



SA Treasury has released the draft consultation bill on the proposed land tax 'aggregation' measures to apply from 1 July 2020.

## SA Land Tax 'Aggregation' Bill Summary

### Highlights

- Top marginal rate reduced from 3.7% to 2.4% immediately from 1 July 2020.
- Trusts subject to an additional 0.5% surcharge on property values up to \$1.1m.
- Election for trusts to nominate beneficiaries (including transitional election for discretionary trusts) to avoid the surcharge.
- Property held in related companies to be aggregated in calculating tax.
- Aggregation of direct interests and nominated indirect interests for other entities.
- Joint owners taxed at property level and owner level with 'credit' for tax paid at property level.
- Superannuation Funds excluded from trust surcharge.
- Biggest losers are:
  - people with multiple low value holdings (<\$450k) held in trusts<sup>1</sup>;
  - people with multiple direct holdings which are not currently aggregated; and
  - Company groups.
- Biggest winners are properties greater than ~\$1.6m held in unaggregated trust structures and unaggregated properties exceeding \$1.3m in other structures.

### What are the changes?

What are the new tax rates?

The land tax rate schedules will be amended as follows:

Threshold	General rate	Trust surcharge rate
\$ 25,000	Nil	Nil
\$ 450,000	Nil	0.50% <sup>2</sup> up to threshold
\$ 756,000 <sup>3</sup>	0.50% up to threshold	1.00% up to threshold
\$1,100,000 <sup>3</sup>	1.65% up to threshold	2.15% up to threshold
>\$1,100,000 <sup>3</sup>	2.40% over threshold	2.40% over threshold

<sup>1</sup> Where not able to nominate a lower rate individual to be the 'land tax' owner

<sup>2</sup> Plus 0.5% on initial \$25,000

<sup>3</sup> Estimated thresholds based on CPI estimates

## How do the rates apply to different arrangements?

The proposed changes will impact different property holdings in different ways:

This compares to the current rates:

Threshold	General rate
\$ 391,000 <sup>4</sup>	Nil
\$ 716,000	0.50% up to threshold
\$1,042,000	1.65% up to threshold
\$1,302,000	2.40% up to threshold
>\$1,302,000 <sup>5</sup>	3.70% over threshold

### Direct property holdings (more than one owner):

Land tax is applied to the property at general rates (per below). Land tax is also assessed to the owners in their ownership proportion. This is aggregated with other property holdings of the owner. A non-refundable credit is available for the share of land tax paid at the property level.

### Individual owner:

The individual owner will have their proportionate interests in properties aggregated and taxed at general rates. Interests held in trusts will only be aggregated where the trustee nominates the individual as a beneficiary. The individual will receive a non-refundable credit for taxes paid at property or trust level.

### Unit trust or Fixed Trust Holdings:

Land tax is applied to the property held by the trust (including the trust proportionate interest in other nominated property interests) at a rate which includes a 0.5% surcharge up to the top marginal rate (which remains at 2.4%).

The trustee can elect to nominate the beneficiaries of the trust. If this happens, the trust will not be subject to the surcharge. Each beneficiary will include their share of the property in their own aggregated land tax assessment. They will get a non-refundable credit for the tax paid by the trust.

### Discretionary Trust:

Land tax is applied to the property held by the trust (including proportionate interests in other property) at a rate which includes a 0.5% surcharge up to the top marginal rate (which remains at 2.4%).

The trustee can elect to nominate a beneficiary of the trust to be the land tax 'owner' of the trust. This nomination must be made before 30 June 2020 and only applies to property held at the time the bill goes into Parliament. This beneficiary will include their share of the transitional property in their own aggregated land tax assessment. They will get a non-refundable credit for the tax paid by the trustee.

<sup>4</sup> This was due to increase to \$450k from July 2020

<sup>5</sup> The top threshold was to increase to \$5m over which the 3.7% rate applied. There would have been a 2.9% rate for values up to \$5m.



