

## GOVERNMENT PROPERTY TAXES

### PURCHASING A HOUSE/UNIT

#### TRANSFER DUTY

In NSW you must pay Transfer Duty (once known as Stamp Duty) calculated on the value of your purchase when you buy:

- Property, including your home or holiday home
- an investment property
- vacant land or a farming property
- commercial or industrial properties, or
- a business, which includes land.

You must also pay transfer duty when you acquire land, or an interest in land, without buying it. For example:

- a declaration of trust
- a gift, or
- a transaction effecting a change in the beneficial ownership of a property.

The duty must be paid within 3 months of signing the contract for the purchase of land - unless it is an off the plan purchase which you intend to use as your main residence - in which case you can defer your transfer duty for up to 12 months after you sign the agreement, or until the property is completed or handed over, whichever comes first.

#### FIRST HOME BUYERS ASSISTANCE SCHEME

First home buyers in NSW may be entitled to a concession on Transfer Duty or even a total exemption under the First Home Buyers Assistance Scheme ("FHBAS"). The FHBAS applies to:

- Buying an existing home;
- Buying a new home (this includes a home that has not been previously occupied or sold as a place of residence and includes a substantially renovated home and a home built to replace demolished premises).
- Vacant land on which you intend to build a home.

The concession rates between 1 August 2020 and 31 July 2021 are as follows:

##### Existing Homes

If the purchase price is less than \$650,000 you can apply for a full exemption and pay no transfer duty. If it is between \$650,000-\$800,000 you can apply for a concessional transfer duty rate based on the value of your purchase.

##### New homes

New homes valued at less than \$800,000 are eligible for a full exemption and pay no transfer duty. Purchases of new homes valued at between \$800,000-\$1m are eligible for concessional transfer duty rate and the amount will be based on the value of your home.

##### Vacant land

There is no transfer duty for land valued less than \$400,000. There is a concession for land valued between \$400,000-\$500,000.

##### Eligibility

To be eligible for the FHBAS you must be:

- An individual, not a trust or a company; and
- Over 18 years of age; and
- You and your spouse or partner must have never owned or co-owned residential property in Australia; and
- You and your spouse must have never received an exemption or concession under this Scheme.

In addition, you or one of the property buyers must move into the new home within 12 months after buying the property and live there for at least 6 continuous months. The living requirements will not apply to members of the Australian Defence Force (conditions apply).

If your circumstances change and you can no longer move into the property within 12 months or cannot live there for 6 continuous months you must contact Revenue NSW to arrange for the correct Transfer Duty to be paid as the Scheme will not apply.

The FHBAS may still apply if 50% or more of the buyers are eligible, for example if you are purchasing more than half the property i.e. through a shared equity arrangement. This does not apply if your spouse is one of the ineligible buyers.

For example, if a father co-purchases with his daughter and son-in-law the couple's first home (to assist them with finance), the couple can still claim the exemption on the value of the proportion of the property they own.

To check whether you are eligible, we recommend you call the Office of State Revenue on 1300 139 814 or (02) 7808 6916.web-site or go to their website at [www.osr.nsw.gov.au](http://www.osr.nsw.gov.au).

### Premium Transfer Duty

As of 1 July 2020 purchases of residential property over \$3,101,000 will attract Transfer Duty of \$155,560 plus 7% of the value in excess of \$3,101,000.

For example, if two life partners purchase a property in Mosman for \$3.601,00 million the duty payable within 3 months of exchange of contracts will be \$190,560 (\$155,560 on \$3,101,000 + 7/100 x \$500,000).

### FIRST HOME OWNER GRANT (NEW HOMES)

A first home buyer can get up to \$10,000 towards the purchase price of their home if they are:

- Buying or building their first home; and
- It is a new home that no one has lived in before; and
- It is worth no more than \$750,000; and
- They are at least 18 years of age; and
- They are an Australian citizen or a permanent Australian resident.

For more information on the First Home Owner Grant please contact Revenue NSW on 1300 130 624 or 7808 6913 or go to their website (<https://www.revenue.nsw.gov/grants-scheme/first-home-buyer>).

### CAPITAL GAINS TAX

Pre (30/9/85) or post-CGT asset? CGT will only apply if the property is a post-CGT asset, that is, it was bought (or transferred) on or after 30 September 1985.

Capital gains tax (CGT) issues commonly arise when the purchase (cost base) and sale (capital

proceeds) of assets takes place, such as real estate, businesses and shares.

Other, less obvious areas in which CGT issues may arise is with family law property settlements, the drawing of wills and subsequent administration of estates, and re-arrangements of shareholdings or units in companies and trusts respectively.

It is therefore very important to be aware of and think about the CGT consequences of significant transactions *prior* to the event giving rise to the CGT liability, that is, at the time of purchasing or acquiring an asset.

### How is CGT calculated?

The net capital gain is added to your income in the year derived, which is then taxed at the appropriate income threshold rates. After 21 September 1999 an investor (who has held the asset for over 12 months) has the choice to calculate the difference between the asset's *cost base* (indexed to 30/9/99) and the *capital proceeds*, or, calculating the difference between the asset's *cost base* and the *capital proceeds*, without indexation, but applying a CGT discount for individuals (currently 50%) - which is now the only method for assets acquired after 21/9/99.

