  
s. 19(5)(b).

### 3.3 Land tax for trusts for 2008

The rate of land tax for 2008 for land held by an owner subject to a trust is set out in Table 3.3.

**TABLE 3.3**

<i>Item</i>	<i>Column 1 Taxable value not less than</i>	<i>Column 2 Taxable value less than</i>	<i>Column 3 Rate of land tax</i>
	\$	\$	
1	0	20 000	Nil
2	20 000	225 000	\$75 and 0.375% of the taxable value that exceeds \$20 000
3	225 000	540 000	\$844 and 0.575% of the taxable value that exceeds \$225 000
4	540 000	900 000	\$2655 and 0.875% of the taxable value that exceeds \$540 000
5	900 000	1 620 000	\$5805 and 1.175% of the taxable value that exceeds \$900 000
6	1 620 000	2 700 000	\$14 265 and 0.76% of the taxable value that exceeds \$1 620 000
7	2 700 000		\$22 480 and 2.5% of the taxable value that exceeds \$2 700 000

### 3.4 Land tax for trusts for 2009 and subsequent years

Sch. 1 cl. 3.4  
inserted by  
No. 31/2008  
s. 19(6).

The rate of land tax for 2009 and each subsequent year for land held by an owner subject to a trust is set out in Table 3.4.

**TABLE 3.4**

<i>Item</i>	<i>Column 1 Taxable value not less than</i>	<i>Column 2 Taxable value less than</i>	<i>Column 3 Rate of land tax</i>
	\$	\$	
1	0	25 000	Nil
2	25 000	250 000	\$82 and 0.375% of the taxable value that exceeds \$25 000
3	250 000	600 000	\$926 and 0.575% of the taxable value that exceeds \$250 000
4	600 000	1 000 000	\$2938 and 0.875% of the taxable value that exceeds \$600 000
5	1 000 000	1 800 000	\$6438 and 1.175% of the taxable value that exceeds \$1 000 000
6	1 800 000	3 000 000	\$15 838 and 0.7614% of the taxable value that exceeds \$1 800 000
7	3 000 000		\$24 975 and 2.25% of the taxable value that exceeds \$3 000 000

Sch. 1 Pt 4  
(Heading and  
cl. 4.1)  
inserted by  
No. 26/2015  
s. 38.

## Part 4—General absentee owner surcharge rates of land tax

Sch. 1 cl. 4.1  
(Heading)  
amended by  
No. 40/2016  
s. 27(1).

### 4.1 Rate of land tax on land held by absentee owners for 2016

The rate of land tax on land held by an absentee owner for 2016 is set out in Table 4.1.

Sch. 1 cl. 4.1  
amended by  
No. 40/2016  
s. 27(2).

**TABLE 4.1**

<i>Item</i>	<i>Column 1 Taxable value not less than</i>	<i>Column 2 Taxable value less than</i>	<i>Column 3 Rate of land tax</i>
	\$	\$	
1	0	250 000	Nil
2	250 000	600 000	\$1525 and 0.7% of the taxable value that exceeds \$250 000
3	600 000	1 000 000	\$3975 and 1.0% of the taxable value that exceeds \$600 000
4	1 000 000	1 800 000	\$7975 and 1.3% of the taxable value that exceeds \$1 000 000
5	1 800 000	3 000 000	\$18 375 and 1.8% of the taxable value that exceeds \$1 800 000
6	3 000 000		\$39 975 and 2.75% of the taxable value that exceeds \$3 000 000

**4.2 Rate of land tax on land held by absentee owners for 2017 and subsequent years**

Sch. 1 cl. 4.2  
inserted by  
No. 40/2016  
s. 28.

The rate of land tax on land held by an absentee owner for 2017 and each subsequent year is set out in Table 4.2.

**TABLE 4.2**

<i>Item</i>	<i>Column 1 Taxable value not less than</i>	<i>Column 2 Taxable value less than</i>	<i>Column 3 Rate of land tax</i>
	\$	\$	
1	0	250 000	Nil
2	250 000	600 000	\$4025 and 1.7% of the taxable value that exceeds \$250 000
3	600 000	1 000 000	\$9975 and 2% of the taxable value that exceeds \$600 000
4	1 000 000	1 800 000	\$17 975 and 2.3% of the taxable value that exceeds \$1 000 000
5	1 800 000	3 000 000	\$36 375 and 2.8% of the taxable value that exceeds \$1 800 000
6	3 000 000		\$69 975 and 3.75% of the taxable value that exceeds \$3 000 000

Sch. 1 Pt 5  
(Heading and  
cl. 5.1)  
inserted by  
No. 26/2015  
s. 38.

## Part 5—Surcharge rates of land tax for absentee trusts

Sch. 1 cl. 5.1  
(Heading)  
amended by  
No. 40/2016  
s. 29(1).

Sch. 1 cl. 5.1  
amended by  
No. 40/2016  
s. 29(2).

### 5.1 Rate of land tax on land held by owner subject to an absentee trust for 2016

The rate of land tax for land held by an owner subject to an absentee trust for 2016 is set out in Table 5.1.

**TABLE 5.1**

<i>Item</i>	<i>Column 1 Taxable value not less than</i>	<i>Column 2 Taxable value less than</i>	<i>Column 3 Rate of land tax</i>
	\$	\$	
1	0	25 000	Nil
2	25 000	250 000	\$207 and 0.875% of the taxable value that exceeds \$25 000
3	250 000	600 000	\$2176 and 1.075% of the taxable value that exceeds \$250 000
4	600 000	1 000 000	\$5938 and 1.375% of the taxable value that exceeds \$600 000
5	1 000 000	1 800 000	\$11 438 and 1.675% of the taxable value that exceeds \$1 000 000
6	1 800 000	3 000 000	\$24 838 and 1.2614% of the taxable value that exceeds \$1 800 000
7	3 000 000		\$39 975 and 2.75% of the taxable value that exceeds \$3 000 000

**5.2 Rate of land tax on land held by owner subject to an absentee trust for 2017 and subsequent years**

Sch. 1 cl. 5.2  
inserted by  
No. 40/2016  
s. 30,  
amended by  
No. 66/2016  
s. 5.

