



## FOREIGN TRANSFER DUTY DECLARATION (WA), (CI), (CKI)

This declaration form must be completed by each person acquiring an interest in land in Western Australia.

<b>Bundle ID</b>									
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**IMPORTANT**

- This declaration form must be lodged with the Office of State Revenue (OSR), together with a copy of the relevant transaction record, within 2 months after the day on which liability for duty on the transaction arises.
- Before completing this declaration form, please read the attached Annexure containing all of the relevant definitions.
- If there is more than one purchaser/transferee, each purchaser/transferee must complete their own declaration.
- If the assessment has been made through Revenue Online (Online Duties), this application form must be retained by the lodging party for auditing purposes.

**PART A - PURCHASER / TRANSFEREE DETAILS**

Full name / Company name		Date of Birth / ACN	
<b>Postal Address</b>			
Street No.	Street Name	Suburb	Postcode
State	Country	Telephone Number	
Email			

<p><b>If the purchaser / transferee is an individual:</b></p> <p>Was the purchaser / transferee a foreign individual as at the date of the transaction?</p> <p><input type="checkbox"/> YES</p> <p>NO because the purchaser / transferee was:</p> <p><input type="checkbox"/> an Australian citizen</p> <p><input type="checkbox"/> an Australian permanent resident</p> <p><input type="checkbox"/> a New Zealand citizen holding a special category visa</p>	<p><b>If the purchaser / transferee is a corporation:</b></p> <p>Was the purchaser / transferee a foreign corporation as at the date of the transaction?</p> <p><input type="checkbox"/> YES    <input type="checkbox"/> NO</p> <p>The purchaser/transferee may be a foreign corporation even if the corporation was incorporated in Australia. See Annexure A for the definition of a foreign corporation.</p>
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**Is the purchaser / transferee acting as a trustee?**     YES     NO (go to PART B)

If **YES**, please select the type of trust the purchaser / transferee is acting for

Discretionary trust     Unit trust     Fixed trust     Bare trust     Super fund     Other

Name of trust  
(If bare trust, name of beneficiary)

Was the trust a 'foreign trust' as at the date of the transaction?     YES     NO    See Annexure A for the definition of a foreign trust.

**PART B – TRANSACTION & PROPERTY DETAILS**

Date of the dutiable transaction (e.g. contract for sale or transfer of land)	/ /	Dutiable value	\$
Property description: (e.g. vacant land, house, apartment etc.)			
<b>Property details</b>			
Land ID (Lot and plan/survey number)		Certificate of Title (Volume / Folio)	
Street No.	Street Name		Suburb
State	Postcode		
<p>Is any of the property transferred 'residential property' as defined in section 205E of the <i>Duties Act 2008</i>?</p> <p><input type="checkbox"/> NO    <input type="checkbox"/> YES – all of it    <input type="checkbox"/> YES – but not all of it*</p> <p>* Where property transferred includes both residential and non-residential lots, please complete Annexure B to identify the status of each lot.</p> <p>Residential property includes any land capable or intended to be used solely or dominantly for residential purposes. See Annexure A for the definition of residential property.</p>			

**PART C - DECLARATION**

<ul style="list-style-type: none"> <li>I declare that supporting evidence is available and will be presented to the OSR upon request.</li> <li>I declare that all the information disclosed in this foreign transfer duty declaration is true, complete and correct.</li> <li>I will notify the OSR if the residency status of the purchaser / transferee or the intended use of the property changes prior to the transfer of the property.</li> <li>I acknowledge that if I provide false or misleading information, I may be prosecuted and be liable for a penalty of \$20,000 plus three times the amount of duty that was avoided or might have been avoided if the false or misleading information had been accepted as true.</li> </ul> <p>Where the purchaser / transferee is a corporation, the declaration must be signed by an authorised officer of the corporation.</p>		
Full Name	Signature	Date
Position of authorised officer (if applicable)		

**CONTACT THE OFFICE OF STATE REVENUE**

Online	<a href="http://www.finance.wa.gov.au/cms/State_Revenue/Online_Services/Online_Services.aspx">www.finance.wa.gov.au/cms/State_Revenue/Online_Services/Online_Services.aspx</a>		
Office	Office of State Revenue 200 St Georges Terrace PERTH WA 6000	Telephone	(08) 9262 1100 1300 368 364 (WA country STD callers only – local call charge)
Postal address	Office of State Revenue GPO Box T1600 PERTH WA 6845	Web Enquiry Website	<a href="http://www.osr.wa.gov.au/DutiesEnquiry">www.osr.wa.gov.au/DutiesEnquiry</a> <a href="http://www.osr.wa.gov.au">www.osr.wa.gov.au</a>

## ANNEXURE A: DEFINITIONS

### Dutiable value is the greater of:

- a) the consideration for the dutiable transaction including any GST payable; or
- b) the unencumbered value of the dutiable transaction.

