

REVENUE CIRCULAR

RC-HI-002:

2006-07 Budget amendments

Home incentive schemes

Purpose

This Circular provides information on amendments to the *First Home Owner Grant Act* (the FHOGA), the *Taxation Administration Act* (the TAA) and the *Stamp Duty Act* (the SDA) that implement changes to the first home owner grant (the grant), the stamp duty first home owner concession (the FHOC) and the stamp duty principal place of residence rebate (the PPRR) announced by the Treasurer on 2 May 2006 as part of the 2006-07 Budget.

Measures

Commencing on 2 May 2006:

- 1) the FHOGA is amended to prevent a person obtaining the grant for the purchase of an interest in a home that they already partly own. This is a technical amendment which reinforces the original intention of the FHOGA; and
- 2) the SDA is amended to remove a legislative anomaly to restore the original intent of the legislation that a person is able to obtain either the FHOC or the PPRR in respect of a home, but not both.

Commencing on 1 July 2006, the FHOGA and SDA (with consequential amendments to the TAA and the Taxation and Royalty Appeals Tribunal Rules) are amended in the following manner.

- 1) The FHOGA is amended to extend the period in which an ineligible grant recipient is required to repay the grant from 14 days from receipt of a payment notice to 30 days after a payment notice is issued.
- 2) Generally, applicants who receive the grant, but are later required to repay it in circumstances where they fail to satisfy certain eligibility criteria, such as the requirement to make the home their principal place of residence within the 12 month occupancy period, retain a future entitlement to apply for the grant on a future home. However, this future entitlement was not available for a person who has been ruled ineligible solely because they were under 18 years of age. The amendments preserve the future entitlement of grant applicants who have been ruled ineligible solely because of their age.

A similar change is also made to the SDA to preserve the future entitlement to the FHOC for a person who has been ruled ineligible solely because they were under 18 years of age.

- 3) The FHOGA is unclear as to the point in time that an applicant's eligibility is assessed for the purposes of the grant. The amendments specify the 'commencement date' as being the time to test a grant applicant's eligibility, except for the requirement for a grant applicant to be an Australian citizen or permanent resident, which will be tested at the time a person lodges an application for the grant.

The 'commencement date', in the case of a contract for the purchase or construction of a home, is the date when the contract is made, and in the case of the construction of a home by an owner builder, is the date when the laying of foundations for the home commences.

A similar change has been made in the SDA to specify the date of execution of instruments of conveyance as being the time to test a FHOC applicant's eligibility, except for the requirement for a FHOC applicant to be an Australian citizen or permanent resident, which will be tested at the time a person lodges an application for the FHOC.

- 4) The Commissioner of Taxes has discretion to extend the 12 month occupancy period and to reduce the six month residency period for the purposes of the grant. The amendments align the terminology used in these discretions by limiting them to cases where the Commissioner is satisfied that special reasons exist.

Greater detail on how these discretions are exercised is set out in Guideline CG-HI-003: *Commissioner's discretion to exempt or vary compliance with the eligibility criteria*. This guideline can be obtained from the Territory Revenue Management website www.revenue.nt.gov.au.

A similar amendment has also been made to the SDA for the purposes of the FHOC and the PPRR.

- 5) The lodgement periods for an objection or appeal under the FHOGA are extended from 30 to 60 days. In addition, the amendments also require appeals under the FHOGA to be considered by the Taxation and Royalty Appeals Tribunal (rather than the Local Court). Both these measures generally align the FHOGA objection and appeal rules with those that apply to FHOC applicants.
- 6) The amendments also clarify that a person is not excused from providing self-incriminating information under the FHOGA. Information obtained by the Commissioner of Taxes under the FHOGA cannot be used for criminal proceedings other than under the FHOGA or the TAA.
- 7) The amendments also allow the disclosure of information gathered under the FHOGA to officers of:
- a) the Australian Taxation Office;
 - b) Centrelink; and
 - c) the Department of Immigration and Multicultural Affairs.

For more detailed information on the FHOC and PPRR, please refer to Commissioner's Guideline CG-HI-001: *First Home Owner Concession and Principal Place of Residence Rebate*. This guideline can be obtained from the Territory Revenue Management website www.revenue.nt.gov.au.

Commissioner's Guideline CG-GEN-01, which sets out information on the revenue publication system, is incorporated into and is to be read as one with this Circular.

Refer to the *Treasury Legislation and Consequential Amendment Bill 2006* for precise details of the amendments.



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