LCR 2016/6A3 - Addendum - Foreign resident capital gains withholding regime: amount payable to the Commissioner

Addendum

Law Companion Ruling

Foreign resident capital gains withholding regime: amount payable to the Commissioner

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Law Companion Ruling LCR 2016/6 to reflect amendments made by the *Treasury Laws Amendment (2024 Tax and Other Measures No. 1) Act 2024*.

LCR 2016/6 is amended as follows:

1. Preamble

Omit the preamble; substitute

> **Relying on this Ruling**
>
> This publication is a public ruling for the purposes of the *Taxation Administration Act 1953*.
>
> If this Ruling applies to you, and you correctly rely on it in good faith, we will apply the law to you in the way set out in this Ruling. That is, you will not pay any more tax or penalties or interest in respect of the matters covered by this Ruling.

2. Paragraph 1

Omit footnote 1.

3. Paragraph 3

After the paragraph, insert new paragraph 3A:

> 3A. All legislative references in this Ruling are to Schedule 1 of the *Taxation Administration Act 1953*, unless otherwise indicated.

4. Paragraph 4

(a) Omit the wording of the paragraph (excluding footnotes 2 and 3); substitute:

> This Ruling applies to acquisitions of the following assets where the vendor of the asset is a relevant foreign resident[1A] and the transaction is entered into on or after 1 July 2016:
>
> - 'taxable Australian real property' (TARP)[2],
> - an 'indirect Australian real property interest'[3], or
> - an option or right to acquire such property or interest.

(b) After ‘relevant foreign resident’, insert new footnote 1A:

[1A] Section 14-210 sets out whether the vendor is a foreign resident for the purposes of the withholding obligation.

(c) Omit footnote 4.

5. Paragraph 7

(a) Omit the wording of the paragraph; substitute:

The amount to be paid to the Commissioner under the withholding obligation (unless the Commissioner exercised the variation power under section 14-235[5A]) is worked out under subsection 14-200(3). The following foreign resident capital gains withholding rates apply to the asset’s purchase price:

- on and after 1 July 2016 and before 1 July 2017, a rate of 10% applies to property valued at $2 million or more
- on and after 1 July 2017 and before 1 January 2025, a rate of 12.5% applies to property valued at $750,000 or more[5B]
- on and after 1 January 2025, a rate of 15% applies to all property values (with no threshold).[5C]

(b) After ‘section 14-235’, insert new footnote 5A:

[5A] Subsection 14-235(2) allows the Commissioner to vary a particular amount payable by a specific purchaser, while subsection 14-235(5) allows the Commissioner to vary the amount payable by a class of purchasers (a class of amounts).

(c) After ‘valued at $750,000 or more’, insert new footnote 5B:

[5B] The withholding threshold reduced from $2 million to $750,000: *Treasury Laws Amendment (Foreign Resident Capital Gains Withholding Payments) Act 2017*.

(d) After ‘(with no threshold).’, insert new footnote 5C:

[5C] *Treasury Laws Amendment (2024 Tax and Other Measures No. 1) Act 2024*.

6. Paragraph 8

(a) Omit ‘12.5%’; substitute ‘15%’.

(b) In footnote 6, omit ‘1 July 2017’; substitute ‘1 January 2025’.

7. Paragraph 12

Omit ‘CGT asset(s)’; substitute ‘CGT assets’.

8. Paragraph 15

Omit the wording of footnote 11; substitute:

For further guidance on market valuation, refer to Market valuation of assets.

9. Paragraphs 28 and 29

Omit '*2017*'; substitute '*2025*'.

10. Paragraph 34

Omit '*$950,000 to the Commissioner on 30 September 2017*'; substitute '*$1.14 million to the Commissioner on 30 September 2025*'.

11. Paragraphs 35 and 36

(a) Omit '*2017*'; substitute '*2025,*'.

(b) Omit '*Components Ltd*'; substitute '*Components Co*'.

12. Paragraph 41

Omit '*Components Ltd withholds and remits $1.1 million to the Commissioner on 30 September 2017*'; substitute *'Components Co withholds and remits $1.32 million to the Commissioner on 30 September 2025*'.

This Addendum applies from 1 January 2025.

Commissioner of Taxation
29 July 2026

ATO references

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