

Register of foreign ownership



What is this about?

The Australian government wants the extent of foreign ownership of Australian agricultural land and water reserves to become public information.

To this end, amendments to the Foreign Acquisitions and Takeovers Act 1975 (Cth) (Act) commenced on 1 July 2023 which resulted in the previous register of foreign ownership of water entitlements (which was maintained under the Register of Foreign Ownership of Water or Agricultural Land Act 2015 (Cth)) being abolished and amalgamated into a new broader register of foreign ownership of Australian assets.

Under the new legislation, a foreign person (as defined in the Act) is required to give notice to the Australian Taxation Office (ATO) if it:

- acquires or disposes of certain Australian water assets;
- becomes a foreign person while holding certain Australian water assets; or
- ceases to be a foreign person while holding certain Australian water assets.

In order to comply with its obligations under the Act, MI must take steps to try and determine whether it is a foreign person. If the ATO were to enquire with MI as to how it determines whether it is a foreign person, the ATO would expect MI to have taken active steps to obtain information about the extent to which its members are foreign persons.

What does 'foreign' mean in this case?

Foreign status can apply to either a natural person or a legal entity such as a company or trust.

Essentially, a person or entity will be classified as foreign if they are not an Australian resident for tax purposes.

A corporation is considered foreign-owned if it is substantially owned by foreign individuals, corporations or governments.

It must meet either of two criteria:

- If any one shareholder owning more than 20% of its

shares is classified as foreign, or

If any group of shareholders collectively owning more than 40% of its shares is classified as foreign.

Similar provisions apply to trusts and partnerships.

The ATO website explains the circumstances, and adopts the definition provided by the Foreign Investment Review Board (FIRB).

What does this mean for MI?

Murrumbidgee Irrigation (MI) owns water rights through its Water Investment Fund and is therefore subject to the foreign ownership rules. This means that we must notify the ATO if either of the above two criteria for corporations is met.

Currently, no MI shareholder owns more than 20% of the shares, however, MI must regularly check the status of all shareholders to determine if it meets the 40% foreign ownership threshold. These are ongoing obligations for the Company.

Our Constitution was amended in 2017 and the requirement to notify MI of foreign status is now a condition of share ownership.

How does it affect MI shareholders?

Any shareholder that is classified as a foreign person or entity needs to inform us as soon as possible and by 30 June (in any year) if their foreign residency status changes.

You can do this simply by sending us a copy of your ATO registration of foreign interests.

For more information call us on 02 6962 0200 or visit one of our offices.

How does it affect MI customers?

MI customers (individuals and corporate entities) who are defined as foreign residents and hold MI Water Entitlements (WEs) or other water rights such as Water Access Licences must register their water holdings directly with the ATO via its website.

Agricultural land owned by foreign residents must also be registered with the ATO. This registration is between the customer and the ATO and does not involve MI.

Where can I find out more?

For general information or to register your land and water holdings with the ATO, see:

[Registration of registrable water interests for foreign investors | Australian Taxation Office \(ato.gov.au\)](#)