



## First Home Owner Rate of Duty

Sections 141 – 146 of the *Duties Act 2008*

As at 3 October 2015

### Introduction

A person who:

- qualifies for a first home owner grant ('grant'); or
- would have otherwise qualified for a grant had consideration been paid, or for the purchase of an established home; or
- is an Indian Ocean Territory resident acquiring their first home,

may be entitled to the first home owner rate ('FHOR') of duty on the transfer, or agreement to transfer (i.e. the contract for sale), in respect of the acquisition of the home or vacant land.

**Note:** A person who is not entitled to the FHOR of duty due to the value of the home or vacant land exceeding the specified thresholds (as detailed below) may be eligible for the residential concessional rate of transfer duty ('residential rate'). For further information on the residential rate, please refer to **Duties Fact Sheet – Transfer of Residential Property** available from the Office of State Revenue website at [www.osr.wa.gov.au](http://www.osr.wa.gov.au).

### Eligibility for the FHOR of duty

Eligibility is aligned with the requirements under the *First Home Owner Grant Act 2000* ('FHOG Act').

A transfer, or an agreement for the transfer, of a home or vacant land upon which a new home has been or will be built may qualify for the FHOR of duty where:

- the purchaser(s) or transferee(s) is/are eligible for a grant; or
- the purchaser(s) or transferee(s) become(s) a person to whom a grant would be, or would have been, payable in relation to:
  - the purchase of an established home;
  - a property, had consideration been given for the transfer of the property; or
  - the purchase of a first home by residents of the Indian Ocean Territories; and
- the unencumbered value of the land, or the land and home, to which the grant relates does not exceed the dutiable value thresholds set out below.

Further information regarding eligibility for a grant can be found in the **First Home Owner Grant Fact Sheet** available from the Office of State Revenue website at [www.osr.wa.gov.au](http://www.osr.wa.gov.au).

## Thresholds and eligibility

### Home - as at 3 July 2014

- To be eligible for the FHOR of duty, the unencumbered value of the home must not exceed \$530,000.
- Where the dutiable value of the home does not exceed \$430,000, no duty is payable.
- Where the dutiable value of the home exceeds \$430,000 but does not exceed \$530,000, duty is payable at a rate of \$19.19 for every \$100, or part of \$100, by which the dutiable value exceeds \$430,000.

### Home - from 1 July 2008 to 2 July 2014

- To be eligible for the FHOR of duty, the unencumbered value of the home must not exceed \$600,000.
- Where the dutiable value of the home does not exceed \$500,000, no duty is payable.
- Where the dutiable value of the home exceeds \$500,000 but does not exceed \$600,000, duty is payable at a rate of \$22.51 for every \$100, or part of \$100, by which the dutiable value exceeds \$500,000.

### Vacant Land

- To be eligible for the FHOR of duty, the unencumbered value of the vacant land must not exceed \$400,000.
- Where the dutiable value of the land does not exceed \$300,000, no duty is payable.
- Where the dutiable value of the land exceeds \$300,000 but does not exceed \$400,000, duty is payable at a rate of \$13.01 for every \$100, or part of \$100, by which the dutiable value exceeds \$300,000.

**Note:** The dutiable value threshold limits apply to the whole value of the home or vacant land being transferred, not to the value of the person's interest in the property that is being transferred.

## Application for the FHOR of duty

Application for the FHOR of duty must be made in the approved form. A person who applies for an assessment at the FHOR of duty will be subject to the requirements, eligibility criteria and obligations set out in the FHOG Act.

### How to apply for the FHOR of duty if you are eligible for the grant

1. Lodge an 'application for the grant and/or FHOR pre-approval' form with an approved financial institution or the Office of State Revenue.
2. If you are eligible for the grant, the Office of State Revenue will send you a letter of approval together with the First Home Owner Rate of Duty application form. The application form will be sent in all instances except where the total unencumbered value of the established home or vacant land exceeds the dutiable value thresholds set out above.
3. Submit the transaction record (e.g. contract for sale and/or transfer of land) together with a fully completed and signed application form to your settlement agent (where applicable) or directly to the Office of State Revenue if you are conducting your own settlement.