The rate of land tax for land held by an owner subject to an absentee trust for 2017 and each subsequent year is set out in Table 5.2.

**TABLE 5.2**

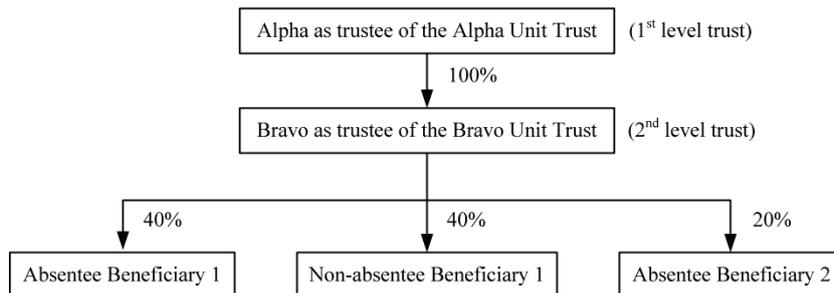
<i>Item</i>	<i>Column 1 Taxable value not less than</i>	<i>Column 2 Taxable value less than</i>	<i>Column 3 Rate of land tax</i>
	\$	\$	
1	0	25 000	Nil
2	25 000	250 000	\$457 and 1.875% of the taxable value that exceeds \$25 000
3	250 000	600 000	\$4676 and 2.075% of the taxable value that exceeds \$250 000
4	600 000	1 000 000	\$11 938 and 2.375% of the taxable value that exceeds \$600 000
5	1 000 000	1 800 000	\$21 438 and 2.675% of the taxable value that exceeds \$1 000 000
6	1 800 000	3 000 000	\$42 838 and 2.2614% of the taxable value that exceeds \$1 800 000
7	3 000 000		\$69 975 and 3.75% of the taxable value that exceeds \$3 000 000

Sch. 1A  
inserted by  
No. 67/2017  
s. 21.

## Schedule 1A—Examples of absentee proportion

Section 46IAA

### Example 1



1. Alpha (as trustee of the Alpha Unit Trust) owns taxable land.
2. The sole unitholder of the Alpha Unit Trust is Bravo (as trustee of the Bravo Unit Trust).

The unitholders of the Bravo Unit Trust are—

- Absentee Beneficiary 1, who has a 40% unitholding; and
  - Non-absentee Beneficiary 1, who has a 40% unitholding; and
  - Absentee Beneficiary 2, who has a 20% unitholding.
3. The Bravo Unit Trust is an absentee trust because it has at least one absentee beneficiary—see paragraph (b) of the definition of *absentee trust*.

The Alpha Unit Trust is also an absentee trust because its unitholder, Bravo, is an absentee beneficiary holding an interest as trustee of an absentee trust—see paragraph (b) of the definition of *absentee trust* and paragraph (b)(ii) of the definition of *absentee beneficiary*.

4. The Alpha Unit Trust and the Bravo Unit Trust are in a chain of trusts—see section 3D.
5. The absentee proportion of interests in land subject to the Alpha Unit Trust is calculated as follows—

*Step 1—calculate Absentee Beneficiary 1's interest in the land*

Multiply Absentee Beneficiary 1's interest in the Bravo Unit Trust (40%) by Bravo's interest (as trustee of the Bravo Unit Trust) in the Alpha Unit Trust (100%).

$$40\% \times 100\% = 40\%.$$

*Step 2—calculate Absentee Beneficiary 2's interest in the land*

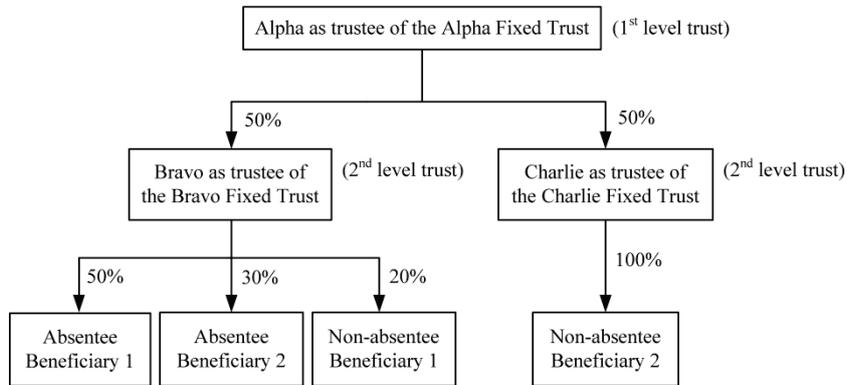
Multiply Absentee Beneficiary 2's interest in the Bravo Unit Trust (20%) by Bravo's interest (as trustee of the Bravo Unit Trust) in the Alpha Unit Trust (100%).

$$20\% \times 100\% = 20\%.$$

*Step 3—add together the amounts calculated under Step 1 and Step 2*

$$40\% + 20\% = 60\%.$$

**Example 2**



1. Alpha (as trustee of the Alpha Fixed Trust) owns taxable land.
2. The beneficiaries of the Alpha Fixed Trust are—
  - Bravo (as trustee of the Bravo Fixed Trust), who has a 50% beneficial interest; and
  - Charlie (as trustee of the Charlie Fixed Trust), who has a 50% beneficial interest.

The beneficiaries of the Bravo Fixed Trust are—

- Absentee Beneficiary 1, who has a 50% beneficial interest; and
- Absentee Beneficiary 2, who has a 30% beneficial interest; and
- Non-absentee Beneficiary 1, who has a 20% beneficial interest.

