"The Bottom Line"
SIMMONDS LE-FEVRE

Client Newsletter – Tax & Super

November 2026



ATO IS CHASING "LAND BANKING" BY FOREIGN INVESTORS

About this newsletter

Welcome to the **Simmonds Le-Fevre** client information newsletter, your monthly tax and super update keeping you on top of the issues, news and changes you need to know. Should you require further information on any of the topics covered, please contact us via the details below.

E: lynda@slfstrategic.com.au
Unit 1, 43 Oxford Close West
Leederville WA 6007

© Content in partnership with the Institute of Financial Professionals Australia

If you are a foreign resident and you have acquired vacant land in Australia with Foreign Investment Review Board approval, and you have not met a condition of that approval (namely, building a dwelling or dwellings on that land within the required time), then be careful.

continued overleaf ⇨

The ATO is now taking legal action under the *Foreign Acquisitions and Takeovers Act 1975* to have fines imposed on investors who do not meet a condition of their approval.

The ATO is taking action against "land banking" by foreign residents (presumably in line with government policy to increase housing supply in Australia).

Some of the fines imposed have been big. Very big.

In a recent Federal Court case, a foreign investor acquired vacant land for some $300,000 close to 10 years ago. The land now has a market value of over $550,000. The investor was fined $508,000 for failing to complete construction of a residential dwelling on the land within 4 years of its purchase, as required by the conditions of their foreign investment approval.

In addition, freezing orders were made over the land (and other land owned by the investor in Australia) to help secure payment of the fine.

The ATO said it identified the breach through intelligence from data matching and its land banking audit program.

The ATO also said it is auditing all foreign investment approvals requiring development of residential land. The audit seeks to identify and address land banking, where a foreign investor may hold land for future gain rather than putting it to productive use through development.

The ATO is very serious about the matter.

For example, in the 2024-25 income year alone, the ATO forced remediation of 217 breaches of the foreign investment rules, including the disposal of 111 residential properties.

Therefore, if you are a foreign resident (or know one) who has acquired vacant land in Australia and who has not complied with any requirement to build on the land within the required time, be careful: the ATO is determined to find you and have fines imposed.

Don't forget that if you are a foreign resident and you own land in Australia and you sell it, you will be liable for CGT on any gain you make on the sale.

You also won't be entitled to the CGT concessions that an Australian resident is entitled to in calculating that gain, in particular the CGT discount (and indexation after 1 July 2027). On top of that, you will be taxed on the gain at higher tax rates.

So if you are in this situation (or know anyone else who is), talk to us about what can be done, ideally before any problem emerges.

This information has been prepared without taking into account your objectives, financial situation or needs. Because of this, you should, before acting on this information, consider its appropriateness, having regard to your objectives, financial situation or needs.