### How to apply for the FHOR of duty if you are not eligible for the grant because you purchased an established home or the property was received as a gift

1. Lodge an 'application for the grant and/or FHOR pre-approval' form with an approved financial institution or the Office of State Revenue.
2. If you meet the eligibility criteria, the Office of State Revenue will send you a letter of pre-approval together with the First Home Owner Rate of Duty application form. The application form will be sent in all instances except where the total unencumbered value of the established home or vacant land exceeds the dutiable value thresholds set out above.
3. Submit the transaction record (e.g. contract for sale and/or transfer of land) together with the fully completed and signed First Home Owner Rate of Duty application form to your settlement agent (where applicable) or directly to the Office of State Revenue if you are conducting your own settlement.

### How to apply for the FHOR of duty if you are a resident of the Indian Ocean Territories

1. Submit the transaction record (e.g. contract for sale and/or transfer of land) for assessment of duty together with a fully completed and signed First Home Owner Rate – Indian Ocean Territories application form to the Office of State Revenue.
2. If you are eligible for the FHOR of duty, the Office of State Revenue will assess duty accordingly.
3. If it is determined that you are not eligible for the FHOR of duty, you may be eligible for the residential rate of duty upon application. The Office of State Revenue will advise you in writing of the reasons for that determination and request a residential rate application form to be completed.

### How to apply for a reassessment if duty has been paid

Where the transaction has previously been charged with duty at the residential or general rate of duty, the First Home Owner Rate of Duty application form and the document on which the **original duty stamp** has been printed or to which the **Certificate of Duty** is attached (e.g. contract for sale or offer and acceptance) must be lodged at the Office of State Revenue for reassessment of the transaction at the FHOR of duty. A refund of any overpaid duty will be made accordingly.

### Time limit to make an application for reassessment

There may be circumstances where, at the time you are required to lodge the transaction record (document), you will not be in a position to lodge an application for the FHOR of duty. In such circumstances the transaction record will initially be assessed at the general rate of transfer duty or, if eligible, at the residential rate upon application.

An application for the FHOR of duty must be made within the later of:

- 12 months after the completion date of the transaction the subject of the application; or
- three (3) months after payment of the grant (if you were eligible to be **paid** a grant).

The completion date is:

- in the case of a transaction for a home – the date when the purchaser becomes entitled to possession of the home and has been registered on the Certificate of Title to the land on which the home is situated; or
- in the case of a transaction for vacant land upon which a home is to be built (either by a contract to build or by an owner builder) – the date when the home is ready for occupation.

A person is not entitled to apply for a reassessment at the FHOR of duty after the relevant time limit specified above.

## Shared Equity Arrangements with the Department of Housing

A shared equity home owner may qualify for the FHOR of duty when purchasing either some or all of the interest in their home with or from the Department of Housing.

A further transfer of an interest in a shared equity home may also qualify for the FHOR of duty. For more information please refer to the **Application for a Reduction of Duty for a Further FHOG Concessional Transaction** available from the Office of State Revenue website at [www.osr.wa.gov.au](http://www.osr.wa.gov.au).

## Obligation to notify the Commissioner of State Revenue

An assessment at the FHOR of duty is subject to the transferee meeting the eligibility criteria and conditions for the grant, whether or not the transferee actually receives a grant. The transferee must notify the Commissioner of State Revenue within 30 days of the date it becomes apparent that any eligibility criteria will not be met.

For example, if the residence requirement is not met, written notification of that fact must be made to the Commissioner within 30 days of the expiration of the residency requirement, or on the date it becomes apparent that the residency requirement cannot be fulfilled, whichever is earlier.

If for any reason a person is required to repay a grant, then a transaction that has been assessed at the FHOR of duty will be reassessed at the appropriate rate of duty.

## Penalty

**If an application contains false or misleading information, the person or persons commit an offence under the *Taxation Administration Act 2003* for which the maximum penalty is \$20,000 plus three times the amount of tax that was or might have been avoided.**

## Contact the Office of State Revenue

<b>Office</b>	Office of State Revenue 200 St Georges Terrace PERTH WA 6000	<b>Telephone</b>	(08) 9262 1100 1300 368 364 (WA country callers only – local call charge)
<b>Postal</b>	Office of State Revenue GPO Box T1600 PERTH WA 6845	<b>Web Enquiry Website</b>	<a href="http://www.osr.wa.gov.au/DutiesEnquiry">www.osr.wa.gov.au/DutiesEnquiry</a> <a href="http://www.osr.wa.gov.au">www.osr.wa.gov.au</a>

**Note:** The information contained in this DUTIES FACT SHEET is issued for guidance purposes only. It is not an exhaustive explanation of the provisions of the *Duties Act 2008* and the *First Home Owner Grant Act 2000* and reference should be made to the Acts for complete details.