



First Home Owner Rate of Duty

Sections 141 – 146 of the *Duties Act 2008*

As at 1 January 2019

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 Land'](#) available from the website at 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 website at 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.

Foreign Transfer Duty

Where a first home owner purchases a property and the first home owner rate of duty is applied to the transaction, foreign transfer duty may apply if the purchaser is a foreign person. This means that although the transaction may not attract any transfer duty, it will still be chargeable with foreign transfer duty on the dutiable value of the foreign person's interest in the property.

Example

Kate Richards and her de facto partner Simon are first home buyers and enter into an agreement, as joint tenants, to purchase a home for \$400,000.

Kate is an Australian citizen and Simon is a foreign person.

Kate and Simon are eligible for the first home owner rate of duty on the agreement to purchase the property. There is no transfer duty payable on the contract as it is below the first home owner rate thresholds.

The foreign transfer duty chargeable on Simon's 50% joint tenant interest in the property is \$14,000 (\$200,000 x 7 per cent).

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

1. Lodge Form F-FHOG1 '[FHOG Application and/or Pre-approval for the First Home Owner Rate of Duty](#)' form with an approved financial institution or the Office of State Revenue.
2. The Office of State Revenue will send you a letter of approval together with [Form FDA7 'First Home Owner Rate of Duty'](#) where you meet the criteria.
3. Submit the transaction record (e.g. contract for sale and/or transfer of land) together with the completed [Form FDA7 'First Home Owner Rate of Duty'](#) and [Form FDA41 'Foreign Transfer Duty Declaration'](#) 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 a reassessment if duty has been paid

Where the transaction has previously been charged with duty at the residential or general rate of duty, [Form FDA7 'First Home Owner Rate of Duty'](#) 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. You must also provide [Form FDA41 'Foreign Transfer Duty Declaration'](#) if this was not submitted when the transaction was initially lodged. A refund of any overpaid duty will be made.

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 [Form FDA9 'Reduction of Transfer Duty for a Further Concessional Transaction'](#) available from the Office of State Revenue website at 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

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

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.