

Duties Form 62 Purchaser Statement

www.sro.vic.gov.au

Need help? Contact us.

Phone **13 21 61**

Email contact@sro.vic.gov.au

Part A - Do you need to complete this statement?

Who should complete this statement?

All transferees must complete and sign this statement. A transferee is a person who:

- comes to own or hold an interest in land in Victoria,
- buys land in Victoria,
- declares a trust over land in Victoria, or
- pays or agrees to pay consideration for certain leases of land in Victoria or the acquisition of certain rights pertaining to the underlying land.

If there is more than one transferee, each transferee is required to complete their own purchaser statement.

What is the purpose of this statement?

This statement enables the SRO to identify whether the transferee is a foreign purchaser of residential property because the foreign purchaser additional duty (FPAD) will apply to these transactions.

The FPAD applies to any contract or transaction entered into on or after 1 July 2015 where the transferee is a foreign purchaser when the transfer or transaction occurs (usually at settlement).

For more details on FPAD, including the rate, visit www.sro.vic.gov.au/foreignpurchaser.

How do I complete this statement?

This statement can be completed on screen, printed and signed, or printed and completed by hand. Print in block letters with a black or blue ballpoint pen only. Print 'X' in the appropriate boxes. To reduce paper usage, print and submit pages 1-4 only. For a glossary of the terms used in this statement, consult 'Part I - Explanatory notes'. For further clarification (if required), contact the SRO directly on 13 21 61.

Part B - Transferee type

Is the transferee:

- ☐ A natural person that is not acting as a trustee (go to Part C)
- ☐ A corporation that is not acting as a trustee (go to Part D)
- ☐ A natural person or corporation acting as trustee (go to Part E)

Part C - Natural person details

Is the transferee a **foreign natural person**?

This excludes an Australian Citizen, holder of a permanent visa or a New Zealand citizen holding a Special Category Visa (subclass 444).

See the notes to help you answer this question.

- ☐ **Yes**
- ☐ **No**

Name of transferee

Transferee details

Postal address

Street number and street name or PO Box

Suburb or district

State or province

Country

Postcode or zip code

Country of citizenship

Date of birth (DDMMYYYY)

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Phone number

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Email

[Proceed to Part F](#)

Part D - Corporation details

Is the transferee a **foreign corporation**?

The transferee may be a foreign corporation even if the corporation was incorporated in Australia, or the shareholders are Australian citizens or Australian registered corporations.

See the notes to help you answer this question.

☐

Yes

☐

No

Transferee details

Name of transferee corporation

Authorised Officer

Position (e.g. Director, CEO)

ACN (if applicable)

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ABN (if applicable)

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Country of incorporation

Address or registered head office

Street number and street name

Suburb or district

State or province

Country

Postcode or zip code

Phone number

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Email

[Proceed to Part F](#)

Part E - Trust details

Is the transferee a trustee acting on behalf of a **foreign trust**?

The transferee may be a trustee of a foreign trust even if the beneficiaries are Australian citizens or Australian registered corporations.

See the notes to help you answer this question.

☐

Yes

☐

No

Name of trustee

Authorised Officer (if a corporation)

Position (e.g. Director, CEO) (if a corporation)

ACN (if applicable)

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ABN (if applicable)

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Name of the trust

Trustee contact details

Postal address

Street number and street name

Suburb or district

State or province

Country

Postcode or zip code

Phone number

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Email

[Proceed to Part F](#)

Part F - Property details

Is the property a **residential property**?

☐

Yes

☐

No

If the answer is 'No' and you are a foreign purchaser, you must advise the Commissioner of State Revenue in writing within 14 days of deciding to build a place of residence/s on the land.

Property address

Street number and street name

Suburb/Town

State

Postcode

Title particulars

(Supply either the Volume/Conveyance and Folio/Book or Lot and Plan references)

Volume/Conveyance

Folio/Book

Lot

Plan

If there is insufficient space, please attach a schedule.

[Proceed to Part G](#)

Part G - Acknowledgement

I acknowledge that all the information disclosed in this statement is true and correct. I understand that I am personally liable under the *Taxation Administration Act 1997* to statutory penalties if I give false or misleading information.

Name

Position (e.g. Director, CEO etc.) (if applicable)

Corporation (if applicable)

Signature

Date (DDMMYYYY)

Part H - Privacy statement

This information is collected by the SRO for the general administration of land transfer duty, including the calculation of any duty that may be payable on the transfer of residential land. If you do not provide the information required, we may not be able to process this transaction. The information collected may be used for the purposes of other SRO legislation. Where authorised to do so, we may also disclose this information to other government agencies, including FIRB, the ATO, state and territory revenue offices and law enforcement agencies. You can find out more about how we use and protect your information in our Privacy Policy on www.sro.vic.gov.au. If you require access to the information that you have provided us, please contact the SRO on 13 21 61.

