

Information Circular No: 51

First Home Owner Grant (Housing Grant Reforms) Amendment Bill 2012

Increased Government Assistance for New Home Buyers

Issued 18 October 2012

Background

On 15 October 2012, the Government announced that they have retargeted their home buyer assistance by:

- ▶ increasing the First Home Owner Grant (FHOG) for new homes from \$7000 to \$15000 (ongoing) for contracts entered into on or after 15 October 2012;
- ▶ reducing the FHOG for established homes from \$7000 to \$5000 for eligible contracts entered into between the date the necessary amending legislation comes into force and 30 June 2014. The FHOG will be abolished for established homes from 1 July 2014.
- ▶ replacing the \$8000 First Home Bonus Grant (FHBG) with an \$8500 Housing Construction Grant (HCG) for all new homes where contracts are entered into between 15 October 2012 and 30 June 2013 inclusive. The HCG will be available for properties valued up to \$400 000, phasing out for properties valued up to \$450 000.

The legislative amendments to implement these measures are contained in the *First Home Owner Grant (Housing Grant Reforms) Amendment Bill 2012* (the "Bill") which was introduced into Parliament today. The operation of these legislative measures are subject to the Bill coming into force as an Act.

In the event that applications for the new \$15000 FHOG and \$8500 HCG are received between 15 October 2012 and the day on which the necessary amending legislation comes into force, the grants will be paid by way of *ex gratia* payment.

Transitional provisions in the Bill will prevent applicants receiving a grant more than once for the same transaction.

Discussion

FIRST HOME OWNER GRANT

New Homes

From 15 October 2012, first home owners buying or building a new home will be entitled to a \$15000 FHOG. This grant of \$15000 is available for:

- ▶ contracts to buy a **new home** (including off-the-plan) dated on or after 15 October 2012;
- ▶ contracts to build a **new home** dated on or after 15 October 2012; and
- ▶ **new homes** being built by an owner builder where the date the foundations start to be laid is on or after 15 October 2012.

A **new home** means a home that has not been previously occupied or sold as a place of residence and includes a substantially renovated home. There is no change to this definition.

The \$15000 FHOG will not be available:

- ▶ if the contract replaces an existing contract made before 15 October 2012*;
- ▶ for new homes where the contract is dated before 15 October 2012;
- ▶ for owner-builders where the date the foundations start to be laid is before 15 October 2012; or
- ▶ established homes.

* Applicants should be aware that there are substantial penalties for providing incorrect or misleading information in relation to a FHOG application.

These penalties may apply if an applicant replaces a contract entered into before 15 October 2012 with a new contract in order to receive the benefit of the increased FHOG for new homes.

The \$15000 FHOG is an ongoing initiative.

Established Homes

Between the date the amending legislation comes into force and 30 June 2014 purchasers of established homes will be entitled to a reduced \$5000 FHOG.

Purchasers of established homes will continue to be entitled to a \$7000 FHOG until the necessary amending legislation comes into force.

The \$5000 FHOG for buyers of established properties ends on 30 June 2014 and will not be available where the eligible transaction commencement date (contract date) is on or after 1 July 2014.

Other than the changes above, the same eligibility requirements including a property value cap of \$575 000 will continue to apply for all FHOG applicants for both new and established homes.

How do I apply for the First Home Owner Grant?

Applicants can complete and lodge the appropriate application form with either an Approved Agent or RevenueSA. You can complete and lodge the application form with an Approved FHOG Agent if you are borrowing funds from that agent, as part of buying or building your home. You need to apply within 12 months of completing the transaction.

Systems changes are currently being developed to accommodate the new arrangements.

FIRST HOME BONUS GRANT

The Government has previously announced, as part of the 2012-13 State Budget, that the \$8000 FHBG would remain at \$8000 for eligible transactions entered into between 1 July 2012 and 30 June 2013, and would be fully abolished from 1 July 2013.

The \$8000 FHBG will now be abolished for all contracts entered into on or after 15 October 2012.

The FHBG will still be available for contracts entered into on or before 14 October 2012. The eligibility requirements for contracts entered into between 1 July 2012 and 14 October 2012 remain unchanged and further details in this regard can be found in RevenueSA's [Information Circular No. 42](#).

HOUSING CONSTRUCTION GRANT

The new \$8500 HCG replaces the \$8000 FHBG.

The HCG is available for:

- ▶ contracts to purchase a new home entered into between 15 October 2012 and 30 June 2013;
- ▶ comprehensive home building contracts for new homes entered into between 15 October 2012 and 30 June 2013 where the contract states that the building will be completed within 18 months of commencement or the building work is actually completed within 18 months of commencement;
- ▶ contracts for the purchase of a new home off-the-plan where the contract states that the building work will be completed on or before 31 December 2014 or the building work is actually completed on or before 31 December 2014; and
- ▶ owner builders where construction of the new home commences on or after 15 October 2012 and before 30 June 2013.

Under the HCG purchasers can be natural persons, a company or trustee of a trust. It is available for investors as well as owner occupiers.

The HCG has no residence requirements.

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

The full HCG is only available for homes with a market value up to \$400 000, with the grant phasing out between \$400 000 and \$450 000.

Market Value

The market value of any property includes the market value of the land, the home and any other improvements.

Example 1

John bought a block of land in 2005 which is still vacant and is valued at \$200 000.

John signs a comprehensive home building contract to build a new home on the land for consideration of \$300 000.

John will not be eligible for the HCG because the value of the home will be \$500 000 which is above the value cap of \$450 000.

Consideration

Where the consideration for the eligible transaction is between \$15 000 and \$23 500 and applicants are eligible for the FHOG for new homes and the HCG, the amount of the HCG will not exceed the difference between the consideration paid for the eligible transaction and \$15 000.

