

SOUTH AUSTRALIA



STATE TAXATION OFFICE

Land Tax

Circular No. 161

LAND TAX (LAND HELD ON TRUST) AMENDMENT ACT 1997

The *Land Tax (Land Held On Trust) Amendment Act 1997* which was assented to on 24 December 1997, strengthens the aggregation provisions of the *Land Tax Act 1936* to counter a potential minimisation scheme.

The assessment of land tax for a financial year is calculated using the site value of land in force under the *Valuation of Land Act 1971* on the basis of the circumstances which existed as at midnight on 30 June immediately preceding the commencement of that financial year. A rate based on a sliding scale is applied to that value. The greater the value of the land, the greater the amount of land tax which is payable.

This principle of value extends to multiple parcels of land with the same ownership. In these cases, the value of all the parcels of land is aggregated. Again, the greater the value of all the land in aggregate, the greater the amount of land tax which is payable. Conversely, if the value of the land is reduced by avoiding the aggregation provisions, a lesser amount of land tax would be payable.

Until recently it had been accepted practice that a parcel of land was identified by the Certificate of Title for that land.

A tax minimisation scheme was discovered recently whereby a single parcel of land was held in legal ownership by a single entity. However, a number of trust documents relating to the land existed, and each of these specified that portions of the property were each held in trust for different sets of beneficiaries.

This effectively meant that the total value of the land could be split into the portions held in trust by the different sets of beneficiaries, thus “de-aggregating” the value and reducing the land tax payable. In turn, this could lead to the extended use of trusts to arbitrarily split land in order to minimise land tax.

This situation also posed significant administrative difficulties in establishing the value of land as at 30 June in any year, as the Valuer General would be required to value land for Land Tax purposes, where the boundaries were only defined on a sketched plan.

The amendment will allow the Commissioner to disregard the trusts in the abovementioned circumstances and treat all land comprising a Certificate of Title as one piece of land. In this way the current method of valuing land for land tax purposes will remain unchanged.

FURTHER ENQUIRIES?

Further enquiries should be directed to:-

Location

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COMMISSIONER OF STATE TAXATION