

Information Circular No: 42

First Home Owner Grant Act 2000

State Budget 2012-13 First Home Bonus Grant

Issued 31 May 2012

Background

The Government has previously announced that the \$8000 First Home Bonus Grant (the "Bonus") would be reduced to \$4000 from 1 July 2012 and would be fully abolished from 1 July 2013.

As part of the 2012-13 State Budget, the Government today announced that it will continue its current level of assistance for first home buyers in 2012-13. Therefore, the Bonus will remain at \$8000 for eligible transactions entered into between 1 July 2012 and 30 June 2013, and will be fully abolished from 1 July 2013.

The legislative amendments to implement this measure are contained in the *Statutes Amendment and Repeal (Budget 2012) Bill 2012* (the "Bill") which was introduced into Parliament today. The operation of this legislative measure is subject to the Bill coming into force as an Act which may not occur until after 1 July 2012.

In the event that a first home buyer enters into an eligible transaction between 1 July 2012 and the day on which this Act is assented to by the Governor, a Bonus of up to \$8000 will be paid by way of *ex gratia* payment.

First Home Bonus Grant for transactions on or after 17 September 2010 but before 30 June 2013

First home owners who qualify for the First Home Owner Grant (FHOG) in relation to an 'eligible transaction' entered into on or after 17 September 2010 but before 30 June 2013 may also be eligible for a Bonus of up to \$8000.

The Bonus of up to \$8000 is only available in relation to a 'new home' with a 'market value' of up to \$400 000 and phases out where the market value of the home is between \$400 000 and \$450 000.

The Bonus of up to \$8000 is not available where the eligible transaction is for the purchase of an existing home, however, these first home owners will still continue to receive the FHOG of \$7000 provided all eligibility criteria are met.

Definition of an Eligible Transaction

An *eligible transaction* for the Bonus of up to \$8000 is:

- a) a contract for the purchase of a new home;
- b) a comprehensive home building contract for the construction of a new home; or
- c) the building of a new home by an owner builder.

Definition of a New Home

New home means a home that has not been previously occupied or sold as a place of residence and includes a 'substantially renovated home'.

Substantially renovated home: a home is a substantially renovated home if:

- a) the sale of the home is, under the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth), a taxable supply as a sale of new residential premises within the meaning of Section 40-75(1)(b) (Meaning of new residential premises); and
- b) the home, as renovated, has not been previously occupied or sold as a place of residence.

Market Value

The *market value* of a home to which the eligible transaction relates is:

- ▶ in the case of a contract for the purchase of a home:
 - the consideration for the purchase of the property (land, home and any other improvements); or
 - where that consideration is less than the market value, then the market value of the property (land, home and any other improvements) on which the home is situated as at the time when the contract is made as determined by the Commissioner of State Taxation (the "Commissioner").
- ▶ in the case of a comprehensive home building contract:
 - the sum of the consideration for the comprehensive home building contract and the market value of the property (land) on which the home is to be built as at the time when the building contract is made; or
 - where the consideration for the relevant building work is less than the actual costs to build the home, the sum of the actual costs to build the home as determined by the Commissioner and the market value of the property (land and any other improvements) on which the home is to be built as at the time the building contract is made as determined by the Commissioner.
- ▶ in the case of the building of a home by an owner builder:
 - the market value of the property (land, home and any other improvements) on which the home is situated as at the time the home is completed and ready for occupation as a place of residence as determined by the Commissioner.

To avoid doubt, the market value of any property on which a home is situated will be the market value of the land, the home and any other improvements.

Market Value of a Home on a Genuine Farm

If the eligible transaction relates to a home on a 'genuine farm', for the purposes of determining the market value, the 'relevant component' of the farm is taken to constitute the property on which the home is situated, or is to be built.

Genuine farm means land as to which the Commissioner is satisfied:

- a) the land is to be used for primary production by the first home owner; and
- b) the land is, by itself, or in conjunction with other land owned by that person, capable of supporting economically viable primary production operations.

Relevant component of a genuine farm means that part of the farm constituted by the home and its curtilage, or the part of the land that is to constitute the site and curtilage of a home that is to be built. Whilst 'curtilage' is not defined

in the *First Home Owner Grant Act 2000* (the "Act"), the Commissioner considers 'curtilage' to be the area generally regarded as the house block of the property.

Each case will be considered on its individual merits.

Market Value of a Non-Conforming Interest

In the unusual situation where the first home owner is entitled to a Bonus of up to \$8000 by virtue of the recognition of a non-conforming interest as a relevant interest via the operation of **Section 5(4)** of the Act, the market value is determined in accordance with **Section 18BB(3)** of the Act.

