



How to apply for a Capital gains withholding clearance certificate – online form

Use this form if you are an Australian resident (for tax purposes) selling property in Australia.

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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.

Australian residents

Australian residents who are selling Australian real property assets must use the *Foreign resident capital gains withholding clearance certificate application* online form to notify us that FRCGW **does not** need to be withheld from the sale.

The form gives us the details of vendors (sellers) so we can establish their tax residency status for FRCGW.

[FRCGW clearance certificate – online form](#)

Foreign residents

If you are a foreign resident, do **not** lodge this form. You should lodge a variation request if you meet the conditions for a variation of the FRCGW rate.

Apply now

Don't wait to sign a contract – lodge your application as soon as you are thinking of selling. **It can take up to 28 days to process.**

The certificate is valid for 12 months from the date issued.

Vendors must 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.

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.

Each vendor (entity) must lodge their own application. Vendors who are involved in the same property transaction are **not** able to lodge joint applications.

The vendors are the entities (individuals, trustees or companies) that have legal title to the property (asset) before it is sold or transferred.

Vendor is a trustee

Where the vendor is the trustee of a trust (for example, a trustee of a superannuation fund or an executor of a deceased estate), the trustee must apply for the clearance certificate using their own:

- tax file number (TFN). Where a corporate trustee doesn't have a TFN, you must attach the details of the relevant trust and the company's Australian company number (ACN) to the application.
- Australian business number (ABN), if they have one
- Australian company number (ACN), if they have one.

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

Using a third party to complete the form

Vendors may either:

- complete and lodge the form themselves
- have the form completed and lodged on their behalf by a third party, such as a solicitor, an accountant, or a registered 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 have the authority because they are **also** a legal practitioner or 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 can enter the details in the online form as part of the settlement process they provide to the vendor. This means the form will be processed faster online.

How to complete the online form

Note: 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

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

If you're submitting the application as the vendor's representative, you must provide your contact details.

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 still be the contact for the purposes of the form. However, if we ask questions we expect you to relay them 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 with our questions.

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. This 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. **Note:** 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 person's address, including the suburb/town/locality, state/territory, postcode and country.

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 as the identifier their own:

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

We recommend including the Australian company number (ACN) as an attachment (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).

For deceased estates, you must:

- enter the 'entity type' as trustee in the Vendor details section – this ensures the clearance certificate will show 'as trustee for', and
- include the deceased vendor's name according to the name on the property title. There is no need to have 'as executor for' on the application.

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, it will help us identify 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, it helps us identify the vendor in our records which means that we can process the application faster.
- *** Vendor's name as it appears on the title of the property**
 - If the vendor is an individual, include their first name, other given name and last name. Including the initial of the 'other given name' is acceptable
 - If the vendor's name has changed, it must be updated on our systems before applying for a clearance certificate (see **Update your name**). The clearance certificate issues in the legal name that we have on our systems.
- *** Entity type** – Select the vendor's entity type 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 of the trustee. This is generally 'Individual' for the executor of a deceased estate or 'Trustee' for a superannuation fund. Applicants should 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 your 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. Enter 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. **Note:** 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.

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 contact person's email address. 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. Note: 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 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.

- * **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 shown 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 as follows:

- 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 answer '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. If lodging a deceased estate return, you may wish to attach a copy of the will or grant of probate.

You can attach more than one file. Each file must be in one of the following formats: .doc, .docx, .rtf, .xls, .xlsx, .pdf, .jpg, .tif, .bmp, .png, or .gif.

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 keep 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. We will contact you if we have any questions about your application.

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

If you don't provide an email address, we will mail the clearance certificate to your contact postal address.

Individual vendors with a myGov account linked to ATO online services can obtain a copy of their clearance certificate outcome online:

- login in to **myGov**
- navigate to **ATO online services**
- select **My profile**
- select **Communication**
- select **History**.

QC 49485

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