The sole beneficiary of the Charlie Fixed Trust is Non-absentee Beneficiary 2.

3. The Bravo Fixed Trust is an absentee trust because it has at least one absentee beneficiary—see paragraph (a) of the definition of *absentee trust*.

The Charlie Fixed Trust is not an absentee trust because its sole beneficiary, Non-absentee Beneficiary 2, is not an absentee beneficiary.

The Alpha Fixed Trust is an absentee trust because it has at least one absentee beneficiary, Bravo, holding an interest as trustee of an absentee trust—see paragraph (a) of the definition of *absentee trust* and paragraph (b)(i) of the definition of *absentee beneficiary*.

4. The Alpha Fixed Trust, the Bravo Fixed Trust and the Charlie Fixed Trust are in a chain of trusts—see section 3D.
5. The absentee proportion of interests in land subject to the Alpha Fixed Trust is calculated as follows—

*Step 1—calculate Absentee Beneficiary 1's interest in the land*

Multiply Absentee Beneficiary 1's interest in the Bravo Fixed Trust (50%) by Bravo's interest (as trustee of the Bravo Fixed Trust) in the Alpha Fixed Trust (50%).

$$50\% \times 50\% = 25\%.$$

*Step 2—calculate Absentee Beneficiary 2's interest in the land*

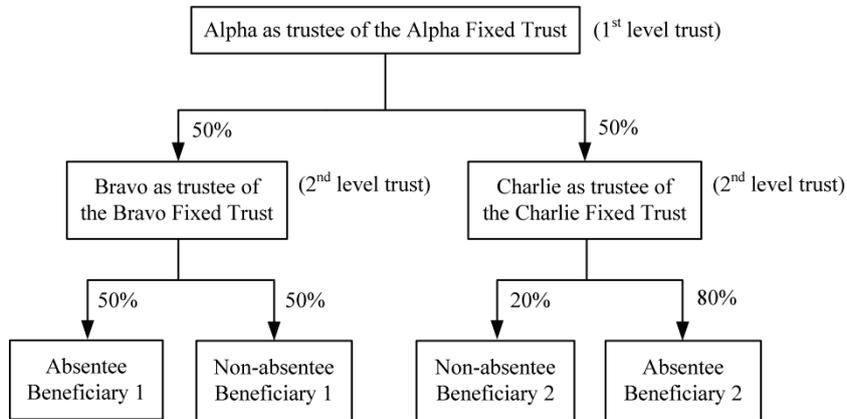
Multiply Absentee Beneficiary 2's interest in the Bravo Fixed Trust (30%) by Bravo's interest (as trustee of the Bravo Fixed Trust) in the Alpha Fixed Trust (50%).

$$30\% \times 50\% = 15\%.$$

*Step 3—add together the amounts calculated under Step 1 and Step 2*

$$25\% + 15\% = 40\%.$$

**Example 3**



1. Alpha (as trustee of the Alpha Fixed Trust) owns taxable land.
2. The beneficiaries of the Alpha Fixed Trust are—
  - Bravo (as trustee of the Bravo Fixed Trust), who has a 50% beneficial interest; and
  - Charlie (as trustee of the Charlie Fixed Trust), who has a 50% beneficial interest.

The beneficiaries of the Bravo Fixed Trust are—

- Absentee Beneficiary 1, who has a 50% beneficial interest; and
- Non-absentee Beneficiary 1, who has a 50% beneficial interest.

The beneficiaries of the Charlie Fixed Trust are—

- Non-absentee Beneficiary 2, who has 20% beneficial interest; and
- Absentee Beneficiary 2, who has an 80% beneficial interest.

3. The Bravo Fixed Trust and the Charlie Fixed Trust are absentee trusts because each trust has at least one absentee beneficiary—see paragraph (a) of the definition of *absentee trust*.

The Alpha Fixed Trust is also an absentee trust because it has absentee beneficiaries, Bravo and Charlie, who hold interests as trustees of absentee trusts—see paragraph (a) of the definition of *absentee trust* and paragraph (b)(i) of the definition of *absentee beneficiary*.

4. The Alpha Fixed Trust, the Bravo Fixed Trust and the Charlie Fixed Trust are in a chain of trusts—see section 3D.
5. The absentee proportion of interests in land subject to the Alpha Fixed Trust is calculated as follows—

*Step 1—calculate Absentee Beneficiary 1's interest in the land*

Multiply Absentee Beneficiary 1's interest in the Bravo Fixed Trust (50%) by Bravo's interest (as trustee of the Bravo Fixed Trust) in the Alpha Fixed Trust (50%).

$$50\% \times 50\% = 25\%.$$

*Step 2—calculate Absentee Beneficiary 2's interest in the land*

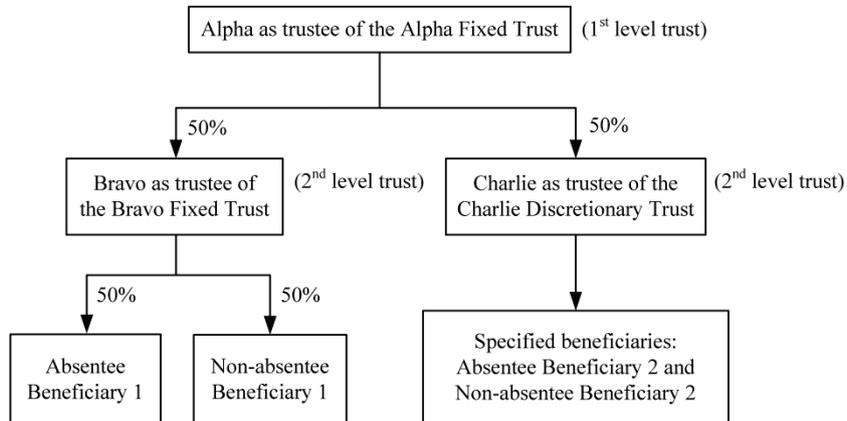
Multiply Absentee Beneficiary 2's interest in the Charlie Fixed Trust (80%) by Charlie's interest (as trustee of the Charlie Fixed Trust) in the Alpha Fixed Trust (50%).

$$80\% \times 50\% = 40\%.$$

*Step 3—add together the amounts calculated under Step 1 and Step 2*

$$25\% + 40\% = 65\%.$$

**Example 4**



1. Alpha (as trustee of the Alpha Fixed Trust) owns taxable land.
2. The beneficiaries of the Alpha Fixed Trust are—
  - Bravo (as trustee of the Bravo Fixed Trust), who has a 50% beneficial interest; and
  - Charlie (as trustee of the Charlie Discretionary Trust), who has a 50% beneficial interest.