Market Value Methodology

The Commissioner may adopt or approve any method considered reasonable for the purposes of determining any value or costs in relation to market value, including by requiring that a valuation of property be made by a person appointed or approved by the Commissioner. In that situation, the Commissioner may, having regard to the merits of the case, charge the whole or any part of the expenses of, or incidental to, the making of the valuation to the applicant(s) and may recover the amount so charged from the applicant(s) as a debt due to the Crown.

Whilst the Commissioner will generally accept a site value in the relevant year by the Valuer-General (as used for rating purposes) as the market value of land, the Commissioner will where necessary refer a matter requiring valuation to the Valuer-General.

First Home Bonus Grant Conditions

Where the eligible transaction is a comprehensive home building contract for a new home, laying of the foundations must commence within 26 weeks after the contract is made and the contract must specify a completion date for building work within 18 months of the laying of the foundations or otherwise construction must be completed within 18 months after the laying of the foundations.

The completion date is the date the building is ready for occupation as a place of residence.

Where the eligible transaction is the building of a new home by an owner builder, construction of the home must be completed within 18 months after its commencement date. The commencement date is the date when laying of the foundations commences or another date the Commissioner considers appropriate in the circumstances of the case, whilst the completion date is the date the building is ready for occupation as a place of residence.

Where the eligible transaction is a contract for an 'off-the-plan' purchase of a new home, for an eligible transaction with a commencement date that is:

- ▶ on or after 10 June 2011 and before 1 July 2012, the contract must state that the new home will be completed on or before 31 December 2013 or otherwise the home is actually completed on or before that date; or

- ▶ on or after 1 July 2012 and before 1 July 2013, the contract must state that the new home will be completed on or before 31 December 2014 or otherwise the home is actually completed on or before that date.

The commencement date for an 'off-the-plan' purchase of a new home is the date when the contract is made, whilst the completion date is the date (i) the purchaser becomes entitled to possession of the home under the contract and (ii) if the purchaser is to obtain a registered title to the land on which the home is situated - the date the necessary steps to obtain registration of the purchaser's title have been taken.

Extensions of Time for Commencement and/or Completion

The Commissioner has the discretion to allow a longer period for either the commencement of and/or the completion of the building of a home.

The commencement date discretion applies only in the case of a comprehensive home building contract.

In limited circumstances, the Commissioner may approve an extension to the commencement date where the delay was outside the control of the applicant(s) and could not have been foreseen at the time of entering into the contract. An indefinite extension will not be granted and requests for an extension must include a reasonable estimate as to when construction will commence.

If an extension is granted but building does not commence within the extended time approved by the Commissioner, a further request for an extension will need to be made.

A request for an extension to the commencement date will only be considered once an application for the FHOG has been received, and each request for extension will be considered on a case by case basis.

The following list (non-exhaustive) provides factors that are likely to be considered favourably:

- ▶ delays in the registration and release of a new subdivision of land;
- ▶ delays in obtaining council approvals;
- ▶ inclement weather, provided that disruption caused is substantial;
- ▶ industrial disputes;
- ▶ natural disasters; and
- ▶ any specific project delays.

Requests for extension should be forwarded in writing to the Commissioner and the following documents should be included in support of the request:

- ▶ a letter from the applicant(s) requesting an extension stating the reason for the delay and providing the applicant(s):
 - full name(s);
 - purchase property address; and
 - FHOG Application UIN (if known);
- ▶ a copy of the fully executed contract to build; and
- ▶ a letter from the relevant third party (e.g. builder, developer, local council or private surveyor) that clearly states the nature of the delays and the actual or anticipated dates foundations were/or are to be laid.

In relation to the discretion to allow a longer period for the completion of the building of a home, the Commissioner may approve an extension in a particular case if it is considered there are good reasons for doing so.

False Claims and Penalties

There are substantial penalties for providing incorrect or misleading information in connection with an application for the FHOG and Bonus benefits. RevenueSA conducts investigations and compliance checks to ensure FHOG and Bonus benefits are only provided to applicants entitled to receive them.

RevenueSA audits applications with current and historical data held by commercial organisations and by state and territory agencies.

How to Apply

Information on how to apply for a FHOG and the Bonus is available on the RevenueSA website.

Mike Walker
COMMISSIONER OF STATE TAXATION

31 May 2012

Further Information

Further information can be obtained from RevenueSA.

Location	RevenueSA State Administration Centre 200 Victoria Square East ADELAIDE SA 5000
Postal	Commissioner of State Taxation RevenueSA GPO Box 1353 ADELAIDE SA 5001
Telephone	(08) 8226 3750
Facsimile	(08) 8226 3737
Email	fhog.support@sa.gov.au
Website	www.revenuesa.sa.gov.au