

The foreign owner land tax surcharge increases the ongoing costs of owning property in Victoria, NSW, Queensland and Tasmania. However, Victoria & Queensland provide an exemption for Australian-based foreign owners who make significant contributions to the Victorian or Queensland economies.

| Victoria | New South Wales | Queensland | Australian Capital Territory | Tasmania |
|--|--|--|------------------------------|----------|
| Land tax surcharge | | | | |
| 4% where the value of the land is over \$50,000. | 4% until 31 December 2024. 5% surcharge applies from 1 January 2025 onwards. The 5% land tax surcharge rate is subject to passing NSW Parliament. | 2% until 30 June 2024 3% surcharge applies to Absentee individuals, foreign corporations & foreign trusts for the value of the property over \$350,000. The 3% land tax surcharge rate is subject to passing QLD Parliament, & will apply from 1 July 2024 onwards. | 0.75% | 2% |

What does the surcharge rate apply to?

| All land | Residential land | All land | Residential land | General land |
|----------|---|----------|---|---|
| | This broadly encompasses dwellings or land that is to be used for residential purposes. | | This broadly encompasses dwellings or land that is to be used for residential purposes. | This broadly encompasses dwellings or land that is to be used for residential purposes, and includes commercial or industrial land being converted into a residence from 1 July 2022. |

Does the surcharge apply to indirect ownership?

| | | | | |
|-----|-----|-----|-----|-----|
| Yes | Yes | Yes | Yes | Yes |
|-----|-----|-----|-----|-----|

Is foreign owner surcharge only on proportion of the entity owned by foreign person/purchaser?

| | | | | |
|---|--|--|---|--|
| Discretionary Trust/Company No, the surcharge applies to the full value of the land. | Discretionary Trust/Company No, the surcharge applies to the full value of the land. | No, the surcharge applies to the full value of the land. | Yes, the surcharge applies only to the ownership percentage held by foreign owners. | Yes, the surcharge applies only to the ownership percentage held by foreign owners. Note that both foreign owners and non-foreign owners of a property will both be jointly and severally liable for the surcharge. |
| Fixed Trust/Unit Trust Yes, the surcharge applies only to the ownership percentage held by absentee owners. | Fixed Trust/Unit Trust Yes, the surcharge applies only to the ownership percentage held by foreign owners. | | | |

Get in touch

For more information get in touch with our SW tax experts.

We can assist foreign owners apply to the Commissioner for this exemption to avoid this ongoing cost.



Stephen O'Flynn
Director, Tax

soflynn@sw-au.com



Abi Chellapen
Director, Tax

E achellapen@sw-au.com

Who does the Foreign land tax surcharge apply?

