



Housing Authority Transactions Duties Assessment Guide

Office of State Revenue WA

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Introduction

In some instances, a dutiable transaction such as a contract for sale of land by offer and acceptance ('contract') or a transfer of land ('transfer') is entered into where a party to the transaction is the Housing Authority.

The assessment of duty on transactions involving the Housing Authority differs depending on the circumstances. This guide provides information on which transactions involving the Housing Authority can be assessed using Revenue Online as well as which transactions are required to be lodged directly with the Office of State Revenue for assessment purposes.

The following transactions can be processed via Online Duties:

100% interest shared equity schemes involving the Housing Authority

Interest / Percentage	Purchasing Arrangement	Special Requirements	Examples within this guide
100% buyer	Purchase from the Housing Authority		<u>1</u> - residential rate of duty <u>4</u> - first home owner rate of duty
100% shared between buyer and Housing Authority	Purchase with the Housing Authority	Where applicable, the s92 exemption and the shared equity facility is to be used for acquisitions by the Housing Authority	<u>2</u> , <u>3</u> - residential rate of duty <u>5</u> , <u>6</u> , <u>7</u> - first home owner rate of duty

Note – The first home owner rate of duty applies where the unencumbered value does not exceed thresholds.

The following transactions cannot be processed via Online Duties:

Partial interest shared equity schemes involving the Housing Authority must be lodged directly with the Office of State Revenue.

Interest / Percentage	Purchasing Arrangement	Special Requirements	Examples within this guide
Partial	Purchase from the Housing Authority		<u>8</u> , <u>9</u> - residential rate of duty <u>12</u> - first home owner rate of duty
Partial	Housing Authority repurchasing a partial interest in a property	s92 exemption applies	<u>10</u> , <u>11</u> - residential rate of duty
Partial	Purchase of a further interest from the Housing Authority	A duty deduction may apply	<u>13</u> - residential rate of duty <u>14</u> , <u>15</u> - first home owner rate of duty

Residential rate of duty transactions

Under section 147E of the *Duties Act 2008* ('Duties Act'), duty is chargeable at the residential concessional rate ('residential rate') on a concessional transaction, which includes a contract or a transfer of residential property. Residential property means:

- there is a residence¹ on the land; or
- the taxpayer has commenced construction of a residence on the land; or
- the taxpayer has entered into a contract to have a residence constructed on the land; or
- the taxpayer has entered into a contract to purchase a movable building to be affixed to the land.

For further information regarding the residential rate, including the rates and application process, please refer to the [Duties Fact Sheet 'Transfer of Residential Property'](#).

First home owner concessional transactions

Under section 143 of the Duties Act, duty is chargeable on a first home owner concessional transaction at the applicable concessional rate ('FHOR') of duty. A first home owner concessional transaction includes a contract or a transfer where:

- the purchaser(s) or transferee(s) is/are eligible for a first home owner grant ('FHOG') in relation to the purchased property; or
- the purchaser(s) or transferee(s) become(s) a person to whom the FHOG would be, or would have been, payable in relation to the property had consideration been paid or for the purchase of an established home, or they are residents of the Indian Ocean Territories acquiring their first home; and
- the unencumbered value of the land, or the land and home, the subject of the transaction does not exceed the allowable thresholds.²

For further information regarding the concessional FHOR of duty, including rates, thresholds and application process, please refer to [Duties Fact Sheet 'First Home Owner Rate of Duty'](#).

Further concessional transactions

Section 142(2) of the Duties Act defines a further concessional transaction as a transfer, or an agreement for the transfer of a further interest in the dutiable property where:

- the acquisition of the original interests in the property were the subject of a first home owner concessional transaction ('first concessional transaction');
- the further interest is being transferred from an excluded person within the meaning of section 16(1) of the FHOG Act (i.e. the Housing Authority);
- the instrument effecting the further concessional transaction is executed within 10 years of an instrument for the first concessional transaction; and
- each transferee in respect of the further concessional transaction was a transferee in relation to the first concessional transaction.

