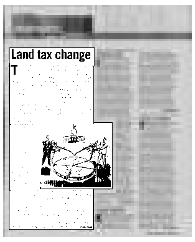

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Land tax change

Tax consultants are poring over the High Court's rulings in a judgement on a land tax case handed down in September last year, which they now believe will have ramifications outside the land tax arena. In CPT Custodian Pty Ltd v. Commissioner of State Revenue, the court considered the question of whether a holder of units in a unit trust is an "owner" of land for the purposes of the Land Tax Act. According to precedent, trust beneficiaries who have an absolute entitlement to trust property are treated as owners. Under this approach, trust beneficiaries would receive the same tax treatment as individuals.

The High Court ruled that where a deed provides unit-holders with an interest in the assets of a trust, it does not confer ownership interest in any particular asset of the trust. The result is that the unit-holder does not own the land held by the trust.

ALAN KING

The decision has already resulted in changes to land tax rules in Victoria and New South Wales, but tax advisers say it could have a wider effect (see HORROR STORY, page 20). Investors who hold investments in unit trusts have lost concessions available to individuals. The senior tax counsel at the Taxation Institute of Australia (TIA), Michael Dirkis, says unit-holders might also suffer less favourable income and capital gains tax treatment.

Dirkis says the decision might have an effect on the widely held unit trusts used by funds management companies. The TIA has commissioned a paper on the issue for its annual conference. The paper is being prepared by a lecturer in tax law at the University of Sydney, Karen Rooke. JOHN KAVANAGH