



# Foreign investment in Australia

What to do if you are a foreign person investing in Australian assets.

## Planning to invest in Australia



How to get approval and register assets if you are a foreign person planning to invest in assets in Australia.

## Register of Foreign Ownership of Australian Assets



Find out about how the Register of Foreign Ownership of Australian Assets operates.

## Registering Australian assets as a foreign investor



How a foreign person registers an interest in Australian assets.

## Residential property application for foreign investors



How to apply for approval to purchase residential property in Australia or vary an approved application.

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Application form to request a waiver or remission of a vacancy fee, foreign investment application or variation.

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Find out about our compliance approach and how we engage with foreign investors about their obligations.

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How foreign investors can contact us about investing in Australia.

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A guide to terms and definitions used in foreign investment legislation.

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## Fees for foreign residential investors



Work out what fees you must pay as a foreign investor when investing in residential property in Australia.

QC 46091

## Planning to invest in Australia

How to get approval and register assets if you are a foreign person planning to invest in assets in Australia.

Last updated 26 June 2023

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## If you're planning to invest in Australia

Foreign investment is essential to Australia's prosperity. It has helped build Australia's economy and will continue to enhance the wellbeing of Australians by supporting financial growth.

If you are a [foreign person](#) who is planning to invest in assets in Australia, you must:

- apply for the relevant [approval to invest](#) before purchasing an asset
- register the asset on the Register of Foreign Ownership of Australian Assets (the Register) using Online services for foreign investors after you purchase the asset
- comply with any ongoing requirements whilst holding the asset, such as lodging an annual vacancy fee return for a residential property.

Depending on the type of investment, you will need to seek approval from either:

- Australian Taxation Office (ATO) – for residential assets
- Treasury [Foreign Investment](#)  (previously Foreign Investment Review Board) – for all other investments. These include business, commercial or agricultural land, and mining, production and exploration tenements.

We recommend you seek independent legal advice before applying for foreign investment approval.

## Who is a foreign person

Broadly, the definition of a foreign person extends to:



- an individual who is not an Australian citizen or permanent resident
- a corporation in which a foreign person(s) holds at least a 20% interest
- a trustee of a trust in which a foreign person(s) and their associates hold at least 20% of the beneficial interest in the income or property of the trust.

For residential land investments, special rules apply to foreign persons who are temporary residents.

A temporary resident is an individual who either:

- holds a temporary visa that allows you to stay in Australia for a continuous period of 12 months or more (regardless of how long remains on your visa)
- resides in Australia, has applied for a permanent visa and holds a bridging visa that allows you to stay in Australia until your application is finalised.

To check if you are considered a foreign person, refer to:

- Foreign investment terms and definitions
- [Foreign Investment](#)  website
- Department of Home Affairs website – [Explore visa options](#) .

# Approvals to invest in Australia

Depending on your investment, a foreign person may need the following approvals before you are able to invest in Australia:

- [Residential land](#) (property)
- [Business investments](#)
- [Commercial land](#)
- [Agricultural land](#)
- [Mining, production and exploration tenements](#)

## Residential land (property)


You are required to apply for approval with the ATO to purchase all types of Australian residential land including:

- a new dwelling
- an established dwelling
- vacant land.

You will also need approval for:

- an exemption certificate
- a variation to a previous approval.

You may also be required to apply for approval if you propose to acquire an interest in residential property, such as a mortgagee or leasehold interest.

Different eligibility requirements and approval conditions apply for each property type. For more information, see the [Foreign Investment](#)  website.


You apply and pay an application fee using **Online services for foreign investors** residential application.

Once approved and you have purchased the property, you must register it on the **Register** using **Online services for foreign investors**.

For more details, see **Registration of residential land for foreign investors**.

## Business investments

You may be required to apply for approval before acquiring interests in securities or assets, or taking other actions in relation to corporations, unit trusts and businesses that have a connection to Australia.


Applications are assessed by Treasury Foreign Investment. You can find further information and apply for approval on the [Foreign Investment](#)  website.

You may need to register your investment on the Register using Online services for foreign investors.

For more details, see **Registration of business interests for foreign investors**.

## **Commercial land**

You are generally required to apply for approval before acquiring an interest in commercial land where the value is above a certain monetary threshold.


Applications are assessed by Treasury Foreign Investment. You can find further information and apply for approval on the [Foreign Investment](#)  website.

However, regardless of whether foreign investment approval is required or not, you must register your investment on the Register using Online services for foreign investors.

For more details, see **Registration of commercial land for foreign investors**.

## **Agricultural land**

You are generally required to apply for approval before acquiring an interest in agricultural land where the cumulative value of the land holdings is above a certain monetary threshold.


Applications are assessed by Treasury Foreign Investment. You can find further information and apply for approval on the [Foreign Investment](#)  website.

However, regardless of whether foreign investment approval is required or not, you must register your investment on the Register using Online services for foreign investors.

For more details, see **Registration of agricultural land for foreign investors**.

## Mining, production and exploration tenements

You are generally required to apply for approval before acquiring an interest in a tenement or the underlying land used to carry on a mining operation.

Applications are assessed by Treasury Foreign Investment. You can find further information and apply for approval on the [Foreign Investment](#)  website.

You may need to register your investment on the Register using Online services for foreign investors.

For more details, see Registration of mining, production and exploration tenements for foreign investors.

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## Register of Foreign Ownership of Australian Assets

Find out about how the Register of Foreign Ownership of Australian Assets operates.

**Last updated** 31 July 2023

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How the Register of Foreign Ownership of Australian Assets operates and increases visibility of foreign investments.

## Register's role

Foreign investment is essential to Australia's prosperity. It helps to build our economy and enhance the wellbeing of Australians by supporting financial growth.

To support this, the [Register of Foreign Ownership of Australian Assets](#)  (the Register) was introduced.

## Commencement

On 1 July 2023 the Register commenced. The *Register of Foreign Ownership of Water or Agricultural Land Act 2015* was repealed on this date.

Part 7A of the *Foreign Acquisitions and Takeovers Act 1975* (the FATA) provides the legislative basis for the commencement of the Register.

## Register functions

The Register:

- replaces existing foreign investment registers we manage (relating to agricultural and residential land, and water interests)
- expands on assets to be registered
- provides a streamlined experience for foreign investors to manage their investment affairs
- supports compliance with Australia's foreign investment framework
- increases the government's visibility of foreign investments made in Australia.

## Information the register holds

The Register holds details about foreign ownership of Australian assets, including:

- residential land
- commercial land
- agricultural land
- registrable water interests
- business and entity related interests, where applicable



- mining, production, and exploration tenements.

## Registering an asset

You need to use Online services for foreign investors to give a register notice to the Registrar (register an asset). For details on how to register see [Registering Australian assets as a foreign investor](#).

## Administering the Register

### Our role

The Commissioner of Taxation is the Registrar responsible for administering the Register, under the *Commonwealth Registers (Appointment of Registers) Instrument 2021*.

The Commissioner was appointed as the Registrar of the Register by the Assistant Treasurer, commencing 29 November 2022.

### Registrar's role

The Registrar's role in administering the Register includes:

- maintaining accurate records of interests and changes that need to be registered for the purposes of administration of the foreign investment laws, such as case management and compliance
- accurate reporting to government of foreign ownership in Australia.

The visibility of interests held by foreign persons in specified assets in Australia will also inform future policy development by government.

## Registry data

The Registrar will take steps to protect personal information they hold about individuals against loss, unauthorised access, use, modification or disclosure and other misuse.

Information on the Register is able to be used, recorded or disclosed for any purpose that protected information can be used under Division 3 of Part 7 of the FATA. Secrecy provisions apply to the information disclosed or obtained under or for the purposes of the FATA.

It is an offence under section 128 of the FATA for a person to disclose protected information. That is unless the disclosure is permitted either under section 130V of the FATA or under one of the exceptions in Division 3 of Part 7 to the FATA.

To the extent that information collected by the Registrar is personal information, there are safeguards to protect an individual's right to privacy. In particular, the Registrar complies with obligations under the Australian Privacy Principles (APPs) contained in the *Privacy Act 1988* and records authorities issued by the National Archives of Australia.

## Legislation and reforms

For supporting legislation and background information, see:

- [Foreign Acquisitions and Takeovers \(Register Notices\) Data Standard 2023 \(legislation.gov.au\)](#) [↗](#)
- [Foreign Investment Reform \(Protecting Australia's National Security\) Act 2020](#) [↗](#) amended the FATA to include Part 7A
- Treasury's [Foreign investment reforms](#) [↗](#), 5 June 2020

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## Residential property application for foreign investors

How to apply for approval to purchase residential property in Australia or vary an approved application.

**Last updated** 9 April 2024

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## Before you purchase property

If you're a foreign person planning on investing in Australian residential property (an asset) you need to apply for approval unless an exemption applies. You will need to wait to be approved before you enter into a binding contract or make a purchase.

When we say:

- 'residential application' – this is your application for approval to purchase Australian residential property
- 'property' or an 'asset' – this is the residential property for example a new dwelling, established dwelling or vacant land
- 'the Register' – this is the **Register of Foreign Ownership of Australian Assets**, you will add your asset using **Online services for foreign investors**.

You need to apply:

- for approval to purchase a specific residential property (that is, obtain a no-objection notice)
- for an exemption certificate to purchase a residential property
- to vary the conditions of an existing foreign investment approval or exemption certificate.


Property developers will use the residential application to apply for a new or near-new dwelling exemption certificate.

Residential property includes:

- a new or near new dwelling


- an established dwelling to live in as your main residence where you are a temporary resident
- an established dwelling for redevelopment
- an off-the-plan property
- vacant residential land
- an established dwelling for a foreign company to use to house its Australian based employees.

You need to pay a fee when you submit your residential application.

Some property types can only be purchased if you [hold a relevant visa](#) .

We recommend you seek independent legal advice before applying for foreign investment approval.

For more information, see:

- **Foreign investment in Australia**
- [Foreign investment in Australia guidance](#)  – guidance on key concepts and residential land.

## Before you apply

Before you apply to purchase residential property, consider:

- whether a specific approval or exemption certificate better suits your needs
- the property type you want to purchase and the associated eligibility requirements
- the approval conditions and your obligations for the property type you want to purchase.

You can apply for approval even if you have already signed a contract, provided the contract is still conditional.

If you don't have a specific property you are planning to purchase, an exemption certificate may suit your needs. An exemption certificate will allow you to bid or make offers on multiple properties within a nominated state or territory, provided you only purchase one property.

You can apply for an exemption certificate for most property types, except an established dwelling for redevelopment.

The type of property you are eligible to purchase depends on whether you hold a visa. If you hold a visa, you may have more options.

If you are unsure if your visa allows you to purchase an existing dwelling, **contact us** before you apply.


Generally, you can apply to purchase:

- a new or near new dwelling or apply for an exemption certificate
- vacant land or apply for an exemption certificate
- an established dwelling for redevelopment with 2 or more newly constructed dwellings. You can't apply for an exemption certificate for this type of property.

If you have an eligible visa you can apply to purchase one established dwelling to live in as a principal place of residence or an exemption certificate.

Eligible visas include a current:

- temporary resident visa
- bridging visa **and** you have applied for a **permanent** resident visa (you can't apply for an established dwelling if you have a bridging visa and have applied for a temporary visa).

You will be required to provide your [visa details](#)  when you submit your application.

We collect data on purchases, sales and transfers of properties by foreign persons through **the Register**. The information you provide in your application may be used for this purpose.

## Exemption certificate

An exemption certificate allows a foreign person to:

- make multiple attempts to acquire one property
- in a nominated state or territory
- without having to seek individual approval for each property they are interested in.

