Tax refunds available! Surcharge purchaser duty and surcharge land tax in breach of international tax treaties

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Certain foreign persons are no longer required to pay surcharge purchaser duty and surcharge land tax ("**the Surcharges**") when purchasing residential land in NSW. Those who paid are now eligible to receive refunds on any Surcharges paid on or after 21 July 2021.

The NSW Government determined that the State's Surcharges were infringing upon international tax treaties, which Australia is a party of and are in force under federal law. As a result, Citizens of New Zealand, Finland, Germany, and South Africa can make a claim for a refund of the Surcharges they had paid. Otherwise, NSW Revenue is proactively searching for and contacting those who may be eligible.

The Surcharges

Currently, if you are a foreign person, you must pay the following:

Surcharge purchaser duty

- 8% of the dutiable value (the greater of the purchase price or value of the property).
- This is paid in addition to transfer duty.

Surcharge land tax

- A surcharge on the taxable value of all residential land on the 31 December each year.
- In 2023 and onwards, the land tax payable is 4%.
- In 2018 and onwards, you would have had to of paid 2% in land tax (an eligible person can claim the 2% tax paid on 31 December of 2021 and 2022.

Foreign Person

You are a foreign person, unless:

- you are an Australian citizen; or
- you are considered an ordinary Australian resident, by having lived 200 days or more 12 months prior to the taxing date of 31 December, and you're a permanent resident of Australia.

A foreign person includes:

- an individual;
- a corporation;

- a trust;
- a foreign government;
- a government investor; or
- a partner in a limited partnership.

Refunds Available

Ordinarily, citizens of New Zealand, Finland, Germany, and South Africa that purchase residential land in NSW would be liable to pay the Surcharges. However, due to certain international tax treaties with these countries, citizens of those countries are no longer required to make those payments.

Additionally, if payments had been made on or after 21 July 2021, those individuals can claim a refund of the Surcharges paid. Interest and penalty tax paid may also be refunded where applicable.

Non-individuals from the listed nations such as corporations, trusts or partnerships may be affected by the international tax treaties.

Matthews Folbigg Lawyers has a specialist team dedicated to property related matters.

If you would like more information or advice in relation to recovery of refunds for any surcharge purchaser duty and surcharge land tax as either an individual or non-individual, or another property related matter, please call our office on (02) 9635 7966 , or simply use the contact form below.

For more information and access to frequently asked questions, visit https://www.revenue.nsw.gov.au/taxes-duties-levies-royalties/foreign-buyers-and-land-owners/international-tax-treaties

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