

## **REVENUE CIRCULAR**

### **RC-GEN-011:**

### **2011-12 Budget Measures**

#### **Purpose**

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1. This Circular provides information on amendments to the *First Home Owner Grant Act*, *Stamp Duty Act*, *Payroll Tax Act* and *Taxation Administration Act* that implement the 2011-12 Budget revenue measures announced by the Treasurer on 3 May 2011.

#### **For Home Buyers**

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##### ***BuildBonus***

2. A one-off BuildBonus grant of \$10 000 is available for owner builders and home buyers, including investors, who are building or purchasing a new home up to the value of \$530 000. The amount of \$530 000 includes the value of the land on which the home is built.
3. A person may receive only one BuildBonus grant even where a person purchases or builds several new homes, whether alone or together with others.
4. First home buyers of a new home will receive both the \$7000 first home owner grant and \$10 000 BuildBonus grant provided all eligibility criteria are met.
5. BuildBonus applies to contracts signed between 3 May 2011 and 31 December 2011 where construction of the new home commences on or after 3 May 2011. Owner builders who commence construction of a house during this period are also eligible for BuildBonus.
6. Building work needs to commence on or after 3 May 2011 and within six months of the contract being signed. Construction should be completed within 18 months of the building work commencing.
7. Approval may be sought for longer timeframes if there are reasons that justify an extension such as unavoidable delays due to poor weather, availability of building certifiers or where an off-the-plan development requires a longer period due to its size, location or other complexities.
8. Generally, construction of a new home commences when the laying of the foundations begins, e.g. the laying of the concrete slab. It does not include initial site preparation work such as clearing, demolition work, site stabilisation or underground plumbing work. However, for off-the-plan developments, it would include the laying of a concrete slab for a car park.
9. A contract is not eligible for BuildBonus if it replaces a contract made before 3 May 2011.
10. More detailed information on the eligibility criteria for BuildBonus is available on the Territory Revenue Office's website at <http://www.revenue.nt.gov.au/>.

## ***Residence requirements of the stamp duty home incentive schemes and the first home owner grant***

11. To be eligible for the first home owner grant and the stamp duty home incentive schemes (i.e. the first home owner concession, principal place of residence rebate and senior, pensioner and carer concession) a person needs to satisfy various eligibility criteria. This includes a requirement for the home buyer to occupy the home as their principal place of residence for a continuous period of at least six months.
12. Where applicants are prevented from complying with the six-month continuous residence requirement, depending on the specific circumstances of the case, approval may be sought for the period to be reduced. The discretion to approve a shorter period recognises, for example, that there are applicants who may have commenced occupying their home but changed circumstances prevent them continuing with this occupation.
13. Prior to 3 May 2011, this residence requirement could not be entirely waived. However, reducing the residence requirement to less than six months or providing a person with more than 12 months in which to commence occupying the home for the six months is not always practical. Accordingly, from 3 May 2011, the Territory Revenue Office will be able to exempt all applicants from the residence requirements when it is the more appropriate outcome.
14. For example, without limiting the range of circumstances that may occur, it may be appropriate to waive the residence requirements entirely where:
  - (1) a person's home is destroyed by fire or a natural disaster before they can commence occupation and the time it may take to rebuild the home is unclear; or
  - (2) a home buyer, who is a permanent member of the Australian Defence Force, may be posted overseas for a significant period of time. On their return, although wanting to reside again in the Northern Territory, they may be posted elsewhere in Australia.
15. A person seeking to have the residence requirements waived entirely should apply to be exempted as soon as they become aware that they cannot comply with the requirements. The ability to waive the residence requirements extends to transactions that have occurred before 3 May 2011. Persons seeking an exemption should lodge an application with the Territory Revenue Office.
16. For further details, refer to Commissioner's Guideline [CG-HI-003](#): *Commissioner's discretion to exempt or vary compliance with the eligibility criteria*.