The beneficiaries of the Bravo Fixed Trust are—

- Absentee Beneficiary 1, who has a 50% beneficial interest; and
- Non-absentee Beneficiary 1, who has a 50% beneficial interest.

The specified beneficiaries of the Charlie Discretionary Trust are—

- Absentee Beneficiary 2; and
- Non-absentee Beneficiary 2.

3. The Bravo Fixed Trust is an absentee trust because it has at least one absentee beneficiary—see paragraph (a) of the definition of *absentee trust*.

The Charlie Discretionary Trust is an absentee trust because it has at least one an absentee beneficiary—see paragraph (c) of the definition of *absentee trust*.

The Alpha Fixed Trust is also an absentee trust because it has absentee beneficiaries, Bravo and Charlie, who hold beneficial interests as trustees of absentee trusts—see paragraph (a) of the definition of *absentee trust* and paragraph (b)(i) of the definition of *absentee beneficiary*.

4. The Alpha Fixed Trust, the Bravo Fixed Trust and the Charlie Discretionary Trust are in a chain of trusts—see section 3D.
5. The absentee proportion of interests in land subject to the Alpha Fixed Trust is calculated as follows—

*Step 1—calculate Absentee Beneficiary 1's interest in the land*

Multiply Absentee Beneficiary 1's interest in the Bravo Fixed Trust (50%) by Bravo's interest (as trustee of the Bravo Fixed Trust) in the Alpha Fixed Trust (50%).

$$50\% \times 50\% = 25\%.$$

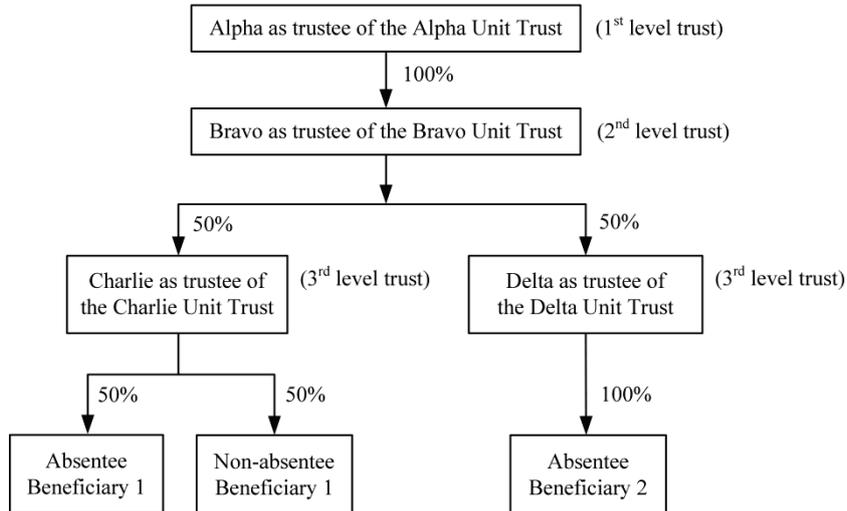
*Step 2—identify the interest held by Charlie (as trustee of the Charlie Discretionary Trust) in the Alpha Fixed Trust*

50%.

*Step 3—add together the amounts calculated and identified under Step 1 and Step 2*

$$25\% + 50\% = 75\%.$$

**Example 5**



1. Alpha (as trustee of the Alpha Unit Trust) owns taxable land.
2. The sole unitholder of the Alpha Unit Trust is Bravo (as trustee of the Bravo Unit Trust).

The unitholders of the Bravo Unit Trust are—

- Charlie (as trustee of the Charlie Unit Trust), who has a 50% unitholding; and
- Delta (as trustee of the Delta Unit Trust), who has a 50% unitholding.

The unitholders of the Charlie Unit Trust are—

- Absentee Beneficiary 1, who has a 50% unitholding; and
- Non-absentee Beneficiary 1, who has a 50% unitholding.

The sole unitholder of the Delta Unit Trust is Absentee Beneficiary 2.

3. The Charlie Unit Trust and the Delta Unit Trust are absentee trusts because each trust has at least one absentee beneficiary—see paragraph (b) of the definition of *absentee trust*.

The Bravo Unit Trust is also an absentee trust because it has absentee beneficiaries, Charlie and Delta, who hold unitholdings as trustees of absentee trusts—see paragraph (b) of the definition of *absentee trust* and paragraph (b)(ii) of the definition of *absentee beneficiary*.

The Alpha Unit Trust is also an absentee trust because its unitholder, Bravo, holds unitholdings as trustee of an absentee trust—see paragraph (b) of the definition of *absentee trust* and paragraph (b)(ii) of the definition of *absentee beneficiary*.