You can only purchase one property under the exemption certificate.

Foreign persons can use an exemption certificate to purchase a new or near-new dwelling, or a single block of vacant land for development.

Temporary residents can also use an exemption certificate to purchase an established dwelling to live in while residing in Australia.

If you are approved for an exemption certificate, you won't need to seek individual approval for each property you attempt to purchase. You will avoid the need for variations or new applications after an unsuccessful bid.

You can apply for an exemption certificate even if you have already signed a contract, provided the contract is still conditional.

Your exemption certificate will:

- be valid for 12 months from the date of approval
- specify
  - a limit on the property value
  - the state or territory in which the property may be purchased
  - the types of property that may be purchased.

An exemption certificate will normally be approved subject to the same standard approval conditions for a specific property type, including:

- an established dwelling
- a new dwelling
- vacant residential land title.

Once approved, if you need to increase the property value limit on the exemption certificate you will need to submit a new residential application.

## **Approval conditions**

We consider residential applications, exemption certificates and variations on a case-by-case basis to ensure the application is in Australia's national interest.

Conditions may be imposed on the approval to ensure that the purchase is within national interest. The conditions depend on whether

you have applied to purchase an:

- established dwelling
  - as principal place of residence
  - for redevelopment
  - to house Australian-based staff
- new dwelling
- near new dwelling
- vacant land.

## **Established dwellings**

An established dwelling is an existing dwelling on residential land and is not a new dwelling.

### **Principal place of residence**

An application to purchase an established dwelling to use as a principal place of residence will generally be approved subject to the following conditions:

- The property is vacant at settlement.
- You use the property as your principal place of residence whilst in Australia.
- You don't rent out any part of the property.
- If the property ceases to be your principal place of residence in Australia, or you are no longer a temporary resident, you dispose of the property within 6 months.

### **For redevelopment**

Approval may be granted if a proposal to redevelop an established dwelling will genuinely increase Australia's housing stock. This could include proposals to:

- retain an established dwelling
- demolish and established dwelling
- build multiple dwellings on vacant land.

### **Retain an established dwelling and build one (or more) new dwellings**

Proposals to retain an established dwelling and build one or more new dwellings (of a comparable size on the land alongside the established dwelling) will generally be approved subject to the following conditions:

- The property is vacant at settlement.
- At least one dwelling, of a comparable size to the existing dwelling, is being built on the land.
- No part of the existing dwelling is occupied from the date of settlement until construction of the additional dwelling(s) is complete.
- Construction of all dwellings is completed within 4 years from the date of approval.
- You submit evidence of completion of construction to us within 30 days of receiving it (that is, a certificate of fitness for occupancy or use, final occupancy or builder's completion certificate).
- You do not sell, transfer or otherwise dispose of your interest in the property before construction is complete.
- Once construction of the new dwelling(s) is complete, you make one or more of the dwellings on the land available for use by independent third parties (for example, by renting out or selling the dwelling).

### **Demolish an established dwelling and build multiple new dwellings**

Proposals to demolish an established dwelling and build multiple new dwellings in place of it, will generally be approved subject to the following conditions:

- The property is vacant at settlement, and no part of the existing dwelling is occupied from the date of settlement to the commencement of demolition.
- The demolished dwelling is replaced with multiple dwellings, each of a comparable size and value to each other.
- You submit evidence of completion of construction to us within 30 days of receiving it (that is, a certificate of fitness for occupancy



or use, final occupancy or builder's completion certificate).

- You do not sell, transfer or otherwise dispose of your interest in the property before construction is complete.

### **Build multiple dwellings on land that is currently vacant but previously had a dwelling on it**

An application to purchase an established dwelling for redevelopment will generally be approved subject to the following conditions:

- Multiple dwellings, each of a comparable size and value to each other, are built on the land.
- Construction of all dwellings is complete within 4 years from the date of approval.
- You submit the evidence of completion of construction to us within 30 days of receiving it (that is, a certificate of fitness for occupancy or use, final occupancy or builder's completion certificate).
- You do not sell, transfer or otherwise dispose of your interest in the property before construction is complete.

### **New dwelling**

A new residential dwelling is a dwelling that:

- will be, is being, or has been, built on residential land
- has not been previously sold as a dwelling
- has not been previously occupied or was not occupied for more than 12 months if it was sold in a development.

An application to purchase a new dwelling will generally be approved subject to the condition that you do not purchase a dwelling where a single dwelling has been built to replace one or more demolished dwellings.

### **Vacant land**

Land is vacant if there's no substantive permanent building on it that can be lawfully occupied by persons, goods, or livestock. Land that previously had an established dwelling on it is generally not considered to be vacant land.

An application to purchase vacant land will generally be approved subject to the following conditions:

- At least one residential dwelling is built on the land.
- You do not sell, transfer or otherwise dispose of your interest in the land before completing construction.
- Construction of all dwelling(s) is completed within 4 years from the date of approval.
- You submit evidence of completion of construction to us within 30 days of receiving it (that is, a certificate of fitness for occupancy or use, final occupancy or builder's completion certificate).

## **Varying your approval**

You must apply for a variation if you have foreign investment approval and want to make a correction or change the conditions of the approval.

However, if you need to substantially change the original approval or increase the property limit on an exemption certificate, you will need to submit a new residential application instead of a variation.

A fee is payable for a variation application.

There are 2 types of variations, simple and complex. You would use a:

- simple variation for a correction of a spelling error or errors to the name of the purchaser or property being purchased
- complex variation to:
  - change or remove a condition, unless it is a substantial change
  - extend the validity period of a no-objection notification
  - add a new wholly-owned subsidiary as an applicant.

For example, you may want to vary a residential application or exemption certificate when you've received approval for vacant land to develop. You need more time to construct or want to sell without developing. You will be required to apply for a complex variation to the conditions of your approval.

## **Mortgagee interest**

A mortgagee interest is when a foreign person lends money and repayment is secured or enforced, by granting the foreign person an interest in Australian residential land by way of a security interest over the land.

The mortgagee (lender) must lodge a residential application, if a security interest is held over Australian residential land, before they enter the lending arrangement.

## Paying a fee

Where you are required to pay a fee, you must pay the fee in full before we can consider your request.

The fee relates to reviewing your application or variation and is relevant to each application. For fee amounts and how to pay, see [Fees for foreign residential investors](#).

## Vacancy fee return

When you purchase a property, you have a requirement to lodge an annual vacancy fee return.

## How to apply for a residential application

To apply and pay for a residential application, log in to Online services for foreign investors.

Select either:

- **Lodgment** menu then **Residential application**
- **Lodge or pay residential application** quick link.

You can apply:

- for an approval or exemption certificate to purchase a residential property
- to vary the conditions of an existing residential approval or exemption certificate.

You must complete a separate application for each property you intend to purchase unless you are applying for an exemption certificate. We can't consider your application until you have paid the fee. Use the

correct payment reference number (PRN) to reduce any delays in processing your application.

It can take up to 30 days to consider an application, after we have received full payment of the fee.

For further details on how to apply see [residential application](#).

[Online services for foreign investors](#)

## Penalties and reporting breaches

If you do not comply with your obligations to give a register notice or keep your details up to date, you may face an infringement notice or civil penalties.

If you have information about someone you think may be deliberately breaking our foreign investment rules, you can confidentially **report a breach** to us.

We use our **compliance approach** to ensure foreign investors comply with their obligations.

If you are having difficulties meeting your obligations, **contact us**.

QC 52586

## Vacancy fee return for foreign owners

Vacancy fee return requirements for foreign owners of a residential dwelling.

**Last updated** 9 April 2024

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## Vacancy fee return

Lodge a vacancy fee return and pay a vacancy fee if you are a foreign owner of a residential dwelling.

Foreign owners of residential dwellings in Australia are required to lodge a yearly vacancy fee return (return) within 30 days of the end of each vacancy year. The foreign owner or their representative can lodge the return.

You must lodge a return where the foreign owner of a residential dwelling:

- made a foreign investment application for residential property after 7:30 pm AEST on 9 May 2017
- purchased under a **New or near-new dwelling exemption certificate** that a developer applied for after 7:30 pm AEST on 9 May 2017.

The vacancy fee may also apply where a foreign person failed to submit a foreign investment application but purchased a residential property before 9 May 2017.

You must lodge a return each vacancy year. This is even when the dwelling has been residentially occupied or genuinely made available for rent.

If the dwelling is owned by 2 or more people as joint tenants, you only need to lodge one return.

If you own a share of a dwelling as a tenant in common, you must each lodge a vacancy fee return.

If you're not sure if you are a joint tenant or a tenant in common, see our [terms and definitions](#) or the [Foreign Investment](#) website.

Foreign owners of vacant land do not have to lodge a vacancy fee return until a dwelling has been constructed on the land.

When multiple dwellings are constructed on the land, you must lodge a vacancy fee return for each new dwelling constructed.

You are not required to lodge a vacancy fee return but are required to update your details if any of the following occur during a vacancy year:

- the dwelling is sold or otherwise legally transferred (including if the owner dies)
- you are no longer a foreign person.

To let us know of changes to your foreign person status or property, see [If your situation changes](#).

Your liability to pay a vacancy fee is determined when you lodge the return.

Conveyancers, real estate agents and other persons charging a fee for services should review Tax Practitioners Board information at [Conveyancers and the annual vacancy fee](#).

You should direct any questions relating to tax agent services to the [Tax Practitioners Board](#).


## What is a vacancy fee

A vacancy fee is intended as a financial incentive for foreign owners to make their residential dwelling in Australia available for rent. This will increase available housing in Australia. By making your dwelling available for rent, you may not need to pay the fee.

You may need to pay a vacancy fee if your residential dwelling is **not**:

- residentially occupied
- genuinely available on the rental market
- rented out for 183 or more days (6 months) in a 12 month period.

A vacancy fee may also apply if the vacancy fee return is not lodged by the due date.

See further guidance on residential land and the vacancy fee at the [Foreign Investment](#)  website.

## **When to lodge a vacancy fee return**

Lodge your vacancy fee return within 30 days of the end of each [vacancy year](#).

The first day of the 30-day period is the day following the last day of the vacancy year.

### **Email reminder**

We generally email you a reminder to lodge your vacancy fee return at least one week before the end of your current vacancy year. This email will have the information you need to complete your vacancy fee return.

We will use the contact details we have listed for you in our system. It is important to keep your email details up to date so we can send you the reminder. You can view or update your contact details in **Online services for foreign investors**.

You are required to complete a vacancy fee return even if you do not receive a reminder from us. It is your responsibility as an owner to be aware of the vacancy fee return requirements.

## **What is the vacancy year**

For the purpose of applying the vacancy fee rules, a vacancy year is each successive period of 12 months starting on the occupation day for the dwelling during which you have continuously held an interest in the dwelling.

A vacancy year is unique to each dwelling held by you. It is not a calendar year or a financial year.

## **When is the occupation day**

The occupation day is the first day you have the right to occupy the dwelling. This will typically be the settlement day for an established dwelling. It could also be the day on which a fitness for occupancy certificate for a new dwelling was issued.

When construction of a dwelling has been completed you will need to contact us with the occupancy date before you can lodge a vacancy

fee return, see Troubleshooting Online services for foreign investors.

### **Example: Work out a vacancy year and occupancy date**

Edmond is a foreign investor who purchased an apartment that settled on 5 October 2022. As this was the date the apartment could be lived in, the occupancy date for the apartment is 5 October 2022.

As long as Edmond is the owner of the property and is a foreign investor, he is required to lodge a vacancy fee return for each vacancy year.

The vacancy year starts from the occupancy date for the apartment. For Edmond, the first vacancy year is 5 October 2022 to 4 October 2023.

