

Acquisition Statement: Acquisition of an Interest in a Primary Producer

This statement must be made by the person who has made the relevant acquisition in a primary producer. The statement also facilitates;

- **Commonwealth Reporting Requirements**
to collect and report to the Australian Tax Office (ATO), information on relevant acquisitions of land in NSW
- **Surcharge Duty**
to determine whether a transaction is an acquisition of residential land by a foreign person
- **Surcharge Land Tax**
to identify foreign persons for surcharge land tax liability

Note:

- Under the *Taxation Administration Act 1996*, you are required to provide all relevant information to enable duty to be assessed on a document or transaction. It is an offence to knowingly give false or misleading information or omit information¹
- Each person who makes a relevant acquisition must complete a separate acquisition statement
- Read the notes at the back of this form for an explanation of the terms used in this statement
- If you need more room, complete your answers on a separate sheet and attach to this form when lodging
- For an exempt acquisition, use form ODA 047
- For an acquisition in a public landholder, use form ODA 043B
- For an acquisition in a private landholder use form ODA043A
- For more information on Landholder Duty visit the [Landholder Duty webpage](#)
- For more information on Surcharge Duty visit the [Surcharge Purchaser Duty Guide](#)

Generally, the following supporting information must be lodged with this statement:

A formal valuation of the unencumbered value of all the landholdings of the landholder including constructive ownership of landholdings and other property through linked entities and discretionary trusts.

Evidence of value of all the goods of the landholder and its linked entities (even if the linked entities do not hold land).

Financial statements (including notes) of the landholder, any linked entities and discretionary trusts of which the landholder is a beneficiary as at the date of the transaction.

Register of shareholders/unit holders.

Constitution of the company if there are different classes of shares.

Deed establishing the unit trust and any amending deed.

Deed establishing any discretionary trust of which the landholder is a beneficiary (including any amendments).

Letter detailing any association between the share/unit holders of the landholder and the purchaser.

For a complete list of evidentiary requirements – see [Duties Act – Acquisition of interests in landholders](#)

¹ Penalties of up to 1,000 penalty units or 2 years imprisonment (or both) may apply.

I,

am the person
am an authorised officer of the Company/Corporation

Company/Corporation name

am authorised on behalf of the Government

Country of Government

am a General Partner of a Limited Partnership

Name of Limited Partnership

Name of General Partners

who has made a relevant acquisition in the landholder details in Part 1.

Acquirer’s Details

Date of Birth (if an individual) (DD/MM/YYYY)	ABN/ACN/ARBN (if applicable)
Current Address (residential address for an individual / correspondence address for all other)	
Future Address (residential address for an individual / correspondence address for all other)	
Contact phone number	
Email address	
* Country of citizenship (if an individual)	
Country of incorporation	
Country of tax residence	
FIRB application number (if applicable)	

* If country of citizenship is other than Australia, complete the following:

Passport number	
Visa number	
Sub-class	Expiry date (DD/MM/YYYY)
Overseas ID	

Are you making the acquisition in the capacity as a trustee?

Yes No

If Yes please select the type of trust and provide the name of the trust?

Unit Trust Discretionary Trust Fixed Trust Superfund

Name of Trust

For any other trust (e.g. bare trust) provide the names of the beneficiaries (e.g. real purchaser)

Name of Beneficiaries

1. Details of primary producer landholder

➤ See Notes 1, 2 and 3A.

a) If the primary producer landholder is a private unit trust scheme:

Name of unit trust scheme
ARSN (if applicable)
Name of trustee
ABN/ACN (if applicable)
Address of trustee (Show registered address if trustee is a company)
Contact person
Contact phone number and/or email address

For acquisitions made on or after 1 February 2024

Is the private unit trust scheme a wholesale unit trust scheme or an imminent wholesale unit trust scheme?

➤ See Note 3

Yes No

If yes, has the private unit trust scheme been registered by the Chief Commissioner?

