

Exempt Acquisition Statement: Acquisition of an Interest in a Landholder

This statement must be made by the person who has made the relevant acquisition in the landholder.

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:

- 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
- 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 give false or misleading information. Substantial interest and/or penalty tax may also become payable in the event that information provided is shown to be false
- If you need more room, complete your answers on a separate sheet and attach to this form when lodging
- For an acquisition in a private landholder, use form ODA 043A
- For an acquisition in a public landholder, use form ODA 043B
- For concessions for primary producers, use form ODA 043C
- Print clearly in the boxed spaces and tick the appropriate boxes
- Read more about the **Landholder Duty** factsheet on www.revenue.nsw.gov.au
- Read more about Surcharge Duty (Surcharge Purchaser Duty) available at www.revenue.nsw.gov.au

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) / /	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 / /
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 landholder

a) If the 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)

b) If the landholder is a private company:

Name of company
ABN/ACN
Place of registration of company
Registered address of company

c) If the landholder is a public 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)

d) If the landholder is a listed company:

Name of company
ABN/ACN
Place of registration of company
Registered address of company

2. Details of land holdings of the landholder in New South Wales as at the date of the relevant acquisition

Title particulars of the land holdings	Details of goods	Estimate of unencumbered value
		\$
		\$
		\$
		\$

3. Details of relevant acquisition

a) Date of the relevant acquisition

b) How was interest acquired?

➤ See Note 6

c) Particulars of the interest acquired

Note: Include the number of shares or units acquired and the percentage interest acquired

d) Total interests of the person and any associated persons in the landholder at the date of the relevant acquisition

e) Nature of exempt transaction ➤ See Note 7

4. Surcharge Duty

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 8 – 10 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 (refer to Note 8 for definition of residential land holding)

Yes No

2a. Are any of the persons who made the relevant acquisition a foreign person? (see Note 9 for the definition of foreign person)

Yes No. If no, and you are an individual, are you: an Australian citizen
a person who is ordinarily resident in Australia (including a New Zealand citizen with a section 32 special category visa)

2a. 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?

Yes No

If you have answered 'Yes' to question 1 and 'Yes' to question 2a. or 2b., you must complete Part 4(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 10 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 3 and 4.

(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

\$

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

- 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. Please provide a copy of your calculations of the surcharge duty payable.

5. Declaration

I am the person who made the relevant acquisition, or a person authorised to make this declaration on behalf of an entity that made the relevant acquisition, and I certify that the details provided in this statement are true and correct in every particular.

I,
Position (if applicable)
Corporation (if applicable)

make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1900*

Declared at (Place)	Date / / 20
Signature of declarant	

in the presence of an authorised witness, who states:

I (Name of authorised witness),
a (Qualification of authorised witness)

certify the following matters concerning the making of this statutory declaration by the person who made it
(*please cross out any text that does not apply):

1. *I saw the face of the person OR
*I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and
2. *I have known the person for at least 12 months OR
*I have not known the person for at least 12 months, but I have confirmed the person's identity using an identification document and the document I relied on was

(Describe identification document relied on)
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Signature of authorised witness	on (Date)	/	/20
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Notes