Edmond must lodge his first vacancy fee return by 3 November 2023. This is the date that is 30 days after his vacancy fee year ended on 4 October 2023.

His vacancy year for each subsequent year is 5 October to 4 October.

## **When is a dwelling residentially occupied**

A dwelling is considered residentially occupied if any of the following circumstances are met for at least 183 days in a vacancy year:

- The owner or a relative of the owner genuinely occupied the dwelling as a residence.
- The dwelling was genuinely occupied as a residence subject to lease or license for minimum terms of 30 days.
- The dwelling was made genuinely available as a residence on the rental market (with minimum terms of 30 days).

Residential occupancy of at least 183 days does not need to be one continuous block of time. Residential occupancy can be made up of



multiple continuous periods of at least 30 days throughout the vacancy year.

Dwellings made available for short-term lease less than 30 days (including via web-based stay sites) are not considered residentially occupied. These dwellings would be liable for a vacancy fee.

A dwelling will be considered genuinely available for occupation as a residence (with a term of 30 days or more) if it is:

- made available on the rental market
- advertised publicly
- available at a market rent.

You may need to provide supporting evidence to prove a dwelling was residentially occupied during a vacancy year.

## Lodge a vacancy fee return

Lodge a vacancy fee return using *Online services for foreign investors*. Select either:

- **Lodgments** then **Vacancy fee return**
- **Lodge or pay vacancy fee return** quick link.

If the occupancy date is not listed on your asset in Online services for foreign investors, you will need to contact us with the date, see [Troubleshooting Online services for foreign investors](#).

For further details on how to lodge your return and pay the vacancy fee, see [Vacancy fee return](#).

[Online services for foreign investors](#)

From July 2023 when you register a residential dwelling, you will receive an asset identification number (asset ID), previously known as a land registration number.

If you:

- received a vacancy fee reminder from us, the number will be in the email

- haven't received a vacancy fee reminder, you may need to **register your asset** first in *Online services for foreign investors* to receive an asset ID.

## Paying the vacancy fee

When you lodge your vacancy fee return, the confirmation page will tell you if you are liable for a vacancy fee and the amount you need to pay. You can pay when lodging the return.

We will email you a notice of liability of the vacancy fee payable after you've lodged. The notice provides:

- information on the reason the fee is being charged
- the fee payable
- payment details
- the due date.

It is important you use the correct payment reference number (PRN) when **making a payment**.

The vacancy fee is based on the amount of the foreign investment application fee you paid at the time you submitted your foreign investment application.

Changes to legislation mean that for vacancy years that start from 9 April 2024, the vacancy fee will be double the foreign investment application fee. This applies for all residential properties that are within scope of vacancy fee.

### Example: Calculate a vacancy fee

Myeong purchased a newly developed townhouse for \$850,000 as an investment property in Geelong. Myeong paid a foreign investment application fee \$13,200 and settlement was made on 5 August 2022. Each year in August, Myeong is required to lodge a vacancy fee return.

If Myeong is liable for a vacancy fee, for:

- the vacancy years 1 August 2022 to 31 July 2023, and 1 August 2023 to 31 July 2024, the fee would be the same as

the foreign investment application fee of \$13,200

- the vacancy year 1 August 2024 to 31 July 2025, the vacancy fee will be double the foreign investment application fee. The vacancy fee will therefore be \$26,400

If you acquired the dwelling under a **new or near new dwelling exemption certificate** held by a developer, the vacancy fee payable will be based on what the foreign investment application fee would have been for the dwelling had the exemption certificate not been in place.

If the application fee was waived, the vacancy fee is based on the lowest foreign investment application fee that would have been payable.

In the case of joint tenants, only one vacancy fee will be payable. For tenants in common, the fee payable will be based on the foreign investment application fee that was payable by each individual tenant. Refer to **terms and definitions** to determine whether you are a joint tenant or a tenant in common.

For more information on fees, see **Fees for foreign investors**.

## Vacancy fee exemptions

You will not be liable to pay the vacancy fee if you can show that your dwelling was incapable of being occupied as a residence for at least 183 days in a vacancy year. You must lodge a **vacancy fee return** to claim this exemption.

Your dwelling may be considered incapable of being occupied as a residence if any of the following apply:

- The dwelling is damaged, unsafe or is otherwise unsuitable to be occupied as a residence.
- The dwelling is undergoing substantial repairs or renovations.
- Occupation of the dwelling as a residence is prohibited or legally restricted by an order of a court or tribunal or a law of the Commonwealth, state or territory.
- A person (who may or may not be the foreign person) who ordinarily occupies the dwelling was absent from the dwelling due to

receiving long-term, in-patient, medical or residential care.

You may be required to provide acceptable supporting evidence to prove the dwelling was incapable of being occupied.

## Fee waivers

We only waive or remit fees in limited circumstances.

The vacancy fee waiver form is **not** available in *Online services for foreign investors*.

For information on details we consider and how to make a request, see [Fee waiver application for foreign investors](#).

## Penalties that may apply

If you don't lodge your vacancy fee return by the due date, you may be liable to pay a vacancy fee. This is regardless of the number of days the dwelling was residentially occupied during the vacancy year.

If you're liable for the vacancy fee for failing to lodge, you'll receive a notice of liability of the vacancy fee payable via email.

The notice will provide you with information on the:

- reason the fee is being charged
- fee payable
- payment details
- due date.

You may be liable for an infringement notice or a civil penalty if you fail to either:

- lodge a vacancy fee return on time
- keep records that are relevant to your liability for vacancy fees.

You are required to keep these records for at least 5 years after the end of each vacancy year.

For further guidance on compliance for residential land, see the [Foreign Investment](#) [🔗](#) website.

## If your situation changes

It is important to keep us up to date about your situation, so we can contact you about your property.

If your situation changes, update your details in *Online services for foreign investors* or contact us.

A change of situation may include where:

- you are no longer foreign person
- ownership of your property changes
- the owner has died
- the vacant land or redevelopment property does not have a dwelling on it, or construction is not complete
- construction of a new dwelling has been completed and a certificate of occupancy was received.

If your:

- personal details change, update your profile – see **Manage your details**
- asset details change, update the asset using **Add** or **Edit** an event – see **Register or manage an asset**.

## Self-disclose a breach

If you suspect you've breached your foreign investment conditions, contact us as soon as possible.

If you know or suspect someone else has breached the foreign investment rules, you can confidentially **report a breach** to us.

QC 56143

## Fee waiver application for foreign investors

Application form to request a waiver or remission of a vacancy fee, foreign investment application or variation.

**Last updated** 16 January 2024

## On this page

[What we consider](#)

[Supporting information for your request](#)

[Apply for a fee waiver](#)

[Application outcome](#)

Use this form to request a waiver or remission of a vacancy fee, foreign investment application or variation fee.

## What we consider

There are only limited circumstances where we grant a fee waiver or remission for **foreign investment fees**.

Generally, fees will **not** be waived or refunded if:

- your application is not approved
- you change your mind about purchasing the property
- you were unsuccessful in purchasing the property
- you withdraw your application
- a lower fee is applicable to the investment when you obtained approval under a higher fee. For example, if you receive approval to purchase residential land for over \$1 million but acquire the residential land at auction for under \$1 million, the difference in application fees will **not** be refunded.

For more guidance, refer to the Foreign Investment [🔗](#) website.

## Supporting information for your request

You will need to provide the following supporting information relevant to your fee waiver request:

- [Vacancy fee](#)
- [Residential application fee](#)
- [Residential application variation fee](#)
- [Other](#) fees

## Vacancy fee waiver

Only use this request if:

- you have reasons beyond your control that prevented you from lodging your vacancy fee return on time
- your situation has changed making you exempt from lodging a vacancy fee return and a fee has been applied to that vacancy fee year
- your property was occupied for fewer than 183 days and you have not requested a fee waiver previously
- your property was occupied for fewer than 183 days due to situations beyond your control.

Complete the following at:

- **Reference type** select **Vacancy fee reference number**
- **Reference number** type the 13-digit number found at *Our reference number* on your Vacancy fee notice – only include the numbers
- **What fee are you asking to be waived?** select **Vacancy fee**
- **Request details** include
  - the reason why you believe the fee should be waived
  - the period your dwelling was residentially occupied for the relevant vacancy fee year
  - why you did not lodge your vacancy return on time, if applicable
  - attach any supporting evidence, such as travel documents, tenancy agreements, evidence the property was occupied for 183 days or more, or contracts of sale.

## Residential application fee waiver

If you have received a decision on your foreign investment application, go to [Other fee waiver](#).

Only use this request if you haven't received a decision from us on your foreign investment application and you have reasons for the fee to be waived.

Complete the following:

- **Reference type** select **Foreign investment application number**
- **Reference number** type the number from your foreign investment application
- **What fee are you asking to be waived?** select **Current application fee**
- **Request details** include
  - details of the reasons you believe the fee should be waived
  - attach supporting documents, contracts of sale or copies of visa grants.

## Residential application variation fee waiver

If you have received a decision on your request to vary an existing foreign investment approval, go to [Other fee waiver](#).

Only use this request if you haven't received a decision from us to vary an existing foreign investment approval.

Complete the following at:

- **Reference type** select **Foreign investment application number**
- **Reference number** type the number from either your foreign investment (FIRB) approval or application
- **What fee are you asking to be waived?** select **Variation to existing approval**
- **Request details** include
  - detail the reasons why the fee should be waived
  - attach supporting documents, such as previous foreign investment approval, contracts of sale or copies of visa grants.



## Other fee waiver

Only use this request if:

- you have reasons for the fee to be waived
- you have received a decision from us on your foreign investment approval
- it is for an exemption certificate fee.

Complete the following:

- **Reference type** select
  - **Foreign investment application number** for foreign investment approval fee
  - **Land register reference number** for failure to lodge penalties
- **Reference number** type the number from either
  - foreign investment (FIRB) approval
  - Land registration confirmation
- **What fee are you asking to be waived?** select **Other**
- **Request details** include
  - detail the reasons why you believe the fee should be waived
  - attach supporting documents, such as previous foreign investment approval, contracts of sale or copies of visa grants.

## Apply for a fee waiver

Use this form to apply for a waiver of a vacancy fee, foreign investment application or variation fee. This service is not currently available in *Online service for foreign investors*.

[Apply to waive your fee now](#)

## Application outcome

We will consider your request to waive the fee and advise you of our decision by email. Our decision is final.

To avoid delays, attach all relevant supporting evidence with your application. We will contact you if we need more information about your request.

If you need more information, refer to [Foreign investment in Australia](#) or you can contact us about foreign investment.

QC 52709

## Foreign investment in residential assets: our compliance approach

Find out about our compliance approach and how we engage with foreign investors about their obligations.

**Last updated** 26 July 2023

### On this page

[Foreign investment rules](#)

[Our compliance strategy](#)

[Our compliance actions](#)

[Reporting a breach of the foreign investment rules](#)


How we engage with foreign investors about their legal obligations and our compliance approach.

## Foreign investment rules

Maintaining strong compliance with Australia's foreign investment laws is a priority for the Australian Government. This will ensure that foreign investment is in line with Australia's national interest and security.

Our **general information** will help you understand the responsibilities that foreign persons have when investing in Australian residential

assets.

For foreign investment in non-residential Australian assets see [Foreign Investment](#)  in Australia. You can also find information on the Treasurer's powers, compliance, and reporting requirements,

Together with the Treasury, we provide clear and easy to understand information to assist those seeking to invest in Australia and to encourage compliance with their obligations. These obligations are set out in the *Foreign Acquisitions and Takeovers Act 1975* (FATA 1975) and associated legislation.