Yes No

Note: Application for registration may be made using form ODA 045.

b) If the landholder is a private company:

Name of company
ABN/ACN
Place of registration of company
Registered address of company
Contact person
Contact phone number and/or email address

2. Details of linked entities

➤ See Note 6

Linked entity	Percentage interest held directly or indirectly by Landholder

3. I confirm the unencumbered value of the land holdings held or taken to be held by the landholder is \$2 million or more and comprises.
- a) less than 80% of the unencumbered value of all its property
- OR
- b) 80% or more of the unencumbered value of all its property
- See Note 1, 2 and 4

4. Details of relevant acquisition ➤ See Notes 9 and 12

- a) Date of the relevant acquisition (DD/MM/YYYY)
- b) The interest acquired (%)
- c) How was interest acquired
- See Note 10

5. Details of any acquisitions, including prior acquisitions, by the same or “associated persons” (as defined in Duties Act 1997)

Date of acquisition	Acquired by	Interest acquired	Duty Paid (if any)	DAN (Duties Assessment No.)
		%	\$	
		%	\$	
		%	\$	
		%	\$	

6. Total interest held by the person who made the relevant acquisition and associated persons as at the date of the relevant acquisition.

7. Are any of the above acquisitions exempt acquisitions? If yes, under which section of the Duties Act 1997? ➤ See Note 16

8. Details of NSW land holdings and goods of landholder (including constructive ownership of landholdings and other property through linked entities and discretionary trusts) as at the date of the relevant acquisition. Any land holding under an uncompleted agreement pursuant to s 160 of the Duties Act 1997 should also be included. ➤ See Notes 5, 6 and 18

Landholdings –include landholdings in all places, whether within or outside Australia

NSW landholdings held by (entity)	Title particulars of the land holdings	Unencumbered value	Value held or taken to be held by landholder through linked entities, discretionary trusts and uncompleted agreements. ➤ See sections 158, 158A 159 & 160 of the Duties Act 1997
		\$	\$
		\$	\$
		\$	\$
		\$	\$
Total of NSW Landholdings			\$

Landholdings in other Australian States and Territories, and overseas held by (entity name)	Title particulars of the land holdings	Unencumbered value	Value held or taken to be held by landholder through linked entities, discretionary trusts and uncompleted agreements. ➤ See sections 158, 158A 159 & 160 of the Duties Act 1997
		\$	\$
		\$	\$
		\$	\$
		\$	\$
Total of landholdings outside NSW			\$

Total unencumbered value of landholdings in all places held or taken to be held by the landholder as at the date of the relevant acquisition.

\$

Goods

Held by (entity)	Type of goods	Unencumbered value	Value held or taken to be held by landholder through linked entities, discretionary trusts and uncompleted agreements. ➤ See sections 158, 158A 159 & 160 of the Duties Act 1997
		\$	\$
		\$	\$
		\$	\$
		\$	\$
Total			\$

Other property (e.g. registered motor vehicles)

Held by (entity)	Type of property	Unencumbered value	Value held or taken to be held by landholder through linked entities, discretionary trusts and uncompleted agreements. ➤ See sections 158, 158A 159 & 160 of the Duties Act 1997
		\$	\$
		\$	\$
		\$	\$
		\$	\$
Total			\$

Total unencumbered value of landholdings, goods and other property in all places held or taken to be held by the landholder as at the date of the relevant acquisition.

\$

9. If there were any prior acquisitions in the landholder, details of NSW land holdings and goods of the landholder (including constructive ownership of landholdings and other property through linked entities and discretionary trusts) as at the date of each prior acquisition. Any land holding under an uncompleted agreement pursuant to s 160 of the *Duties Act 1997* should also be included. However, do not include exempt acquisitions or any acquisitions made outside the statement period. ➤ See Notes 5, 6, 7, 8 and 18

Landholdings

Date of prior acquisition	Held by (entity)	Title particulars of the land holdings	Unencumbered value as at the date of prior acquisition	Value held or taken to be held by landholder through linked entities, discretionary trusts and uncompleted agreements
			\$	\$
			\$	\$
			\$	\$
Total				\$

