

STATE TAXES – AUSTRALIA

Foreign Purchaser Stamp Duty & Absentee Owner Surcharges Summary

1 OCTOBER 2021

Table 1: Transfer duty – foreign purchaser residential land stamp duty surcharges¹

STATE	SURCHARGE RATE	“RESIDENTIAL LAND”	FOREIGN CORPORATIONS ²	FOREIGN (NON-DISCRETIONARY) TRUSTS ³	SPECIAL RULES AND CLAWBACK PROVISIONS ⁴
ACT	N/A	N/A	N/A	N/A	N/A
NT	N/A	N/A	N/A	N/A	N/A
NSW	8%	<ul style="list-style-type: none"> • One or more “dwellings” • Substantially vacant land zoned residential • Not primary production land 	<ul style="list-style-type: none"> • Applies FIRB definition • “Substantial interest” of 20% or 40% for two or more foreigners 	<ul style="list-style-type: none"> • “Substantial interest” of 20% of the income or property of the trust or 40% for two or more foreigners 	<ul style="list-style-type: none"> • No off the plan concession available • For landholder duty, no value threshold • Exemptions may apply (eg for foreign controlled property developer)
QLD	7%	<ul style="list-style-type: none"> • Land that is, or will be, solely or primarily used for residential purposes • Land on which residential development is being, or will be, undertaken does not apply to certain types of commercial residential premises 	<ul style="list-style-type: none"> • Corporation not incorporated in Australia; or • One or more persons or related persons of foreign persons have 50% or more foreign control (votes, potential votes and shares) 	<ul style="list-style-type: none"> • 50% or more of the trust interests in the trust are foreign interests • Foreign interests aggregated 	<ul style="list-style-type: none"> • Three year reassessment provision if acquirer becomes foreign controlled • Exemptions may apply (eg significant development)
SA	7%	<ul style="list-style-type: none"> • Land used predominantly for residential purposes • Land not used for any particular purpose but which should be taken to be used for residential purposes due to improvements that are residential in character • Vacant land zoned for residential use 	<ul style="list-style-type: none"> • Corporation not incorporated in Australia; or • 50% or more shares or voting rights held by foreign person(s) 	<ul style="list-style-type: none"> • 50% or more of capital of the trust property held by one or more foreign persons 	<ul style="list-style-type: none"> • Exemptions may apply (eg ex gratia relief for significant development of new residential homes) • One year reassessment provision if acquirer ceases to be a foreign person • Three year reassessment provision if acquirer becomes a foreign person

STATE	SURCHARGE RATE	“RESIDENTIAL LAND”	FOREIGN CORPORATIONS ²	FOREIGN (NON-DISCRETIONARY) TRUSTS ³	SPECIAL RULES AND CLAWBACK PROVISIONS ⁴
TAS	Residential: 8% Primary production: 1.5%	<ul style="list-style-type: none"> • Residential property: <ul style="list-style-type: none"> – Land used solely or dominantly for residential purposes – Land that is vacant and will be used solely or primarily for residential purposes – Land that includes a building intended to be refurbished and used solely or primarily for residential purposes – Land on which persons intend to construct a building to be used solely or primarily for residential purposes – Land development for the purposes of constructing a building used solely or primarily for residential purposes • Primary production⁵: <ul style="list-style-type: none"> – Land used solely or dominantly for primary production purposes 	<ul style="list-style-type: none"> • Corporation not incorporated in Australia; or • Corporation where foreign persons have a significant interest (ie 50% or more shares or voting rights or potential voting rights held by foreign persons (in aggregate)) 	<ul style="list-style-type: none"> • 50% or more beneficial interest in trust estate by one or more foreign persons (taking their interests in aggregate) 	<ul style="list-style-type: none"> • Three year reassessment provision if acquirer becomes a foreign person
VIC	8%	<ul style="list-style-type: none"> • Land capable of being used solely or primarily for residential purposes • Land on which person intends to construct residential premises • Not commercial residential premises (GST definition), a residential care facility, a supported residential service or a retirement village (as defined) 	<ul style="list-style-type: none"> • Corporation not incorporated in Australia; or • More than 50% foreign control (votes, potential shares and shares) • Foreign interests aggregated 	<ul style="list-style-type: none"> • More than 50% of the capital of the estate of the trust (substantial interest by foreign person(s)) • Foreign interests aggregated 	<ul style="list-style-type: none"> • Foreign owners are required to notify change in intention (ie a foreign purchaser must advise in writing, within 14 days of forming the intention to convert property into residential property) • Exemptions may apply⁶

