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[Disclaimer – The articles in this newsletter are information only and do not constitute legal, superannuation or financial advice]

PPR Land Tax Exemption for a person with a qualifying disability

As a general proposition, if you own a property in Victoria that you live in continuously as your principal place of residence (“PPR”), then you do not have to pay land tax. This is called the “Principal Place of Residence Exemption”.

Because information is supplied at the time you settle the purchase of the property in the form of a “Notice of Acquisition of an Interest in Land” (usually completed by your conveyancer), the PPR exemption from land tax is automatically applied by the State Revenue Office.

In 2023, an extension of the PPR land tax exemption was enacted to enable the owner of land to claim the PPR exemption in relation to providing a permanent home (rent free) to an immediate family member with a “qualifying disability”.

However, a landowner in these circumstances must apply to the State Revenue Office (“SRO”) for the qualifying disability PPR land tax exemption – it is not applied automatically.

To be eligible for this exemption, the landowner must satisfy 4 criteria.

- 1) The landowner must be an immediate family member of the person with the qualifying disability (ie, natural parent, adoptive parent, step-parent, legal guardian, grandparent or sibling).
- 2) The person with the qualifying disability must meet the occupancy requirements for residing in the previous tax year.
- 3) The person with the qualifying disability must reside at the land rent free; and
- 4) The person with the disability must have received a letter from Services Australia (Centrelink) that states that they meet the eligibility requirements for a Special Disability Trust (“SDT”).

In relation to requirement 4, please note:

- ❖ The land tax exemption can only apply in the land tax year following the approval date on the letter; and
- ❖ You do not need to establish the SDT to claim the land tax exemption. It is enough that disabled person’s eligibility for the SDT has been determined.

To apply for the qualifying disability PPR Exemption, the landowner needs to submit a written request to the SRO, setting out all of the details of the property, providing evidence that all of the 4 criteria listed above are met and expressly requesting that the exemption be applied. (It would be usual to attach a copy of the Services Australia SDT eligibility letter to this correspondence).

If you are successful, you will receive a letter from the SRO confirming that the land tax exemption is applicable. This is a very important document to carefully retain going forwards.

In some circumstances, if you have already paid the land tax for the relevant year, you may be able to receive a refund.

Here is a sample of what a qualifying disability PPR Land Tax Exemption issued by the SRO looks like:

Dear ...

[Name of Principal Beneficiary...] Special Disability Fund

Customer number

Principal place of residence exemption

Thank you for your correspondence dated, requesting a principal place of residence (PPR) exemption for the property at ...[address of property].

For land tax purposes, the ownership and use of properties is determined as at midnight 31 December of the year before the assessment year.

A PPR exemption has been granted, pursuant to section 55 of the Land Tax Act 2005 for the above property and will take effect for the 2027 land tax assessment year onwards.

This exemption is conditional on the use of the land remaining the same. If the use of the land changes, it is your responsibility to contact the State Revenue Office because the exemption may no longer apply.

If the information you have provided is later found to be incorrect, the exemption could be removed and land tax assessments issued.

Should you have any questions regarding the above, please contact me via email, Jaclyn.Prater@sro.vic.gov.au or call 03 9628 0195.

Regards,

State Revenue Office

sro.vic.gov.au/mylandtax

Can a person with a cognitive disability make a Will?

YES – a person with a cognitive disability can make a valid Will in Victoria if they have testamentary capacity at the time the Will is made.

A diagnosis of intellectual disability, dementia, acquired brain injury, or mental illness in some form does not of itself equate with incapacity to make a Will.

The legal test of competency to make a Will arises under the common law of England and is articulated in the UK case of *Banks v Goodfellow* (1870) LR 5 QB 549. This case has been adopted in Australia.

The following testamentary capacity criteria must be satisfied. The Will maker must be able to:

1. Understand that they are making a Will and its effect;
2. Understand (in general terms) the nature and extent of their property;
3. Be able to comprehend and evaluate the claims of people that might reasonably expect to receive provision, including close family members and dependents; and
4. Give instructions (to dispose of their property) free of any mental disorder or delusion that influences the terms of the Will

If a person with a cognitive disability can satisfy this criteria, they can make a valid Will.

Lawyers also frequently ask the Will maker to consent to a contemporaneous written assessment of capacity from an appropriately experienced treating doctor, geriatrician, psychiatrist or neuropsychologist. This is particularly relevant to meeting the fourth criteria above, but the assessment should address all criteria of the *Banks v Goodfellow* test.

This assessment should be conducted as close in time to the taking instructions and signing processes as possible. The assessment should also be requested in writing. A medical assessment of capacity is important evidence to retain in case the Will maker's Will is challenged after they die as being invalid for lack of testamentary capacity.