**Companies:**

Property held in related companies will be aggregated together and land tax applied on the aggregated value.

Companies are generally related where there is a common greater than 50% shareholding between the companies.

Companies holding property as trustee will be taxed as trusts at the trust surcharge rate (or with nomination mechanism where available).

**Superannuation Funds:**

Superannuation Funds are excluded from the trust surcharge rules and taxed at normal rates and thresholds. Property held by the Fund will be aggregated with other Fund property.

Each Limited Recourse Borrowing Arrangement (LRBA) Trust will be treated as a separate excluded trust and taxed at a normal rate (with tax-free threshold).

**Other excluded trusts:**

Certain other trusts will be excluded from the trust surcharge arrangements. This includes:

- Deceased Estates in the first three years of administration;
- Public Unit Trust arrangements – listed trusts or greater than 50 members;
- Charitable Trusts; and
- Guardianship or disability trusts.

**Principal Place of Residence**

There are also changes to the way that the Principal Place of Residence exemption interacts with trust holdings.

## Examples

**Example 1: Multiple low value holdings**

Peppe holds 10 rental properties in 10 different discretionary trusts. Each property has a current site value of \$300,000 for a total property value of \$3m. The new aggregation measures will result in the following land tax:

Property Value	Current land tax bill	Proposed Land Tax Bill
\$300,000 per property	<u>Nil</u>	\$ 1,500 per trust
<b>Total value - \$3,000,000</b>	<b><u>Nil</u></b>	<b><u>\$15,000 Total</u></b>

Peppe instead holds each property in a separate company. The properties are related under the new measures.

Property Value	Current land tax bill	Proposed Land Tax Bill
\$300,000 per property	<u>Nil</u>	<u>Aggregated – N/A</u>
<b>Total value - \$3,000,000</b>	<b><u>Nil</u></b>	<b><u>\$52,806</u></b>

Therefore, Peppe pays an additional \$38k p.a. from holding the properties in companies rather than trusts.

*Continued*



**Example 2: Jointly held property in trust – effect of nomination**

Michael and James jointly own a \$1.1m commercial property in a unit trust. Michael already has an extensive property portfolio in his own name exceeding \$2m. James owns no other property. The land tax outcomes are as follows:

	No nomination – surcharge	With nomination – no surcharge
<b>Tax at trust level</b>	\$12,706	\$ 7,206
Tax for Michael	N/A	\$13,200
Credit for Michael	N/A	(\$3,603)
Tax for James	N/A	\$ 500
Credit for James	N/A	(\$ 500)
<b>Land tax liability</b>	<b>\$12,706</b>	<b>\$16,803</b>

**Example 3: Commercial properties held in discretionary trusts**

Becky holds two commercial properties in separate discretionary trusts. One has a site value of \$2m, the other \$3m. She does not have any individual beneficiaries she could nominate, so she pays the surcharge. The outcome under these rules compared to current rates is:

Property	Value	Current land tax rates <sup>6</sup>	Proposed land tax rates <sup>7</sup>	Saving from new measures
Property one	\$2,000,000	\$39,070	\$34,306	(\$4,764)
Property two	\$3,000,000	\$76,070	\$58,306	(\$17,774)
<b>Total</b>	<b>\$5,000,000</b>	<b>\$115,140</b>	<b>\$92,612</b>	<b>(\$22,538)</b>

**Disclaimer**

The comments in this summary are general in nature only and not intended as advice. You should seek your own advice in relation to your particular circumstances.

**What action should you take now?**

You should contact us to discuss the impact of the proposed changes on your group structure. We are familiar with the detail of the proposed rules and can assist you to look at opportunities to restructure your group holdings to mitigate the impact. We can also feedback your comments to Treasury as part of the consultation process.

Our experienced tax team would be more than happy to meet with you and your team to discuss this further.

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<sup>6</sup> This does not take into account existing proposed reductions from 1 July 2020.

<sup>7</sup> Estimated threshold increases



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