

Australian Stamp Duty and Land Tax Summary for Foreign Owners



2024

A summary:

Australian Stamp Duty and Land Tax Charges applying to Foreign Purchasers and Owners of Australian Residential Property

Over the last several years various Australian State governments, including Victoria, New South Wales, Queensland, South Australia, Western Australia and Tasmania have introduced stamp duty “surcharges” and additional “absentee” land taxes specifically targeting foreign or non-resident property owners.

In addition, there is an “Absentee Fee” payable to the Federal Government by foreign property owners investors who made foreign investment applications after May 9, 2017 and who do not occupy or make their Australian residential property available for rental for more than 183 days during a year. The annual vacancy fee is now - effective 9 April, 2024 - double the foreign investment application fee paid when purchasing the property and substantial; either \$28,100 or \$84,600 - depending upon whether the application was made in respect of an established or new dwelling. There has so far been inadequate compliance activity in this area and we suspect that there are a number of foreign owners who may have a substantial exposure to this provision, despite reporting requirements.

The overall situation is made more complicated by the various State Governments having adopted different rules and definitions with respect to who, and in what circumstances, individuals and other entities are subject to additional levels of taxation in terms of stamp duty and land tax.

We have produced a Table (attached) which provides a summary of both stamp duty and land tax changes as they apply to non-resident owners. Note, however, that **no Australian state currently levies an additional stamp duty surcharge on Australian citizens, permanent residents or New Zealanders with a special category visa.**

We would flag that there have also been instances where expatriates have received land tax invoices simply because they have provided an overseas contact address to a State Government department - and the presumption has been made that they are foreign citizens. Almost certainly, because of the sheer complexity of these charges, many expatriates will be paying tax when they have no liability. Our clear advice is that if you have any queries at all regarding your

liability then you should contact professional advisors to confirm your position.

Note that the comments on the Table apply only to the purchase of residential property, and not to the purchase of commercial or agricultural property or to circumstances where you are seeking to purchase through a company, trust or other structure.

We hope that the Table provides expats and foreign investors with more clarity regarding what stamp duty is payable in relation to any investment in Australian property, and the land tax applicable should they be working or living overseas. However, it remains the situation that this can be a complex area where individual circumstances can be very important and **the Table is only intended as providing background information and it is not to be relied upon.** Individuals should seek professional **legal and tax advice** prior to making any purchase, or if they are unclear regarding how state land tax or the the Federal absentee fee applies in their situation.

	New South Wales	Victoria	Queensland
STAMP DUTY	<p>8% Surcharge Purchaser Duty (SPD) applicable from 1 July, 2017 is payable <u>in addition</u> to normal stamp duty by "foreign persons" - this is defined as <u>not</u> including Australian citizens.</p> <p>Apart from Australian citizens, the following individuals are also <u>not</u> "foreign persons"; Australian PR's, New Zealand citizen holding a Special Category (444) Visa and Partner visa holders who meet the "200 day rule". The latter requires that an individual must be in Australia for 200 days or more within the 12 months immediately prior to the contract date. All others are considered "foreign persons".</p> <p>Online Reference ></p>	<p>8% Foreign Purchaser's Additional Duty (FPAD) applicable from 1 July, 2019 <u>in addition</u> to normal stamp duty (referred to as "land transfer duty" in Victoria) for foreign purchasers.</p> <p>You are a "foreign purchaser" if you are <u>not</u> an Australian citizen or permanent resident of Australia, or a New Zealand Special Category (444) Visa holder. Therefore, the duty is in principle payable by temporary residents in Australia as well as non-resident foreign citizens.</p> <p>Online Reference ></p>	<p>7% Additional Foreign Acquirer Duty (AFAD), previously 3%, payable <u>in addition</u> to normal stamp duty, to purchasers of residential property on or after 1 July, 2016 who are "foreign persons".</p> <p>You are a foreign individual if you are <u>not</u> an Australian citizen or permanent resident. A permanent resident holds a permanent visa, or is a New Zealand citizen with a Special Category (444) Visa. Therefore, the duty is in principle payable by temporary residents in Australia as well as non-resident foreign citizens.</p> <p>Online Reference ></p>
LAND TAX	<p>From July 1, 2017 foreign persons owning residential land in NSW must pay a surcharge, currently 4% from January 1, 2023 - <u>in addition</u> to standard land tax. As with stamp duty above, the surcharge is payable by a "foreign person" who is not ordinarily resident in Australia, and <u>does not include an Australian citizen</u>. It is based on the taxable value of all residential land owned on 31 December each year.</p> <p>From 2018 a "principal place of residence" exemption was made available to PR's and New Zealand special category visa holders if they met the "ordinarily resident" criteria; the exemption is not available to temporary visa holders.</p> <p>Online Reference ></p>	<p>The 2% "Absentee Owner Surcharge" (AOS) applicable <u>in addition</u> to ordinary land tax, increased to 4% from January 1, 2024 with respect to "absentee landlords". An absentee individual is any individual who:</p> <p>Is not an Australian citizen or PR, or</p> <ol style="list-style-type: none"> Does not ordinarily reside in Australia, and Was absent from Australia 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>Therefore, Australian citizens and PR's cannot be liable for the surcharge.</p> <p>Online Reference ></p>	<p>Special land tax rates apply to Absentee owners, including land tax applying from a lower valuation level than typically applies - currently \$350,000.</p> <p>From 30 June 2019 , Australian citizens and permanent visa holders have not been considered "absentees". The absentee surcharge is currently 3%.</p> <p>Online Reference ></p>

	Western Australia	South Australia	Tasmania
STAMP DUTY	<p>7% Foreign Buyers Duty (FBD) applicable from 1 July, 2019 <u>in addition</u> to normal stamp duty for purchases by foreign persons.</p> <p>You are a “foreign person” if you are <u>not</u> an Australian citizen or permanent resident of Australia, or a New Zealand Special Category Visa holder. Therefore, the duty is in principle payable by temporary residents in Australia as well as non-resident foreign citizens.</p> <p>Online Reference ></p>	<p>7% Foreign Ownership Surcharge (FOS) applicable from 1 January, 2018 <u>in addition</u> to normal stamp duty for purchases by foreign persons.</p> <p>You are a “foreign person” if you are <u>not</u> an Australian citizen or permanent resident of Australia, or a New Zealand Special Category Visa holder. Therefore, the duty is in principle payable by temporary residents in Australia as well as non-resident foreign citizens.</p> <p>Online Reference ></p>	<p>8% Foreign Investor Duty Surcharge (FIDS), previously 3%, applicable from 1 April, 2020 <u>in addition</u> to normal stamp duty for purchases by foreign persons.</p> <p>There is an unusual approach to determining who is a foreign person - you are required to submit a form with personal particulars. However, “foreign person” within the Duties Act 2001 does <u>not</u> include an Australian citizen or permanent resident of Australia, or a New Zealand Special Category Visa holder. Therefore, the duty is in principle payable by temporary residents in Australia as well as non-resident foreign citizens.</p> <p>Online Reference ></p>
LAND TAX	No Absentee Land Tax provisions	No Absentee Land Tax provisions	No Absentee Land Tax provisions