¹ A *residence* is a building, or part of a building, that may lawfully be used as a place of residence, in the Commissioner's opinion is suitable to be used as a place of residence, and is intended by the taxpayer to be used as a place of residence.

² A first home owner concessional transaction is subject to duty at the relevant rates and thresholds as at the date of the transaction.

Examples of transactions that can be self-assessed using Online Duties

Example 1 – Purchase from the Housing Authority

On 13 October 2015, Tom and Kate enter into a contract to purchase an established home from the Housing Authority for \$450,000. The amount of duty payable at the residential rate is \$15,390.

In this example:

Seller: Housing Authority

Buyer: Tom and Kate 100% or 1/1 shares

Dutiable Value: \$450,000 **Duty payable by Tom and Kate:** \$15,390

Example 2 – Purchase with the Housing Authority

On 13 October 2015, Tom and Kate, together with the Housing Authority, enter into a contract to purchase an apartment for \$450,000 from a third party. Tom and Kate will acquire an 80% interest in the property and the Housing Authority will acquire the other 20%.

While the amount of duty payable at the residential rate is \$15,390, Tom and Kate are liable to pay duty of \$12,312 (80% x \$15,390).

Note - the section 92 exemption and the shared equity facility are to be used.

In this example:

Buyer: Tom and Kate 80% or 8/10 shares

Housing Authority 20% or 2/10 shares

Dutiable Value: \$450,000 **Exemption:** 20% **Duty payable by Tom and Kate:** \$12,312

Example 3 – Purchase with the Housing Authority

On 13 October 2015, first home buyers Joe and Mary, together with the Housing Authority, enter into a contract to purchase an established home for \$550,000 from a third party. Joe and Mary will acquire a 60% interest in the property and the Housing Authority will acquire the other 40%.

As the total value of the property exceeds the allowable FHOR thresholds, the amount of duty payable at the residential rate is \$20,140. Joe and Mary are liable to pay duty of \$12,084 (60% x \$20,140).

Note - the section 92 exemption and the shared equity facility are to be used.

In this example:

Buyer: Joe and Mary 60% or 6/10 shares

Housing Authority 40% or 4/10 shares

Dutiable Value: \$550,000 **Exemption:** 40% **Duty payable by Joe and Mary:** \$12,084

Example 4 – Purchase from the Housing Authority

On 13 October 2015, first home buyers Joe and Mary enter into a contract to purchase an established home from the Housing Authority for \$400,000.

Although Joe and Mary are not entitled to receive the FHOG as the contract is for the purchase of an established home, the transaction may be assessed at the FHOR of duty. The amount of duty payable on the contract is nil as the value of the home does not exceed \$430,000.

In this example:

Seller: Housing Authority

Buyer: Joe and Mary 100% or 1/1 shares

Dutiable Value: \$400,000 **Duty payable by Joe and Mary:** \$nil

Example 5 – Purchase with the Housing Authority

Tom and Kate, together with the Housing Authority, own an apartment for which they have an 80% interest and the Housing Authority has a 20% interest.

The property is being sold for \$480,000 to Jane, a first home buyer, who is purchasing a 60% interest in the property with the Housing Authority acquiring the other 40% interest.

Although Jane is not entitled to receive the FHOG as the contract is for the purchase of an established home, the amount payable at the FHOR of duty is \$9,595. Jane is required to pay duty of \$5,757 (60% x \$9,595).

Note - the section 92 exemption and the shared equity facility are to be used.

In this example:

Seller: Tom and Kate 80% or 8/10 shares

Housing Authority 20% or 2/10 shares

Buyer: Jane 60% or 6/10 shares

Housing Authority 40% or 4/10 shares

Dutiable Value: \$480,000 **Exemption:** 40% **Duty payable by Jane:** \$5,757

Example 6 – Purchase with the Housing Authority

On 13 October 2015, first home buyers Joe and Mary, together with the Housing Authority, enter into a contract to purchase an established home for \$420,000 from a third party. Joe and Mary will acquire a 60% interest in the property and the Housing Authority will acquire the other 40%.

