**Tax / Property** **October 2019**

# South Australian Land Tax: Amending Bill introduced into State Parliament

## The SA Land Tax "Battle" Enters its Next Phase

The SA Government introduced its controversial *Land Tax (Miscellaneous) Amendment Bill 2019* to State Parliament on Wednesday, 16 October 2019.

Although the Bill is in substantially the same form as the draft Bill circulated for public comment on 9 September 2019, it contains a number of important technical changes and, in addition, a significant new exemption from the "related corporations" rules.

The new exemption will potentially apply where a corporation can demonstrate to the Commissioner:

> *"that the land is being held solely for the purpose of being developed either as a residential development of more than 10 allotments or lots or as a commercial or industrial development".*

This appears to be a significant concession on the Government's part.

The Treasurer, the Hon. Rob Lucas MLC, also issued a media release on Tuesday (15 October 2019)*:*

> *"to correct some of the confusion, myths and falsehoods being perpetuated by [the Government's] opponents about its revised land tax reforms".*

In particular, the Treasurer has rebutted six "main myths" regarding the proposals and confirmed that:

1. a person's principal place of residence (PPR) remains exempt from land tax
2. a PPR will not be aggregated with any investment properties (e.g. holiday home)
3. SMSFs will be excluded from the changes to the aggregation rules; property held within an SMSF will not attract the trust surcharge; and property in an SMSF will not be grouped with property held outside the SMSF
4. a couple with properties in their separate names will not have their properties aggregated
5. different trusts will not be aggregated if they pay the surcharge
6. individuals will be able to hold land as a natural person, in trust and in companies, without the properties being aggregated into one single ownership.

As noted in our earlier Client Alert, the Bill proposes to lower substantially the top rate for land tax from 3.7% to 2.4%; but the Bill will also impose a 0.5% surcharge on land held by trusts and will aggregate land held by related companies. Those measures will potentially increase significantly the land tax payable by many property owners.

However, the Bill provides a mechanism by which the effect of the new trust rules can be avoided or reduced—by allowing the trustee to designate a specific individual beneficiary under the trust as the "owner", solely for land tax purposes. The designated beneficiary must be formally nominated by 30 June 2020.

We therefore recommend that land holders start reviewing their property holding structures to see whether they can take advantage of the designated beneficiary rules.

### Contact details

If you would like to discuss the proposed changes in greater detail, or would like us to review your property arrangements, please contact

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