Once this medical assessment is made, it constitutes important evidence that bolsters and protects the integrity of the Will from any future legal challenge. Other steps that can be taken to protect the integrity of a Will include the lawyer's detailed attendance notes recording the questions asked, answers given, observations made and reasons for the proposed dispositions.

Additionally, the Will maker may be asked to consent to a video or audio recording being made of the taking instructions and Will signing appointments.

A Will maker also needs to be able to exercise their right to make a Will voluntarily, free from any inducements, undue influence or coercion. It is good practice for a lawyer to take instructions from a Will maker in the absence of any other person(s).

The person need not know the precise value of every asset. Nor does a weird, harsh or seemingly unfair distribution necessarily demonstrate incapacity. Testamentary freedom includes the freedom to make an unusual, unwise or unfair disposition.

A lawyer assisting a person with a cognitive disability to make a Will also needs to be satisfied that the Will maker has testamentary capacity at 2 critical times:

1. when the lawyer receives instructions from the Will maker; and
2. when the Will maker signs the Will.

This requires the lawyer to ask lots of questions of the Will maker, to check for understanding.

An enduring attorney, VCAT guardian, VCAT administrator, carer or family member cannot later independently make, alter or revoke a Will on the disabled person's behalf.

If you, or a family member of yours wants to make a Will and you consider that they have sufficient capacity to do so, we at Duncan.Legal would be happy to discuss the proposal further with the proposed Will maker. If we can assist, please do not hesitate to get in touch.

Special Olympics National Games 2026

October 19 - 23

Celebrating 50 years, Special Olympics' National Games for 2026 is underway here in Melbourne! At various locations around the city and suburbs, a variety of sports are in progress including Athletics, Swimming, Basketball, Tennis, Bocce, Ten Pin Bowling, Gymnastics and more!

For more information, locations and times of the various sports: [National Games 2026](#)



Arrival of our new Webinar offering:

VCAT Guardianship & Administration

Our VCAT Guardianship & Administration Webinar has landed on our website!
This **50 minute** informative webinar will run you through the following topics:

- Understanding Guardianship & Administration
- VCAT – who they are & the authority they hold
- VCAT Applications, Hearings, Deliberations & Orders
- Guardianship & Administration Roles, Duties & Breaches
Reporting Obligations & Duration of Orders

This webinar is specific to Victorian procedures. Following the Webinar, you can request a range of Guardianship & Administration resources, plus a copy of the presentation slides to help you with your application.

Price Increase for Webinar Recordings in 2027

Due to ongoing platform cost increases etc., the Duncan.Legal Webinar recordings will be increasing in price in early 2027.

Order you webinar(s) before January 10 to avoid the price rise!

The cost of all 4 webinars will be increasing from \$99 to \$125.

Duncan.Legal Webinar Recordings

‘Disability Estate Planning’ Webinar	\$99.00 (incl GST)
‘Special Disability Trusts’ Webinar	\$99.00 (incl GST)
‘Supported Decision Making’ Webinar	\$99.00 (incl GST)
*NEW! ‘VCAT Guardianship & Administration’ Webinar	\$99.00 (incl GST)

Live Webinars 2027

In 2027 Duncan.Legal will be again presenting our very popular free live webinars for disability organisations and special schools.

Held usually in the evenings with a start-time of 7pm, we invite you to host an evening packed with information on:

- **Disability Estate Planning** (approx. 1 hour plus question time); or
- **Special Disability Trusts** (approx. 45 mins plus question time); or
- **Supported Decision Making (Vic)** (approx. 45 mins plus question time); or
- **Guardianship & Administration Orders (Vic)**. (approx. 50 mins plus question time)

If your organisation or school would like to book a webinar for 2027, please get in touch to secure your preferred date.

Estate Planning Audit



Disability Estate Planning can be a complex and daunting undertaking for many families. To assist you to understand the complexities and to provide you with some options, Duncan.Legal offers all clients an Estate Planning (EP) Audit with the **first ½ hour of the first appointment free-of-charge**. This initial appointment can be held in person or via teleconferencing (Zoom).

At the end of the appointment, we can provide you with a written estimate of the cost to update your estate plans (Wills & Powers of Attorney etc). There is no obligation to proceed.

Take the first step in your Estate Planning or update your existing plans to better reflect your family's situation! To arrange your EP Audit, contact Lee on 9077 7731 or email leesmart@duncanlegal.com.au

Need more Information:

Scan this QR code to:



- **Request more information** on any topic in this newsletter
- **Ask to be placed on the newsletter mailing list**
- **Book an appointment** or
- **Request a call-back**

We will get back to you as soon as possible.



Holiday Closing Hours

The Duncan.Legal office will be closed from **Wednesday, 23rd December 2026**, and will be reopening on **Monday, 11th January 2027**.

We wish all our clients & friends a very safe and relaxing Christmas/New Year Break.



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