



# Capital gains withholding clearance certificate application online form instructions – for Australian residents

How to complete the Foreign resident capital gains withholding clearance certificate application, online form.

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## When to use the form

Foreign resident capital gains withholding (FRCGW) applies to vendors disposing of certain taxable property under contracts entered into from 1 July 2016.

Australian resident vendors should use the online **Foreign resident capital gains withholding clearance certificate application** to notify us that FRCGW doesn't need to be withheld from the sale of taxable Australian real property assets.

It provides the details of vendors so we can establish their tax residency status.

If you are a foreign resident, do not lodge an application – if you are entitled to a **variation** to your CGT liability, lodge a variation request.

The application needs to be completed and lodged with us as early as practical to minimise the need to extend settlement dates. **It can take up to 28 days to process.**

You can lodge your application any time, including prior to when a contract of sale is entered into as the certificate is valid for 12 months from the date issued.

The vendor will have to provide the purchaser with an ATO issued clearance certificate on or before the day of settlement of the sale of the asset to ensure no withholding occurs.

Each vendor must lodge their own application. Vendors who are parties to the same property transaction are not able to lodge joint applications.

## Who can complete and lodge



A clearance certificate application form should be completed and lodged by Australian resident vendors who don't wish to have an amount withheld by purchasers.

The entity that has legal title to the asset, is the entity required to obtain a clearance certificate for foreign resident capital gains withholding purposes. Where a purchaser acquires an asset through a sale or transfer, the vendors are the individuals or companies that have legal title to the asset prior to the sale or transfer.

Where the vendor of the asset is the trustee of a trust (for example, an executor of a deceased estate or a trustee of a superannuation fund) it is the trustee that applies for the clearance certificate. The trustee should apply for the clearance certificate using (as the identifier) their:

- own tax file number (TFN)
- Australian business number (ABN).

To avoid possible delays in issuing a clearance certificate, ensure:

- the [associates' details](#)  in the [Australian business register](#)  are updated with the current corporate trustee details.
- where a corporate trustee does not have a TFN, you must attach the details of the relevant trust and the company's Australian

company number (ACN) to the application.

Where a purchaser acquires an asset that has been granted (such as a lease), the vendors are the grantors of the asset.

Vendors may either complete and lodge the form themselves, or have it completed and lodged on their behalf by a third party (for example, a solicitor, an accountant, or a tax agent).

Conveyancers, real estate agents and other persons charging a fee for services can't complete the form on behalf of the vendor unless they are a legal practitioner or registered tax agent.

However, a vendor may provide a completed paper PDF version of the form to a conveyancer, real estate agent or other person charging a fee for service, who should enter the details in the online form (providing faster processing) as part of the settlement process they provide the vendor.

## How to complete the online form

You can't save an incomplete clearance certificate application form and return to complete it at a later date – the form must be completed and submitted in one session.

These instructions explain how to complete each section of the form, lodging your application and what happens next.

The foreign resident capital gains withholding clearance certificate application will request specific information based on the information you provide. Mandatory fields are marked with an asterisk (\*).

Help is available in the top right-hand side of the form. If you are unsure of how to complete this form after reading these instructions, you can phone us on **13 28 66** (Fast Key Code **4, 2**).

### Form sections:

- [1. Application type](#)
- [2. Who can the ATO contact about this form](#)
- [3. Vendor details](#)
- [4. Application details](#)
- [5. Attachments](#)

- [6. Declaration](#)
- [7. Confirmation screen](#)

## 1. Application type

This question determines if you are submitting the application as a vendor of the asset or their representative (for example, lawyer or accountant):

- \*Are you submitting this application as a vendor of the asset or their representative? – select vendor or vendor's representative.
- Conveyancers who are simply keying the form on behalf of a vendor should select 'vendor'.
- Contract date (or possible contract date) – enter the contract date as shown on the contract of sale. If no contract is yet signed, you can enter an anticipated date.
- Expected settlement date of the asset – enter the date of settlement for the sale, or when you expect it to settle.

