



Australian College  
of Professionals

# College Chronicle

## Vendors and Purchasers who reside outside Australia

August 23, 2019



The laws in relation to property sales and purchase for people residing outside of Australia were amended in 2017. There are still many agents who are not clear on the requirements in relation to this legislation and we receive regular phone calls and questions at CPD classes.

As an agent, you need to understand these requirements, as you may well be asked questions by your vendor or prospective purchasers. Whilst it is the client's legal practitioner's responsibility to advise and assist the vendor or purchaser with these details, your professionalism will shine through when you demonstrate an understanding of the requirements for vendors and landlords who reside outside of Australia. Remember, always refer your client back to their legal practitioner to confirm and finalise these matters.

### **Surcharge Purchaser Duty**

In addition to purchaser stamp duty that all purchasers within New South Wales are required to pay on the purchase of land, a foreign investor is now liable to pay an additional surcharge on that stamp duty as a result of the 2017 State budget.

The Surcharge Purchaser Duty (SPD) has been raised from 4% (which was the amount introduced in 2016) to 8% for all contracts entered into after 1 July 2017.

Foreign persons are also no longer entitled to the 12 month deferral for the payment of stamp duty for off the plan purchases of residential property. The SPD must be paid within three months of the liability date (the date of the contract).

If the purchase of property is partly being purchased by a foreign person and partly by an Australian citizen or an exempt person, the surcharge will only be payable by the foreign person on the proportion of the property they are acquiring.

For example: if the property being acquired is residential and being purchased as joint tenants between one exempt person and one foreign person as defined by State Revenue, the purchase will be treated as though it was being structured as a tenants in common in equal shares purchase and the surcharge will be applied to the foreign person's share being 50% of the dutiable value of the property.

### **Selling Foreign Owned Property**

The second issue stems from a policy that was initially introduced in 2016. The Australian Taxation Office introduced the Foreign Resident Capital Gains Tax Withholding (FRCGTW) legislation. This legislation which provides that through the conveyancing and settlement process of the transfer of land, a purchaser will be required to withhold 12.5% of the purchase price from the settlement amount paid and pay that money to the ATO on the behalf of the vendor.

The threshold amounts for this legislation differs for Australian residents and foreign residents.

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### Australian Residents

- for real property disposals where the contract price is \$750,000 and above, the FRCGW withholding tax rate will be 12.5%
- not applicable if the purchaser's solicitor has forwarded an ATO clearance certificate to the vendor's legal practitioner prior to settlement.

### Foreign Residents

- for real property disposals of any price, the FRCGTW withholding tax rate will be 12.5%

As a matter of disclosure to a vendor who is a foreign resident, although it is their legal practitioner's role to undertake these processes, it is strongly suggested that the agent recommends the vendor to have discussions with their legal practitioner regarding the FRCGTW at the earliest opportunity. Remember, just because it is called **foreign resident** capital gains tax withholding does **NOT** mean that it is only going to affect foreign resident vendors.

It is equally important for the purchaser to have the same discussion with their solicitor or conveyancer if they are purchasing property over \$750,000. If they have not received a clearance certificate and have not withheld and forwarded to the ATO the withholding amount, the ATO have the right to seek that full amount owing directly from the purchaser themselves. The Contract for the Sale and Purchase of land places the responsibility upon the purchaser to withhold the money so there are two steps in the process, the vendor must apply for, receive and hand over the clearance certificate (if they are eligible) and the purchaser, if they do not receive the clearance certificate, must withhold the FRCGTW amount and forward it through to the ATO.

The Foreign Resident Capital Gains Tax Withholding regulations apply throughout Australia and is not State or Territory based.

'Til next time, wishing you every success in your business ventures,

Rosy Sullivan | College Director & Principal

## 4 HOUR CPD SEMINARS Full 12 points

THU 29 <sup>TH</sup> AUG	SYDNEY CBD Strata Management	WED 11 <sup>TH</sup> SEP	DUBBO Stock & Station
THU 29 <sup>TH</sup> AUG	PORT MACQUARIE Sales & Prop Mgmt	WED 11 <sup>TH</sup> SEP	DUBBO Sales & Prop Mgmt
FRI 30 <sup>TH</sup> AUG	SYDNEY CBD Business Broking	THU 12 <sup>TH</sup> SEP	SYDNEY CBD Real Estate Sales
TUE 10 <sup>TH</sup> SEP	ORANGE Sales & Prop Mgmt	THU 12 <sup>TH</sup> SEP	SYDNEY CBD Property Management
TUE 10 <sup>TH</sup> SEP	TAREE Sales & Prop Mgmt	FRI 13 <sup>TH</sup> SEP	SYDNEY CBD Commercial & Retail Sales & Leasing

## 2 HOUR CPD SEMINARS (8am - 10am unless specified otherwise). Full 12 points, Pre-reading required

FRI 6 <sup>TH</sup> SEP	CASTLE HILL Sales & Prop Mgmt	THU 19 <sup>TH</sup> SEP	PARRAMATTA Sales & Prop Mgmt
FRI 13 <sup>TH</sup> SEP	PENRITH Sales & Prop Mgmt	FRI 20 <sup>TH</sup> SEP	SYDNEY CBD Sales & Prop Mgmt
MON 16 <sup>TH</sup> SEP	GOSFORD Sales & Prop Mgmt	TUE 24 <sup>TH</sup> SEP	NEWCASTLE Sales & Prop Mgmt



## From the office

There we have it, another fortnight here at ACOP come and gone. It's been an upbeat two weeks here at the College offering a range of courses for our students. As usual, we sent our trainers near and far delivering our in-depth CPD training - jump-starting their journey with the beautiful coastline of Gosford and then travelling to Muswellbrook, Parramatta and also Castle Hill to name a few before ending their road trip here in Sydney CBD. ACOP has been just as busy with providing our students with CPD training as we ran webinars for our students in regional and remote areas, and also provided our double CPD session last Thursday offering our 4 hour Sales CPD seminar followed by our 4 hour Property Management CPD seminar.