STATE	SURCHARGE RATE	“RESIDENTIAL LAND”	FOREIGN CORPORATIONS ²	FOREIGN (NON-DISCRETIONARY) TRUSTS ³	SPECIAL RULES AND CLAWBACK PROVISIONS ⁴
WA	7%	<ul style="list-style-type: none"> Land capable of being, or intended to be, used solely or dominantly for residential purposes Land that is vacant or substantially vacant and zoned solely for residential purposes Any estate or interest in land as described above Not land intended for aged care, commercial residential premises (GST definition) or a retirement village 	<ul style="list-style-type: none"> Corporation not incorporated in Australia; or Corporation where foreign persons have a controlling interest (ie 50% or more shares or voting rights or potential voting power held by foreign person(s) or their associates) 	<ul style="list-style-type: none"> One or more foreign persons, with associates, hold beneficial interests in at least 50% of the income or property of the trust 	<ul style="list-style-type: none"> Exemptions may apply (eg for residential developers)

1 The surcharge applies to any dutiable transaction where a foreign purchaser acquires land, and is in addition to the normal transfer duty rate. The surcharge also applies for relevant acquisitions by foreigners in landholders for landholder duty purposes. In NSW, a refund of foreign purchaser surcharge duty is available for eligible build-to-rent developments upon application and subject to conditions. In VIC, the Treasurer may provide an exemption to a foreign corporation or foreign trust, subject to certain criteria being satisfied. In QLD, ex-gratia relief may be available for certain foreign corporations or foreign trusts.

2 Different rules apply for corporations, trusts and individuals.

3 Special rules apply to discretionary trusts.

4 Exemptions may be available for property developers, builders or operating businesses.

5 Only applies to TAS.

6 For example, if a foreign purchaser buys a principal place of residence jointly with a spouse or partner who is an Australian citizen, permanent resident or New Zealand citizen who holds a special category visa.

Table 2: Land tax and absentee owner land tax surcharge rates¹

STATE	GENERAL LAND TAX RATE ²	SURCHARGE LAND TAX RATE	FOREIGN CORPORATIONS ³	FOREIGN (NON-DISCRETIONARY) TRUSTS	LIABILITY DATE
ACT	Fixed charge of \$1,392 plus valuation charge up to 1.14% on five year average of unimproved value of the residential land	0.75% on the average unimproved value of all residential land owned by foreign persons	<ul style="list-style-type: none"> • Corporation not incorporated in Australia; or • One or more foreign persons or associated persons of foreign persons have 50% or more control (maximum votes and shares) 	<ul style="list-style-type: none"> • 50% or more of the capital of the trust estate is held by one or more foreign beneficiaries and their associates 	Midnight on 1 July, 1 October, 1 January and 1 April in each year
NSW^{4,5}	Land value of \$4,616,000 or more: 2%	2% on all residential land owned by foreign persons	<ul style="list-style-type: none"> • Applies FIRB definition • “Substantial interest” of 20% or 40% for two or more foreigners 	<ul style="list-style-type: none"> • Applies FIRB definition • “Substantial interest” of 20% of the income or property of the trust or 40% for two or more foreigners 	Midnight on 31 December each year
NT⁶	N/A	N/A	N/A	N/A	N/A
QLD	For companies, trustees or absentees with freehold land of \$10m or more: \$187,500 plus 2.75%	2% on all freehold land of \$350,000 or more owned by foreign persons	<ul style="list-style-type: none"> • Corporation not incorporated in Australia; or • One or more foreign persons or associated persons of foreign persons have 50% or more control (maximum votes and shares) 	<ul style="list-style-type: none"> • 50% or more of the trust interests in the trust are foreign interests 	Midnight on 30 June each year
SA	Land value over \$1,350,000: \$10,340 plus 2.4% ⁷	N/A	N/A	N/A	Midnight on 30 June each year
TAS⁸	Land value of \$350,000 or more: \$1,837.50 plus 1.5%	N/A	N/A	N/A	Midnight on 1 July each year