Goods

Date of prior acquisition	Held by (entity)	Type of goods*	Unencumbered value as at the date of prior acquisition	Value held or taken to be held by landholder through linked entities, discretionary trusts and uncompleted agreements
			\$	\$
			\$	\$
			\$	\$
Total				\$

*Do not include goods for acquisitions made prior to 1 July 2009

Other property e.g. motor vehicles

Date of prior acquisition	Held by (entity)	Type of property	Unencumbered value as at the date of prior acquisition	Value held or taken to be held by landholder through linked entities, discretionary trusts and uncompleted agreements
			\$	\$
			\$	\$
			\$	\$
Total				\$

10. Landholder duty calculation

➤ Note: If you ticked the box at 3 a) do not complete this section. ➤ See Note 4

a) If there are no prior dutiable acquisitions

Formula

Step 1

Unencumbered value of NSW landholdings and goods held or taken to be held by landholder:
Total unencumbered value of NSW landholdings and goods (Q8) x Relevant acquisition (Q4b) =

\$

Step 2

Apply the general transfer rate of duty to this amount.

Step 3

If a credit for a portion of any marketable security duty paid on the relevant acquisition is claimed, advise the unencumbered value of all property of the landholder at the time of the relevant acquisition.
➤ See marketable security duty credit formula below.

\$

The landholder duty payable on this relevant acquisition is

\$

b) If there were other acquisitions made within the statement period ➤ See Notes 7 and 8.

Formula

Step 1

Interest acquired at the date of each acquisition (relevant and prior) x unencumbered value of NSW landholdings and goods held or taken to be held by the landholder at each date.

Date	Percentage interest acquired	Unencumbered value of NSW landholdings and goods held or taken to be held by landholder	Amount*
			\$
			\$
			\$
Total amount			\$

*Unencumbered value of land and goods x percentage interest acquired

Step 2

Apply duty at the general transfer rate on the total amount.

Step 3

A credit for a portion of any landholder duty paid on any of the prior acquisitions may apply.
➤ See Section 155(4) of the Duties Act 1997. Do not include goods for acquisitions prior to 1 July 2009.
If a credit for a portion of any marketable security duty paid on the relevant acquisition is claimed, provide the unencumbered value of all property of the landholder at the time of the relevant acquisition.

\$

Marketable security duty credit formula

*Credit Calculation

Unencumbered value of the land holdings and goods in New South Wales of the landholder at the time the acquisition was made
X
Unencumbered value of all property of the landholder at that time

Sum of duty paid or payable on a dutiable transaction in relation to the relevant shares, units, capital reduction, rights alteration or allotment by direction, and duty paid or payable in another Australian Jurisdiction

The landholder duty payable on this relevant acquisition is

\$

- c) If the acquisition was made on or after 1 February 2024 and if a reduction in duty applied under section 273B(1) or section 273B(2) of the *Duties Act 1997* ➤ See Note 17

Formula: 10 per cent of duty calculated under part (a) or (b)

The reduced landholder duty payable on this relevant acquisition is

\$

11. Surcharge Duty

Note: If you ticked the box at 3(a) do not complete this section.

From 21 June 2016, surcharge duty is payable on relevant acquisitions made by foreign persons if the relevant acquisition or any interest aggregated to constitute the relevant acquisition disclosed in Part 4 of this statement was acquired by a foreign person and the landholder identified at Part 1 held, either directly and/or through linked entities and/or discretionary trusts, an interest(s) in any NSW residential land holding.

➤ See Notes 19-21 at the end of this form and refer to *Chapter 4 Part 2B of the Duties Act 1997*

a) Additional information in relation to Surcharge Duty

1. Are any of the land holdings of the landholder residential land ((See **Note 17** for definition of **residential land holding**)

Yes No

- 2a. Are any of the persons who made the relevant acquisition a foreign person? (See **Note 18** for the definition of **foreign person**)

Yes No

- 2b. If you acquired the interest in the landholder as a trustee, are any of the beneficiaries foreign persons who hold a substantial interest or an aggregate substantial interest in the trust? (See **Note 18** for the definitions of **substantial interest** and **aggregate substantial interest**)

Yes No

If you have answered 'Yes' to question 1 and 'Yes' to question 2a. or 2b., you must complete Part 11(b) of this statement.

