

Foreign Owner Land Tax Surcharges

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The foreign owner land tax surcharge increases the ongoing costs of owning property in Victoria, NSW and Queensland. Victoria has introduced the highest surcharge rate and applies the surcharge to all land (not just residential land). However, it should be noted that Victoria does provide an exemption for Australian based foreign owners who make significant contributions to the Victorian economy.

Foreign owners who fit within this category should contact us to apply to the Commissioner for this exemption to avoid this ongoing cost.

We note that Queensland has always had a surcharge land tax rate applicable to absentee individuals and all Trusts and Corporations (regardless of foreign ownership).

Land Tax	Victoria	New South Wales	Queensland
Land tax surcharge	1.5%	2%	1.5% surcharge applies to Absentee individuals only in addition to surcharge rates applicable under the existing regime to Absentee individuals, all corporations and trusts.
To whom does the Foreign land tax surcharge apply?	<p>Absentee owner which is defined as follows:</p> <p>Absentee individual</p> <p>Is not an Australian Citizen; Does not ordinarily reside in Australia; and Was absent from Australia:</p> <ul style="list-style-type: none"> - On 31 December of the year prior to the tax year; or - For more than six months in total in the calendar year prior to the tax year. 	<p>Foreign Person which is defined as follows:</p> <p>Foreign Person</p> <p>Individuals that are not citizens of Australia; Individuals that are not ordinarily a resident of Australia (individual who has been in Australia during 200 or more days in the previous 12 months); Individuals that are not New Zealand citizens with a special category visa (Subclass 444).</p>	<p>Absentee individuals</p> <p>Individuals who do not ordinarily reside in Australia and was absent from Australia at 30 June or has been absent for more than half of the 12 month period ending at 30 June.</p>
	<p>Absentee corporation</p> <p>Incorporated outside of Australia, or In which an absentee person(s) has a controlling interest:</p> <ul style="list-style-type: none"> - Greater than 50% of the voting power in the corporations; or - have an interest in greater than 50% of the issued shares in the corporation; or - ability to influence the outcome of the decisions about the corporation's financial and operating policies. 	<p>Foreign Corporation</p> <p>A corporation in which an interest of 20% or more is owned by a foreign individual, corporation or government. A corporation in which 2 or more foreign individuals, corporations or governments own an interest of 40% or more.</p>	<p>All corporations</p> <p>Except:</p> <ul style="list-style-type: none"> - a Trustee of a person in bankruptcy; or - a Public Trustee of an incapacitated person.
	<p>Absentee Trust</p> <p>A trust which has at least one beneficiary who is an absentee person. Note: Need to include associated persons in determining the above threshold</p>	<p>Foreign Trust</p> <p>A trustee of a trust in which an interest of 20% or more is held by a foreign individual, corporation or government. A trustee of a trust in which 2 or more foreign individuals, corporations or governments hold an interest of 40% or more. Note: Need to include associated persons in determining the above threshold</p>	<p>All Trusts</p>

What does the surcharge rate apply to?	All land	Residential land	All land
Exemptions to Foreign Owner Surcharge	<p>Treasurer's discretion based on the absentee owners contribution to the Victorian economy – available to absentee corporations that were incorporated in Australia and absentee trusts.</p> <p>Absentee Trusts that are charities, concessional, public unit trusts, wholesale unit trust schemes and complying superannuation trusts.</p>	<p>Where land is held for less than 10 years, Australian incorporated property developers can seek a refund of the surcharge (or a proportion of surcharge) paid if they lodge an application for refund within 12 months of the sale of a new home on residential land.</p> <p>The amount of the refund will be determined under Treasury Guidelines which are yet to be issued.</p> <p>They can seek a prospective exemption if they can satisfy the Commissioner that they would be entitled to a full refund of the surcharge.</p> <p>Transitional rules apply for land purchased by Australian incorporated property developers that purchase land prior to 21 June 2016.</p> <p>Individuals holding permanent resident visas and New Zealand citizens holding a subclass 444 visa will be exempt on their principal place of residence, provided they occupy the home for 200 days continuously within 12 months of purchase.</p>	N/A
Does the surcharge apply to indirect acquisitions?	Yes	Yes	No
Is foreign duty surcharge only on proportion of the entity owned by foreign person/purchaser?	<p>Discretionary Trust/Company</p> <p>No, the surcharge applies to the full value of the land.</p> <p>Fixed Trust/Unit Trust</p> <p>Yes, the surcharge applies only to the ownership percentage held by absentee owners.</p>	<p>Discretionary Trust/Company</p> <p>No, the surcharge applies to the full value of the land</p> <p>Fixed Trust/Unit Trust</p> <p>Yes, the surcharge applies only to the ownership percentage held by foreign owners</p>	No, the surcharge applies to the full value of the land.



Let's discuss the possibilities.

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