

I am a foreign person living in Australia on a valid temporary resident visa. Do I need approval to buy a property?

No, go ahead and buy. Provided you qualify for the temporary resident exemption, you don't need FIRB approval, for any contract to purchase property entered into after 18 December 2008. If you buy second hand residential real estate, you must use it as your principal dwelling.

I do not hold a temporary resident or permanent resident visa. Can I invest in Australian residential real estate?

Yes, you can buy in some categories, provided you have obtained FIRB approval. For example, approval for purchase of new dwellings or single blocks of vacant land where a house is constructed within 24 months is likely to be given. You can hold them or rent them. If you sell, FIRB guidelines will apply to your sale of second hand real estate. Approval for purchase of second hand real estate is less likely.

I am a foreign student living in Australia. Can I buy a second hand house to live in as my principal dwelling? Is there a maximum price I can buy to?

Yes, you can buy and there is no restriction on price. Approval is likely to be given to the purchase of a residence where the student is over 18 years of age, studying at a recognized tertiary institution and where the student holds a student visa valid for the next 12 months, and where the residence is near the university.

I control a foreign owned company trading in Australia. Can I buy second hand real estate for use of my staff?

Yes. Approval is likely, provided the houses are used as dwellings for Australian based staff and provided the company gives an undertaking that it will sell or rent the property if it is expected to remain vacant for six months or more. There is no limit on the number of houses that may be bought.

I am a foreign national and was recently told that I would not need approval if I bought real estate through an Australian incorporated company or unit trust. Is this true?

No. Foreign nationals need approval to buy residential real estate. Use of an Australian trust or company structure will not affect this outcome.

Australian incorporated companies or trusts where 15 per cent or more of the shares or units are beneficially held by foreign persons are themselves considered to be "foreign". 40% if 2 or more persons not ordinarily resident in Australia hold an aggregate interest.

I am not exempt and want to purchase a property at auction. The contract will be auctioned on an unconditional basis. Can I ask for FIRB approval before the auction?

Yes. If you submit your application at least 5 business days before the auction, FIRB will consider your application and advise you before the auction.

For more information please contact msl on +61 7 5597 8888 or info@msslawyers.com.au or visit our website www.msslawyers.com.au

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