Note:

Supporting evidence is required where:

- (i) any of the land holdings of the landholder ARE residential land, and
- (ii) you have indicated that you are NOT a foreign person.

The supporting evidence listed at **Note 21** must be provided to Revenue NSW upon request.

b) NSW residential land holdings acquired by the foreign person(s):

Address	Title Particulars

The unencumbered value of all interests in NSW residential land holdings:

Provide the unencumbered value of all interests in NSW residential land holdings the landholder held directly and/or through linked entities and discretionary trusts as at the date of the relevant acquisition.

➤ See Notes 5 and 6.

- (i) Unencumbered value of all residential land in NSW directly held by the landholder.

\$

- (ii) Unencumbered value of all residential land in NSW the landholder was entitled to through linked entities.

\$

- (iii) Unencumbered value of all residential land in NSW the landholder was entitled to through discretionary trusts.

\$

- (iv) **Total unencumbered value of all residential land in NSW the landholder was entitled to as at the date of the relevant acquisition (i+ii+iii).**

\$

Calculation of surcharge duty

Note: If you ticked the box at 3(a) do not complete this section.

- Surcharge duty is charged on the proportion, represented by the interest acquired, of the total unencumbered value of all residential property in NSW the landholder was entitled to as at the date of the relevant acquisition.
- Refer to section 157H of the *Duties Act 1997* for more details on how surcharge duty is charged on relevant acquisitions by foreign persons.
- You are required to calculate and pay the surcharge duty within 3 months of the date of the relevant acquisition.

Formula: 8 per cent of the total unencumbered value of all residential land in NSW as shown under part 11(b)(iv)

The surcharge duty payable on this relevant acquisition is

\$

Important: See **Note 20** for specific rules relating to foreign persons from **New Zealand, Finland, Germany, India, Japan, Norway, South Africa** and **Switzerland**.

12. Declaration

Name

Date (DD/MM/YYYY)

Under the *Taxation Administration Act 1996*, it is an offence to knowingly give false or misleading information or omit information¹

I declare that all information provided is true and correct in every particular.

¹ Penalties of up to 1,000 penalty units or 2 years imprisonment (or both) may apply.

Notes

These notes are for general guidance only. For details, see the relevant sections of the *Duties Act 1997*.

1. A primary producer is a landholder whose land holdings in all places, whether within or outside Australia, wholly or predominately comprise land used for primary production or land that would be considered to be land used for primary production if it were land in New South Wales.
➤ See Section 163D(2) of the *Duties Act 1997*.
2. A primary producer is land rich if it has landholdings in New South Wales with an unencumbered value of \$2,000,000 or more, and its land holdings in all places, whether within or outside Australia, comprise 80% or more of the unencumbered value of all the property.
➤ See Section 163D(3) of the *Duties Act 1997*.
3. A **private landholder** is a private unit trust scheme or private company.

➤ See Section 146(2) of the *Duties Act 1997*.

Registration by the Chief Commissioner of a class of private unit trust schemes that meet certain criteria (i.e., wholesale unit trust schemes or imminent wholesale unit trust schemes) for acquisitions made on or after 1 February 2024

➤ See Chapter 4, Part 2, Division 2, Section 157AD of the *Duties Act 1997*.

A **private unit trust scheme** means a unit trust scheme other than

- (a) a public unit trust, or
- (b) a unit trust scheme that is registered (i.e., a registered wholesale unit trust scheme or imminent wholesale unit trust scheme)

➤ See Section 150(5) and definitions in Section 157AA of the Duties Act 1997.

A unit trust is a **wholesale unit trust scheme** if —

- (a) the scheme was not established for a particular investor, and
- (b) not less than 80% of the units in the scheme are held by qualified investors, and
- (c) no qualified investor, either alone or together with associated persons, holds 50% or more of the units in the scheme, and
- (d) the scheme satisfies any other requirement that are specified by the Chief Commissioner.