4. The Alpha Unit Trust, the Bravo Unit Trust, the Charlie Unit Trust and the Delta Unit Trust are in a chain of trusts—see section 3D.
5. The absentee proportion of interests in land subject to the Alpha Unit Trust is calculated as follows—

*Step 1—calculate Absentee Beneficiary 1's interest in the land*

Multiply Absentee Beneficiary 1's interest in the Charlie Unit Trust (50%) by Charlie's interest (as trustee of the Charlie Unit Trust) in the Bravo Unit Trust (50%) by Bravo's interest (as trustee of the Bravo Unit Trust) in the Alpha Unit Trust (100%).

$$50\% \times 50\% \times 100\% = 25\%.$$

*Step 2—calculate Absentee Beneficiary 2's interest in the land*

Multiply Absentee Beneficiary 2's interest in the Delta Unit Trust (100%) by Delta's interest (as trustee of the Delta Unit Trust) in the Bravo Unit Trust (50%) by Bravo's interest (as trustee of the Bravo Unit Trust) in the Alpha Unit trust (100%).

$$100\% \times 50\% \times 100\% = 50\%.$$

*Step 3—add together the amounts calculated under Step 1 and Step 2*

$$25\% + 50\% = 75\%.$$

## Schedule 2—Greater Melbourne

Section 64(1)

Sch. 2  
repealed by  
No. 28/2007  
s. 3(Sch.  
item 37), new  
Sch. 2  
inserted by  
No. 40/2014  
s. 25.

### Part 1

Banyule City Council  
Bayside City Council  
Boroondara City Council  
Darebin City Council  
Glen Eira City Council  
Maribyrnong City Council  
Melbourne City Council  
Monash City Council  
Moonee Valley City Council  
Moreland City Council  
Port Phillip City Council  
Stonnington City Council  
Whitehorse City Council  
Yarra City Council

### Part 2

Brimbank City Council  
Cardinia Shire Council  
Casey City Council  
Frankston City Council  
Greater Dandenong City Council  
Hobsons Bay City Council  
Hume City Council  
Kingston City Council

Land Tax Act 2005  
No. 88 of 2005  
Schedule 2—Greater Melbourne

---

Knox City Council  
Manningham City Council  
Maroondah City Council  
Melton City Council  
Mitchell Shire Council  
Mornington Peninsula Shire Council  
Nillumbik Shire Council  
Whittlesea City Council  
Wyndham City Council  
Yarra Ranges Shire Council

**Schedule 2A—Specified geographic area**

Section 34D

Sch. 2A  
inserted by  
No. 28/2017  
s. 66.

Banyule City Council  
Bayside City Council  
Boroondara City Council  
Darebin City Council  
Glen Eira City Council  
Hobsons Bay City Council  
Manningham City Council  
Maribyrnong City Council  
Melbourne City Council  
Monash City Council  
Moonee Valley City Council  
Moreland City Council  
Port Phillip City Council  
Stonnington City Council  
Whitehorse City Council  
Yarra City Council

## Schedule 3—Transitional provisions

Section 118

### 1 Definitions

In this Schedule—

*commencement day* means 1 January 2006;

*old Act* means the **Land Tax Act 1958** as in force immediately before the commencement day.

### 2 Savings and transitional regulations

The regulations may contain provisions of a savings and transitional nature consequent on the enactment of this Act.

### 3 Application of Interpretation of Legislation Act 1984

Except where the contrary intention appears, this Schedule does not affect or take away from the **Interpretation of Legislation Act 1984**.

### 4 Continuation of old Act and regulations

If a provision of the old Act continues to apply by force of this Schedule, the following provisions also continue to apply in relation to that provision—

- (a) any other provision of the old Act necessary to give effect to that continued provision; and
- (b) any regulation made under the old Act for the purposes of that continued provision.

### 5 Land tax capping for 2006

If, under clause 7.2 of the Second Schedule to the old Act, the duty of land tax payable for 2006 on the land of an owner would be a different amount from the amount of land tax payable under this Act as calculated by applying the rates in

Table 1.1 in Schedule 1, the land tax payable under this Act on the land for 2006 is the amount calculated in accordance with clause 7.2 of the Second Schedule to the old Act.

**5A Land tax capping for 2007**

Sch. 3 cl. 5A  
inserted by  
No. 38/2006  
s. 9.

- (1) The amount of land tax payable for 2007 on the land of an owner is—
  - (a) the amount determined in accordance with Table 1.2 or Table 3.2 in Schedule 1 (as applicable); or
  - (b) if that amount is more than 150% of the 2006 tax amount, 150% of the 2006 tax amount.
- (2) For the purposes of this clause—
  - (a) the **2006 tax amount**, in relation to land of an owner, means the amount determined by applying the rates of tax set out in Table 1.1 or Table 3.1 in Schedule 1 (as applicable) to the sum of—
    - (i) in respect of any land that was valued separately as at the relevant date (within the meaning of section 19) for the purpose of assessing land tax for 2006, the taxable value of that land determined for the purpose of assessing land tax for 2006; and
    - (ii) in respect of any land that was not valued separately as at the relevant date for the purpose of assessing land tax for 2006 but was rated separately as at the relevant date for the purpose of assessing land tax for 2007, the taxable value of that land determined for the purpose of assessing land tax for 2007; and

(iii) in respect of all other land, the taxable value of the land as assessed under this Act for 2006;

(b) if, for the 2006 tax year—

(i) the capping provisions in clause 5 applied to land of an owner; and

(ii) no tax was payable by the owner at the rates of tax set out in Table 3.1 in Schedule 1—

the **2006 tax amount** is the amount referred to in paragraph (a) as capped in accordance with clause 5;

(c) if, for the 2006 tax year—

(i) the capping provisions in clause 5 applied to land of an owner; and

(ii) tax was also payable by the owner at the rates of tax set out in Table 3.1 in Schedule 1—

the **2006 tax amount** is that part of the amount referred to in paragraph (a) as capped in accordance with clause 5 plus that part of the amount referred to in paragraph (a) determined by applying the rates of tax set out in Table 3.1 in Schedule 1;

(d) if the 2006 tax amount is zero, the amount of land tax payable for 2007 is the amount determined in accordance with Table 1.2 or Table 3.2 in Schedule 1 (as applicable).

