

# Guideline

## Special Disability Trusts

### ***Duties Act 2001 and Land Tax Act 2000***

#### **Preamble**

A Special Disability Trust may be eligible for:

1. a **duty exemption** for the transfer of a dwelling to a Special Disability Trust; and
2. a **zero land-tax rate** for land held by a trustee of a special disability trust where the land is used as the principal residence of a beneficiary of the trust.

#### **Special Disability Trusts**

A Special Disability Trust is one established for the future care and accommodation needs of a person with a severe disability. To comply, the trust must meet the requirements set out under [section 1209L of the Social Security Act 1991](#) (Commonwealth) available at [austlii.edu.au](http://austlii.edu.au).

If the trust is accepted by Centrelink as a complying Special Disability Trust, then the State Revenue Office will also accept the trust as compliant. More information about complying [Special disability trusts](#) is available from [servicesaustralia.gov.au](http://servicesaustralia.gov.au).

#### **About the Duty exemption**

[Section 54 of the Duties Act 2001](#) exempts from duty a transfer of (or declaration of trust over) land to the trustee of a Special Disability Trust that contains a dwelling to be used as the principal residence\* of a beneficiary of that trust.

The exemption also applies to other dutiable goods (chattels) which transfer with the land, and that will be used in conjunction with the dwelling.

#### **To apply for the Duty exemption**

The following documents must be lodged with the State Revenue Office to receive the Special Disability Trust exemption:

- a) an executed Land Titles Office transfer instrument or an executed declaration of trust over the relevant property; and
- b) a copy of the Special Disability Trust deed; and
- c) an application (in the form of a statutory declaration) made by the trustee of the Special Disability Trust, declaring:
  - i) that the trust is a complying Special Disability Trust; and
  - ii) the name of the beneficiary of the Special Disability Trust; and
  - iii) that the beneficiary will use the dwelling as their principal place of residence.

Apply by using the [Special disability trust application](#) available at [sro.tas.gov.au/resources/forms](http://sro.tas.gov.au/resources/forms).

\*[Section 54\(c\) of the Duties Act](#) requires that the dwelling be the 'main' place of residence for the beneficiary of a special disability trust. The State Revenue Office will accept that the dwelling is the 'main' place of residence for the beneficiary if, for land tax purposes, the land on which the dwelling is situated will be classified as Principal Residence Land.

## Land tax classification

[Section 6 of the Land Tax Act 2000](#) provides that property held by the trustee of a Special Disability Trust is eligible to be classified as Principal Residence Land. To be eligible the land must have a dwelling which is occupied and used by the beneficiary of the Special Disability Trust as their principal residence at the commencement of the financial year.

As a guide, a principal residence would be the place at which the beneficiary would usually eat and sleep.

Land which is classified as Principal Residence Land has a zero rate of tax applied to it. This means that land tax is not payable on that land so long as it continues to be occupied by the beneficiary of the Special Disability Trust.

A Principal Residence Land tax classification will automatically be applied to land transferred to a complying Special Disability Trust after 7 December 2011, provided that the transfer to the trust was exempt from duty under [Section 54 of the Duties Act 2001](#).

A trustee for a Special Disability Trust that held land prior to 7 December 2011 (and which is the principal residence for the beneficiary of the trust), can apply to the State Revenue Office for the land to be re-classified as Principal Residence Land.

## Contacting the State Revenue Office

**Website**      [sro.tas.gov.au](http://sro.tas.gov.au)

**Email**        [dutyhelp@treasury.tas.gov.au](mailto:dutyhelp@treasury.tas.gov.au)

**Phone**        (03) 6166 4400 or 1800 001 388  
(weekdays, 9:00am to 5:00pm)

**Post**            Commissioner of State Revenue  
GPO Box 1374  
HOBART TAS 7001