## **For other Property Buyers**

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### ***Conveyance stamp duty rate increase for high value transactions***

17. The maximum stamp duty rate for a conveyance of dutiable property where the unencumbered value or the consideration payable is \$3 million or more will change. A new rate of 5.45 per cent applies to contracts signed on or after 1 July 2011. This includes contracts following the exercise of an option granted prior to 1 July 2011 or a contract that replaces an earlier contract for the same property.
18. The rate of 4.95 per cent will continue to apply for the conveyance of dutiable property with a dutiable value from \$525 000 to under \$3 million.

## **Other Changes**

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### ***Stamp duty refund for property conveyed due to the breakdown of a de facto relationship or pursuant to a binding financial agreement***

19. The Commonwealth's *Family Law Act* provides an exemption from stamp duty on the conveyance of property due to a marriage breakdown. This exemption is conditional on the transfer being pursuant to Family Court orders. The *Family Law Act* also exempts from

stamp duty certain conveyances resulting from the breakdown of a de facto relationship or pursuant to a binding financial agreement.

20. However, these *Family Law Act* exemptions do not apply where a transfer occurs first and then orders or a binding financial agreement are made after the transfer.
21. The *Stamp Duty Act* currently allows a refund of stamp duty paid by a spouse on a transfer of dutiable property from the other spouse, provided that the parties obtain Family Court orders consistent with the transfer within 12 months of that transfer.
22. The *Stamp Duty Act* is being amended from 1 July 2011 to broaden this provision to enable a refund of stamp duty that has been paid by a spouse/de facto partner on a transfer of dutiable property from the other spouse/de facto partner. This is provided the parties obtain a court order or make a binding financial agreement consistent with the transfer. This must occur within 12 months of the transfer.

### ***Remission of interest under an instalment arrangement***

23. With prior approval, overdue tax may be paid by instalments as an alternative to recovery action being instigated for a stamp duty or payroll tax debt. An instalment arrangement is usually only entered into where the taxpayer demonstrates financial incapacity to pay the whole of a tax liability, including by accessing loan facilities.
24. In line with the existing general discretion to remit interest, a minor amendment is being made to the *Taxation Administration Act* from 1 July 2011 to clarify that the discretion to remit interest, either wholly or in part, also applies to an instalment arrangement.
25. For further details, refer to Commissioner's Guideline [CG-GEN-004](#): *Instalment arrangements*.

### ***Instruments 'duly stamped' when stamp duty paid under a returns-based arrangement***

26. A minor amendment is also being made to the *Stamp Duty Act* to ensure that a policy of insurance is considered to be duly stamped where the correct duty on the policy has been paid.

### ***Repeal of redundant revenue legislation***

27. The repeal of revenue legislation relating to debits tax, financial institutions duty, energy resource consumption levy and fuel subsidies will occur. This legislation is redundant as a result of various earlier revenue reforms.

### **For Employers**

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28. From 1 July 2011, changes have been made to the *Payroll Tax Act* to:
  - (1) reduce the payroll tax rate from 5.9 per cent to 5.5 per cent;
  - (2) increase the annual payroll tax threshold from a maximum \$1.25 million exemption to a maximum \$1.5 million deduction, reducing as the employer's taxable wages increase; and
  - (3) update the payroll tax employee share scheme provisions as a result of the Commonwealth's income tax changes.
29. Further details are provided in Revenue Circular [RC-PRT-006](#): *2011-12 Payroll Tax Changes*.

### **Further Information**

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30. Refer to the Revenue Legislation Amendment Bill 2011 and explanatory statement for precise details of the amendments.

## Revenue Circulars

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31. Commissioner's Guideline [CG-GEN-001](#), which sets out information on the revenue publication system, is incorporated into and is to be read as one with this Circular. All Circulars and Guidelines are available from TRO's website.



Anne Tan

### COMMISSIONER OF TERRITORY REVENUE

Date of issue: 3 May 2011

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