| Victoria | New South Wales | Queensland | ACT | Tasmania |
|---|---|--|---|---|
| <p>Absentee owner which is defined as follows:</p> <p>Absentee individual</p> <p>Is not an Australian Citizen or permanent resident.</p> <p>Does not ordinarily reside in Australia; & was absent from Australia:</p> <ul style="list-style-type: none"> on 31 December of the year prior to the tax year or for < 6 months in total in the calendar year prior to the tax year. | <p>Foreign Person which is defined as follows:</p> <p>Foreign Person</p> <p>A person is a foreign person, unless:</p> <ul style="list-style-type: none"> you are an Australian citizen or you have lived in Australia for 200 days+ in the 12 months prior to the taxing date of 31 December, & you are either: <ul style="list-style-type: none"> a permanent resident of Australia, or a New Zealand Citizen, who holds a subclass 444 visa. <p>Individuals holding retirement visas (subclass 410 & 405) will be exempt for land tax surcharge for their principal place of residence.</p> | <p>Absentee which is defined as follows:</p> <p>Absentee Individuals</p> <p>Individuals who do not ordinarily reside in Australia & was absent from Australia at 30 June or has been absent for more than half of the 12 month period ending at 30 June.</p> <p>Australian citizens & Australian permanent visa holders living, working or travelling are exempt.</p> | <p>Foreign Person which is defined as follows:</p> <p>Foreign Individual</p> <ul style="list-style-type: none"> Individuals that are not Australian citizens or permanent residents of Australia Individuals that do not ordinarily reside in Australia, and Individuals that are not New Zealand citizens with a special category visa (Subclass 444). | <p>Foreign Person which is defined as follows:</p> <p>Foreign Natural Person</p> <p>A person is a foreign natural person, unless:</p> <ul style="list-style-type: none"> you are an Australian citizen you are a permanent resident of Australia A New Zealand Citizen, who holds a subclass 444 visa |
| <p>Absentee corporation</p> <p>Incorporated outside of Australia, or In which an absentee person has or absentee persons acting together have a controlling interest:</p> <ul style="list-style-type: none"> greater than 50% of the voting power in the corporations, or greater than 50% of the issued shares in the corporation, or the ability to control the composition of the Board. | <p>Foreign Corporation</p> <p>A corporation in which an interest of 20% or more is owned by a foreign individual, corporation or government.</p> <p>A corporation in which 2 or more foreign individuals, corporations or governments own an interest of 40% or more.</p> | <p>Foreign Corporation</p> <p>Incorporated outside of Australia, or In which a foreign person(s) has a controlling interest:</p> <ul style="list-style-type: none"> greater than 50% of the voting power in the corporations, or ability to control 50% of the voting power in the corporation, or have an interest in greater than 50% of the issued shares in the corporation. | <p>Foreign Corporation</p> <p>Incorporated outside of Australia, or In which a foreign person(s) has a controlling interest:</p> <ul style="list-style-type: none"> greater than 50% of the voting power in the corporation, or hold greater than 50% of the shares in the corporation. <p>A foreign government is classified as a corporation.</p> | <p>Foreign Corporation</p> <p>A company is a foreign corporation if it is:</p> <ul style="list-style-type: none"> incorporated outside of Australia, or A corporation in which foreign persons have a significant interest (being 50% or more in the shareholding or voting power). |

Who does the Foreign land tax surcharge apply?

| Victoria | New South Wales | Queensland | ACT | Tasmania |
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| <p>Absentee Trust</p> <p>A fixed or unit trust which has at least one beneficiary who is an absentee person.</p> <p>A discretionary trust with at least one specified beneficiary who is an absentee person</p> | <p>Foreign Trust</p> <p>A trustee of a trust in which an interest of 20% or more is held by a foreign individual, corporation or government.</p> <p>A trustee of a trust in which 2 or more foreign individuals, corporations or governments hold an interest of 40% or more.</p> <p>A discretionary trust will be a foreign trust where a:</p> <ul style="list-style-type: none"> foreign person is a potential beneficiary of the trust or the deed could be amended to include a foreign person as a potential beneficiary. <p>Note: Need to include associated persons in determining the above threshold.</p> | <p>Foreign Trust</p> <p>A trust where at least 50% of the trust interest in the trust are foreign interest.</p> <p>A foreign interest is a trust interest of:</p> <ul style="list-style-type: none"> foreign person (not an Australian citizen or permanent resident) foreign corporation foreign trust. <p>A beneficiary of a discretionary trust will have an interest in the trust equal to the amount that the beneficiary would receive in default of appointment of income by the trustee.</p> | <p>Foreign Trust</p> <p>A trust which has at least one beneficiary who is a foreign person or a person associated with a foreign person holds a controlling interest, i.e. at least 50% of the interests in the trust as beneficiaries.</p> <p>For discretionary trusts, where the foreign person is specifically named in the trust deed as someone to whom capital distributions can be made.</p> <p>Note: Need to include associated persons in determining the above threshold.</p> | <p>Foreign Trust</p> <p>A trust in which foreign persons (natural or corporate) have a substantial interest in the trust estate, being a 50% or more beneficial interest in the capital of the trust.</p> <p>A beneficiary of a discretionary trust will have an interest in the trust equal to the maximum percentage of capital the trustee is empowered to distribute to them.</p> <p>Note: There is a presumption that all trusts are foreign, unless proven otherwise.</p> |

