KEY FACT SHEET

Australian Government

Stronger rules for foreign investors owning Australian housing

The Government is ensuring that Australian homes are available for Australians by limiting foreign ownership in new developments and introducing an annual charge on foreign owners who buy residential property and leave it vacant.

LIMITING FOREIGN OWNERSHIP IN NEW DEVELOPMENTS

The Government is ensuring that dwellings in new developments in Australia are kept available for Australians by introducing a 50 per cent cap on foreign ownership in new developments - applied through conditions imposed on New Dwelling Exemption Certificates.

The 50 per cent cap builds on the existing rules to ensure Australian buyers have access to a greater pool of homes to buy in these new developments.

What applications does the 50 per cent cap apply to?

The 50 per cent cap will apply to applications for New Dwelling Exemption Certificates that are received from 7:30pm (AEST) 9 May 2017 and which are subsequently approved.

The 50 per cent cap will not apply to existing approvals or applications made prior to this time.

How do New Dwelling Exemption Certificates work?

New Dwelling Exemption Certificates are granted to property developers and act as pre-approval, allowing the sale of new dwellings in a specified development to foreign persons without each foreign purchaser seeking their own foreign investment approval. For further information, see FIRB Guidance Note 8.

How does the 50 per cent cap apply to New Dwelling Exemption Certificates?

The 50 per cent cap will apply as a condition of New Dwelling Exemption Certificates. This strengthens the existing rules that apply to these certificates, which includes consideration of whether developers market or advertise the development in Australia.

Does the cap apply to all developments?

Developments have to be multi-storey and have at least 50 dwellings for the cap to apply.

Further information

Further information is available on the FIRB website at www.firb.gov.au or by contacting +61 2 6263 3795.

CHARGING FOREIGN OWNERS WHO LEAVE THEIR RESIDENTIAL PROPERTIES VACANT

The annual vacancy fee will be levied on foreign owners of residential real estate where the property is not occupied or genuinely available on the rental market for at least six months in a 12 month period.

The fee is intended to encourage foreign owners of residential real estate to make their properties available for rent where they are not occupied as a residence, and so increase the number of properties available for Australians to live in.

Who does the vacancy fee apply to?

The vacancy fee applies to foreign persons who make a foreign investment application for residential property from 7:30PM (AEST) on 9 May 2017 and to foreign persons who are purchasing in a development that has a New Dwelling Exemption Certificate which was applied for after 7:30PM (AEST) on 9 May 2017.

What does residentially occupied or genuinely available mean?

For the purpose of the vacancy fee, residential real estate is considered residentially occupied if for at least 6 months (equivalent to 183 days) in a 12 month period the property was either occupied by the owner or relative of the owner, occupied as a residence subject to lease/s or licence/s (with minimum durations of 30 day terms) or made genuinely available as a residence on the rental market (with minimum durations of 30 day terms).

When does the vacancy year start?

The vacancy fee is an annual fee. Liability for the vacancy fee is assessed by the ATO, usually following lodgement of a vacancy fee return by the foreign person.

The period for which the ATO will assess liability is the vacancy year, that is the 12 months after the first day the foreign person acquires the right to occupy the property (for example, the date of settlement or receipt of an occupancy certificate). This is also the date from which the liability to pay the fee arises in future years.

How do I know if I am required to pay the vacancy fee?

Foreign owners of residential real estate will be required to lodge an annual vacancy fee return with the Australian Taxation Office (ATO) after the end of the 12 month period in which the foreign person may be liable for the vacancy fee.

How much will the vacancy fee be?

The ATO will assess the vacancy fee amount that is payable following lodgement of the vacancy fee return by the foreign person.

Generally, the vacancy fee payable will be equivalent to the residential land application fee that was paid by the foreign person at the time the application for foreign investment approval was made to purchase the property. For further information on residential land application fees, see FIRB Guidance Note 29.

There are circumstances in which the vacancy fee payable may differ from the residential land application fee paid, see FIRB Guidance Note 48 for further details.

Are there any exemptions?

There are a number of exemptions, including if the property is undergoing substantial repairs due to damage, or if the legal ownership has changed during the vacancy year. The full list of exemptions are listed FIRB Guidance Note 48.

Further information

Further information is available on the FIRB website at www.firb.gov.au; by contacting +61 2 6263 3795; or on the ATO website.