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Continued on page 5

Part I - Explanatory notes

All section numbers are references to the *Duties Act 2000*. In some instances, the definitions here have been re-worded to assist you in completing this form.

1. Foreign purchaser (section 3(1))

A foreign purchaser is any one of the following:

- a. a foreign natural person,
- b. a foreign corporation or
- c. a trustee of a foreign trust.

2. Foreign natural person (section 3(1))

You are a foreign natural person if you are not:

- a. an Australian citizen
- b. an Australian Permanent Resident
- c. a New Zealand citizen with a Special Category Visa (Subclass 444)

3. Foreign corporation (section 3(1))

A foreign corporation is:

- a. a corporation incorporated outside Australia or
- b. a corporation where one of the following persons has a controlling interest in the corporation, whether on their own or with an associated person or persons –
 - i. a foreign natural person,
 - ii. another foreign corporation,
 - iii. trustee of a foreign trust.

4. Controlling interest (section 3A)

A person has a controlling interest in a corporation where that person:

- a. is in a position to control, whether directly or indirectly, more than 50% of the voting power or potential voting power in the corporation
- b. has an interest in more than 50% of the issued shares in the corporation or
- c. the Commissioner has determined that the person has the capacity to determine or influence, directly or indirectly, the outcome of decisions about the corporation's financial and operating policies.

Example — the transferee corporation is a foreign purchaser

XYZ Pty Ltd purchases land in Victoria. XYZ Pty Ltd is a corporation incorporated in Australia. Its shareholders are A Pty Ltd as to 45% and B Pty Ltd as to 55%.

B Pty Ltd has two shareholders, both of whom are foreign natural persons. As a result, B Pty Ltd is a foreign corporation who has a controlling interest in XYZ Pty Ltd which makes XYZ Pty Ltd a foreign corporation. Therefore XYZ Pty Ltd will be liable for the additional duty payable by foreign purchasers of residential property.

Example — The transferee is a foreign purchaser because there is a foreign natural person corporation or trust in the transferee's corporate structure

XYZ Pty Ltd purchases residential property in Victoria. XYZ Pty Ltd is a corporation incorporated in Australia. XYZ Pty Ltd has two shareholders, A Pty Ltd as to 45% and B Pty Ltd as to 55%. B Pty Ltd has two shareholders, D and E. D is the holder of an Australian permanent visa who has 35% of the shares in B Pty Ltd, whilst E is a foreign natural person who holds 65% of the shares in B Pty Ltd.

E has an interest in more than 50% of the issued shares in B Pty Ltd and so has a controlling interest in B Pty Ltd. B Pty Ltd holds more than 50% of the issued shares, and therefore a controlling interest, in XYZ Pty Ltd. This makes XYZ Pty Ltd a foreign corporation which means that XYZ Pty Ltd will be liable for the additional duty payable by foreign purchasers of residential property.

5. Voting power and potential voting power (section 3(1))

Voting power in a corporation is a reference to the maximum number of votes that might be cast at a general meeting of the corporation.

Potential voting power in a corporation is a reference to the voting power based on the assumption that the votes might be cast at a general meeting of the corporation including each vote that:

- a. might exist in the future because of the exercise of a right (whether actual, prospective or contingent) and
- b. if it came into existence, might be cast at a general meeting of the corporation.

Both these definitions have the same meaning as in the Foreign Acquisitions and Takeovers Act 1975 (Cth).

6. Foreign trust (section 3(1))

A foreign trust arises where:

- a. a foreign natural person
- b. a foreign corporation or
- c. another person that holds the substantial interest as trustee of another foreign trust has a substantial interest, whether on their own or with an associated person or persons, in the trust.

7. Substantial interest (section 3B)

A person has a substantial interest in the trust estate of a foreign trust if –

- a. the person has a beneficial interest of more than 50% of the capital of the trust estate; or
- b. the Commissioner has determined that the person has the capacity to determine or influence the outcome of decisions about the administration and conduct of the trust.

In the case of a discretionary trust in which the trustee has power or discretion as to the distribution of the capital of the trust estate to a member or class of person, any such person is taken to have a beneficial interest in the maximum percentage of the capital of the foreign trust estate that the trustee is empowered to distribute to that person.

Example - the transferee trust is a foreign purchaser

ABC Pty Ltd acts as trustee for the ABC Unit Trust which holds two unitholders, Y and Z. Y is an Australian citizen who has 40% of the units in the Unit Trust, whilst Z is a foreign natural person who holds 60% of the units in the Unit Trust.