## **6 Application of this Act and old Act**

(1) This Act applies to land tax for the 2006 tax year and each subsequent tax year.

(2) Despite its repeal, the old Act continues to apply to land tax for or in any tax year prior to 2006.

## **7 Saving of exemption in respect of decentralised industries**

- (1) This clause applies to any land or part of land that was exempt from land tax under the old Act immediately before the commencement day because it was leased or occupied under or in accordance with an arrangement made by the Victorian Development Corporation or by a municipal council to promote or assist a decentralised industry.
- (2) On and after the commencement day, the land or part of land is taken to be exempt land for as long as it continues to be leased or occupied under or in accordance with an arrangement made by the Victorian Development Corporation or by a municipal council to promote or assist a decentralised industry.

## **8 Trusts**

- (1) A notice given under section 52 of the old Act that was in force immediately before the commencement day continues in force on and after that day as if it were a notice given under section 46B of this Act.
- (2) A notice given under section 52A of the old Act that was in force immediately before the commencement day continues in force on and after that day as if it were a notice given under section 46C of this Act.
- (3) A nomination of a beneficiary under section 52D of the old Act that was in force immediately before the commencement day continues in force on and after that day as if it were a nomination of a beneficiary under section 46F of this Act.

Sch. 3 cl. 8  
inserted by  
No. 85/2005  
s. 31.

- (4) A nomination of a PPR beneficiary under section 52F of the old Act that was in force immediately before the commencement day continues in force on and after that day as if it were a nomination of a PPR beneficiary under section 46H of this Act.

Sch. 3 cl. 9  
inserted by  
No. 85/2005  
s. 31, expired  
by force of  
No. 88/2005  
s. 118(Sch. 3  
cl. 9(2)).

\* \* \* \* \*

Sch. 3 cl. 10  
inserted by  
No. 85/2005  
s. 31.

## 10 Continuation of Orders

- (1) An Order under section 9(1AD) of the old Act that was in force immediately before the commencement day continues in force on and after that day as if it were an order made under section 80(4) of this Act.
- (2) An Order under section 9(1B) of the old Act that was in force immediately before the commencement day continues in force on and after that day as if it were an order made under section 64(2) of this Act.
- (3) An Order under section 13P(1) of the old Act that was in force immediately before the commencement day continues in force on and after that day as if it were an order made under section 87(1) of this Act.

Sch. 3 cl. 11  
inserted by  
No. 22/2007  
s. 8.

## 11 State Taxation and Gambling Legislation Amendment (Budget Measures) Act 2007— special land tax

- (1) Section 30(4) applies to land that vests in an authority, or land of which an authority takes possession, on or after 1 May 2007.

- (2) A taxpayer is entitled to a refund of any special land tax paid on or after 1 May 2007 in respect of—
- (a) land to which section 30(4) applies;
  - (b) land referred to in paragraph (a) or (b) of section 30(1) as in force immediately before the repeal of that paragraph, that ceased to be exempt land on or after 1 May 2007.
- (3) In this clause, *authority* has the meaning given in section 30(5).

**12 State Taxation and Accident Compensation Acts Amendment Act 2007**

Sch. 3 cl. 12  
inserted by  
No. 68/2007  
s. 20.

- (1) Despite its repeal, paragraph (f) of the definition of *excluded trust* in section 3(1) continues to apply on and after the commencement of section 8(1) of the **State Taxation and Accident Compensation Acts Amendment Act 2007** in relation to a testator who died before that commencement.
- (2) Division 2A of Part 3, as amended by sections 10 and 16 of the **State Taxation and Accident Compensation Acts Amendment Act 2007**, applies to an administration trust if the person whose estate is subject to the trust died on or after the commencement of those sections.
- (3) Section 21 is deemed to have always been enacted as amended by section 9 of the **State Taxation and Accident Compensation Acts Amendment Act 2007**.
- (4) Sections 46B(3)(b), 46C(3)(b), 46F(5)(a)(ii), 46F(8)(b), 46H(4)(a)(ii) and 46H(6)(b) as substituted by the **State Taxation and Accident Compensation Acts Amendment Act 2007** apply and are taken always to have applied to nominations made on or after 1 January 2006.

- (5) A taxpayer is entitled to a refund of any land tax paid on or after 1 January 2006 that is not payable because of subsection (4).

Sch. 3 cl. 13  
inserted by  
No. 37/2009  
s. 14.

### 13 Enactments applying to old Act

Despite anything to the contrary, the following enactments, as in force immediately before the commencement day, continue to apply on and after that day in respect of any matter to which the old Act continues to apply on and after that day and are taken always to have so applied—

- (a) **Taxation Administration Act 1997** and regulations made under that Act;
- (b) **Taxation (Reciprocal Powers) Act 1987**;
- (c) **Victorian Civil and Administrative Tribunal Act 1998** and regulations and rules made under that Act.

Sch. 3 cl. 14  
inserted by  
No. 76/2012  
s. 18.

### 14 State Taxation and Other Acts Amendment Act 2012

- (1) Section 61, as in force immediately before the commencement day, continues to apply in relation to land tax paid in respect of the 2012 tax year.
- (2) Section 98, as amended by section 16 of the **State Taxation and Other Acts Amendment Act 2012**, applies on and after the commencement day irrespective of whether the lease or other arrangement under which the lessee or occupier occupies the land was entered into or made before, on or after that day.
- (3) In this clause—

*commencement day* means the day on which Part 2 of the **State Taxation and Other Acts Amendment Act 2012** comes into operation.

**15 Building a Better Victoria (State Tax and Other  
Legislation Amendment) Act 2014**

Sch. 3 cl. 15  
inserted by  
No. 40/2014  
s. 26.

