



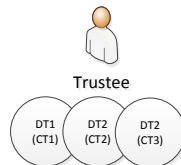
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Land Tax Grouping – Discretionary Trusts Under Attack!

On 25 February 2016, RevenueSA released Ruling LT004. The Ruling attacks single trustee/ multiple trust structures with land.

A very common property holding structure is one in which a single trustee holds different land titles for different family trusts (see diagram). In the past, provided notice of the trust arrangements was provided to the Commissioner, the trusts were not aggregated for land tax purposes.



This is no longer the case.

The Commissioner's new stance is that land will now be aggregated if (a) the beneficiaries under each trust are the same, and (b) the taxpayer is the trustee of each trust. Simple as that.

The Ruling indicates that RevenueSA will aggregate regardless whether the trusts were established at different times, whether the default beneficiaries are different or whether the distribution history is different.

The Ruling indicates these principles apply equally to fixed trusts, unit trusts, hybrid trusts and SMSFs (and any combination where the same trustee is used).

If you wish to rebut this treatment and apply for disaggregation, you must highlight for RevenueSA the differences in capital beneficiaries between trusts. In many of your client's circumstances, no such differences will exist.

The Ruling is wrong at law. In a single page, RevenueSA indicates it will ignore trust and legal personality law that has existed for 500 years.

You will have many clients that utilise this structure. They should be notified of the Ruling immediately and take advice/ restructure or risk aggregation and increased land tax exposure.

Call us if you need assistance to manage and resolve this issue with your clients.