## **Our compliance strategy**

We are committed to strengthening Australia's foreign investment framework. We will continue to work to ensure that foreign investors meet the foreign investment rules and comply with their obligations.

### **Making compliance easy**

We are committed to making compliance with the foreign investment rules and policy easy to understand for foreign investors, their representatives, and Australians.

We encourage voluntary compliance by:

- providing clear and easy-to-understand communication, tailored to help foreign investors
- maintaining a comprehensive website with detailed information on foreign investment in residential assets
- engaging with intermediaries, agents and industry bodies to provide education on changes in foreign investment policy, and help them understand their ongoing obligations to foreign investors
- offering a subscription service for professional advisers and foreign investors to receive newsletters on relevant updates
- providing a customer service phone line to answer or escalate enquiries
- maintaining secure electronic communication channels
- engaging highly skilled and knowledgeable staff who are committed to educating and assisting foreign investors to identify and meet their obligations

- providing easy access to disclose a breach of the foreign investment laws, whether prior to, or during an investigation to get the best outcome for all parties
- considering whether the law will allow us to apply a lower penalty when an investor reports they have not complied with the foreign investment regime
- analysing the drivers of non-compliance to identify opportunities to improve and encourage compliance
- providing an online service for foreign investors to help them meet and manage their obligations, review and register their residential assets, make payments and engage easily with us.

We identify non-compliance:

- using data and analytics to drive early intervention and strive towards our goal of prevention rather than correction
- through information sharing with other agencies and an increasing variety of third-party providers
- by reviewing reports made by the community to identify and treat any non-compliance.

## **Our compliance actions**

We recognise that most foreign investors are willing to do the right thing and meet their foreign investment obligations.

We acknowledge there is a small proportion that either don't want to comply or have decided not to. Accordingly, we adopt a compliance approach that:


- is responsive to various categories of foreign investor behaviour
- seeks to influence that behaviour by encouraging and assisting voluntary compliance.

We use a **compliance model** which shows the range of client attitudes towards compliance, and:

- summarises the different types of support and intervention we may need to provide to collect the required revenue

- suggests how we can influence client behaviour through our response and interactions.

We share data with a wide range of organisations and government departments, including the Australian Securities and Investment Commission (ASIC), Home Affairs, AUSTRAC, local councils, and state revenue offices.

For more information about compliance and reporting requirements, see [Foreign investment](#)  in Australia.

## Our compliance tools

Using our multi-faceted and multi-channel approach, we undertake a number of compliance investigations including:

- **Covert data matching and detection** – we regularly undertake data matching and sharing with other agencies and organisations to detect instances of non-compliance. During this process, we will covertly monitor foreign investors and their agents.
- **Reviews** – we regularly undertake reviews of foreign investors affairs that occur after routine checks, information received from other sources including data matching and community tip-offs. During this process, we will use our third-party sources such as other government agencies to verify details.
- **Audits** – during an audit, we will use our third-party sources, such as other government agencies, to find out more details on your affairs. We may need further information and will engage foreign investors in an audit.

## What to expect

In most instances, our case officers will contact you by phone or email to advise why we are conducting an investigation and explain the investigation process. They may ask you to provide additional information about your investments.

As a result of our investigations, we may:

- direct a foreign investor to take an action or actions that will result in compliance, where they were previously breaching the foreign investment rules

- issue infringement notices or penalties to foreign investors for instances of non-compliance
- issue disposal orders, requesting a foreign investor to dispose of their investments in Australian residential property
- take further action by applying to the relevant court or tribunal to enforce compliance (see [Litigation – our policies](#)).

## Our first civil litigation outcome

In 2022, we welcomed the decision handed down by the Federal Court of Australia in relation to breaches of the FATA 1975.

Using sophisticated compliance data-matching systems, our investigations into tax evasion and fraud identified several concerning activities by some investors.

In this instance, an individual investor purchased 4 properties without first applying for and receiving foreign investment approval. The investor also held 2 established residential properties. These actions are considered serious breaches of the law and warranted a 'high touch' approach in treatment.

The landmark decision handed down in the Federal Court attracted penalties of \$250,000. It sent a strong message to investors on the importance of understanding and complying with their foreign investment obligations.

This outcome highlights the effectiveness of our compliance measures and **compliance model**. Our intention is to use the full force of the law to address any malpractice that exploits or damages the integrity of the tax system.

For more information on the Federal Court outcome, see:

- ATO media release of 11 April, 2022 [Residential real estate purchases by foreign investor attract \\$250,000 penalty](#)
- [Commissioner of Taxation v Balasubramanian \[2022\] FCA 374 \(8 April 2022\)](#) [🔗](#) (austlii.edu.au).

More guidance on compliance and penalties for residential land is available, see [Foreign investment](#) [🔗](#) in Australia.

## Correspondence from us

You may receive correspondence by email, SMS or post about your foreign investment in Australian residential property.

The table below lists some examples of correspondence you may receive from us.

### ATO correspondence and delivery channel

Correspondence type	Delivery channel
<b>An approval or no-objection notification, with conditions</b>  You may receive this letter if you have been granted approval to purchase residential real estate, where you must comply with the conditions listed on the letter.	<ul style="list-style-type: none"><li>• Post</li><li>• Email</li></ul>
<b>A request for information letter</b>  You may receive this letter as you are subject to an investigation. You will need to provide us with the required information listed in the letter.	<ul style="list-style-type: none"><li>• Post</li><li>• Email</li></ul>
<b>A request to take action to resolve an identified breach letter</b>  You may receive this letter as you are subject to an investigation. You should provide all the information requested as soon as practicable.	<ul style="list-style-type: none"><li>• Post</li><li>• Email</li></ul>
<b>A finalisation of review (or audit) letter</b>  You may receive this letter as an investigation has concluded. You do not need to do anything further.	<ul style="list-style-type: none"><li>• Post</li><li>• Email</li></ul>
<b>A prompter-type reminder to meet the conditions on your approval, such as a reminder to construct a dwelling.</b>  You may receive the letter as a result of sophisticated ATO data analytics and profiling. You must follow the directions listed on the correspondence to avoid future compliance action.	<ul style="list-style-type: none"><li>• Post</li><li>• Email</li></ul>

<p><b>A reminder to lodge an application or vacancy fee return</b></p> <p>You may receive this letter as you have not made a lodgment with us. You need to follow the instructions and lodge as soon as practicable.</p>	<ul style="list-style-type: none"> <li>• Post</li> <li>• Email</li> <li>• SMS</li> </ul>
<p><b>A reminder to pay a fee or infringement letter</b></p> <p>You may receive this letter as you have not paid the fee issued to you. You need to pay as soon as practicable.</p>	<ul style="list-style-type: none"> <li>• Post</li> <li>• Email</li> <li>• SMS</li> </ul>

## Expected outcomes

As an outcome of our compliance actions, we expect to see:

- improved behaviours and increased voluntary compliance
- increased understanding and knowledge of foreign investment obligations
- opportunities for future compliance actions
- improvements in our processes and systems, including data quality and accuracy.

## Reporting a breach of the foreign investment rules

You can confidentially report a breach of the foreign investment rules. This includes whether you suspect or know of a breach.

If you've breached your foreign investment obligations, **contact us** as soon as you can. We will prioritise your issue and help you to comply with the rules.

QC 67710

## New or near-new dwelling exemption certificates



How property developers apply for an exemption certificate and lodge a sales report for foreign buyers.

**Last updated** 30 May 2024

## On this page

[About exemption certificates](#)

[Developer eligibility](#)

[How to apply for an exemption certificate](#)

[Approval conditions](#)

[Exemption certificate fees](#)

[How to report sales](#)

[Penalties](#)

[Contact us](#)

Property developers can apply for a new or near-new dwelling exemption certificate and lodge a sales report for foreign buyers.

## About exemption certificates

Property developers (and other vendors) can apply for a *New or near-new dwelling exemption certificate* to sell new or near-new dwellings in a development to foreign persons.

The exemption certificate means that their foreign buyers will not need to seek their own foreign investment approvals for the Australian properties covered by the exemption certificate.

A new dwelling is a dwelling (except commercial residential premises) that is all the following:

- is being, will be or has been built on residential land
- has not been previously sold as a dwelling
- has not previously been occupied.

A near-new dwelling is a dwelling that is all of the following:

- will be, is being, or has been, built on residential land
- is part of a residential development
- was previously sold by the developer, but the transaction ultimately failed to settle
- has not been previously occupied for more than 12 months in total.

A residential development is one or more multi-story buildings containing at least 50 self-contained dwellings (other than townhouses) under one development approval.

The exemption certificate provides approval for a foreign buyer to purchase a single or multiple dwellings within the development, up to the value of \$3 million.

For purchases over \$3 million, the foreign investor must apply for their own foreign investment approval. An application fee is payable when submitting foreign investment approval.

See further guidance on the [Foreign Investment](#)  website.

## Developer eligibility

Developers (Australian or foreign) can apply for a *New or near-new dwelling exemption certificate* if the development has all the following:

- 50 or more dwellings
- development approval from the relevant government authority
- foreign investment approval (if applicable) for purchase of the land the development is on, and any conditions of that approval are being met.

## How to apply for an exemption certificate

Apply for the *Near or near-new dwelling exemption certificate* using *Online services for foreign investors*.

Select either:

- **Lodgment** menu, then **Residential application**
- **Lodge or pay residential application** quick link.

At **Application type** select **New and near-new dwelling exemption**.

You can apply for a:

- new and near-new dwelling exemption certificate
- near-new dwelling exemption certificate only
- near-new dwelling exemption certificate related to an advanced off the plan certificate.

For more details of how to complete the application online, see [Residential application](#).

[Online services for foreign investors](#)

## Approval conditions

We consider applications for an exemption certificate on a case-by-case basis to ensure the application is in Australia's national interest.

Approval is generally subject to the developer:

- marketing the dwellings for sale in Australia
- selling no more than 50% of the total number of dwellings in the development to foreign persons under the exemption certificate
- selling no more than \$3 million worth of dwellings in the development to a single foreign person under the exemption certificate
- providing a copy of the exemption certificate to each foreign purchaser
- reporting to us
  - every 6 months until all dwellings in the development are sold
  - on the dwellings sold to foreign persons under the exemption certificate, including the purchaser details and the value of the sales
- notifying us, within 30 days, if the number of dwellings in the development is reduced to less than 50
- paying a fee for each dwelling sold under the exemption certificate.

## Exemption certificate fees

Developers will need to pay a fee when applying for an exemption certificate.

If the exemption is granted, you will need to both:

- report your sales
- pay a separate [fee per sale](#) for each dwelling sold to a foreign person under the exemption certificate.

You must pay these fees within 30 days of the end of each 6-month reporting period the sale has been made, until all dwellings covered by the exemption certificate are sold.

## How to report sales

Once you have been granted an exemption, developers must report their sales every 6 months, until all dwellings covered by the exemption certificate are sold. The 6-month reporting period starts from the date the exemption certificate was approved. This service is currently not available in *Online services for foreign investors*.

The sale of new dwellings and near-new dwellings needs to be reported using the approval number for the development covered in the exemption certificate.

To meet the reporting requirements, developers must:

- report every 6 months on the prescribed template [Sales report – exemption certificate – new \(or near-new\) dwellings \(XLSX, 641KB\)](#)  
 using a separate report for each
  - new or near-new dwelling exemption certificate held
  - 6-month reporting period
- report only for sales
  - that have occurred within the 6-month reporting period
  - where the sale contract has become binding (regardless of whether termination later occurred)
- pay the [fee per sale](#) in the reporting period, within **30 days** of the end of the reporting period

- lodge the report by email using the instructions in spreadsheet within **30 days** of the end of the 6-month reporting period.