### Foreign individual means an individual who is not:

- a) an Australian citizen
- b) an Australian permanent resident
- c) a New Zealand citizen who holds a special category visa

A special category visa, as determined by the Department of Home Affairs,<sup>1</sup> refers to a visa for New Zealand citizens who wish to visit, stay or work in Australia.

### Foreign corporation means:

- a) a corporation that was incorporated outside Australia; or
- b) a corporation in which foreign persons have a **controlling interest**.

Foreign persons are taken to have a **controlling interest** in a corporation if one or more foreign persons or their associates control (directly or indirectly) at least 50 per cent of the voting power or potential voting power,<sup>2</sup> or hold at least 50 per cent of the issued shares in the corporation.

To determine whether foreign persons have a controlling interest in a corporation, all relevant interests of foreign persons and their **associates** must be aggregated, regardless of whether the associates are foreign persons.

### A person is an **associate** of another person if they are:

- (a) family members;<sup>3</sup> or
- (b) partners in the same partnership; or
- (c) related corporations;<sup>4</sup> or
- (d) trustees of trusts sharing a common beneficiary; or
- (e) an individual and a corporation where that individual is a majority shareholder, director or secretary of the corporation (or a related corporation); or
- (f) a trustee and a beneficiary of the same trust; or
- (g) a corporation and a trustee of a trust where the corporation or its majority shareholder, director or secretary is a beneficiary; or
- (h) a corporation and a trustee of a trust where a related corporation is a beneficiary.

If a beneficiary of a trust, other than a unit trust scheme or a discretionary trust, is an associate of a person, the trustee of the trust is also treated as an associate of that person.

### Foreign trust means:

- a) a discretionary trust **controlled** by a foreign person; or
- b) a discretionary trust if one or more foreign persons that are takers in default, together with their associates, hold at least 50 per cent in the discretionary trust; or
- c) a trust other than a discretionary trust if one or more foreign persons, together with their associates, hold beneficial interests in an least 50 per cent of the income or property of the trust.

<sup>1</sup> <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/special-category-visa-subclass-444>

<sup>2</sup> As defined in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) s 4.

<sup>3</sup> *Duties Act 2008* s 100.

<sup>4</sup> Related corporation has the same meaning as related body corporate, as defined in the *Corporations Act 2001* (Cth) s 50.

A person **controls** a discretionary trust if they are in a position to influence, either directly or indirectly, the vesting of the capital of the trust property or the distribution of income from the trust property (e.g. trustee or appointer of the trust).

**Residential property means:**

- a) land in Western Australia that is, is **capable of being**, or is **intended to be**, used solely or dominantly for residential purposes;
- b) vacant or substantially vacant land in Western Australia that is zoned solely for residential purposes; or
- c) any estate or interest in land as described in (a) or (b).<sup>5</sup>

Land **capable of being** used solely or dominantly for residential purposes includes any land on which there is a dwelling which may lawfully be used as a residence.

Land **intended to be** used solely or dominantly for residential purposes includes:

- a) Land on which there is a partially constructed building that a person intends to complete so that it becomes residential property;
- b) Land on which there is a building or part of a building that a person intends to convert into residential property;
- c) Land on which a person intends to construct residential property;
- d) Land a person intends to subdivide for the purposes of constructing a residential property or enabling another person to construct residential property on the land.

**Residential property excludes:**

- a) Land that is intended to be used solely or dominantly for the purposes of an aged care facility as defined in the *Land Tax Assessment Act 2002* section 38A(1);
- b) Land that is intended to be used solely or dominantly for the purposes of commercial residential premises<sup>6</sup> as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) s 191-1;
- c) Land that is intended to be used solely or dominantly for the purposes of a retirement village as defined in the *Retirement Villages Act 1992* section 3(1);
- d) An easement;
- e) A security interest; and
- f) A carbon right or carbon covenant registered under the *Carbon Rights Act 2003*.

For practical examples and a more comprehensive definition of the terms *foreign person* and *residential property*, please see the [‘Foreign Transfer Duty’ Fact Sheet](#) available on our website.

<sup>5</sup> This includes an option to acquire residential property and an interest in a partnership holding residential property.

<sup>6</sup> Includes hotels, motels, inns, hostels and boarding houses. For a full definition see *A New Tax System (Goods and Services Tax) Act 1999* (Cth) s 191-1.

## ANNEXURE B: PROPERTY DETAILS

Where property transferred includes both residential and non-residential lots, please identify the respective status of each lot.

Land ID (Lot and plan/survey number)	Certificate of Title (Volume / Folio)
Is this property 'residential property' as defined in section 205E of the Duties Act? <input type="checkbox"/> YES <input type="checkbox"/> NO	

  

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