

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
3	1 May 2007	1 May 2007	31 December 2007
4	2 January 2008	1 January 2008	5 May 2008

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* (SDA).

First Home Owner Concession (FHOC)

For contracts entered into on or after 1 May 2007, the FHOC is a concession on the duty payable on the first \$350 000 of a first home in Australia which amounts to a maximum concession of \$15 312.50.¹ See below for the definition of a 'home'.

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 \$2500 for the purchase of a home other than a first home purchased in Australia.²

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:³

- 1) they are natural persons – that is, not a company;
- 2) at least one of them is at least 18 years of age when the contract is entered into;
- 3) at least one of them is an Australian citizen or permanent resident.⁴ See below for a definition of 'permanent resident';

¹ See the definition of 'first home owner concession' in section 88(1) of SDA.

² See the definition of 'principal place of residence rebate' in section 88(1) of SDA.

³ Section 89(1) of SDA.

⁴ Section 88(1) of the SDA and section 3 of the *First Home Owner Act*.

- 4) they and their spouses or de facto partners have not previously received the FHOC. For further information on de facto partners, refer to Commissioner's Guideline CG-HI-004: *De facto relationships*;
- 5) 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;
- 6) they do not have a beneficial interest in the home prior to the transaction;
- 7) 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);
- 8) they are not acquiring the home or land as the trustee of a trust; and
- 9) either:
 - a. 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 months; or
 - b. there is no home on the land and they will build a home on the land within three years and that within the three year period or within one 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 months.

Eligibility criteria for the PPRR

Persons who are not eligible for the FHOC will be eligible for the PPRR where they satisfy the conditions set out in paragraphs 1), 6), 7), 8) and 9) above.⁵

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 Territory Revenue (Commissioner) is satisfied, that it is a suitable building for use as a place of residence. For further information please refer to Commissioner's Guideline CG-HI-006: *Meaning of a 'home'*.

Permanent resident

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

⁵ Section 90(1) of the SDA.
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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 for these concessions.⁶

Discretion to exempt or vary compliance with the eligibility criteria

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 people 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 of the persons meets that residence requirement. Similarly, the six month occupancy period may be reduced (but not eliminated) where there are special reasons to do so, such as an unexpected transfer arising from the person's employment.

For further information, see Commissioner's Guideline CG-HI-003: *Commissioner's discretion to exempt or vary compliance with the eligibility criteria*.

Satisfying the 'intention to build' requirement

Where the property is vacant land, the person(s) acquiring the land must supply the Territory Revenue Office (TRO) 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 TRO 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 \$5500).

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 (that is, it will be a tax default).

Accordingly, the person will need to pay the amount previously claimed as the FHOC or PPRR, as well as interest and penalty tax (see Commissioner's Guideline CG-GEN-002: *Penalty policy*). However, the assessment will not be amended where

⁶ Sections 89(6) and 90(5) of the SDA.
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there are special reasons not to, such as where the failure to occupy arises from the death of the person who acquired the land.

Procedure for applying for FHOC or PPRR

Applicants for the FHOC or PPRR should submit the appropriate form (F-HI-002 or F-HI-003) when lodging the contract for assessment of duty. The supporting documentation detailed in that form should be supplied at the same time.

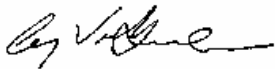
For further information on lodging and paying duty on instruments, refer to Commissioner's Guideline CG-SD-001: *Document lodgement and payment periods* and CG-SD-002: *Eligible conditional agreements – extension of time to lodge instrument and pay duty*.

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. All Circulars and Guidelines are available from TRO's website.

Refer to the *Stamp Duty Act* for the legislative basis for the FHOC and PPRR.

Date of effect

This version of the Guideline takes effect from 1 January 2008.



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