- (1) Grandfathered land that was exempt under section 65 or 68 for the 2014 tax year does not cease to be exempt under either of those sections for the 2015 tax year or subsequent tax years only because it is no longer outside greater Melbourne.
- (2) Subclause (1) does not apply, or ceases to apply (as the case requires), if any of the following occurs after the relevant day—
  - (a) the land is subdivided;
  - (b) the land is disposed of;
  - (c) the owner of the land acquires other land that—
    - (i) is contiguous with the grandfathered land or separated from the grandfathered land only by a road, railway or other similar area across or around which movement is reasonably possible; and
    - (ii) is wholly or partly in greater Melbourne within the meaning of section 64(1) as amended by the amending Act or would be wholly or partly in greater Melbourne within the meaning of that section as amended by the amending Act if Division 3 of Part 4 of the amending Act had come into operation before the acquisition.
- (3) To avoid doubt, land is not disposed of or acquired for the purpose of subclause (2) if ownership of the land vests in a joint tenant on the death of another joint tenant of the land.

(4) In this clause—

*acquire* means acquire by way of settlement,  
grant, assignment, transfer or conveyance;

*amending Act* means the **Building a Better  
Victoria (State Tax and Other Legislation  
Amendment) Act 2014**;

*commencement day* means the day after the day  
on which the amending Act receives the  
Royal Assent;

*dispose of* means dispose of by way of settlement,  
grant, assignment, transfer or conveyance;

*grandfathered land* means land or part of land  
that, on the relevant day, was outside  
greater Melbourne within the meaning of  
section 64(1) as in force on that day but on  
and after the commencement day is in  
greater Melbourne within the meaning of  
section 64(1) as amended by the amending  
Act;

*relevant day* means the day on which the motion  
for the second reading of the Bill for the  
amending Act was moved in the Legislative  
Assembly.

Sch. 3 cl. 16  
inserted by  
No. 28/2017  
s. 67.

## 16 State Taxation Acts Amendment Act 2017

- (1) For the purposes of section 34C(1), for the 2018 tax year residential land referred to in section 34B(1) is taken to be not vacant for the period beginning on 1 January 2017 and ending on 30 April 2017.
- (2) Subclause (3) applies to land that, on 1 January 2018, is residential land referred to in section 34B(2) because a residence is being constructed or renovated on it.

Land Tax Act 2005  
No. 88 of 2005  
Schedule 3—Transitional provisions

---

- (3) For the purposes of section 34C(2), the construction or renovation of a residence on land is taken to have commenced on 31 December 2017 if a building permit for that construction or renovation was issued on or before 31 December 2017.
- 
-

## Endnotes

### 1 General information

See [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

*Minister's second reading speech—*

*Legislative Assembly: 8 September 2005*

*Legislative Council: 20 October 2005*

The long title for the Bill for this Act was "to re-enact and modernise the law relating to land tax, to repeal the **Land Tax Act 1958**, to amend the **Taxation Administration Act 1997** and other Acts and for other purposes."

The **Land Tax Act 2005** was assented to on 29 November 2005 and came into operation on 1 January 2006: section 2.

#### INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

##### Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

##### References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

##### Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

## 2 Table of Amendments

This publication incorporates amendments made to the **Land Tax Act 2005** by Acts and subordinate instruments.

---

### **Duties and Land Tax Acts (Amendment) Act 2005, No. 85/2005**

*Assent Date:* 29.11.05  
*Commencement Date:* Ss 22–31 on 1.1.06: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

### **Land Tax Act 2005, No. 88/2005**

*Assent Date:* 29.11.05  
*Commencement Date:* Sch. 3 cl. 9(2) inserted on 1.1.06 by No. 85/2005 s. 31: s. 2(3)  
*Note:* Sch. 3 cl. 9(2) provided that Sch. 3 cl. 9 expired on 31.12.07  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

### **Disability Act 2006, No. 23/2006**

*Assent Date:* 16.5.06  
*Commencement Date:* S. 245 on 1.7.07: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

### **State Taxation (Reductions and Concessions) Act 2006, No. 38/2006**

*Assent Date:* 20.6.06  
*Commencement Date:* Ss 8, 9 on 21.6.06: s. 2  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

### **Mineral Resources Development (Sustainable Development) Act 2006, No. 63/2006**

*Assent Date:* 29.8.06  
*Commencement Date:* S. 61(Sch. item 20) on 30.8.06: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

### **State Taxation Legislation (Miscellaneous Amendments) Act 2006, No. 84/2006**

*Assent Date:* 10.10.06  
*Commencement Date:* Ss 12, 13 on 1.7.06: s. 2(3); ss 8–11 on 11.10.06: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

### **Water (Governance) Act 2006, No. 85/2006**

*Assent Date:* 17.10.06  
*Commencement Date:* S. 173(Sch. 1 item 3) on 1.7.07: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

Land Tax Act 2005  
No. 88 of 2005  
Endnotes

---

**State Taxation and Gambling Legislation Amendment (Budget Measures)  
Act 2007, No. 22/2007**

*Assent Date:* 12.6.07  
*Commencement Date:* S. 6(1)(3) on 1.5.07: s. 2(2); ss 7, 8 on 13.6.07: s. 2(1);  
s. 6(2) on 1.1.08: s. 2(4)  
*Current State:* This information relates only to the provision/s  
amending the **Land Tax Act 2005**

**Payroll Tax Act 2007, No. 26/2007**

*Assent Date:* 26.6.07  
*Commencement Date:* S. 112 on 1.7.07: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Land Tax Act 2005**

**Statute Law Revision Act 2007, No. 28/2007**

*Assent Date:* 26.6.07  
*Commencement Date:* S. 3(Sch. item 37) on 27.6.07: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Land Tax Act 2005**