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

1. A **landholder** is a unit trust scheme, a private company or a listed company.
 - See Section 146(1) of the *Duties Act 1997*. These terms are defined in the dictionary in the Act.
2. A **public** landholder is a public unit trust scheme or public company.
 - See Section 146(3) of the *Duties Act 1997*.A **private** landholder is a private unit trust scheme or private company.
 - See Section 146(2) of the *Duties Act 1997*.
3. **Land holdings** of a landholder ➤ See Section 147 of the *Duties Act 1997*.
The land holdings of any *linked entity* of the company or unit trust scheme must also be included.
 - See Sections 158 and 158A of the *Duties Act 1997*.
4. **Linked entities** include not only subsidiaries but also entities in which an interest of not less than 50 per cent is held, including through a chain of entities.
 - See Sections 158 and 158A of the *Duties Act 1997*.
5. A **significant interest** is an entitlement (without regard to any liabilities of the landholder) to a distribution of property from a landholder, being:
 - (a) in the case of a private unit trust scheme: 50 per cent or more of the property distributed
 - (b) in the case of a private company: 50 per cent or more of the property distributed
 - (c) in the case of a public unit trust scheme: 90 per cent or more of the property distributed
 - (d) in the case of a public company: 90 per cent or more of the property distributed
 - See Sections 150(2)(a) and 150(2)(b) of the *Duties Act 1997*.
6. 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, allotment 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 is held changes in the landholder
 - See Section 151(2) of the *Duties Act 1997*.
7. Exempt acquisitions are detailed in sections 163A, 163B, 163C, 163H and 281(2)(d) (for transactions dated prior to 1 July 2012) and in Sections 163A, 163B, 163H, 273(B)(1) and 273(B)(2) (for transactions dated on or after 1 July 2012) and include:
 - (a) an interest acquired in a person's capacity as a receiver or trustee in bankruptcy, a liquidator, or an executor or administrator of the estate of a deceased person
 - (b) an interest acquired solely as the result of the making of a compromise or arrangement with creditors under Part 5.1 of the *Corporations Act 2001* of the Commonwealth that has been approved by the court
 - (c) an interest acquired solely from a pro rata increase in the interests of all unit holders or shareholders
 - (d) an interest acquired solely as the result of the distribution of the estate of a deceased person
 - (e) an interest acquired as a result of arrangements relating to the breakdown of a marriage or domestic relationship
 - (f) if the land holding of the landholder comprises land used for primary production and the Chief Commissioner is satisfied that, had the landholder transferred the land to the person acquiring an interest as a result of the acquisition immediately before that acquisition, the transfer of the land would not be chargeable with duty under this Act because of the exemption for transfers between family members (Section 274)
 - (g) an acquisition as a result of a transfer of property to a new trustee if the acquisition of an interest in a landholder would be chargeable with duty of \$10 under section 54 if the property being acquired or disposed of were land in New South Wales

- (h) an acquisition where the Chief Commissioner is satisfied that the application of landholder duty to the acquisition in the particular case would not be just and reasonable.
8. **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*

9. **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.

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.

10. **Supporting Evidence**

<p>Individuals 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>New Zealand citizens require:</p> <ul style="list-style-type: none"> ▪ Certified copy of New Zealand passport and evidence of holding a special category visa within the meaning of section 32 of the <i>Migration Act 1958</i>. <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 17).
<p>Corporation 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 execution. <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>New Zealand citizens require:</p> <ul style="list-style-type: none"> ▪ Certified copy of New Zealand passport and evidence of holding a special category visa within the meaning of section 32 of the <i>Migration Act 1958</i>. <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 17). <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 date of execution.

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

<p>Corporation (cont.) Evidence must be provided upon request</p>	<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>New Zealand citizens require:</p> <ul style="list-style-type: none"> ▪ Certified copy of New Zealand passport and evidence of holding a special category visa within the meaning of section 32 of the <i>Migration Act 1958</i>. <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 17).
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<p>For property acquired on behalf of a trust 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>New Zealand citizens require:</p> <ul style="list-style-type: none"> ▪ Certified copy of New Zealand passport and evidence of holding a special category visa within the meaning of section 32 of the <i>Migration Act 1958</i>. <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 17). <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 date of execution.
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Privacy statement


There are state and federal laws to protect the privacy of your personal information collected by Revenue NSW. The law also specifies the circumstances where disclosure of your information for specific purposes to certain people or organisations is authorised. Revenue NSW has procedures in place to ensure that we comply with these laws. Revenue NSW will correct or update your personal information at your request.

Read more about privacy at www.revenue.nsw.gov.au


Contact details

 1300 139 814* (Monday – Friday, 8.30 am – 5.00 pm)

*Interstate clients please call (02) 9689 6200

 www.revenue.nsw.gov.au

 landholder@revenue.nsw.gov.au

 Help in community languages is available.

Postal address

DX number

GPO Box 4042,
Sydney NSW 2001

DX 456 Sydney

PO Box 666,
Wollongong NSW 2520

DX 5245 Wollongong

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