Revenue | Rulings

STATE REVENUE OFFICE VICTORIA
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Principal Place of Residence Exemption – Land Held on Trust

Land Tax Act 2005
Revenue Ruling LTA 002

Preamble

The principal place of residence (PPR) exemption provided by section 54(1)(a) of the *Land Tax Act 2005* (the Act) applies to land owned by a natural person who uses and occupies the land as his/her principal place of residence. Section 54(1)(b) of the Act extends the PPR exemption to land owned by a trustee of certain types of trusts if its beneficiary, who is a natural person, uses and occupies the land as his/her principal place of residence.

However, the PPR exemption is not available to a liquidator, or a trustee of a discretionary trust or a unit trust scheme (section 52(1) of the Act). Further, section 3(1) of the Act excludes an implied or constructive trust from the definition of trust. Consequently, the PPR exemption is also not available to a trustee of an implied or constructive trust.

Section 46H of the Act allows trustees of either a discretionary trust or a unit trust scheme to nominate a PPR beneficiary. These nominations only have an effect on the calculation of land tax for the trust and will not result in the land being exempt from land tax in the hands of the trustee (section 46I of the Act). For further information in relation to the trust provisions, please refer to the Land Tax Trusts General Information brochure which is available on **www.sro.vic.gov.au**

The purpose of this Revenue Ruling is to provide some common scenarios where the PPR exemption could apply to land held on trust and to explain how a trustee could apply for the exemption.

Ruling

To qualify for the PPR exemption, the land must be owned by a trustee and be used and occupied as the PPR of a natural person/persons who is/are a beneficiary/beneficiaries of the trust. Generally the beneficiary/beneficiaries must use and occupy the land as their PPR for a period of at least 6 months commencing prior to 1 January of the year of assessment.

The PPR exemption may be applicable in the following trust situations:

- the land is held on trust for an incapacitated person/persons who is/are residing at the property
- the land is held by a trustee appointed under a will on trust for some or all of the beneficiaries who occupy the land as their PPR
- land under a will that is vested in a trustee on trust for a life tenant who occupies the land as their PPR, and
- land held by a trustee of a trust with defined beneficiary/beneficiaries (such as a bare trust) and the beneficiary/beneficiaries occupies the land as their PPR.

If a trust has more than one beneficiary, and not all the beneficiaries occupy the land as their PPR, the exemption is apportioned according to the proportionate interest held in the land by the beneficiary/beneficiaries occupying the land as a percentage of the total interests of all the beneficiaries.

Evidentiary requirements

To obtain a PPR exemption for land held on trust, the trustee must lodge a written application to the Commissioner of State Revenue providing a copy of the trust deed (including any schedules) and any amendments and alterations to the trust deed as well as details of:

i. the land held on trust
ii. all beneficiaries entitled to that land,
iii. all beneficiaries who use and occupy the land as their PPR, and
iv. evidence to prove that these beneficiaries are using the land as their PPR.

This Revenue Ruling covers land subject to land tax for the 2006 land tax period and onwards.

State Government Victoria

October 2007

Commissioner of State Revenue