At the end of the application type section click **Next** to proceed to the:

- vendor details section of the form – if the applicant is the vendor
- contact details page – if the applicant is the vendor's representative.

## 2. Who can the ATO contact about this form

If you're submitting the application as the vendor's representative, you must provide your contact details. This allows us to contact you to resolve any issues and process the form in a timely manner.

We'll provide the contact person with a copy of the Clearance Certificate Application decision at the same time as we provide it to the vendor.

If you're a conveyancer who is not a legal practitioner or tax agent, you can be the contact for the purposes of the form.

However, if questions are asked, we would expect that you relay these to the vendor. The vendor can then provide you with answers which you can communicate to us. Alternatively, you may ask us to contact the vendor directly should further questions be raised.

The contact detail fields are:

- Title – select the title of the contact person from the list provided
- First name – the first name of the contact person
- \*Last name – the last name of the contact person
- Job title – the job title of the applicant, which may also be used to disclose the relationship between the applicant and the vendor
- Contact email address – the email address for the contact person. By providing an email address, you are authorising us to respond to you by email. If you don't provide us with an email address, it may take longer to receive the clearance certificate as we will mail it to you.
  - If you choose to communicate with us via email, be aware the internet isn't a secure environment. We can't guarantee the privacy and security of personal information.
- Contact phone number – the contact person's phone number (including area code) and country code (if the country is not Australia). Don't include brackets ( ) or spaces in your entry. Providing a phone number will ensure we can easily contact you if we require additional information to process the clearance certificate.
- \*Address – the contact's address, including the suburb/town/locality, state/territory, postcode and country.

**Note:** Providing a contact email address and phone number will help to avoid unnecessary delays. We will contact you if we need to clarify any details during the application process.

If you choose to communicate with us via email, be aware the internet isn't a secure environment. We can't guarantee the privacy and security of personal information.

The following options are presented at the end of the contact details section:

- **Back** – to return to the last screen that had been viewed
- **Print friendly version** – to print the details that have been entered into the form
- **Next** – to proceed to the vendor details section of the form.

### 3. Vendor details

The vendor should be the entity that has legal title to the asset. If there are multiple vendors on the title, each vendor will need to apply for a separate clearance certificate in their name.

**Note:** Where the vendor is the trustee of a trust, that entity should apply for the clearance certificate using their:

- tax file number (TFN)
- Australian business number (ABN), if they have one
- Australian company number (ACN), if they have one.

Providing as much detail as possible reduces the likelihood of us having to contact the nominated contact person in section 2 (if completed).

The vendor details fields are:

- Tax file number (TFN) – enter the vendor's TFN. While you're not required to provide the vendor's TFN, providing the TFN assists us in identifying the vendor in our records which means that we can process the application faster
- Australian business number (ABN) – enter the vendor's ABN. While you're not required to provide the vendor's ABN, providing your ABN assists us in identifying the vendor in our records which means that we can process the application faster
- \*Entity type – select the entity type of the vendor from the list. The entity that has legal title to the asset, is the entity required to obtain a clearance certificate for foreign resident capital gains withholding purposes.

For transactions involving assets held on trust (including the assets of deceased estates and superannuation funds), select the entity type that corresponds with the entity that is the trustee (i.e. either 'individual' or 'trustee'). Applicants should **not** use the 'other' entity type as this will result in delays in processing the application.

- Only select **other** if the vendor is not an entity of one of the specified entity types
- If the entity type of the vendor is a **company**, the company detail fields will appear

- \*Company name – the legal name of the company (that is, the name under which the vendor is incorporated as reflected on the certificate of title)
- Business name (if applicable) – the business name or trading name of the vendor
- Ultimate holding company – the name of the ultimate holding company of the vendor. This is the company that has ownership and controlling interest over the whole group of companies of which the vendor is a member
- If the entity type of the vendor is an **individual**, the individual detail fields will appear
  - Title – select the title of vendor from the list provided
  - First name – the first name of the vendor
  - Other given names – if an individual has another given name reflected on the certificate of title, they should include this. Including only the initial is also acceptable
  - \*Last name – the last name of the vendor.