Example 2

Jane buys a new home from her mother for consideration of \$20 000. The new home has a value of \$390 000.

Jane is eligible for both the FHOG for new homes and the HCG.

Jane will be eligible for a payment of \$20 000 made up of a \$15 000 FHOG and a \$5 000 HCG.

Where the consideration for an eligible transaction is less than \$8500 and applicants are not eligible for the FHOG for new homes the amount of the HCG will not exceed the consideration for the eligible transaction.

Example 3

Mike buys a new home that is valued at \$300 000 for \$1.

Mike is not eligible for a FHOG but is eligible for the HCG.

The amount of the HCG will be \$1.

There are no restrictions on the number of times a purchaser can apply for the HCG, regardless of whether a person purchases or builds a new home alone or together with others. However, where the HCG has been approved for the purchase of a property, no further HCG can be paid in respect of that property, unless that previously approved HCG has been repaid.

Building Completion Requirements

If you have entered into a contract to build a new home:

The contract must state that the building work must be completed within 18 months of the construction commencing or the building work must actually be completed within 18 months of commencement.

If a completion date is not stated in the contract, you cannot apply until the building is ready for occupation as a place of residence.

If you have commenced building a new home as an owner builder:

Construction must be completed within 18 months of the construction commencing (date of the laying of the foundations). The construction completion date is the actual date the building was ready for occupation as a place of residence.

You cannot apply as an owner builder until the building is ready for occupation as a place of residence.

If you have entered into a contract to buy a new home off-the-plan:

The contract must state that the building work will be completed on or before 31 December 2014 or the building work is actually completed on or before 31 December 2014.

If a completion date is not stated in the contract, you cannot apply until the eligible transaction is completed.

Applications for the HCG must be made within 12 months of the date of completion of the eligible transaction. The Commissioner of State Taxation (the "Commissioner") may, in a particular case, extend the time within which an eligible transaction must be completed if the Commissioner considers there are proper reasons for doing so.

Ineligible Transactions

The following transactions are ineligible for the HCG:

- ▶ The contract replaces an existing contract made before 15 October 2012 and the earlier contract was:
 - a contract for the purchase of the same home; or
 - a comprehensive home building contract to build the same or a substantially similar home;
- ▶ The Commissioner is satisfied that a contract that formed the basis of an eligible transaction for the purchase (or purported purchase) of a new home does not constitute a genuine sale of the new home. For these purposes, the Commissioner may take into account:
 - whether the parties to the contract are close associates;
 - whether the parties are otherwise not at arms length; or
 - such other matters as the Commissioner considers appropriate.

Two persons are considered **close associates** if:

- one is a relative (spouse/domestic partner; parent or remoter lineal ancestor; son, daughter or remoter ancestor; or brother or sister) of the other;
- they are related bodies corporate (within the meaning of the *Corporations Act 2001* (Cwlth));
- one is a body corporate and the other is a director, manager or officer of the body corporate;
- one is a body corporate (other than a public company whose shares are quoted on a financial market) and the other is a shareholder in the body corporate;
- one has a right to participate (otherwise as a shareholder in a body corporate) in income or profits derived from a business conducted by the other;
- they are in partnership; or
- one is a beneficiary under a trust or an object of a discretionary trust of which the other is a trustee.

Example 4

Tim has just built a new home which is valued at \$400 000 and has yet to be occupied as a place of residence.

Tim enters into a contract to sell 2.5% of his interest in the home to his wife for \$10 000.

The Commissioner is satisfied that the contract does not constitute a genuine sale of a new home and does not authorise payment of HCG.

The application of the above criteria will be considered on a case by case basis taking into account all of the facts and circumstances.

Payment of the HCG

The date the HCG is paid depends on whether you are building or buying, and if you are applying through an Approved Agent or through RevenueSA. The following table details the various scenarios.

| Type of transaction | Applying through | Payment of grant |
|--|------------------|--|
| Purchase of a new home or an off-the-plan home | Approve Agent | At date of Settlement |
| | RevenueSA | Within five days after approval of the application and when proof of lodgment for registration with the Lands Titles Office is provided (please complete a Confirmation of Settlement form). |
| Contract to build | Approve Agent | On date of first progress payment by Approved Agent. |
| | RevenueSA | Within five days of lodging the first progress payment invoice with, and approval of the application by, RevenueSA. |
| Owner builder | Approve Agent | When application with appropriate supporting evidence is provided to the Approved Agent. |
| | RevenueSA | Within five days of RevenueSA approving the application lodged with appropriate supporting evidence. |

How do I apply for the Housing Construction Grant?

Submit your grant application together with your contract and transfer for stamping. Applications must be received within twelve months after the completion of the eligible transaction.

A separate application is required for each eligible transaction.

Application forms will be available soon from www.revenuesa.sa.gov.au.

Initially all applications for the HCG (including by first home buyers) must be lodged with RevenueSA.

Systems changes within FHOG Online are currently being developed to accommodate the HCG and applications for the HCG can be made via Approved Agents once these changes are implemented.

RevenueSA may require documentary evidence to substantiate your claim for the HCG.

FALSE CLAIMS

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

RevenueSA undertakes both random and targeted auditing of applications with the benefit of current and historical data held by commercial organisations and by state and territory agencies.

FURTHER INFORMATION

If you are unsure about any aspect concerning your eligibility, it is important that you contact RevenueSA for clarification before proceeding with your application.

Graeme Jackson
A/COMMISSIONER OF STATE TAXATION

18 October 2012

Further Information

Further information can be obtained from RevenueSA.

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| 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 |