



## **Permanent Residents of Australia who are Non-Resident of Australia for Tax Purposes Purchasing Land/Dwelling in Western Australia**

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# Frequently Asked Questions

## Permanent Residents of Australia who are Non-Resident of Australia for Tax Purposes Purchasing Land/Dwelling in Western Australia

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# Frequently Asked Questions

## Permanent Residents of Australia who are Non-Resident of Australia for Tax Purposes Purchasing Land/Dwelling in Western Australia

### 1 Do I need FIRB approval to invest in land/dwelling in Western Australia if I am a non-resident for tax purposes?

- NO. As a Permanent Resident visa holder, you are exempt from the requirement to apply for and receive foreign investment approval before purchasing residential real estate in Australia regardless of residency status for tax purposes at the time of purchase.
- FIRB stands for Foreign Investment Review Board assessing applications from foreigners who would like to invest or buy a dwelling in Australia.

### 2 What reporting obligations do I have when purchasing new residential property?

- If you're purchasing a property, ensure you have a written notification advising whether or not you have a withholding obligation on the property. Refer to 2.1 & 2.2 below.
- Most purchasers are required to pay a withholding amount from the contract price at the date of settlement. This applies to:
  - new and used residential property;
  - land that could be used to build new residential property (potential residential land).
- There are two withholding amounts when purchasing residential property. These are as follows:

#### *2.1 Goods and Services Tax (GST)*

- The withholding amount is called GST at settlement payable directly to the Australian Taxation Office (ATO). This withholding amount can either be:
  - 1/11th of the contract price (for fully taxable supplies)
  - 7% of the contract price (for margin scheme supplies)
  - 10% of the GST-exclusive market value of the supply (for supplies between associates for
- Payment is due on the **day of settlement for standard land contract**, or the **day the first settlement is paid for an instalment contract**.
- GST is on new residential and not used property.

#### *2.2 Foreign Resident Capital Gains Withholding (FRCGW)*

- If the purchase price is AU\$750,000 or more, the purchaser will be required to withhold 12.5% and remit this amount to the ATO unless a clearance certificate is provided by the ATO.

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### 3 What other costs are to be paid when purchasing residential land/dwelling?

#### 3.1 *Stamp/transfer duty*

- Stamp duty is paid only on the land component.
- General rate applies to commercial property, rural property that is not also used as residential property and vacant land which doesn't qualify for residential rate.
- Residential rate applies to places of residence, rental dwellings and land on which a residence is constructed within five years from the date the liability to duty arose.
- Below is the residential rate dutiable value and thresholds:

Dutiable Value (AUD)	Residential rate of duty (AUD)
\$0 - \$120,000	\$1.90 per \$100 or part thereof
\$121,001 - \$150,000	\$2,280 + \$2.85 per \$100 or part thereof above \$120,000
\$150,001 - \$360,000	\$3,135 + \$3.80 per \$100 or part thereof above \$150,000
\$360,001 - \$725,000	\$11,115 + \$4.75 per \$100 or part thereof above \$360,000
\$725,001 +	\$28,453 + \$5.15 per \$100 or part thereof above \$725,000

- Sample calculation
  - if the purchase price on the land is AU\$1m:
  - Stamp duty payable = [(AU\$1,000,000 - AU\$725,000) x 0.0515 + AU\$28,453]
  - = AU\$14,162.50 + AU\$28,453
  - Total payable = AU\$42,615.50
- Documents for stamp duty are to be lodged within 2 months of contract date.
- Stamp duty is payable within the later of:
  - 1 month after a duties assessment notice is issued;
  - 12 months of the date a transaction is entered into;
  - 3 years of the date of a transaction if it is a subdivision or issue of title agreement.

#### 3.2 *Off-the-plan stamp duty rebate*

- The off-the-plan duty rebate is available to owner-occupiers and investors who enter into a pre-construction contract between 23 October 2019 and 23 October 2021 (inclusive) to purchase a new residential unit or apartment. The rebate applies to transfer duty paid on the agreement.
- The rebate amount is 75 per cent of the duty paid, capped at a maximum of AU\$50,000 for the pre-construction contract and AU\$25,000 for a contract under which construction has already commenced.

#### 3.3 *Settlement Agents fees*

- When purchasing a property you require a Settlement Agent to complete the transaction.
- Settlement agents set their own fees which must be disclosed to the client in writing prior to entering into any agreement.
- Costs can vary between AU\$1,500 - AU\$5,000 as an estimate.