Note: You should be aware that the internet isn't a secure environment. We don't control the path of inbound and outbound emails, so we can't guarantee the privacy of personal information sent by email. You should be aware of this risk if you choose to communicate with us by email and include any personal or sensitive information.

[Start your sales report](#)

## Information you need to complete the sales report

You will need the following information to complete the sales report.

It's important to complete each field in the report. Ensure you scroll across the report for all fields.

Details must match those on the exemption certificate approval.

At **Developer details**, type:

- foreign investment approval number
- date of approval – the date the exemption certificate approval was given
- name of developer
- name of development
- period this report covers use DD/MM/YYYY format – this is the 6-month reporting period being covered for sales made in the development
- date of report the date you complete the report
- report number for development, if
  - this is the first report, type **1**
  - previous sales reports have been submitted for the development, it is the next number after the last report
- Do any NNDEC sales reported relate to an Advance of the plan certificate issued before 1 Dec 2015? – Answer 'Yes', 'No' or 'Not applicable'.

At **Purchaser details**, type:

- first, middle and family name
- date of birth in the format DD/MM/YYYY
- company or trust name, or NA if not applicable
- Australian business number (ABN) or NA if you don't have one
- nationality
- email address.

At **Purchasers address**, type:

- current address – number and street name
- locality – suburb, town or locality
- Australian state or territory is mandatory for an Australian address
- postcode is mandatory for an Australian address
- country is mandatory if not an Australian address.

At **Dwelling being purchased**, type:

- building name – if applicable
- address, full address including post code
- lot or block
- plan or section.

At **Purchase information**, type:

- the ownership, either
  - tenants in common, and list each tenant in common separately for each dwelling sold with the percentage of ownership
  - joint tenants, and list each joint tenant separately for each dwelling sold
  - sole purchaser, and list each sale separately
  - sole purchaser who is a company or trust, list the full details of the shareholders or beneficiaries with the majority shareholding for each dwelling sold
- purchase price – sale price of the dwelling

- [date contract for sale becomes binding](#) in the format DD/MM/YYYY
- NDEC (new dwelling) or NNDEC (new or near new dwelling).

At **Fee per sale**, type the [fee payable](#).

## Date contract for sale becomes binding

Only report sales where the contract becomes binding (even if termination later occurs).

A contract will become binding when the parties cannot get out of the contract unless they terminate, or default, on the contract provisions. The interest is acquired on the date that the contract is binding, which is usually when all conditions are met.

For more information, see the [Foreign Investments](#)  website.

## Fees per sale

When you apply for the exemption certificate, you will be issued with an 18-digit payment reference number (PRN) to **pay your exemption certificate application fee**.


You must use the same PRN to pay the fees for each sale of property covered by the exemption certificate, for the relevant reporting period. If your foreign buyer has agreed to pay this fee directly to us, they will need the PRN as the reference for the payment.

Fees are due within 30 days of the end of the relevant 6-month reporting period.

If more than one buyer is purchasing the property as:

- **joint tenants** – there will only be a single fee payable for the jointly-owned dwelling, calculated on the total sale value
- **tenants in common** – each tenant in common is liable to pay a fee proportional to their interest in the property.

You must calculate the amount of fee payable for each dwelling sold under the exemption certificate, to include in your sales report.

For more guidance on fees and how to calculate fees, see [Fees for foreign investors](#) or information on the [Foreign Investment](#)  website.

## Changing your sales report

If you want to change any of the information reported on the schedule after you've lodged it, you'll need to lodge another report.

## Penalties

Property developers who don't comply with the conditions on the *New or near-new dwelling exemption certificate* may be subject to strict penalties, including civil and criminal penalties and revocation of your exemption certificate.

Examples of not complying with your reporting conditions include:

- failing to lodge your 6-monthly report on time
- incorrectly reporting the sales made in each 6-monthly report
- not paying the correct fee for each dwelling sold under the exemption certificate.

If you have not complied with your foreign investment conditions, **contact us** as soon as possible.

Cases of non-compliance with Australia's foreign investment framework may also be brought to the attention of law enforcement agencies, and other Australian Government departments, such as the Department of Home Affairs.

If you suspect someone else may have breached the foreign investment rules, you can confidentially **report a breach** to us, either online or by phone.

## Contact us

If you need help to complete or lodge your application or your 6-monthly sales report, you can **contact us**.

QC 66172

## Report a breach of the foreign investment rules



How to tell us confidentially if you suspect, know or have made a breach of Australia's foreign investment rules.

**Last updated** 26 June 2023

### On this page

[Foreign investment rules](#)

[Who can report a breach](#)

[What you can report](#)

[How to report a breach of the foreign investment rules](#)

[Past foreign investment breaches](#)

## Foreign investment rules

The ATO is responsible for administering the foreign investment rules for acquisitions of residential land in Australia. We consider whether proposed acquisitions of Australian residential property by foreign persons are within the national interest. After an application is approved, we then monitor the foreign person's compliance with the foreign investment rules and take action if a breach occurs.

A foreign person must apply for foreign investment approval before purchasing Australian residential land. This includes established dwellings, new dwellings and vacant land. There are different eligibility requirements and standard approval conditions attached to each property type. For more information, see [Foreign investment in Australia](#).

Investment in other areas such as commercial land, agricultural land, business assets and mining and production tenements are administered by Treasury Foreign Investment. For further guidance on these rules, refer to the [Foreign Investment](#) [website](#).

A foreign person must also register their investment on the Register of Foreign Ownership of Australian Assets (the Register) using [Online services for foreign investors](#).

We manage the Register which captures foreign investment in:

- residential land
- commercial land
- agricultural land
- business assets
- water rights
- mining and production tenements.

After applying for approval from Treasury Foreign Investment, you must then register your investment with the ATO. See **Registering Australian assets as a foreign investor**.

## Who can report a breach

We welcome information from anyone in the community with concerns about suspected illegal activities by foreign persons owning Australian residential property. Your information will help us safeguard Australia's national interest, businesses and economy.

If you are a foreign person, you should also tell us if you think you have broken the foreign investment rules. If you let us know as soon as possible, the penalty may be lower than if we detect your breach.

## What you can report

Different rules apply to different situations. We deal with breaches of foreign investment rules relating to residential land and the obligation for all foreign persons to register their assets on the Register.

Examples of what you can report to us include:

- [Purchasing and financing properties](#)
- [Purchasing established dwellings](#)
- [Purchasing vacant land](#)
- [Occupying a dwelling](#)
- [Third parties](#)
- [Officer of a corporation](#)
- Failing to register

## **Purchasing and financing properties**

A foreign person may have broken the rules if they:

- purchase a property without foreign investment approval
- purchase an established dwelling as a foreign non-resident
- fail to register their property on the Register
- provide money to purchase an Australian property but hide the true owner by not registering the property title in the name of the foreign person.

## **Purchasing established dwellings**

An established dwelling is a dwelling on residential land that is not a new dwelling. A foreign person may have broken the rules if they:

- purchase an established dwelling but don't live in it while they are in Australia, or they rent it out
- purchase an established dwelling but don't sell the property within 6 months of their temporary residency visa expiring
- purchase an established dwelling for redevelopment but rent it out instead of redeveloping it to increase the number of dwellings
- purchase more than one established dwelling as a temporary resident
- purchase an established dwelling but don't redevelop it within 4 years
- demolish an established dwelling but don't replace it with 2 or more dwellings
- don't sell an established dwelling previously used for staff accommodation and leave it vacant for 6 months or more.

## **Purchasing vacant land**

A foreign person may have broken the rules if they purchase vacant land but don't develop it by constructing one or more dwellings on the property within 4 years.

## **Occupying a dwelling**

A foreign person may have broken the rules if they provide incorrect information to us about whether a dwelling was vacant or occupied.

## Third parties

A third party, such as a stockbroker, lawyer, solicitor, conveyancer, real estate agent or other adviser, may be in breach of the foreign investment law in relation to residential land, if they knowingly assist another person to breach the law by:

- aiding, abetting, counselling or procuring a contravention
- inducing (by threat, promise or otherwise) a contravention
- conspiring with others to affect a contravention
- being, directly or indirectly, knowingly concerned in, or party to, a contravention.

For examples of third-party breaches, see guidance on residential compliance on the [Foreign Investment](#)  website.

## Officer of a corporation

Where an officer of a corporation authorises or permits a breach of the foreign investment rules, or fails to prevent such a breach from occurring, that officer may be subject to penalties.

## Failing to register

A foreign person may have broken the rules if you fail to either:

- register your investment on the Register within the prescribed timeframe
- update the details of the asset if your situation changes.

## How to report a breach of the foreign investment rules

If you know or suspect someone is breaking the foreign investment rules or you want to tell us about your breach, you can report by either:

- [completing the tip-off form](#)
- phoning us on **1800 060 062**

If you prefer to speak to us in a language other than English, phone the Translating and Interpreting Service on **13 14 50** for help with your call.

If you are a tax professional, you can provide information by phoning **13 72 86** (Fast Key Code **3 4**).

- writing to us – mark your letter 'in confidence' and post it to

**Australian Taxation Office  
Tax Integrity Centre  
Locked Bag 188  
ALBURY NSW 2640.**

When we receive information through a tip-off, we will cross check the information provided and decide if further action is needed. It's important to include as much detail as possible so we can investigate fully.

## How to complete the tip-off form

Open the ATO tip-off form on our website or in the ATO app and select **Start**.

If you are voluntarily reporting a breach you have made as foreign investor, include as much detail as possible.

At **Who is this about** select who you are reporting for:

- **Individual**, include their
  - property address
  - name (or the name of their company)
  - phone number
  - social media details (for example, username and profile address)
  - nationality.
- **Business**, include the
  - business name
  - Australian business number (ABN) (if known)
  - business address

- phone number
  - website details
  - social media details (for example, webpage and profile addresses).
- **What is this about** – select **Other**, then **Illegal purchase of Australian property by a non-resident**.
  - **Provide as much detail as possible about the reported behaviour**, including
    - activities and behaviour that may be in breach of the foreign investment rules
    - the name of the property being reported and, if known
      - the purchase date and price
      - the selling agent
      - the status of property (if it is vacant, rented or owner occupied)
    - any other information you have about this property.
  - Include your **contact details** as we may need to contact you for more information. Your details remain confidential in accordance with [privacy laws](#).

Before submitting the form, check you have provided the relevant information and supporting documentation. Provide as much detail as you can so we can fully assess the information.

Remember to make a note of the reference number when you submit the form. You will need to quote it if you want to add information later.

## Your privacy

Your privacy is protected by the *Privacy Act 1988* and the strict secrecy provisions of the *Income Tax Assessment Act 1936*, the *Taxation Administration Act 1953* and other tax laws.

Due to privacy laws we are unable to share details specific to any foreign investment compliance investigation. We won't be able to tell you of the outcome of our investigations. We equally respect your privacy in reporting the suspected breach, as well as the privacy of the owner of the reported property.

For more information, see [ATO privacy policy](#).

## Past foreign investment breaches

Following are examples of cases we had received as a tip-off:

- [Illegal purchase of established dwelling](#)
- [Renting out an established dwelling](#)
- [Not redeveloping and renting](#)
- [Incorrect statement in vacancy fee return](#)

### Illegal purchase of established dwelling

We received a community tip-off about a foreign non-resident who didn't apply for foreign investment approval before buying an established residential property. As this was a breach of the rules, the foreign person had to pay a \$12,600 infringement penalty.

The foreign person was unable to move into the property or redevelop it to create 2 new dwellings. This was considered contrary to national interest and the foreign person had to sell the property.

### Breach of conditions – renting an established dwelling

A tip-off was made about a foreign person who had rented out their established residential property through a real estate agent. This was in breach of the conditions listed on their foreign investment approval.