Although they are not entitled to receive the FHOG as the contract is for the purchase of an established home, the amount payable at the FHOR of duty is nil as the total value of the property does not exceed \$430,000.

Note - the section 92 exemption and the shared equity facility are to be used.

In this example:

Buyer: Joe and Mary 60% or 6/10 shares

Housing Authority 40% or 4/10 shares

Dutiable Value: \$420,000 **Exemption:** 40% **Duty payable by Joe and Mary:** \$nil

Example 7 – Purchase with the Housing Authority

On 13 October 2015, first home buyers Joe and Mary, together with the Housing Authority, enter into a contract to purchase an established home for \$500,000 from a third party. Joe and Mary will acquire a 60% interest in the property and the Housing Authority will acquire the other 40%.

Although they are not entitled to receive the FHOG as the contract is for the purchase of an established home, the amount payable at the FHOR of duty is \$13,433. Joe and Mary are required to pay duty of \$8,059.80 (60% x \$13,433).

Note - the section 92 exemption and the shared equity facility are to be used.

In this example:

Buyer:	Joe and Mary	60%	or	6/10 shares	
	Housing Authority	40%	or	4/10 shares	
Dutiable Value:	\$500,000	Exemption:	40%	Duty payable by Joe and Mary:	\$8,059.80

Examples of transactions that cannot be self-assessed using Online Duties

Example 8 – Purchase from the Housing Authority

On 13 October 2015, Tom and Kate enter into a contract to purchase a house and land package from the Housing Authority. Tom and Kate will acquire a 60% interest in the land for consideration of \$144,000, while the Housing Authority will retain the other 40% interest.

Duty is assessed at \$2,964 under the residential rate as the liable party has signed a contract to build a residence.

In this example:

Seller:	Housing Authority			
Buyer:	Tom and Kate	60%	or	6/10 shares
Dutiable Value:	\$144,000	Duty payable by Tom and Kate:	\$2,964	

Example 9 – Purchase from the Housing Authority

On 13 October 2015, first home buyers Joe and Mary enter into a contract to purchase a 60% interest in an established home from the Housing Authority who will retain the other 40%. Joe and Mary pay \$330,000 which equates to 60% of the total value of the property (\$550,000).

The transaction cannot be assessed at the FHOR of duty as the total value of the property exceeds the allowable threshold; however the amount of duty payable at the residential rate on the consideration of \$330,000 is \$9,975.

Note - this would be assessed the same way as per example 8 above.

In this example:

Seller:	Housing Authority			
Buyer:	Joe and Mary	60%	or	6/10 shares
Dutiable Value:	\$330,000	Duty payable by Joe and Mary:	\$9,975	

Example 10 – Housing Authority repurchasing a partial interest in a property

Tom and Kate hold an 80% interest in a property and the Housing Authority holds the remaining 20%. On 21 December 2015, the Housing Authority acquires an additional 10% interest in the property for consideration of \$40,000. As the Housing Authority is an exempt body, no duty is payable.

Note – a section 92 exemption applies.

In this example:

Seller: Tom and Kate

Buyer: Housing Authority 10% or 1/10 shares

Dutiable Value: \$40,000 **Exemption:** 10% **Duty payable by the Housing Authority:** \$nil

Example 11 – Housing Authority repurchasing a partial interest in a property

Tom and Kate hold an 80% interest in a property and the Housing Authority holds the remaining 20%. On 21 December 2015, the Housing Authority acquires Tom and Kate's 80% interest for \$360,000. As the Housing Authority is an exempt body, no duty is payable.

Note – a section 92 exemption applies.

In this example:

Seller: Tom and Kate

Buyer: Housing Authority 80% or 4/5 shares

Dutiable Value: \$360,000 **Exemption:** 80% **Duty payable by the Housing Authority:** \$nil

Example 12 – Purchase from the Housing Authority

On 13 October 2015, first home buyers Joe and Mary enter into a contract to purchase a 60% interest in an established home from the Housing Authority who will retain the other 40%.