➤ See Section 157AC and section 157AB of the Duties Act 1997.

A unit trust is an **imminent wholesale unit trust scheme** if the unit trust scheme will be a wholesale unit trust scheme within 12 months after the day on which the first units in the scheme are issued to a qualified investor.

➤ See section 157AD(1)(a)(ii) of the Duties Act 1997.

4. If a relevant acquisition is made in a primary producer, no duty is chargeable if the landholder's landholding in all places comprise less than 80% of the unencumbered value of all the property. If at any time within the period of 5 years after the acquisition of an interest in a primary producer is made, the landholder in which the acquisition is made ceases for any length of time to be a primary producer, the acquirer must immediately notify the Chief Commissioner of the date on which the landholder ceased to be a primary producer. Duty is chargeable in respect of the acquisition on the date on which the landholder ceased to be a primary producer.

5. **Land holdings** of a landholder

A landholding is an interest in land other than the estate or interest of a mortgagee, charge or other secured creditor.

➤ See Section 147 of the Duties Act 1997.

An interest in land includes an interest in anything fixed to the land regardless of whether such items are considered fixtures at common law.

➤ See Section 147A of the Duties Act 1997.

The land holdings of any linked entity of the primary producer must also be included.

➤ See Sections 158 and 158A of the Duties Act 1997.

If the landholder is a beneficiary of a discretionary trust, the landholder is taken to own or to be otherwise entitled to the property the subject of the trust (s 159(2)). Further, any property that is the subject of a discretionary trust is taken to be the subject of any other discretionary trust, that is, or any trustee of which is a beneficiary of it (s 159(3)).

➤ See Sections 159 of the Duties Act 1997.

Section 160 provides that a transferor and a transferee under an uncompleted agreement for the sale or transfer of land are taken to be separately entitled to the whole of the land.

If the landholder (or a linked entity) was the transferor (vendor) under an uncompleted agreement and the agreement subsequently completed, the Chief Commissioner is to assess or reassess the statement as though the land the subject of the agreement was not, at the time of the acquisition concerned, a land holding of the landholder (s160(2)).

If the landholder (or a linked entity) was the transferee (purchaser) under an uncompleted agreement and the agreement is subsequently rescinded, annulled or otherwise terminated without completion, the Chief Commissioner is to assess or reassess the statement as though the land the subject of the agreement was not, at the time of the acquisition concerned, a land holding of the landholder (s 160(3)).

An uncompleted agreement includes an arrangement that includes both a put option and a call option.

➤ See Section 160 of the Duties Act 1997.

6. **Linked entities** include not only subsidiaries but also entities in which an interest of not less than:
 - a) 50 per cent is held, including through a chain of entities for acquisitions made **prior to 1 February 2024**, or
 - b) 20 per cent is held, including through a chain of entities for acquisitions made **on or after 1 February 2024**

➤ See [Sections 158\(2\)](#) of the *Duties Act 1997*.
7. **Statement period** ➤ See [Section 152\(5\)](#) of the *Duties Act 1997*.
8. **Earlier Acquisition** ➤ See [Section 152\(6\)](#) of the *Duties Act 1997*.
9. **A significant interest** is an entitlement (without regard to any liabilities of the landholder) to a distribution of property from a private landholder, being:
 - For acquisitions made **prior to 1 February 2024**
 - (a) In the case of a private landholder – 50% or more of the property distributed, or
 - (b) In the case of a public landholder – 90% or more of the property distributed.

➤ See [Section 150\(2\)\(a\)](#) of the *Duties Act 1997*.
 - For acquisitions made **on or after 1 February 2024**
 - (a) in the case of a private company, private unit trust schemes that are registered wholesale unit trust and imminent wholesale unit trust schemes – 50 per cent or more of the property distributed
 - (b) in the case of a private unit trust schemes other than wholesale unit trust or imminent wholesale unit trust schemes – 20 per cent or more of the property distributed
 - (c) In the case of a public landholder – 90% or more of the property distributed.

