

## FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING INFORMATION

Sellers of property valued at \$750,000.00 (including where the sellers are Australian residents) must obtain a clearance certificate from the Australian Taxation Office.

Foreign resident capital gains withholding legislation imposes an obligation on buyers to withhold 12.5% of the purchase price and pay it to the ATO where the Seller has not obtained a clearance from the ATO.

It is wise for a seller, where the market value is likely to be \$750,000 or more, to apply for a Clearance Certificate at the time of listing the property so that any delays experienced in obtaining the Clearance Certificate do not hold up settlement. The Seller can obtain a Clearance Certificate by downloading a form from the ATO website at this link:

[https://www.ato.gov.au/General/Capital-gains-tax/In-detail/Calculating-a-capital-gain-or-loss/Capital-gains-withholding--Impacts-on-foreign-and-Australian-residents/?anchor=Clearancecertificates#Clearancecertificates.](https://www.ato.gov.au/General/Capital-gains-tax/In-detail/Calculating-a-capital-gain-or-loss/Capital-gains-withholding--Impacts-on-foreign-and-Australian-residents/?anchor=Clearancecertificates#Clearancecertificates)

**NOTE:** Only a Seller who is an Australian resident can be granted a clearance certificate by the ATO. Foreign sellers should obtain appropriate advice on their property portfolios from their Accountants before listing and selling their property.

A foreign resident seller can claim a credit for the foreign resident capital gains withholding payment by lodging a tax return for the relevant year.

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