



ISSUES RELATING TO FOREIGN INVESTMENT

AUSTRALIA (NEW SOUTH WALES)

Clayton Utz

CONTACT INFORMATION

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- 1. Is state governmental permission required for foreign investors to acquire real estate? If so, please identify.**

Yes. Foreign investors intending to purchase real estate are subject to the provisions of the Foreign Acquisitions and Takeovers Act 1975 (Cth). An application by a foreign investor must be made to the Foreign Investment Review Board ("**FIRB**") who will then advise the Treasurer to either approve or disallow the acquisition. The Treasurer has provided an authorization to the Executive Member and other senior division staff of FIRB to make decisions which are consistent with FIRB's policy. Proposals that involve issues of special sensitivity are decided by the Treasurer.

- 2. Are there other state restrictions imposed on ownership of real estate by foreign investors? To acquire interests in entities which own real estate? If so, please identify.**

There are no other state restrictions on the acquisition of real estate by foreign investors. Foreign investors must also make an application to the Foreign Investment Review Board for approval if they seek to acquire a substantial interest in entities which own Australian real estate. Takeovers of such entities and their interests must also comply with the takeovers requirements in the Corporations Act 2001 (Cth).

3. Are foreign investors required to invest with a local partner? If not, is investment with a local partner advisable?

Foreign investors are no longer required to invest with a local partner. Investment with a local partner is not essential but may be advisable if specific local knowledge or expertise were required for the particular project or if it would prove advantageous to have an Australian partner involved for legal or tax reasons.

4. What state taxes are levied solely on foreign individuals or entities acquiring or transferring real estate or interests in entities which acquire real estate?

The rate of transfer duty charged on a foreign person acquiring real estate is not different from the ordinary rate and there are no special provisions in this regard.

5. Describe reporting requirements for reporting the acquisition, ownership or disposition of real estate which relate solely to foreign direct or indirect owners of real estate.

The Foreign Acquisitions and Takeovers Act 1975 (Cth) has mandatory reporting obligations which require foreign persons to seek the approval of the Treasurer before their acquisition in Australian real estate, or entities which own Australian real estate, will be approved.