➤ See [Section 150\(2\)\(a\)](#), [150\(2\)\(b\)](#) and [150\(2\)\(c\)](#) of the *Duties Act 1997*.
10. A person **acquires an interest** in a landholder if the person obtains an interest or the person's interest increases, including (but not limited to) by means of:
 - (a) the purchase, gift or issue of a unit or share,
 - (b) the cancellation, redemption or surrender of a unit or share,
 - (c) the abrogation or alteration of a right for a unit or share,
 - (d) the payment of an amount owing for a unit or a share.
 - (e) if the capacity in which the interest in the landholder is held changes.

➤ See [Section 151\(2\)](#) of the *Duties Act 1997*.
11. If an interest in a landholder is acquired or held by a person as bare trustee for another person, the interest is taken to have been acquired by, or to be held by, the ultimate beneficial owner of the interest. The ultimate beneficial owner of an interest is a beneficial owner of an interest who does not hold the interest as bare trustee for another person (so that, if there is a chain of bare trustees, the ultimate beneficial owner is the last beneficial owner in that chain).

➤ See [Sections 157A-157C](#) of the *Duties Act 1997*.
12. A person makes a **relevant acquisition** if the person:
 - (a) acquires a significant interest in a landholder.
 - (b) acquires an interest that when aggregated with other interests of the person or an associated person amounts to a significant interest in a landholder.
 - (c) has (either alone or together with associated persons) a significant interest and acquires a further interest in a landholder.
 - (d) acquires an interest that when aggregated with other interests of the person or other persons acquired under substantially one arrangement amounts to a significant interest in a landholder.

➤ See [Section 149](#) of the *Duties Act 1997*. Associated person is defined in the [Dictionary](#) of the *Duties Act 1997*.
13. The following persons are jointly and severally liable to pay landholder duty:
 - (a) the person who makes the relevant acquisition
 - (b) the landholder or the trustee of the landholder
 - (c) if the acquisition results from an aggregation of the interests, each of those other persons

Any liability to pay duty, interest or penalty tax is a charge on the land holdings of the landholder or trustee.

➤ See [Section 154](#) of the *Duties Act 1997*.

14. Duty is assessed in accordance with the provisions of Section 155 of the *Duties Act 1997*.
15. If a relevant acquisition is made in a land rich primary producer, duty is chargeable if the primary producer is land rich. ➤ See Section 163D of the *Duties Act 1997*.
- A primary producer is a landholder whose land holdings wholly or predominantly comprise land used for primary production. ➤ See Section 163D(2) of the *Duties Act 1997*.
16. Exempt acquisitions are detailed in the following sections:
- (a) Sections 163A, 163B, 163H for transactions dated on or after 1 July 2012 and
 - (b) Sections 273B(1) and 273B(2) for transactions dated from 1 July 2012 to 31 January 2024.
17. Reduction in duty applies to a relevant acquisition made in respect of approved corporate reconstruction or corporate consolidation transaction undertaken on or after 1 February 2024.
- See Section 273B of the *Duties Act 1997* and application forms: ODA 028 A, ODA 028 A (Post) or ODA 028 B (Post).
18. If the landholder and its linked entities have any interest in goods they are included in the calculation of the duty, except the exempt goods.
- See Section 163K of the *Duties Act 1997*.
19. **Residential land holding** means any land holding that is an interest in residential land
- See Section 157D of the *Duties Act 1997*.

Residential land means any of the following and does not include any land used for primary production:

- (a) a parcel of land on which there are one or more dwellings, a parcel of land on which there is a building under construction that, when completed, will constitute one or more dwellings, or
- (b) a strata lot, if it is lawfully occupied as a separate dwelling, or suitable for lawful occupation as a separate dwelling, or
- (c) a utility lot if its use is restricted to the owner or occupier of a strata lot, or
- (d) a land use entitlement, if it entitles the holder to occupy a building, or part of a building, as a separate dwelling, or
- (e) a parcel of vacant land (including any land that the Chief Commissioner is satisfied is substantially vacant) that is zoned or otherwise designated for use under an environmental planning instrument (within the meaning of the *Environmental Planning and Assessment Act 1979*) for residential or principally for residential purposes.