In amongst all the CPD sessions, we have also had a great turn out of students attending our Certificate of Registration course here at ACOP. This entry-level program into the Real Estate Industry is where we had the opportunity to provide insight and knowledge to those looking to kick-start their career in the property industry. So to the students who attended, we wish you well on your new journey and hope to see you soon for your licensing studies in the future. We also had a beaming class of students attend the night session for the Diploma of Leadership and Management program, which is always exciting to run especially because it's an evening class. Finishing up the last fortnight of training we had a fabulous turn out of students attend our Sales for Real Estate licensing class for those upgrading to their Real Estate Licence alongside our students attending our Auctioneers Accreditation who will be tearing down the roof learning techniques, skills and the processes on how to become a successful Auctioneer.

Our College Principal Rosy and Training Manager Megan joined the Elders Real Estate business owners and elite sales agents leadership conference in Hamilton Island for a few days last week. They had a fantastic time talking all things leadership and all offerings from ACOP. They were even on the winning team for the Island Challenge in their buggy doing amazing activities and getting the locals to join in on many of these. It has made for a lot of funny videos and photos around the office this week.

I can say open heartedly that I refrained from the cake this week but boy do I have a cake story for you. So as you may know, this is strictly the cake section – on most occasions. So from the team we would like to wish Elise a very “Happy 23rd Birthday”. Elise enjoyed being another year wiser on a weekend getaway with her partner, returning to work with a desk full of decorations and saying goodbye to another year over a decadent ‘Cookies and Cream’ cake. To end this fortnight of cake delight we would also like to wish our Training Manager Megan, who had only just returned from a Hamilton Island conference, a very “Happy 27th Birthday”. We celebrated her special day with nothing but the best as we sang Happy Birthday over a double stacked Freddo ice-cream cake, which was topped off with lashings of chocolate sauce and smotherings of an additional two packets of Freddo frog chocolate faces – because it's ok to add a little extra sometimes.

## CERTIFICATE OF REGISTRATION COURSES

Units taken from nationally accredited training qualifications from the CPP07 Property Services Training Package.

<b>MON 9<sup>TH</sup></b> <b>WED 11<sup>TH</sup> SEP</b>	SYDNEY CBD
<b>SAT 14<sup>TH</sup></b> <b>SUN 15<sup>TH</sup> SEP</b>	SYDNEY CBD (ONLINE + WEEKEND WORKSHOP)
<b>MON 23<sup>RD</sup></b> <b>WED 25<sup>TH</sup> SEP</b>	CASTLE HILL
<b>MON 14<sup>TH</sup></b> <b>WED 16<sup>TH</sup> OCT</b>	SYDNEY CBD

## FINANCE & MORTGAGE BROKING COURSES

Units taken from nationally accredited training qualifications from the FNS Financial Services Training Package.

<b>MON 28<sup>TH</sup></b> <b>WED 30<sup>TH</sup> OCT</b>	SYDNEY CBD Certificate IV in Finance & Mortgage Broking
<b>28<sup>TH</sup>-30<sup>TH</sup> OCT</b> <b>&amp;</b> <b>7<sup>TH</sup>-8<sup>TH</sup> NOV</b>	SYDNEY CBD Diploma of Finance & Mortgage Broking Management <i>(Upgrade Program - Must hold Certificate IV in Finance &amp; Mortgage Broking)</i>

# PROPERTY LICENCE COURSES

Units taken from nationally accredited training qualifications from the CPP07 Property Services Training Package.

18 <sup>TH</sup> - 19 <sup>TH</sup> SEP	Staff Management SYDNEY CBD	16 <sup>TH</sup> - 17 <sup>TH</sup> SEP	Financial Management SYDNEY CBD
8 <sup>TH</sup> - 11 <sup>TH</sup> OCT	Sales for Real Estate SYDNEY CBD		
21 <sup>ST</sup> - 25 <sup>TH</sup> OCT	Stock & Station Agency Practices SYDNEY CBD	FRI 27 <sup>TH</sup> SEP	Trust Accounting + Insurance (Strata) SYDNEY CBD
23 <sup>RD</sup> - 26 <sup>TH</sup> SEP	Strata Management Agency Practices SYDNEY CBD	2 <sup>ND</sup> - 4 <sup>TH</sup> SEP	Trust Accounting SYDNEY CBD
FRI 1 <sup>ST</sup> NOV	Real Estate Auctioneer Accreditation SYDNEY CBD	5 <sup>TH</sup> - 6 <sup>TH</sup> SEP	Property Management SYDNEY CBD

View our course calendar for all course details.

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