Exemptions to the Foreign land tax surcharge

| New South Wales | Queensland | ACT | Tasmania |
|---|---|---|---|
| <p>Where land is held for less than 10 years, Australian incorporated property developers (including trustee companies) can seek a refund of the surcharge (or a proportion of surcharge) paid if they lodge an application for refund within 12 months of the sale of a new home on residential land.</p> <p>A developer can seek a prospective exemption if they can satisfy the Commissioner that they would be entitled to a full refund of the surcharge. This exemption may have additional conditions that the property developer must meet & may be revoked in the event any of the conditions are breached.</p> <p>Transitional rules apply for land purchased by Australian incorporated property developers that purchase land prior to 21 June 2016.</p> <p>Individuals holding permanent resident visas & New Zealand citizens holding a subclass 444 visa will be exempt on their principal place of residence, provided they occupy the home for 200 days continuously within 12 months of purchase.</p> <p>Individuals holding retirement visas (subclass 410 & 405) will be exempt for land tax surcharge for their principal place of residence.</p> <p>From 31 Dec 2020 - 31 Dec 2039 , residential property owned by Australian corporations may be exempted, or refunded, the land tax surcharge where build-to-rent properties are built on the land & satisfy the reduction in land value conditions.</p> <p>Citizens of South Africa, Germany, Finland, Japan, Norway, India or Switzerland do not need to pay the foreign owner surcharge due to international tax agreements.</p> | <p>Australian citizens & Australian permanent visa holders living, working or travelling are exempt.</p> <p>Commissioner of State Revenue Office has discretion to grant ex gratia relief for Australian based foreign entities that make a significant contribution to the Queensland economy & community.</p> <p>Factors that indicate an entity will be Australian based:</p> <ul style="list-style-type: none"> • head office or principal place of business & significant management in Australia • employees are Australian citizens or permanent resident & services & • materials primarily acquired from Australian <u>contractors</u> . <p>Entities will make a significant contribution to Queensland having regard to:</p> <ul style="list-style-type: none"> • the foreign entities commercial activities • number of local workers • amount spent in local economy • development activity • regional or specific industry impact of activities & • activity of the parent entity & its subsidiary entities. <p>The foreign entity will also need to be in compliance with all Foreign Investment Review Board & other regulatory requirement to be granted ex-gratia relief</p> | <p>Foreign individuals will be exempted where:</p> <ul style="list-style-type: none"> • The foreign person lives in the relevant property as their principal place of residence • Another owner of the property satisfies the principal place of residence requirement • The land becomes unfit for occupation • The land is used for affordable community housing • Residential land owned by a not-for-profit housing corporation. | <p>The surcharge does not apply to the following land:</p> <ul style="list-style-type: none"> • Principal place of residences • Commercial land (unless it is being converted to be used for residential purposes) • Industrial land • Primary production land <p>Foreign organisations will be exempted where property:</p> <ul style="list-style-type: none"> • owned by a religion body and used for religious, charitable or education purposes • owned by and used as a medical establishment or convalescent home • used for the purposes of a retirement village • owned by a charitable institution which is income exempt, and used for charitable purposes • on which is built a public liability or public museum • owned by a community service associate which is income exempt, and not primarily used income-earning purposes, or • owned by any association or society which solely used it for holding public exhibitions and not for profit. |

Exemptions to the Foreign land tax surcharge

| Victoria | New South Wales | Queensland | ACT | Tasmania |
|--|---|--|---|---|
| Exemptions for eligible build-to-rent projects available, which will exempt the land tax surcharge up to 30 years. | Exemptions for eligible build-to-rent projects available, which will exempt the land tax surcharge up to 2040 | Exemptions for eligible build-to-rent projects available, which will exempt the land tax surcharge up to 20 years. | No exemptions granted due to titling requirement. | No exemptions for build-to-rent projects are currently available. |
| See our BTR State Tax overview for further information. | See our BTR State Tax overview for further information. | See our BTR State Tax overview for further information. | | |