➤ See Section 104I of the *Duties Act 1997*.

Residential –related property means:

- (a) residential land in NSW
- (b) an option to purchase residential land in NSW
- (c) an interest in any residential-related property referred to in (a) or (b), except to the extent that:
 - i. it arises as a consequence of the ownership of a unit in a unit trust scheme and is not a land use entitlement.
 - ii. it is, or is attributable to, an option over residential-related property,
 - iii. it is a marketable security.
- (d) a partnership interest (being an interest in a partnership that has partnership property that is residential property).

➤ See Section 104K of the *Duties Act 1997*.

20. **Foreign person** means a person who is a foreign person within the meaning of the *Foreign Acquisitions and Takeovers Act 1975* of the Commonwealth. See Section 104J of the *Duties Act 1997*.

You are NOT a foreign person if you are:

- (a) an Australian citizen
- (b) a person who is ordinarily resident in Australia.

Ordinarily Resident means:

A person is ordinarily resident in Australia at a particular time if the person:

- (a) has actually been in Australia during 200 or more days in the period of 12 months immediately preceding the date of the agreement, and

- (b) was not subject to any limitation as to time for their continued presence in Australia (or was not, immediately before their most recent departure from Australia).

Foreign person means:

- (a) **an individual** not ordinarily resident in Australia; or
- (b) **a corporation** in which an individual not ordinarily resident in Australia, a foreign corporation or foreign government holds a substantial interest; or
- (c) **a corporation** in which 2 or more persons each of whom is an individual not ordinarily resident in Australia, a foreign corporation or a foreign government hold an aggregate substantial interest; or
- (d) **the trustee of a trust** in which an individual not ordinarily resident in Australia, a foreign corporation or a foreign government holds a substantial interest; or
- (e) **the trustee of a trust** in which 2 or more persons each of whom is an individual not ordinarily resident in Australia, a foreign corporation or a foreign government hold an aggregate substantial interest; or
- (f) **a foreign government**; or
- (g) **a general partner of limited partnerships** where:
 - i. an individual not ordinarily resident in Australia, a foreign corporation or a foreign government holds at least 20 per cent in the limited partnership, or
 - ii. two or more persons of whom is an individual not ordinarily resident in Australia, a foreign corporation or a foreign government, holds an aggregate interest of 40 per cent in the limited partnership.

Foreign persons from New Zealand, Finland, Germany, India, Japan, Norway, South Africa and Switzerland

Individuals that are citizens of the above nations, and are making relevant acquisitions in their own capacity (i.e. not as trustees of a trust or general partners of a limited partnership) in a landholder with residential land holding/s are not subject to surcharge duty due to international tax treaties entered into between these nations and the Federal Government of Australia.

Individuals acting as trustees of a trust, individuals that are general partners of a limited partnership and non-individual acquirers that are making relevant acquisitions in a landholder with residential land holding/s are not subject to surcharge duty if they are foreign persons solely by reason of a substantial interest (or an aggregate substantial interest) being held by a person in one of the affected nations.

For the avoidance of doubt, the non-individual acquirer will be liable to surcharge duty if a foreign person from a non-affected nation directly or indirectly holds a substantial interest (or aggregate substantial interest) in the acquirer.

Substantial Interest means:

A person holds a substantial interest in an entity or trust if:

- (a) for an entity – the person holds an interest of at least 20 per cent in the entity; or
- (b) for a trust (including a unit trust) – the person, together with any one or more associates, holds a beneficial interest in at least 20 per cent of the income or property of the trust.

Aggregate Substantial Interest means:

Two or more persons hold an aggregate substantial interest in an entity or trust if:

- (a) for an entity – the persons hold an aggregate interest of at least 40 per cent in the entity; or
- (b) for a trust (including a unit trust) – the persons, together with any one or more associates of them hold, in aggregate, beneficial interests in at least 40 per cent of the income or property of the trust.

