

# COMMISSIONER'S GUIDELINE

## CG-HI-001:

### First home owner concession and principal place of residence rebate

#### Guideline History

Version	Issued	Dates of effect	
		From:	To:
1	9 May 2005	3 May 2005	19 June 2005
2	1 July 2005	20 June 2005	30 April 2007

#### Purpose

This Guideline explains the eligibility criteria for the first home owner concession and the principal place of residence rebate under the *Stamp Duty Act* ('the Act').

#### First home owner concession ('FHOC')

For contracts entered into on or after 20 June 2005, the FHOC is a concession on the duty payable on the first \$225 000 of a **first home in Australia** which amounts to maximum concession of \$8 015.60<sup>1</sup>. See page 2 for a definition of 'home'.

The amount of concession for purchase contracts executed prior to 20 June 2005 is detailed in the following table.

Date of Contract	Maximum Concession	Threshold*
03 May 05 – 19 June 05	\$6 800.00	\$200 000
20 August 02 – 02 May 05	\$3 640.60	\$125 000
Prior to 20 August 02**	\$2 096.00	\$80 000

\*This represents the maximum purchase price of a property before duty becomes payable.

\*\* Prior to 20 August 2002, the FHOC was available for the purchase of a first home in the Territory.

#### Principal place of residence rebate ('PPRR')

For contracts entered into on or after 20 June 2005, the PPRR is a concession on stamp duty of up to \$2 500.00 for the purchase of a home other than a first home purchased in Australia<sup>2</sup>.

For contracts entered into from 20 August 2002 until 19 June 2005, the PPRR was a concession on stamp duty of up to \$1 500.00.

<sup>1</sup> See the definition of 'first home owner concession' in section 8B(1) of the Act.

<sup>2</sup> See the definition of 'principal place of residence rebate' in section 8C(1) of the Act.

## Eligibility criteria for the FHOC

Persons who acquire a home or land on which a home is to be built are eligible for the first home owner concession where<sup>3</sup>:

- (a) they are natural persons - that is, not a company;
- (b) at least one (1) of them is at least 18 years of age when the contract is entered into;
- (c) at least one (1) of them is an Australian citizen or permanent resident<sup>4</sup>. See page 2 for a definition of 'permanent resident';
- (d) they and their spouses or de facto partners have not previously received the FHOC. For further information on spouses and de facto partners, refer to Commissioner's Guideline CG-HI-004;
- (e) they and their spouses or de facto partners have not at any time held an interest in land in Australia on which there was a building that was occupied as that person's residence;
- (f) they are acquiring all of the beneficial interest in the land on which the home is or will be built (that is, subject to purchases made with the CEO Housing, the persons are not acquiring a partial interest in the land);
- (g) they are not acquiring the home or land as the trustee of a trust; and
- (h) either:
  - (i) there is a home on the land and within 12 months of executing the instruments evidencing the conveyance, they will occupy or commence to occupy the home as their principal place of residence for a continuous period of six (6) months within 12 months of executing the instruments evidencing the conveyance; or
  - (ii) there is no home on the land and they will build a home on the land within three (3) years and that within the three (3) year period or within one (1) year of the home being built, whichever occurs first, they will occupy or commence to occupy it as their principal place of residence for a continuous period of six (6) months.

## Eligibility criteria for the PRPR

Persons who are not eligible for the FHOC will be eligible for the PRPR where they satisfy the conditions set out in paragraphs (a), (f), (g) and (h) above<sup>5</sup>.

## Homes

A **home** is a building that is affixed to land, including a relocated house or a transportable home that is affixed to land, where that building may lawfully be used as a place of residence and the Commissioner of Taxes (Commissioner) is satisfied, that it is a suitable building for use as a place of residence.

<sup>3</sup> Section 8B(2) of the Act.

<sup>4</sup> Section 8B(1) of the Act and section 3 of the *First Home Owner Act*.

<sup>5</sup> Section 8C(2) of the Act.

## Permanent resident

A **permanent resident** is the holder of a permanent visa within the meaning of section 30 of the *Migration Act 1958* of the Commonwealth or a New Zealand citizen who holds a special category visa within the meaning of section 32 of the *Migration Act 1958*.

## Housing assistance schemes

A person acquiring a home with the Chief Executive Officer (Housing) under the *Housing Act* assistance schemes, such as HomeNorth, is able to obtain the FHOC or PPRR in respect of that home where they meet the eligibility criteria<sup>6</sup> for these concessions.

## Discretion to extend or exempt the time for occupancy

The time in which a person is to occupy the home as their principal place of residence can be extended where there are special reasons to do so, such as where the home is being purchased off-the-plan and will not be built within the requisite period.

In addition, where there are at least two (2) persons acquiring the home or land on which a home is to be built, some of them may be exempted from complying with the requirement to occupy the home as their principal place of residence provided that at least one (1) of the persons meets that residence requirement. Similarly, the six (6) month occupancy period may be reduced where there are special reasons to do so, such as an unexpected transfer arising from the person's employment.

For further information on the circumstances that extensions of time or exemption from the requirement to occupy, see Commissioner's Guideline CG-HI-003.

## Satisfying the 'intention to build' requirement

Where the property is vacant land, the person(s) acquiring the land must supply the Territory Revenue Office with supporting information to verify that a home will be built on the land. Appropriate information is a comprehensive building contract, approved building plans or a building permit, or alternatively, proof that construction has started, such as invoices, finance approval and plans.

## Failure to build or occupy

A person who has received the FHOC or PPRR must notify the Territory Revenue Office of a failure to occupy, or build and occupy (as the case may be) within the requisite time. Failure to make the required notification is an offence with a maximum penalty of 50 penalty units (currently \$5 500).

Where a person fails to occupy, or build and occupy, as required, the assessment of duty will be amended as if the person were not eligible for the FHOC or PPRR. Accordingly, the person will need to pay the amount previously claimed as the FHOC or PPRR. However, the assessment will not be amended where there are special reasons not to, such as where the failure to occupy arises from the death of the person who acquired the land.

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<sup>6</sup> Sections 8B(8) and 8C(7) of the Act.

## Procedure for applying for FHOC or PPRR

Applicants for the FHOC or PPRR should submit the appropriate form (F-HI-002) when lodging the contract for assessment of duty. For further information on lodging and paying duty on instruments, refer to Commissioner's Guideline CG-SD-001 and CG-SD-002. The supporting documentation detailed in that form should be supplied at the same time.

**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 Guideline.**

Refer to the *Stamp Duty Act* for the legislative basis for the exact details of the first home owner concession and the principal place of residence rebate. For general information, please contact the Territory Revenue Office on 1300 305 353.

### Date of effect

This Guideline takes effect from 20 June 2005.



Craig Vukman

COMMISSIONER OF TAXES

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For further information, contact the Territory Revenue Office

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