



## Foreign resident capital gains withholding payments

---

- <https://www.ato.gov.au/General/New-legislation/In-detail/Direct-taxes/Income-tax-for-businesses/Foreign-resident-capital-gains-withholding-payments/>
- Last modified: 04 Jul 2017
- QC 34698

## Foreign resident capital gains withholding payments - impacts on foreign and Australian residents

---

On 9 May 2017, the Government announced changes to the foreign resident capital gains withholding (FRCGW) rate and threshold. The changes will apply to contracts entered into on or after 1 July 2017:

- for real property disposals where the contract price is \$750,000 and above (currently \$2 million)
- the FRCGW withholding tax rate will be 12.5% (currently 10%).

The existing threshold and rate will apply for any contracts that are entered into before 1 July 2017, even if they are not due to settle until after 1 July 2017.

### Background

Broadly, where a foreign resident disposes of certain taxable Australian property, the purchaser is required to withhold an amount from the purchase price (see note below) and pay that amount to the Australian Taxation Office (ATO).

Note: the legislation specifies that the withholding is actually on the "first element of the cost base". However, as purchase price is understood by vendors and purchasers, and in many instances will equate with the "first element of the cost base", we have used the term purchase price for simplicity.

### Legislation and supporting material

The [Treasury Laws Amendment \(Foreign Resident Capital Gains Withholding Payments\) Act 2017](#)<sup>[2]</sup> received Royal Assent on 22 June 2017. For transactions

entered into from 1 July 2017 the threshold and rate as stated in this Act will apply.

For transactions prior to 1 July 2017 the threshold and rate as stated in [Tax and Superannuation Laws Amendment \(2015 Measures No. 6\) Act 2016](#)<sup>27</sup> will apply.

Information on the application of the FRCGW is available on the ATO website and via the following links:

- [Capital gains withholding: Impacts on foreign and Australian residents](#)

More information

- [2017–18 Budget Paper No.2 – Revenue Measures page 27](#)<sup>28</sup>
- [2017–18 Budget Fact Sheet 1.6 – Stronger rules for foreign investors owning Australian housing](#)<sup>29</sup>
- [Capital gains withholding - for real estate agents](#)
- [Capital gain withholding - a guide for conveyancers](#)

## Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

## Copyright notice

© Australian Taxation Office for the Commonwealth of Australia

You are free to copy, adapt, modify, transmit and distribute this material as you wish (but not in any way that suggests the ATO or the Commonwealth endorses you or any of your services or products).