The foreign person had to pay a \$12,600 infringement penalty and move into the property as a condition of their foreign investment approval.

### Breach of conditions – not redeveloping and renting

A member of the building and construction industry made a tip-off that 3 properties were held by an individual foreign person and associated

trusts in breach of their foreign investment approval conditions. They breached the conditions of their approval by renting out one established property and not redeveloping the others within the approved timeframe. Infringement penalties were imposed and the properties had to be sold.

## **Incorrect statement in vacancy fee return**

A foreign person stated in their vacancy fee return that they had occupied their dwelling for 6 months or more in accordance with the vacancy fee rules. However, our investigation showed the person was overseas for more than 6 months of the year.

We helped the person understand that having a friend occupy the residence did not meet the definition of 'residential occupation' as defined by the foreign investment rules. They had to pay a \$89,300 vacancy fee liability.

QC 64057

## **Contact us about foreign investment**


How foreign investors can contact us about investing in Australia.

**Last updated** 16 September 2024



### **The myGovID app is changing its name to myID**


Soon myGovID will have a new name and look – but you'll use it the same way. Find out more at

[www.myGovID.gov.au/DiscovermyID](https://www.myGovID.gov.au/DiscovermyID) 

## **Before you phone us**

Before you phone us, you should:



- search Foreign investment in Australia and the [Foreign Investment](#)  website to check if what you need to know is already available online
- use Online services for foreign investors to check
  - the progress of a foreign investment application
  - vacancy fee lodgment status.

## Establishing your identity

You can speak with ATO staff for help with your Australian investment obligations. Before we can discuss your details or update your records, we must establish your identity. We'll ask you questions based on information from our records. Have this information ready when you phone us.


These identity questions may include:

- your Australian tax file number (TFN) or Australian business number (ABN) if you have one
- your ATO reference number (ARN) if you have received an ARN notification letter from us
- details from letters or notices we have issued to you
- information you have provided in a tax return or asset registration
- details from accounts you hold with us, such as payment or refund amounts or Australian bank account details
- information related to your interactions with us, such as
  - the date you lodged your last vacancy fee return or other Australian property transaction
  - the amount you paid for a vacancy fee liability or application fee
- details of investments you hold, such as the date you purchased an asset (for example, the settlement date for your Australian property).

We may also ask you to confirm details of your identity documents, such as passport and visa details. These details are as they appear on your foreign investment application.

## Phoning from overseas

If you are phoning from overseas, you can phone us between 8:00 am and 5:00 pm Australian Eastern Standard Time (AEST) or Australian Eastern Daylight Time (AEDT), Monday to Friday on **+61 2 6216 1111**. Ask to be transferred to the relevant number on this page for your query.

Our Australia contact centres are closed on [Australian national public holidays](#) .

## Foreign investment enquiries

Check if the information you need is available online [before you phone us](#).

Phone **1800 050 377** between 8:00 am and 6:00 pm (AEST or AEDT), Monday to Friday, for questions about:

- foreign investment in Australia
- registering your interest in Australian assets
- foreign investment approval
- your obligations, including vacancy fee return
- compliance
- Online services for foreign investors.

## Translating and interpreting service (TIS National)

If you would like to speak in a language other than English, phone TIS National between 8:00 am and 5:00 pm (AEST or AEDT), Monday to Friday. Request to be connected to the relevant phone number on this page for your query, in the language you want to speak in.


Phone TIS National:

- in Australia – **13 14 50**
- outside Australia – **+61 3 9268 8332**.

## Online services for foreign investors

Note: When you contact us for a linking or authorisation code you must tell us it is for Online services for foreign investors. This will help our staff with your query.

If you're contacting us about Online services for foreign investors and your question is about:

- a linking code to link your record as an individual without an ABN – phone **13 28 61** and select **option 1** and tell us it is for Online services for foreign investors
- an authorisation code to add a business without an ABN – phone **13 28 66** and select **option 1** and tell us it is for Online services for foreign investors
- myGovID – phone **1300 287 539** and select **option 2**. See [myGovID help](#) 
- linking a business with an ABN, see [Access to Online services for foreign investors for entities with an ABN](#)
- updates to your name or date of birth – phone **13 28 61**. All other updates can be done using Online services for foreign investors
- system availability – go to [System maintenance](#) to see when online services are unavailable
- issues with the service – go to [Troubleshooting](#) for known issues and actions to take.

## Reporting a breach of the rules

If you know or suspect someone is deliberately breaking our foreign investment rules, you can report a breach. You can also self-disclose if you have broken the rules.

For details of how to report, see [Report a breach of the foreign investment rules](#).

## Other queries

If you have questions about other Australian tax and superannuation topics, check how you can contact us.

## Current SMS and email activities

We may contact you electronically by SMS and email.

If you're trying to access **Online services for foreign investors** or are authorising someone to act on your behalf, we may email:

- a linking code
- an authorisation code.

If you aren't sure if an SMS or email is from the ATO, check:

- our current SMS and email activities
- foreign investment correspondence we have sent you.

QC 65675

## Foreign investment terms and definitions

A guide to terms and definitions used in foreign investment legislation.

**Last updated** 26 June 2023

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This guide provides a list of foreign investment terms and definitions used in the *Foreign Acquisitions and Takeovers Act 1975* and related legislation.

It will help foreign investors understand their foreign investment obligations, including the registration processes where required. .

The contents of this guide do not constitute legal advice and should not be relied upon as such. You should seek independent legal advice.

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## A

### Act, the

Refers to the *Foreign Acquisitions and Takeovers Act 1975*.

### Agricultural land

Agricultural land is defined in section 4 of the *Foreign Acquisitions and Takeovers Act 1975* as land in Australia that is used, or that could reasonably be used, for a primary production business. This includes land which is partially used for a primary production business, or land where only part of the land could reasonably be used for a primary production business.

### Asset

Asset includes an interest in an asset.

## Associate

Section 6 of the *Foreign Acquisitions and Takeovers Act 1975* defines the term 'associate'.

The following people are associates of a person:

- any relative of the person
- any person with whom the person is acting, or proposes to act, in concert in relation to an action to which the Act may apply
- any person with whom the person carries on a business in partnership (this provision is modified for limited partners)
- any entity of which the person is a senior officer
- if the person is an entity
  - any holding entity of the entity
  - any senior officer of the entity
- any entity whose senior officers are accustomed or under an obligation (whether formal or informal) to act in accordance with the directions, instructions or wishes of
  - the person
  - if the person is an entity—the senior officers of the person
- an entity if the person is accustomed or under an obligation (whether formal or informal) to act in accordance with the directions, instructions or wishes of
  - the entity
  - the senior officers of the entity
- any corporation in which the person holds a substantial interest
- if the person is a corporation—a person who holds a substantial interest in the corporation
- the trustee of a trust in which the person holds a substantial interest

- if the person is the trustee of a trust—a person who holds a substantial interest in the trust
- if the person is a foreign government, a separate government entity or a foreign government investor in relation to a foreign country (or a part of a foreign country)
  - any other person that is a foreign government in relation to that country (or any part of that country)
  - any other person that is a separate government entity in relation to that country (or any part of that country)
  - any other foreign government investor in relation to that country (or any part of that country).

## Australian land

Section 4 of the *Foreign Acquisitions and Takeovers Act 1975* defines 'land' to include a building (including a new dwelling or an established dwelling) or part of a building and the subsoil of land. Australian land means agricultural land, commercial land, residential land or a mining or production tenement.

Some examples are, but are not limited to:

- vacant land with any type of government zoning
- land with a dwelling or structure developed on it.

## B

### Business interest

Business interest includes interests in securities or assets, or taking other actions in relation to corporations, unit trusts and businesses that have a connection to Australia.

## C

### Commercial land

Commercial land is defined in section 4 of the *Foreign Acquisitions and Takeovers Act 1975* (the Act) as land in Australia (including any

building on the land) or the seabed of the offshore area, other than land either:

- used wholly and exclusively for a primary production business (otherwise it is likely to be considered agricultural land)
- on which the number of dwellings, other than commercial residential premises, that could reasonably be built is less than 10 (otherwise it is likely to be considered residential land)
- on which there is at least one dwelling, except a commercial residential premise (otherwise it is likely to be considered residential land).

Commercial land is then further defined as either vacant commercial land or developed commercial land:

- Commercial land is vacant if there is no substantive permanent building on the land that can be lawfully occupied by persons, goods or livestock.
- Developed commercial land is commercial land that does not meet the definition of vacant commercial land (sometimes also referred to as non-vacant commercial land). Whether land is considered vacant or developed may depend on the particular facts of the matter, as assessed on a case-by-case basis.

## Contractual water right

A contractual water right is a contractual right, including a deed. It involves the right that a person or other entity holds (alone or jointly) to another person's [registrable water entitlement](#).

Where a [foreign person](#) acquires a contractual water right it will only be registrable if the rights contracted will be for a period of longer than 5 years. This includes any options to extend or renew the contract.

Example: when to notify us of a contractual water right

Quartz Quarry Pty Ltd is an Australian owned company. It holds a state government-issued water access right that provides access to a maximum of 150 ML of water from an aquifer in a given period. This right meets the definition of a registrable water entitlement conferred under a state law – taking water from a water resource, and meets the definition of a registrable



water entitlement. However, Quartz Quarry Pty Ltd doesn't need to register this entitlement as it isn't a foreign person.

On 15 September 2018, Quartz Quarry leases part of its entitlement to Gemstone Exploration Ltd. Gemstone Exploration holds a contractual water right and is a foreign person. The term of the lease is for an initial period of 4 years, with the ability to extend the lease for another 6 years. Gemstone Exploration Ltd must notify us of the contractual water right.

Note: A contract between an irrigator and [irrigation infrastructure operator \(IIO\)](#) for the irrigator to receive water is an [irrigation right](#). It's not a contractual water right even though a contract might be involved. The contractual water right is intended to include only those entitlements which are leased or otherwise obtained from a person. This right doesn't include an [irrigation infrastructure operator](#), who holds that [water entitlement](#). See [Irrigation right](#).

## Conveyance water

The volume of water that can be attributed to conveyance water is the additional water that is required to deliver water to users. This includes water lost in transit from its source to end users due to seepage, leakage, evaporation or other similar effects.

Note that the exemption for conveyance is only available to an [irrigation infrastructure operator](#) (IIO), not to individual entitlement holders.

### Example: conveyance water

Dynamic Water Cooperative (DWC) is a foreign IIO providing irrigation services in New South Wales. DWC has a small number of water access entitlements, known in New South Wales as water access licences (WALs). DWC uses WAL1234, whose nominal volume is 2,500 ML, partly to account for:

- irrigation distribution system losses (conveyance)
- customer's irrigation rights
- its own trading purposes.

At the end of the year, DWC establishes that a volume of 1,500 ML is subject to its customers' irrigation rights. It estimates that annual conveyance losses are in the order of 750 ML. DWC is therefore required to register WAL1234, with a volume of 250 ML, with the ATO.

## D

### Direct interest

A person holds a direct interest in a business if the value of the interest in assets held by the person, alone or together with one or more associates of the person, is that specified percentage of the value of the total assets of the business. This percentage is at least 10% in the entity or business, or 5% in the entity or business where a person has entered into a legal arrangement relating to the businesses of the person and the entity or business.

For more information, see [Substantial interest](#).

## E

### Established residential land

Residential land that is not vacant residential land or new (or near new) dwellings.

See [Near new dwelling](#), [New dwelling](#), [Vacant residential land](#).

### Exemption certificate

Exemption certificates are intended to reduce regulatory burden for foreign persons (including foreign government investors) by enabling them to obtain up-front approval for a program of lower-risk investments over a period of time, rather than having to apply for a no objection notification for each proposed investment.