Z has a substantial interest in the ABC Unit Trust, which makes it a foreign trust.

Example - The transferee is a foreign purchaser because there is a foreign natural person, corporation or trust in the transferee's trust structure

ABC Pty Ltd as trustee of the ABC Unit Trust buys residential property on its behalf. The ABC Unit Trust has two unitholders, Y and Z Pty Ltd. Y is the holder of an Australian permanent visa who holds 40% of the units in the Unit Trust, whilst Z Pty Ltd is a corporation incorporated in Australia which holds 60% of the units in the Unit Trust. The sole shareholder of Z Pty Ltd is X, a foreign natural person.

X holds an interest in more than 50% of the issued shares in Z Pty Ltd and so has a controlling interest in Z Pty Ltd. Z Pty Ltd holds an interest in more than 50% of the capital of the trust estate of the ABC Unit Trust and therefore has a substantial interest in the Unit Trust. This makes the ABC Unit Trust a foreign trust which means ABC Pty Ltd on behalf of the ABC Unit Trust will be liable for the additional duty payable by foreign purchasers of residential property.

8. Residential property (section 3F)

Residential property is land in Victoria:

- a. capable of being used solely or primarily for residential purposes and that may lawfully be used in that way.

Example - purchasing separately titled residential apartment

A foreign purchaser buys a separately titled residential apartment in a building. The residential apartment is capable of being used solely or primarily for residential purposes and therefore it is residential property.

- b. which includes a building, or part of a building, that a person intends to refurbish or extend so the land is capable of being used solely or primarily for residential purposes and may lawfully be used in that way

Example - purchasing a disused warehouse with intention to refurbish into residential apartments

A foreign purchaser buys a disused warehouse with the intention of refurbishing the warehouse into residential apartments. Although at the time of purchase, the land is not capable of being used solely or primarily for residential purposes, the purchase of the disused warehouse is residential property because it will be refurbished so that it is capable of being used solely or primarily for residential purposes.

- c. on which a person intends to construct a building so the land is capable of being used solely or primarily for residential purposes and may lawfully be used in that way

Example - purchasing vacant land to build residential apartments

A foreign purchaser buys vacant land on which they intend to construct residential apartments.

- d. in respect of which a person has undertaken or intends to undertake land development for the purposes of:
- i. constructing a building so the land is capable of being used solely or primarily for residential purposes and may lawfully be used in that way, or

Example - purchasing vacant land to undertake land development

A foreign purchaser buys vacant land on which they intend to undertake land development (e.g. preparing a plan of a subdivision for a housing estate) in order to construct the housing development.

- ii. enabling another person to construct a building so the land is capable of being used solely or primarily for residential purposes and may lawfully be used in that way.

Example - purchasing vacant land to undertake land development

A foreign purchaser buys vacant land on which they have undertaken land development (e.g. they have requested a planning authority to prepare an amendment to a planning scheme to allow a housing development) and which they intend to sell to a builder to construct the housing development.

Refurbish means to undertake building work that requires a building permit to be issued under the **Building Act 1993** for the conversion of an existing building:

Land development means any one or more of the following:

- preparing a plan of subdivision or taking steps to have the plan registered
- applying for or obtaining a permit under the *Planning and Environment Act 1987* in relation to the use or development of the land
- requesting a planning authority to prepare an amendment to a planning scheme that would affect the land
- applying for or obtaining a permit or approval under the *Building Act 1993*
- doing anything in relation to the land for which a permit or approval under the *Building Act 1993* would be required
- developing or changing the land in any other way that would lead to the enhancement of its value.

The following are not **residential property**:

- **commercial residential premises**, as defined in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*. This includes hotels, motels, inns, hostels, boarding houses, premises used to provide accommodation in connection with a school, caravan parks, camping grounds, and other similar properties. However, the purchase of a separately titled room in a hotel or motel in its own right (without the commercial infrastructure of the hotel or motel) may not constitute commercial residential premises. In such cases the separately titled room will be residential property.
- **a residential care facility**, as defined in section 76 of the *Land Tax Act 2005*.
- **a supported residential service**, as defined in the *Supported Residential Services (Private Proprietors) Act 2010*.
- land used for the purposes of a **retirement village**, as defined in the *Retirement Villages Act 1986*.

Part J - Lodgement

Online: via Duties Online (if you are a registered organisation) on www.sro.vic.gov.au

Mail: State Revenue Office
GPO Box 1641
MELBOURNE VIC 3001
or DX 260090 Melbourne VIC