If the vendor's name has changed, you need to **update your name** on our systems before you apply for a clearance certificate. The clearance certificate issues in the legal name that we have on our systems.

- \*Date of birth – the date of birth of the vendor in dd/mm/yyyy format or select from the calendar icon
- Contact email address – the vendor's email address. By providing an email address you are authorising us to respond to you by email. If you don't provide an email address, it may take longer to receive the clearance certificate as we will mail it to you.
  - If you choose to communicate with us via email, be aware the internet isn't a secure environment. We can't guarantee the privacy and security of personal information.
- Contact phone number – the vendor's phone number, including area code and country code (if the country is not Australia). Don't include brackets ( ) or spaces in your entry. Providing a phone number will ensure we can easily contact you if we require additional information to process your clearance certificate.

**Note:** You must provide either a contact phone number or email address. Providing both will help to avoid unnecessary delays. We will contact you if we need to clarify any details during the application process.

- If the entity type of the vendor is **other** entity, the other entity detail fields will appear
  - \*Entity Name – the legal name of the vendor as reflected on the certificate of title
  - Business name (if applicable) – the business name or trading name of the vendor
- Vendors contact details – these fields appear when the entity type selected for the vendor is either **company** or **other**
  - Title – select the title of contact person from the list provided
  - First name – the first name of the contact person
  - \*Last name – the last name of the contact person
  - Job title – the job title of the contact person
  - Contact email address – the email address of the contact person. By providing an email address, you are authorising us to provide information to the vendor by email. If you don't provide an email address, it may take longer to receive the clearance certificate as we will mail it to the vendor.
  - Contact phone number – the contact person's phone number, including area code and country code (if the country is not Australia). Don't include brackets ( ) or spaces in your entry. Providing a phone number for the vendor will ensure we can easily contact them if we require additional information to process the clearance certificate.

**Note:** You must provide either a contact phone number or email address for the vendor. Providing both will help to avoid unnecessary delays. We will contact the vendor if we need to clarify any details during the application process.

If you choose to communicate with us via email, be aware the internet isn't a secure environment. We can't guarantee the privacy and security of personal information.



- \*Address – enter the vendor's address, including the suburb/town/locality, state/territory, postcode and country
- \*Has your residency status changed since your last tax return or will it change before you sell the property? – select one of the following
  - 'Yes' – if the vendor's residency status has changed since lodging their last tax return or will change before the property is sold
  - 'No' – if the vendor's residency status hasn't changed since lodging their last tax return or won't change before the property is sold.
- \* Have you lodged a tax return for the last 2 years? – select one of the following
  - 'Yes' – if the vendor has lodged both tax returns for the last 2 years for which the due date has passed
  - 'No' – if the vendor has not lodged both their Australian tax returns for the last 2 years, and the due date for lodging returns for those years of income has passed.
- \* Are you holding the property on behalf of a foreign resident or on behalf of other entities that include a foreign resident? – select one of the following
  - 'Yes' – if the vendor holds the property on behalf of a foreign resident, or on behalf of other entities that include a foreign resident
  - 'No' – if the vendor doesn't hold the property on behalf of a foreign resident, or on behalf of other entities that include a foreign resident.

**Note:** You must answer 'Yes' to this question if you intend to use the same clearance certificate for multiple properties, any of which you hold on behalf of a foreign resident or on behalf of other entities that include a foreign resident.

The following options are presented at the end of the vendor details section:

- **Back** – to return to the last screen that had been viewed

- **Print friendly version** – to print the details that have been entered into the form
- **Next** – to proceed to the application details section of the form.

#### 4. Application details

The application details provide more information about the vendor's application. This section is reached if the vendor answered:

- 'Yes' to 'Has your residency status changed since your last tax return or will it change before you sell the property?'
- 'No' to 'Have you lodged a tax return for the last 2 years?'

