

## LAND TAX HORROR FOR UNIT TRUSTS

Tax consultant, Richard Bobb says it is wrong for the *Commissioner of State Revenue* in NSW to assert, following a High Court decision late last year<sup>1</sup> that unit trusts should be assessed in New South Wales, from 2006, as “special trusts”.

*Special trusts* do not enjoy the zero sale threshold available to other classes of taxpayers.

“Special trusts” are a particular species referable to NSW land tax law. In essence, a *special trust*, a term defined in Section 3A of the *Land Tax Management Act, 1956* is a New South Wales land owing trust that is not a fixed trust. The term “fixed trust” is, in turn, defined in sub-section 3A(2) of the *Land Tax Management Act, 1956* if the equitable estate in all of the land, that is the subject of the trust, is owned by a person or persons who would be considered to be the owners for NSW land tax purposes.

*Richard A Bobb Chartered Accountants* will lobby the NSW State Treasurer to produce amending legislation, if the NSW Office of State Revenue is not prepared to review its administrative obligations in taxing unit trusts “special trusts”.

<sup>1</sup> The decision is sighted as *CPT Custodian Pty Ltd v Commissioner of State Revenue* (2005) HCA 53.