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### 3.4 Land tax

- Land tax is an annual tax which applies to all properties in Western Australia. There are tax-free thresholds and exemptions which exclude a number of properties from land tax.
- Tax is calculated on the unimproved value of the land which is determined by the Valuer-General.
- If you own multiple land holdings, land tax is calculated on the aggregated taxable value of all land held in the same ownership (excluding exempt land) at midnight on 30 June.
- Land tax rates as below for Financial Year 2021-2022:

Aggregated taxable value of land (AUD)	Rate of land tax (AUD)
\$0 - \$300,000	NIL
\$300,001 - \$420,000	Flat rate of \$300
\$420,000 - \$1,000,000	\$300 + 0.25 cent for each \$1 in excess of \$420,000
\$1,000,000 - \$1,800,000	\$1,750 + 0.90 cent for each \$1 in excess of \$1,000,000
\$1,800,000 - \$5,000,000	\$8,950 + 1.80 cents for each \$1 in excess of \$1,800,000
\$5,000,000 - \$11,000,000	\$66,550 + 2.00 cents for each \$1 in excess of \$5,000,000
\$11,000,000 +	\$186,550 + 2.67 cents for each \$1 in excess of \$11,000,000

- Sample calculation
  - if the aggregated taxable value on the land is AU\$1.5m
  - Land tax payable = (AU\$1,500,000 - AU\$1,000,000) x 0.0090 + AU\$1,750
  - = AU\$4,500 + AU\$1,750
  - Total payable = AU\$6,250
- There is no land tax if you are using the dwelling as your sole and principal residence provided it is under your personal name.

### 3.5 Council rates

- The rates paid on residential property are calculated based on the operating requirements of the Local Government.
- The rates you pay are a proportionate share of what is needed by the Local Government to provide local services and facilities.
- Calculated based on Gross Rental Value (GRV) multiplied by "rate in the dollar" determined by the council.
- Can be paid in 4 instalments.
- Sample calculation
  - if the property has a GRV of AU\$23,400 per annum and "rate in the dollar" of AU\$0.07:
  - = AU\$23,400 x AU\$0.07
  - Total payable = AU\$1,638
  - (+ any other council levies and charges)

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### 3.6 Water rates

- Service charges include three charges for the service of water, sewerage and drainage which are charged annually.
- The water service charge is **AU\$268.98 for the 2021-22 financial year** and is uniform throughout the State.
- Sewerage charges are based on the property's Gross Rental Value (GRV) multiplied by a rate in the dollar.
- The minimum annual charge for sewerage is **AU\$446.78 for the 2021-22 financial year** for properties with a low GRV.
- Residential drainage charges are based on the property's gross rental value (GRV). Only properties in declared drainage catchments are charged for drainage.
- The minimum annual charge for drainage is **AU\$125.96 for the 2021-22 financial year**.
- Invoices are received every 2 months.

## 4 Is income tax payable on rental income?

### 4.1 *Income tax on individual*

- Yes. Income tax is calculated on your Taxable Income, worked out as gross rental income less all tax deductible expenses.
- Permanent Residents who are non-resident for tax purposes are taxed using the Foreign Tax Rates.
- Some immediately tax deductible expenses on rental property include:
  - advertising
  - bank charges
  - cleaning, gardening and mowing
  - council rates, water rates, land tax
  - body corporate fees and charges
  - insurance
  - interest on loans to purchase property
  - pest control
  - property agent's fees
  - repairs and maintenance
  - depreciation on furnitures and fittings
  - special building write-off (2.5% per annum)

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- If the property is purchased in personal name, the income tax rates (2021-22) are as follows:

Foreign Resident tax rates (AUD)	Tax on this income (AUD)
\$0 - \$120,000	32.5 cents for each \$1
\$120,001 - \$180,000	\$39,000 + 37 cents for each \$1 over \$120,000
\$180,001 and over	\$61,200 + 45 cent for each \$1 in excess of \$180,000

- Sample calculation - if taxable income is AU\$20,000  

$$\text{Income Tax Payable} = \text{AU\$20,000} \times 0.325$$

$$\text{Total payable} = \text{AU\$6,500}$$
- If the tax deductible expenses exceed the rental income, the net loss can be offset against other income or capital gain in the same year. Any remaining net loss is carried forward indefinitely until it is offset against other future income or capital gain.

### 4.2 *Income tax on Company*

- If the property is purchased under a company's name, the company income tax rate is 30%.
- The after-tax profit in a company that is declared as a fully franked dividend (from which the company has paid income tax) to a foreign shareholder will not attract any further tax in Australia.
- Unfranked dividends will attract 30% withholding tax.
- In a company, if the interest paid (subject to 10% withholding tax for payments to overseas loan), bank charges and borrowing costs in any year is greater than AU\$2m (locally and overseas) the Thin Capitalisation Rules will apply, which may reduce the tax deductible amount of interest paid, bank charges and borrowing costs.
- The company is required to lodge an Income Tax Return each financial year ending 30 June and prepare annual financial statements.

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### **5 Is Goods and Services Tax (GST) payable?**

- NO GST will apply for Residential rental income.

### **6 Is Capital Gains Tax (CGT) payable on disposal of an Australian property?**

- Yes. Capital gains tax will apply if the property is intended to be held long term and rented out.
- The capital gains is the difference between the net sale price (gross sales less sales costs) and the original cost (including acquisition costs).
- The CGT arises in the financial year the contract date is accepted by the vendor.
- If the property is owned by a company, a 30% tax rate will apply.
- If the property is owned by an individual, the foreign tax rates will apply.

### **7 What records do I need to keep in acquiring Australian Property?**

- All records from the contract of purchase, contract of sale, settlement statement for 5 years from the time of sale.
- All records on rental income and expenses to be kept for 5 years from when you lodged the income tax return.