*Cost base* includes what was paid on the asset's acquisition, the incidental costs of acquisition and disposal such as legal costs and stamp duty, the non-capital costs of ownership such as rates and interest, and improvement costs such as renovations to a property.

*Capital proceeds* is the amount of the money received or entitled to be received at the time of sale of the asset (eg. market value).

There is however a third method for calculating CGT known as the "other" method and this must be used for assets that have been held for less

than 12 months as these don't qualify for the 50% CGT discount.

Also, please note that for foreign residents the 50% CGT discount is removed or reduced on capital gains made after 8 May 2012.

We strongly recommend you contact your accountant, or tax planner, or investigate the ATO website [www.ato.gov.au](http://www.ato.gov.au) (click on "Individuals" in then click on "Capital Gains Tax") or call them on 13 28 61 for specific advice on calculating your gain.

### CGT Issues to consider at Purchase

- In what *entity* (individuals, trust, or company) will the property be purchased? Upon the sale of the property, different CGT rates and concessions apply to individuals and companies;
- *How will the property be used?* Concessions may apply if the property is used as a principal place of residence, and small business concessions may apply in certain circumstances for example if you dispose of an active asset and you are a small business and satisfy certain requirements, for example you have net assets of no more than 6 million.
- *Inclusions:* where the property includes depreciating assets for which you are entitled to claim a deduction, the expenditure may be deducted from the cost base. It is therefore important to apportion the various depreciating assets and the property in the Contract for Sale.

## SELLING YOUR PROPERTY

### GST

Goods and Services Tax (GST) is 10% of the transaction value. Normally residential property is input taxed and the price is always GST inclusive (ie. GST is 1/11<sup>th</sup> of the price). Commercial and Industrial purchases are usually GST exclusive (ie. GST is an additional 10% of the price). Questions to help decide the applicability of GST and your rights to claim input tax credits are as follows;

- Are you registered for GST?
- Is the sale a taxable supply (eg. new residential premises), or exempt (eg. sale of a “going concern”)?
- Can you apply the Margin Scheme?

You can determine the impact of GST on the sale by checking [www.ato.gov.au](http://www.ato.gov.au) (click on “Businesses” and go to “Good and Services Tax”).

### LAND TAX

Land Tax Exemptions are only made for;

- your Principal Place of Residence, or
- land used for primary production (ie. Farms), or
- taxable land valued below the threshold.

The rates for 2021 are 1.6% (+\$100) on the value of all taxable land owned above the threshold (which is \$755,000 for the 2021 land tax year). Properties valued above the premium threshold which is \$4,616,000 for 2021 land tax year will attract land tax of \$60,164 plus 2% of the land value above the threshold.

Land Tax is calculated on the land value of all your NSW property (excluding exemptions, such as your principal place of residence) owned as at 31 December the previous year. It is calculated on unimproved land tax value only. The calculations are determined by the Value General on 1 July each year using the average value from the current year and the last two years (where applicable).

If you own taxable land and you have not already done so, you should now register for a Land Tax assessment with the Office of State Revenue. This can be done on-line at <https://www.revenue.nsw.gov.au/help-centre/online-services/land-tax-online> or by telephoning 1300 139 816.

For example, a retired couple owns their principal place of residence in Cremorne, valued at \$1,200,000 and a holiday home in Terrigal valued at \$800,000 (land values only). The couple’s Cremorne residence is exempt from Land Tax because it is their principal place of residence.

However the Terrigal property will be liable for land tax. To calculate the value of the land for land tax purposes you would take the value of the land and average it over the last 3 years. So assuming the Terrigal property was valued at \$780,000 in 2019, \$790,000 in 2020 and \$800,000 in 2021 then the land tax value to be used will be \$790,000.

The land tax they will pay for their Terrigal property in the 2021 land tax year is \$660 calculated as follows:

$$(\$790,000 - \$755,000) \times 1.6/100 + \$100 = \$660.$$

Alternately, a young investor who owns two highly leveraged investment properties in Newtown (average land value over last 3 years of \$500,000) and Mosman (average land value of \$600,000) will end up paying land tax of \$5,620  $(\$1,100,000 - \$755,000) \times 1.6/100 + \$100 = \$5,620.$

Revenue NSW have a land tax calculator online at <https://www.apps09.revenue.nsw.gov.au/erevenue/calculators/landtax.php>.

### FOREIGN RESIDENTS

Foreign persons are required to pay an additional 8% of Transfer Duty and an additional 2% of land tax (subject to change). These are called foreign purchaser surcharges and apply to individuals as well as companies, trusts, partnerships and so on. Please see Revenue NSW website for more detail at <https://www.revenue.nsw.gov.au/taxes-duties-levies-royalties/foreign-buyers-and-land-owners>.

In addition, foreign persons are ineligible for some benefits, for example they cannot delay the payment of Transfer Duty if they buy off the plan. If you are a foreign resident or if one of your co-purchasers is a foreign resident you need to be aware of the additional taxes payable by foreign residents.

For further information on land tax relating to your purchase please contact;

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