The application details fields are:

- If the entity type of the vendor is a **company**, the company detail fields will appear. This section requires a 'Yes' or 'No' answer to establish residency status of the company
  - \*Is the company incorporated in Australia? If you answered 'No', the following questions will need to be answered
    - \*Does the company carry on business in Australia?
    - \*Is the company's central management and control in Australia?
    - \*Is the company's voting power controlled by shareholders who are residents in Australia?
- If the entity type of the vendor is an **individual**, the individual detail fields will appear
  - \*Are you migrating and settling in Australia? Select 'Yes' or 'No'.

**Note:** Answer 'Yes' if you have lived in Australia for the past 3 years, but you have not been required to lodge an income tax return in the last 2 years, for example, an aged pensioner.

Immigrants must hold a current permanent residence visa, issued by the Department of Immigration and Border Protection, and intend to reside permanently in Australia. New Zealanders do not need a permanent residency visa, however they must intend to reside permanently in Australia.

- \*Are you an Australian returning to live in Australia? – select 'Yes' or 'No'
- \*Have you stayed, or do you intend to stay, in Australia for 6 months or more? – select 'Yes' or 'No'
- \*Do you have social or economic ties to a country other than Australia? – select 'Yes' or 'No'
- \*What is your main purpose for being in Australia? – select your main reasons for being in Australia
- \*Have you stayed or intend to stay in a particular place continuously for 6 months or more? – select 'Yes' or 'No'
- \*Where do you live while in Australia? – select where you live while in Australia
- \*Do you have a spouse and/or dependent children? – select 'Yes' or 'No'
- \*Where are your spouse and/or dependent children? – select where your spouse/dependent is living
- \*Where do you hold the majority of your assets? – select Australia or overseas
- \*Are you a member of any clubs, churches, community groups or organisations in Australia? – select 'Yes' or 'No'
- \*Have you been in Australia, either continuously or intermittently, for 183 days or more in the income year? – select 'Yes' or 'No'
- \*Is your usual place of abode outside of Australia? – select 'Yes' or 'No'
- \*Do you intend to take up residence in Australia? – select 'Yes' or 'No'

The following options are presented at the end of the application details section:

- **Back** – to return to the last screen that had been viewed
- **Print friendly version** – to print the details that have been entered into the form
- **Next** – to proceed to the attachments section of the form.

## 5. Attachments

You can electronically attach any documents you believe support the application for a clearance certificate.

This may be relevant where:

- your residency status changed since your last tax return or will change before you sell the property
- you have not lodged a tax return for the last 2 years.

You can attach more than one file and each file must be in .doc, .docx, .rtf, .xls, .xlsx, .pdf, .jpg, .tif, .bmp, .png, or .gif format.

The following options are presented at the end of the attachments section:

- **Back** – to return to the last screen that had been viewed
- **Print friendly version** – to print the details that have been entered into the form
- **Next** – to proceed to declaration section of the form.

## 6. Declaration

\*Complete the declaration section of the form.

There are 2 parts of this section to complete:

- \*the declaration
- \*declare you are not a robot – this field is required for system operational reasons.

Once you have completed this section, you should submit the form.

The following options are presented at the end of the declaration section:

- **Back** – to return to the last screen that had been viewed
- **Print friendly version** – to print the details that have been entered into the form
- **Submit** – to submit the form.

## 7. Confirmation screen

The confirmation screen confirms the clearance certificate application form has been successfully lodged.

You should retain a copy of the form. Do this by selecting Print friendly version to save or print the application.

## What happens next

We will process your application and notify you of the outcome. If you don't provide an email address, we will mail the clearance certificate to your contact postal address. If required, we will contact you to resolve or clarify any information.

Individual vendors can obtain a copy of their clearance certificate outcome online:

- Login in to **myGov** and go to **ATO online services**
- **My profile** menu, go to **Communication**
- then **History**.

If we approve a clearance certificate, you'll need to provide a copy to the purchaser on or before settlement.

QC 49485

## 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

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