21. Supporting Evidence

<p>Individuals</p> <p>Evidence must be provided upon request</p>	<p>Australian citizens require:</p> <ul style="list-style-type: none"> ▪ Certified copy of birth certificate or Australian passport or Australian Citizenship certificate. <p>Citizens of New Zealand, Finland, Germany, India, Japan, Norway, South Africa and Switzerland require:</p> <ul style="list-style-type: none"> ▪ Certified copy of current passport or citizenship certificate. <p>A person who is ordinarily resident in Australia requires:</p> <ul style="list-style-type: none"> ▪ Certified copy of foreign passport with your current visa and evidence that you meet the definition of ordinarily resident in Australia (see Note 20).
<p>Corporation</p> <p>Evidence must be provided upon request</p>	<ul style="list-style-type: none"> ▪ Copy of the certificate of incorporation ▪ Complete copy of the Memorandum and Articles of Association ▪ Copy of corporation register/register of shareholders as at the date of relevant acquisition. <p>Plus in respect of each natural person shareholder:</p> <p>Australian citizens require:</p> <ul style="list-style-type: none"> ▪ Certified copy of birth certificate or Australian passport or Australian Citizenship certificate. <p>Citizens of New Zealand, Finland, Germany, India, Japan, Norway, South Africa and Switzerland require:</p> <ul style="list-style-type: none"> ▪ Certified copy of current passport or citizenship certificate. <p>A person who is ordinarily resident in Australia requires:</p> <ul style="list-style-type: none"> ▪ Certified copy of foreign passport with your current visa and evidence that you meet the definition of ordinarily resident in Australia (see Note 20). <p>Plus for each corporate and trustee shareholder who hold a substantial interest or aggregate substantial interest in the corporation:</p> <ul style="list-style-type: none"> ▪ Copy of the certificate of incorporation ▪ Complete copy of the Memorandum and Articles of Association ▪ Copy of corporation register/register of shareholders as at the relevant acquisition. <p>Plus for natural person shareholders/beneficiaries of the corporate or trustee shareholders:</p> <p>Australian citizens require:</p> <ul style="list-style-type: none"> ▪ Certified copy of birth certificate or Australian passport or Australian Citizenship certificate. <p>Citizens of New Zealand, Finland, Germany, India, Japan, Norway, South Africa and Switzerland require:</p> <ul style="list-style-type: none"> ▪ Certified copy of current passport or citizenship certificate. <p>A person who is ordinarily resident in Australia requires:</p> <ul style="list-style-type: none"> ▪ Certified copy of foreign passport with your current visa and evidence that you meet the definition of ordinarily resident in Australia (see Note 20).

➤ See over page for supporting evidence (cont.).


<p>For property acquired on behalf of a trust</p> <p>Evidence must be provided upon request</p>	<ul style="list-style-type: none"> ▪ A complete signed and dated copy of the trust deed with all its amendments. <p>If a unit trust scheme:</p> <ul style="list-style-type: none"> ▪ Copy of the unit register from date of establishment to current. <p>Plus in respect of each of the beneficiaries/unitholders of the trust who are a natural person:</p> <p>Australian citizens require:</p> <ul style="list-style-type: none"> ▪ Certified copy of birth certificate or Australian passport or Australian Citizenship certificate. <p>Citizens of New Zealand, Finland, Germany, India, Japan, Norway, South Africa and Switzerland require:</p> <ul style="list-style-type: none"> ▪ Certified copy of current passport or citizenship certificate. <p>A person who is ordinarily resident in Australia requires:</p> <ul style="list-style-type: none"> ▪ Certified copy of foreign passport with your current visa and evidence that you meet the definition of ordinarily resident in Australia (see Note 20). <p>Plus for corporate beneficiaries/unitholders:</p> <ul style="list-style-type: none"> ▪ Copy of the certificate of incorporation ▪ Complete copy of the Memorandum and Articles of Association ▪ Copy of corporation register/register of shareholders as at the relevant acquisition.
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