STATE	GENERAL LAND TAX RATE ²	SURCHARGE LAND TAX RATE	FOREIGN CORPORATIONS ³	FOREIGN (NON-DISCRETIONARY) TRUSTS	LIABILITY DATE
VIC⁹	Land value of \$3m or more: \$24,975 plus 2.25%	2% on all land owned by absentee owners 1% on all residential land in Melbourne's middle and inner suburbs left vacant for six months or more	• Corporation not incorporated in Australia; or • One or more foreign persons can control the composition of the board, or have more than 50% control (maximum votes and shares)	• At least one foreign person has a beneficial interest in land under the trust, or is a unitholder in a unit trust	Midnight on 31 December each year
WA	Land value over \$11m: \$186,550 plus 2.67%	N/A ¹⁰	N/A	N/A	N/A

1 Tailored relief measures have been announced by a number of Australian States and the ACT, as part of the various State and Territory responses to the impact of COVID-19.

2 Rates shown are generally the highest marginal rates which apply.

3 Different rules apply for corporations, trusts and individuals.

4 As part of the NSW State Budget 2020-2021, the NSW Treasurer announced the Government is embarking on a public consultation process in relation to the reform of property taxes in NSW – specifically, replacing stamp duty and land tax with an annual property tax on an opt in basis. At the moment, this is a policy proposal only – there is no legislation available or confirmed commencement date. Since the announcement, a property tax proposal Progress Paper 'Making Home Ownership More Achievable in NSW' (NSW Treasury, June 2021) has been issued by the NSW Government. Feedback on the paper closed on 30 July 2021.

5 Eligible build-to-rent projects may be entitled to a 50% reduction in the land value and exemption from the surcharge rate until 2040 upon application and subject to conditions.

6 While the NT does not currently impose a land tax, from 1 July 2019, the NT introduced a property activation levy on vacant and unoccupied properties in the Darwin CBD. Payment of this levy is first required in 2020-21 and is estimated to raise up to \$2m per annum.

7 The *Statutes Amendment (Budget Measures 2021) Bill 2021* (SA) has been introduced to Parliament. The Bill will establish a 50% reduction in the taxable value of land when assessing land tax. The reduction will be available for the 2022-23 financial year for eligible new build-to-rent projects, where construction commences on or after 1 July 2021. The land tax reduction will be available up to, and including, the 2039-40 financial year. Additionally, transitional land tax relief has been increased from 30% to 70% of the relevant increase for the 2021-22 financial year for eligible taxpayers. If the land is owned by a trust, land tax charged for the 2021-22 year is \$16,866 plus 2.4% on the taxable value of the land which exceeds \$1,350,000.

8 In the 2021-22 Tasmanian Budget, it was announced that a Foreign Investor Land Tax Surcharge will be introduced for residential properties, commencing next year. Further details on the exact start date and the surcharge rate are still to be released although in the 2019/ 2020 Budget such a surcharge was contemplated with a headline rate of 2% starting sometime in 2022.

9 In the *State Taxation and Mental Health Acts Amendment Act 2021*, which received Royal Assent on 16 June 2021, it was announced that from 1 January 2022 land tax rates will rise by 0.25% for taxable landholdings valued between \$1.8m and \$3m (to 1.55%) and by 0.30% for taxable landholdings exceeding \$3m (to 2.55%). Additionally, from 1 January 2022 the general land tax threshold will increase from \$250,000 to \$300,000 (with the land tax threshold for land held on trust remaining unchanged at \$25,000).

10 A metropolitan region improvement tax rate of 0.14% applies to property located in the metropolitan area.

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