**State Taxation and Accident Compensation Acts Amendment Act 2007,  
No. 68/2007**

*Assent Date:* 11.12.07  
*Commencement Date:* Ss 8–20 on 12.12.07: s. 2  
*Current State:* This information relates only to the provision/s  
amending the **Land Tax Act 2005**

**Relationships Act 2008, No. 12/2008**

*Assent Date:* 15.4.08  
*Commencement Date:* S. 73(1)(Sch. 1 item 34) on 1.12.08: s. 2(2)  
*Current State:* This information relates only to the provision/s  
amending the **Land Tax Act 2005**

**State Taxation Acts Amendment Act 2008, No. 31/2008**

*Assent Date:* 17.6.08  
*Commencement Date:* Ss 17(1), 18, 19 on 18.6.08: s. 2(1); s. 17(2) on 1.1.09:  
s. 2(4)  
*Current State:* This information relates only to the provision/s  
amending the **Land Tax Act 2005**

**Public Health and Wellbeing Act 2008, No. 46/2008**

*Assent Date:* 2.9.08  
*Commencement Date:* S. 279 on 1.1.10: s. 2(2)  
*Current State:* This information relates only to the provision/s  
amending the **Land Tax Act 2005**

**Health Services Legislation Amendment Act 2008, No. 79/2008**

*Assent Date:* 11.12.08  
*Commencement Date:* S. 18 on 31.3.09: Government Gazette 19.2.09 p. 328  
*Current State:* This information relates only to the provision/s  
amending the **Land Tax Act 2005**

Land Tax Act 2005  
No. 88 of 2005  
Endnotes

---

**Relationships Amendment (Caring Relationships) Act 2009, No. 4/2009**

*Assent Date:* 10.2.09  
*Commencement Date:* S. 37(Sch. 1 item 16) on 1.12.09: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

**State Taxation Acts Amendment Act 2009, No. 37/2009**

*Assent Date:* 30.6.09  
*Commencement Date:* S. 14 on 1.1.06: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

**State Taxation Acts Further Amendment Act 2009, No. 83/2009**

*Assent Date:* 8.12.09  
*Commencement Date:* Ss 4, 5 on 1.1.06: s. 2(3); ss 6–14 on 9.12.09: s. 2(4)  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

**Valuation of Land Amendment Act 2009, No. 94/2009**

*Assent Date:* 15.12.09  
*Commencement Date:* S. 33 on 1.5.10: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

**State Taxation Acts Amendment Act 2010, No. 36/2010**

*Assent Date:* 15.6.10  
*Commencement Date:* S. 12 on 1.1.11: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

**Supported Residential Services (Private Proprietors) Act 2010, No. 49/2010**

*Assent Date:* 24.8.10  
*Commencement Date:* S. 230 on 1.7.12: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

**Victorian Urban Development Authority Amendment (Urban Renewal Authority Victoria) Act 2011, No. 35/2011**

*Assent Date:* 5.7.11  
*Commencement Date:* S. 19 on 25.10.11: Special Gazette (No. 342) 25.10.11 p. 1  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

**State Taxation Acts Further Amendment Act 2011, No. 69/2011**

*Assent Date:* 29.11.11  
*Commencement Date:* Ss 27–36 on 30.11.11: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

Land Tax Act 2005  
No. 88 of 2005  
Endnotes

---

**State Taxation and Other Acts Amendment Act 2012, No. 76/2012**

*Assent Date:* 4.12.12  
*Commencement Date:* Ss 3–18 on 5.12.12: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

**State Taxation and Financial Legislation Amendment Act 2013, No. 69/2013**

*Assent Date:* 19.11.13  
*Commencement Date:* Ss 14–16 on 20.11.13: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

**Mental Health Act 2014, No. 26/2014**

*Assent Date:* 8.4.14  
*Commencement Date:* S. 455(Sch. item 19) on 1.7.14: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

**Building a Better Victoria (State Tax and Other Legislation Amendment) Act 2014, No. 40/2014**

*Assent Date:* 17.6.14  
*Commencement Date:* S. 18 on 12.12.07: s. 2(2); ss 13–17, 19–26 on 18.6.14: s. 2(1); ss 27, 28 on 1.12.14: s. 2(6)  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

**State Taxation Acts Amendment Act 2015, No. 26/2015**

*Assent Date:* 29.6.15  
*Commencement Date:* Ss 25–38 on 30.6.15: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

**State Taxation and Other Acts Amendment Act 2016, No. 40/2016**

*Assent Date:* 28.6.16  
*Commencement Date:* Ss 18, 19, 21–30 on 29.6.16: s. 2(1); s. 20 on 1.1.17: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

**State Taxation Acts Further Amendment Act 2016, No. 66/2016**

*Assent Date:* 15.11.16  
*Commencement Date:* Ss 3–5 on 1.1.17: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

**Urban Renewal Authority Victoria Amendment (Development Victoria) Act 2017, No. 10/2017**

*Assent Date:* 27.3.17  
*Commencement Date:* S. 35 on 1.4.17: Special Gazette (No. 94) 27.3.17 p. 1  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

Land Tax Act 2005  
No. 88 of 2005  
Endnotes

---

**State Taxation Acts Amendment Act 2017, No. 28/2017**

*Assent Date:* 27.6.17  
*Commencement Date:* Ss 50–67 on 1.1.18: s. 2(4)  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

**State Taxation Acts Further Amendment Act 2017, No. 67/2017**

*Assent Date:* 19.12.17  
*Commencement Date:* Ss 10–25, 76, 77 on 20.12.17: s. 2(4)  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

**State Taxation Acts Amendment Act 2018, No. 22/2018**

*Assent Date:* 13.6.18  
*Commencement Date:* S. 25 on 1.1.18: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Land Tax Act 2005**

---

### **3 Amendments Not in Operation**

There are no amendments which were Not in Operation at the date of this publication.

**4 Explanatory details**

No entries at date of publication.