

18 March 2015

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By email: ForeignInvestmentConsultation@treasury.gov.au

Dear Sir

I refer to your consultation paper released 25 February 2015

Register of agricultural land

Non-controlling shareholders in Australian resident companies

The proposed register of agricultural land should relate to land held directly by foreign persons or to foreign persons who control an Australian resident company.

If a foreign person has an ownership interest in a company, but not a controlling interest, that foreign person may not be aware of individual land holdings. They may not be able to access detailed records of the different types of land held by the Australian company. In this instance it would be unreasonable to expect the foreign person to be responsible for notifying the register.

Further many Australian companies, both private and public, are not aware of the identity of some investors (or their nationality). If a company has a shareholder, who is not a controlling shareholder, that Australian company should not be liable for reporting to the Australian Tax Office details of their agricultural land holdings.

Incidental agricultural land

Some businesses operating in rural and remote areas engage in activities of primary production even though their main business is not a primary production business. Often the excess agricultural land is held in reserve for future expansion. For example a cheese factory might have excess land that is used for growing grain.

If the overall value of the agricultural enterprise is less than a nominated percentage of the business turnover (say 5%) these businesses should be exempt from reporting their agricultural land on the register.

Obligation of settlement agents to report foreign purchasers

The cost of attending to settlements is currently very low. Purchases of foreign residential property as a part of overall volume of land transactions are also very low.

A system needs to be implemented to ensure that the obligation to report foreign ownership is done with minimal cost to the community. Settlement agents should not be placed under an obligation to conduct an investigation into each purchaser of property to determine their residence.

A declaration by a purchaser nominating their residency for each settlement should count as sufficient evidence to the settlement agent that the buyers is not a foreign resident (unless they have clear evidence to the contrary). If a person is a foreign buyer the settlement agents obligation should be only to notify the relevant land titles office.

Exemption from non-resident purchasers of residential real estate

If a foreign person was to purchase real estate under the National Rental Affordability Scheme (NRAS) that foreign person should be exempt from the additional fee to fund the Australian Tax Office.

The purpose of the NRAS scheme is to increase the housing stock in Australia for lower income Australians. Foreign investors who allocate funds specifically for this purpose should not suffer the additional administration fee.

Please contact Ross Forrester you have any queries.

Yours faithfully

A handwritten signature in blue ink that reads "Westcourt". The signature is written in a cursive, flowing style.

Westcourt