Foreign persons may apply for approval to purchase Australian land through an exemption certificate, when an exact title of land has not yet been identified.

### Exploration tenement

Section 5 of the Regulation provides that an exploration tenement means a right under a law of the Commonwealth, a state or a territory to recover minerals (such as coal or ore), oil or gas in Australia or from the seabed or subsoil of the offshore area for the purposes of prospecting or exploring for minerals, oil or gas.

It also includes a right that preserves such a right, a lease under which the lessee has such a right or an interest in such a right or an interest under such a lease. This would include, for example, a prospecting or an exploration licence.

## **F**

### **Foreign government investor**

The definition of foreign government investor is quite broad in its capture and includes state-owned enterprises and sovereign wealth funds. Investors with an actual or perceived relationship to a government or government-related entity should carefully determine their status.

See section 17 of the *Foreign Acquisitions and Takeovers Regulation* 2015 for further details. Some exemptions apply, which are set out in the Regulation.

See the meaning of 'foreign government' and 'separate government entity' in section 4 of the *Foreign Acquisitions and Takeovers Act 1975*.

### **Foreign person**

The definition of a foreign person is complex and may apply to individuals and entities in ways that are not always immediately apparent, including entities in which a foreign person need only have an interest of at least 20%.

You should seek independent legal advice to determine if you meet the definition.

Foreign person is defined in section 4 of the *Foreign Acquisitions and Takeovers Act 1975* to mean the following:

- an individual not ordinarily resident in Australia
- a corporation in which an individual not ordinarily resident in Australia, a foreign corporation or a foreign government holds a

substantial interest

- a corporation in which 2 or more persons, each of whom is an individual not ordinarily resident in Australia, a foreign corporation or a foreign government, hold an aggregate substantial interest
- the trustee of a trust in which an individual not ordinarily resident in Australia, a foreign corporation or a foreign government holds a substantial interest
- the trustee of a trust in which 2 or more persons, each of whom is an individual not ordinarily resident in Australia, a foreign corporation or a foreign government, hold an aggregate substantial interest
- a foreign government
- any other person that meets the conditions, prescribed by the regulations.

See the [Foreign Investment website foreign person guidance](#) 

Example: not an Australian citizen and not a permanent resident

Mr Huang is a Singaporean national who owns an agricultural holding and water entitlements. As Mr Huang is not a citizen of Australia and is not a permanent resident who is ordinarily resident in Australia, he is a foreign person.

Example: company incorporated in Australia and part owned by a foreign company

The Cattle Company Pty Ltd is incorporated in Australia. It owns farmland in Australia and runs a cattle station. A foreign company owns 24% of the shares in the Cattle Company Pty Ltd. The Cattle Company Pty Ltd is a foreign person.

## G

GL / Gigalitre

A metric unit of capacity equivalent to 1 billion litres (equivalent to 1,000 megalitres (ML)).

## Ground water

Under section 4 of the [Water Act 2007](#)  ground water means either:

- water occurring naturally below ground level (whether in an aquifer or otherwise)
- water occurring at a place below ground that has been pumped, diverted or released to that place for the purpose of being stored there.

This does not include water held in underground tanks, pipes or other works.

## I

## Interest in Australian land

The term 'interest in Australian land' has a broad definition. It includes freehold interests and also other interests such as leases and interests in securities in Australian land entities.


Section 12 of the *Foreign Acquisitions and Takeovers Act 1975* defines interest in Australian land to mean:

- a legal or equitable interest in Australian land, other than
  - an interest under a lease or licence or a unit in a unit trust
  - an interest in an agreement giving a right (known as a profit à prendre) to take something off another person's land, or to take something out of the soil of that land
  - an interest in an agreement involving the sharing of profits or income from the use of, or dealings in, Australian land
- an interest in a security in an entity that owns Australian land, being a security that entitles the holder to a right to occupy a dwelling of a kind known as a flat or home unit situated on the land
- an interest as lessee or licensee in a lease or licence giving rights to occupy Australian land if the term of the lease or licence (including

any extension or renewal) is reasonably likely, at the time the interest is acquired, to exceed 5 years

- an interest in an agreement giving a right of a kind mentioned in subparagraph (a)(ii) if the term of the agreement (including any extension or renewal) is reasonably likely, at the time the interest in the agreement is acquired, to exceed 5 years
- an interest in an agreement involving the sharing of profits or income from the use of, or dealings in, Australian land if the term of the agreement (including any extension or renewal) is reasonably likely, at the time the interest in the agreement is acquired, to exceed 5 years
- an interest in a share in an Australian land corporation or agricultural land corporation
  - an interest in a unit in an Australian land trust or agricultural land trust
  - if the trustee of an Australian land trust or agricultural land trust is a corporation—an interest in a share in that corporation.

## **Irrigation infrastructure operators (IIO)**

Section 7(4) of the [Water Act 2007](#)  defines an irrigation infrastructure operator (IIO) as an entity that operates water services infrastructure for the purposes of delivering water for the primary purpose of it being used for irrigation.

## **IIO requirements to register**

An IIO will only be required to register water holdings and interests if it:

- meets the definition of a foreign person
- holds water entitlements (or portions of entitlements) that are not subject to irrigation rights
- holds water entitlements (or portions of entitlements) that are not used for conveyance purposes.

## **Irrigation right**

Under section 4 of the [Water Act 2007](#)  this means a right that:

- a person has against an [irrigation infrastructure operator](#) to receive water
- is not a water access right or a [water delivery right](#).

Note: A contract between an irrigator and [irrigation infrastructure operator \(IIO\)](#) for the irrigator to receive water is an [irrigation right](#). It's not a contractual water right even though a contract might be involved. See [Contractual water right](#).

## J

### Joint tenants

Generally, a joint tenant is 2 or more persons that hold property jointly—each owns an undivided share of the whole. Should one person die, their interest would pass to the surviving co-owner or co-owners.

## M

### Mining and production tenement

A mining or production tenement is defined in section 4 of the Act as either:

- a right (however described) under a law of the Commonwealth, a state or a territory to recover minerals (such as coal or ore), oil or gas in Australia or from the seabed or subsoil of the offshore area, other than a right to recover minerals, oil or gas for the purposes of prospecting or exploring for minerals, oil or gas
- a right preserving a right as defined above
- a lease under which the lessee has a right mentioned above
- an interest in a right or lease mentioned above.

### ML / Megalitre

A metric unit of capacity equal to one million litres.

### Mortgagee interest

A security interest arising from a mortgage over real property.

## N

### Near-new dwelling

A near-new dwelling is a dwelling that:

- will be, is being, or has been, built on residential land
- is part of a residential development
- was previously sold by the developer of that development, but the transaction failed to settle
- has not been previously occupied for more than 12 months in total.

Section 4 of the *Foreign Acquisitions and Takeovers Act 1975* defines a residential development as a development that has one or more multi-story buildings and at least 50 independent self-contained dwellings.

A property is considered sold once a binding purchase agreement has been entered into, regardless of whether the sale is completed (or settled).

### New dwelling

A new residential dwelling is a dwelling that:

- will be, is being, or has been, built on residential land
- has not been previously sold as a dwelling
- has not been previously occupied.

### No objection notification

A no objection notification is a form of correspondence provided to a foreign person who has applied for approval to purchase relevant Australian assets. This notification will grant the foreign person permission to purchase an interest in that Australian asset.

## O


### Ordinarily resident

Section 5 of *Foreign Acquisitions and Takeovers Act 1975* defines ordinarily resident as:



An individual who is not an Australian citizen is **ordinarily resident** in Australia at a particular time if and only if:

- the individual has been in Australia for 200 or more days in the 12-month period immediately preceding that time, and
- at that time
  - the individual is in Australia and the individual's continued presence in Australia is not subject to any limitation as to time imposed by law, or
  - the individual is not in Australia but, immediately before the individual's most recent departure from Australia, the individual's continued presence in Australia was not subject to any limitation as to time imposed by law.

Without limiting paragraph (1)(b), an individual's continued presence in Australia is subject to a limitation as to time imposed by law if the individual is an unlawful non-citizen within the meaning of the [Migration Act 1958](#) .

## R

### Residential land

Residential land:

- means land in Australia if
  - there is at least one dwelling on the land, or
  - the number of dwellings that could reasonably be built on the land is less than the number prescribed by the regulations, and
- does not include land
  - used wholly and exclusively for a primary production business, or
  - on which the only dwellings are commercial residential premises.

The [Foreign Investment](#)  website provides a definition in their guidance on residential land.

See the definition of [vacant residential land](#).

## Registrable water entitlement

Under section 5A of the *Register of Foreign Ownership of Water or Agricultural Land Act 2015* a registrable water entitlement is:

- an [irrigation right](#) – which is a right a person has against an [irrigation infrastructure operator \(IIO\)](#) to receive water (and excludes a [water access right](#) or a [water delivery right](#))
- a right (including an Australian water access entitlement) conferred by or under a law of a state or territory to do either or both of the following
  - to hold water from a water resource in Australia
  - to take water from a water resource in Australia.

### Exclusions

The following types of water rights will be excluded from the definition of a 'registrable water entitlement':

- stock and domestic rights, and harvestable rights used for stock and domestic purposes
- riparian rights
- annual [water allocations](#)
- rights held by an IIO to the extent that either another person holds an [irrigation right](#) in relation to that right, or they are for conveyance water.

Example: registerable irrigation right

Simone is a foreign person and holds a right to receive 6.3 ML from the Lower River Irrigating Cooperative (which is an IIO). This right is an irrigation right and must be registered with us.

Example: foreign company with a registerable water entitlement

Pyrite Exploration Corporation (PEC) is a foreign company that conducts mining operations in a remote area in the state of

Queensland not covered by a water resource plan. The Queensland government issued PEC with a 5,000 ML 10-year licence.

The licence allows PEC to take, hold and interfere with the specific groundwater resource in accordance with the licence conditions. This licence is a right conferred under a state law to hold and take water from a water resource within Australia and is a registrable water entitlement. PEC must register the water entitlement.

## Registrable water interest

The Act defines this as either a:

- Registerable water entitlement
- A contractual water right of a person

## Riparian rights

The right of the owner of the land, through whose property a natural water resource runs, to use water from the resource for use on the land, such as for drinking water or irrigation.

## S

### Substantial interest

A person holds a substantial interest in an entity or trust if:

- for an entity—the person holds an interest of at least 20% in the entity
- for a trust (including a unit trust)—the person, together with one or more associates, holds a beneficial interest in at least 20% of the income or property of the trust.

## T

### Take

Under section 4 of the *Water Act 2007*, to take water from a water resource means to remove water from, or to reduce the flow of water

in or into, the water resource including by any of the following means:

- pumping or siphoning water from the water resource
- stopping, impeding or diverting the flow of water in or into the water resource
- releasing water from the water resource if the water resource is a wetland or lake
- permitting water to flow from the water resource if the water resource is a well or watercourse.

It also includes storing water as part of, or in a way that is ancillary to, any of the processes or activities referred to in the dot points above.

## **Tenants in common**

Tenants in common are 2 or more people who separately own a percentage of a property. The percentages may be unequal. Tenants in common can dispose of or bequeath their share of the property to anyone. When a tenant in common dies, their share in the property does not pass to the other tenants in common and becomes an asset of their deceased estate. There is no right of survivorship.

## **Temporary resident**

A temporary resident is an individual who:

- holds a temporary visa that allows them to stay in Australia for a continuous period of 12 months or more (regardless of how long remains on the visa)
- resides in Australia, has submitted an application for a permanent visa and holds a bridging visa that allows them to stay in Australia until their application is finalised.