Joe and Mary pay \$288,000 which equates to 60% of the total value of the property (\$480,000)

Although they are not entitled to receive the FHOG as the contract is for the purchase of an established home, the amount payable at the FHOR of duty is \$9,595. Joe and Mary are required to pay duty of \$5,757 (60% x \$9,595).

In this example:

Seller: Housing Authority 40% or 4/10 shares

Buyer: Joe and Mary 60% or 6/10 shares

Dutiable Value: \$480,000 **Excluded Portion:** 40% **Duty payable by Joe and Mary:** \$5,757

Example 13 – Purchase of a further interest from the Housing Authority

In Example 2, Tom and Kate had acquired an 80% interest in a property. On 13 December 2015, they purchase the remaining 20% interest from the Housing Authority for \$112,500.

Tom and Kate are liable to pay duty of \$2,137.50 at the residential rate.

In this example:

Seller: Housing Authority

Buyer: Tom and Kate 20% or 1/5 shares

Dutiable Value: \$112,500 **Duty payable by Tom and Kate:** \$2,137.50

Example 14 – Purchase of a further interest from the Housing Authority

On 1 August 2007, first home buyers Joe and Mary entered into a contract to purchase an established home for \$450,000 with the Housing Authority under a shared equity arrangement. Joe and Mary acquired a 70% interest for consideration of \$315,000 and the Housing Authority acquired the other 30% interest for consideration of \$135,000.

Joe and Mary were approved for the FHOG and, as the unencumbered value of the property did not exceed the \$500,000 threshold that existed at the time of that contract, they were not required to pay any stamp duty on the acquisition.

On 13 October 2015, Joe and Mary enter into a contract to purchase the remaining 30% interest from the Housing Authority for \$300,000. This transaction qualifies as a further concessional transaction and will be assessed at the FHOR of duty using the same rates and thresholds that existed at the time of the original contract irrespective of the increased value of the property.

In this example:

2007 acquisition:

Buyer: Joe and Mary 70% or 7/10 shares

Housing Authority 30% or 3/10 shares

Instrument Value: \$450,000 **Exemption:** 30% **Stamp duty payable by Joe and Mary:** \$nil

2015 acquisition:

Seller: Housing Authority

Buyer: Joe and Mary 30% or 3/10 shares

Dutiable Value: \$450,000 **Duty payable by Joe and Mary:** \$nil

Duty Deduction: \$nil as no stamp duty was paid on the 2007 acquisition

Example 15 – Purchase of a further interest from the Housing Authority

On 1 August 2007, first home buyers Joe and Mary entered into a contract to purchase an established home for \$550,000 with the Housing Authority under a shared equity arrangement. Joe and Mary acquired a 70% interest for consideration of \$385,000 and the Housing Authority acquired the other 30% for consideration of \$165,000.

Joe and Mary were approved for the FHOG which, at the time, provided that no stamp duty was chargeable for established homes up to the value of \$500,000. They paid \$9,135 (70%) of the \$13,050 stamp duty at the FHOR as the unencumbered value of the property exceeded the \$500,000 threshold.

On 13 October 2015, they entered into a contract to purchase the remaining 30% interest in the property from the Housing Authority for \$330,000. This transaction qualified as a further concessional transaction and was assessed at the FHOR of duty using the same rates, thresholds and consideration that existed at the time of the original contract irrespective of the increased value of the property.

The amount of stamp duty they had already paid in respect of the acquisition was deducted from the total amount of duty chargeable, so Joe and Mary were required to pay \$3,915 (i.e. \$13,050 - \$9,135).

In this example:

2007 acquisition:

Buyer: Joe and Mary 70% or 7/10 shares
 Housing Authority 30% or 3/10 shares

Instrument Value: \$550,000 **Exemption:** 30% **Stamp duty payable by Joe and Mary:** \$9,135

2015 acquisition:

Seller: Housing Authority

Buyer: Joe and Mary 30% or 3/10 shares

Dutiable Value: \$550,000 **Duty payable by Joe and Mary:** \$3,915

Duty Deduction: \$9,135 as this was the stamp duty paid for the 2007 acquisition