The type of visa you hold determines what property applications you can apply for. For example, if you hold a bridging visa that will not lead to a permanent resident visa, then you cannot apply for an established dwelling – unless you intend to redevelop the property.

## **V**

## **Vacant residential land**

Vacant residential land in Australia is considered vacant if:

- it is land on which the number of dwellings that could reasonably be built is less than 10
- the land is not being used wholly and exclusively for a primary production business.

Land that previously had a residential dwelling built on it would not be treated as vacant residential land. This is because a new dwelling built on the land would not genuinely increase the housing stock (as a dwelling already existed before its demolition).

See definition of [Australian land](#).

## Variation

A variation can be sought to make changes to an existing 'No objection notification' or exemption certificate.

The types of variations that can occur are:

- revoking a condition
- imposing a new condition
- varying an existing condition
- varying certain information provided in the no objection notification.

## W

### Water access entitlement


Under section 4 of the [Water Act 2007](#)  this is defined as:

A perpetual or ongoing entitlement, by or under a law of a state or territory, to exclusive access to a share of water resources of an area in the state or territory.

### Water access licence

A type of water access entitlement.

### Water access right

Under section 4 of the [Water Act 2007](#)  water access right means any right conferred by or under a law of a state to do either or both of


the following:

- hold water from a water resource
- take water from a water resource.

It includes the following rights:

- stock and domestic rights
- [riparian rights](#)
- [water access entitlement](#)
- water allocation.

## Water allocation

Under section 4 of the [Water Act 2007](#)  this means the specific volume of water allocated to [water access entitlements](#) in a given water accounting period.

## Water delivery right

A right to have water delivered by an infrastructure operator.

## Water entitlement

See [Registrable water entitlement](#).

## Water holdings and interests requiring registration

Foreign persons will need to register their interests in a [registrable water entitlement](#) or a [contractual water right](#). Both of these terms are defined in the *Foreign Acquisitions and Takeovers Act 1975*.

## When to register water

A foreign person will need to register their interest in a registrable water entitlement or contractual water rights with us at the time of the event or within 30 days of the end of each financial year an event occurs.

However, if the acquisition and disposal of the same registrable water entitlement or contractual water right occurs during a single financial year, there is no need to notify us of either event.

Similarly, if a person who holds a registrable water entitlement or contractual water right begins to meet the definition of a foreign person during a financial year but does not meet the definition by the end of the same year, the person will not be required to register.

If you anticipate multiple transactions during the year, it is recommended that you wait until year end to register the relevant event and volume of water held.

See **Registration of registrable water** for more information.

**Example: foreign person with registerable water entitlement**

Binny Jenkins is a foreign person who owns an asparagus farm in New South Wales and has an irrigation right with ABC Irrigation Ltd. She enters into the contract with ABC Irrigation Ltd in February 2018.

The irrigation right meets the definition of a registrable water entitlement. Binny has until then end of July 2018 to register the irrigation right with us.

**Example: changes to water allocation**

Pippa Storey is a foreign person who purchases a new 10 ML water allocation in a catchment in Queensland in February 2018. Pippa already holds another water allocation for 20 ML with the same characteristics in that catchment, which has been previously registered with us.

Pippa has until the end of July 2018 to register her new water allocation. However, before registering her new water allocation Pippa decides to amalgamate the latest water allocation with her existing holding for ease of administration and does this before 1 July 2018.

As a result of the amalgamation, the volume against Pippa's existing water allocation changes and she must notify us of this event.

# Fees for foreign residential investors

Work out what fees you must pay as a foreign investor when investing in residential property in Australia.

Last updated 1 July 2024

## On this page

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## New residential property fee amounts for established dwellings from 9 April

From 9 April 2024, application fees for established dwellings have tripled. While we update our online systems, you will be contacted by a member of our staff after submitting your application to manually organise payment for the additional amount owed. The additional amount will be twice the amount already paid. For more information about the fee changes see [Changes to the foreign investment framework](#).

## When to pay a fee



You must pay a fee when submitting an application for foreign investment approval, including for an:

- approval to purchase a specific residential property (that is, a no objection notice)
- application for an exemption certificate to purchase a non-specified residential property
- application to vary an existing foreign investment approval (that is, a no objection notice or an exemption certificate).

Your fee covers our review of your application and are relevant for each application. Before we can consider your application, fees must be paid in full.

Fees also apply if you are liable for an annual vacancy fee.

There are limited circumstances where we grant a fee waiver or remission.

## **Residential property application fees**

The same fee applies to applications for approval to purchase a specific property (a no objection notice) or an exemption certificate to purchase a non-specified property of the same type.

For residential property applications, the fee payable is generally based on the value of the property you are seeking to purchase and if it is an established dwelling.

Different fees apply if you are a [property developer](#) applying for a new or near new exemption certificate.

See how to work out application fees for:

- [Residential property or exemption certificates](#)
- [Variations](#)
- [Tenants in common](#)

## **Residential property or exemption certificates**

**1 July 2024 to 30 June 2025**

**Application fees for acquisitions in established dwellings from 1 July 2024 to 30 June 2025**

<b>Amount</b>	<b>Fee per action</b>
Less than \$75,000	\$12,900
\$1 million or less	\$44,100
\$2 million or less	\$88,500
\$3 million or less	\$177,000
\$4 million or less	\$265,500
\$5 million or less	\$354,000
\$6 million or less	\$442,500
\$7 million or less	\$531,000
\$8 million or less	\$619,500
\$9 million or less	\$708,000
\$10 million or less	\$796,500
\$11 million or less	\$885,000
\$12 million or less	\$973,500
\$13 million or less	\$1,062,000
\$14 million or less	\$1,150,500
\$15 million or less	\$1,239,000
\$16 million or less	\$1,327,500
\$17 million or less	\$1,416,000

\$18 million or less	\$1,504,500
\$19 million or less	\$1,593,000
\$20 million or less	\$1,681,500
\$21 million or less	\$1,770,000
\$22 million or less	\$1,858,500
\$23 million or less	\$1,947,000
\$24 million or less	\$2,035,500
\$25 million or less	\$2,124,000
\$26 million or less	\$2,212,500
\$27 million or less	\$2,301,000
\$28 million or less	\$2,389,500
\$29 million or less	\$2,478,000
\$30 million or less	\$2,566,500
\$31 million or less	\$2,655,000
\$32 million or less	\$2,743,500
\$33 million or less	\$2,832,000
\$34 million or less	\$2,920,500
\$35 million or less	\$3,009,000
\$36 million or less	\$3,097,500
\$37 million or less	\$3,816,000
\$38 million or less	\$3,274,500

\$39 million or less	\$3,363,000
\$40 million or less	\$3,451,500
More than \$40 million	\$3,514,800

**Application fees for acquisitions in  
new or near new residential dwellings  
or vacant residential land from 1 July  
2024 to 30 June 2025**

<b>Amount</b>	<b>Fee per action</b>
Less than \$75,000	\$4,300
\$1 million or less	\$14,700
\$2 million or less	\$29,500
\$3 million or less	\$59,000
\$4 million or less	\$88,500
\$5 million or less	\$118,000
\$6 million or less	\$147,500
\$7 million or less	\$177,000
\$8 million or less	\$206,500
\$9 million or less	\$236,000
\$10 million or less	\$265,500
\$11 million or less	\$295,000
\$12 million or less	\$324,500

\$13 million or less	\$354,000
\$14 million or less	\$383,500
\$15 million or less	\$413,000
\$16 million or less	\$442,500
\$17 million or less	\$472,000
\$18 million or less	\$501,500
\$19 million or less	\$531,000
\$20 million or less	\$560,500
\$21 million or less	\$590,000
\$22 million or less	\$619,500
\$23 million or less	\$649,000
\$24 million or less	\$678,500
\$25 million or less	\$708,000
\$26 million or less	\$737,500
\$27 million or less	\$767,000
\$28 million or less	\$796,500
\$29 million or less	\$826,000
\$30 million or less	\$855,500
\$31 million or less	\$885,000
\$32 million or less	\$914,500
\$33 million or less	\$944,000

\$34 million or less	\$973,500
\$35 million or less	\$1,003,000
\$36 million or less	\$1,032,500
\$37 million or less	\$1,062,000
\$38 million or less	\$1,091,500
\$39 million or less	\$1,121,000
\$40 million or less	\$1,150,500
More than \$40 million	\$1,171,600

## Variations

You must pay a fee to apply to vary an existing foreign investment approval.

For 1 July 2024 to 30 June 2025, the fee is:

- \$4,300 for a simple variation (considered immaterial or minor)
- \$29,500 for a complex variation (not of an immaterial or minor nature).

We will cap your fee where you are seeking to vary an application notice and you originally paid a lower fee. For example, if you requested a complex variation in May 2023 for an approval where you originally paid a \$13,200 fee, the variation fee is capped at \$13,200.

## Tenants in common

If you are purchasing the property as **tenants in common**, the fee payable for the interest is equal to your percentage of ownership in the property.

**Example: calculate fee based on your percentage ownership in the property**

Sara is a foreign investor who is purchasing an Australian property with another investor as tenants in common.

She is seeking approval to purchase 25% of a \$1.5 million property with the other investor. On 1 May 2023, she applies for residential approval.

The application fee for a \$1.5 million property is \$26,400. When Sara submits her application, she needs to pay \$6,600 which is 25% of the total fee for the property.

## **Annual vacancy fee**

If your property is not occupied or rented out for 183 days (6 months) or more in a vacancy year, or you fail to lodge your annual vacancy fee return on time you may need to pay a **vacancy fee**.

This fee is based on the application fee you paid when you submitted your residential property or exemption certificate application.

For vacancy years starting 9 April 2024 the fee will be double your foreign investment application fee.

Fees are calculated when you lodge your vacancy fee return.

### **Example: calculate a vacancy fee for a new dwelling**

Rishi is a foreign investor looking to buy a newly developed apartment in the Sydney area for under \$2million. He applies for approval for a residential property exemption certificate for a new property in April 2024 and pays the \$28,200 application fee.

Rishi's application is approved and he has 12 months to purchase a newly developed apartment. On 2 November 2024 he completes settlement on a newly developed apartment and makes it available for rent.

Rishi's vacancy year will end on 1 November each year. He will need to lodge a vacancy fee return by 1 December 2025. If the apartment was unoccupied and not available to rent for more than 183 days (6 months), he will pay a vacancy fee of \$56,400.

This is twice the fee he paid for the exemption certificate application.

### **Example: calculate a vacancy fee**

Myeong purchased a newly developed townhouse for \$850,000 as an investment property in Geelong. Myeong paid a foreign investment application fee \$13,200 and settlement was made on 1 August 2022. Each year in August, Myeong is required to lodge a vacancy fee return.

If Myeong is liable for a vacancy fee, for:

- the vacancy years 1 August 2022 to 31 July 2023, and 1 August 2023 to 31 July 2024, the fee would be the same as the foreign investment application fee of \$13,200
- the vacancy year 1 August 2024 to 31 July 2025, the vacancy fee will be double the foreign investment application fee. The vacancy fee will therefore be \$26,400.

## **Property developer application fee**

Property developers applying for a **new or near new dwelling exemption certificate** must pay an initial application fee. The fee is:

- \$60,600 for 1 July 2024 to 30 June 2025.

You are then required to **report the sales** of new or near-new dwellings every 6 months. A separate fee per sale will be payable for each dwelling sold to a foreign person under the certificate.

## **When fees are updated**

Fees for foreign investment applications and notices are indexed each financial year on 1 July. The information on this page is correct at the time of publishing.



For more details, see the [fee guidance note](#) .

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## **Our commitment to you**

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

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