



First Home Owner Rate of Duty

Sections 141 – 146 of the *Duties Act 2008*

As at 1 July 2008

Introduction

A person who:

- qualifies for a First Home Owner Grant; or
- *would* qualify for a First Home Owner Grant had consideration been paid; or
- is an Indian Ocean Territory resident acquiring their first home,

may be entitled to the first home owner rate ('FHOR') of transfer 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 Property** available from the Office of State Revenue 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* ('First Home Owner Grant 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 First Home Owner Grant; or
- the purchaser/s or transferee/s become/s a person to whom a First Home Owner Grant would be, or would have been, payable in relation to the property if consideration had been given for the transfer of the property 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, to which the First Home Owner Grant relates does not exceed the thresholds outlined below.

Further information regarding eligibility for a First Home Owner Grant can be found in the **First Home Owner Grant Fact Sheet** available from the Office of State Revenue website at www.osr.wa.gov.au

Thresholds and eligibility

Home

- 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 and any fractional 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 and any fractional part of \$100 by which the dutiable value exceeds \$300,000.

Note: The threshold limits apply to the whole value of the home or vacant land being transferred and not to the value of the person's interest in the property that is being transferred.

Application for the FHOR of duty or a refund 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 First Home Owner Grant Act.

How to apply for the FHOR of duty if you are eligible for the First Home Owner Grant

1. Lodge an application for the First Home Owner Grant with an approved financial institution or the Office of State Revenue.
2. If you are eligible for the First Home Owner Grant, the Office of State Revenue will send you a letter of approval for the grant, together with the application form **First Home Owner Rate of Duty – For Purchased Property or Gifted Vacant Land**. The application form will be sent in all instances except where the unencumbered value of an established home exceeds \$600,000. **Please note** the application form should only be submitted where the total value of the home does not exceed \$600,000 or the total value of the vacant land is \$400,000, whichever is applicable.
3. Submit the transaction record (e.g. contract for sale and/or transfer of land) together with a fully completed and signed application form to your settlement agent (where applicable) or directly to the Office of State Revenue if you are conducting your own settlement.

Please note that where the transaction has been previously charged with duty at the residential rate or general rate of duty, the application form 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. A refund of any overpaid duty will be made accordingly.

How to apply for the FHOR of duty if you are NOT eligible for the First Home Owner Grant because the home was received as a gift, for no consideration or you are a resident of the Indian Ocean Territories

1. Submit the transaction record (e.g. contract for sale and/or transfer of land) for assessment of duty together with a fully completed and signed application form **First Home Owner Rate of**

Duty For A Gifted Home or, where applicable, **First Home Owner Rate – Indian Ocean Territories** to the Office of State Revenue.

2. Attach a completed Duties Valuation Form (available at www.osr.wa.gov.au). A valuation form is not required if the total value of the property is less than \$400,000 and a valuation by a licensed valuer that made less than three (3) months from the date of the transaction is submitted. For further information about the valuation of land please refer to **Commissioner's Practice TAA 8 – Valuation of Land for Stamp Duty and Duties Purposes** available from the Office of State Revenue website at www.osr.wa.gov.au.
3. If you are eligible for the FHOR of duty, the Office of State Revenue will assess duty accordingly.
4. If it is determined that you are not eligible for the FHOR of duty, you may be eligible for the residential rate of duty upon application. The Office of State Revenue will advise you in writing of the reasons for that determination and request a residential rate application form to be completed.

Please note that where the transaction has been previously charged with duty at the residential rate or general rate of duty, the application form 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. A refund of any overpaid duty will be made accordingly.

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 First Home Owner 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.

When an application form for the FHOR of duty is lodged and has been approved, the transaction will be reassessed at that rate of duty. A refund of any overpaid duty will be made accordingly.

Please note that in these circumstances, the application form must be lodged together with 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).

Shared Equity Arrangements with the Department of Housing

A shared equity home owner can also 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 the **Application for a Reduction of Duty for a Further FHOG 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 will be subject to the transferee meeting the eligibility criteria and conditions for the First Home Owner Grant, whether or not the transferee actually receives a First Home Owner Grant.

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 can not be fulfilled, whichever is earlier.

Furthermore, if for any reason a person is required to repay a First Home Owner 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 Plaza Level 200 St Georges Terrace PERTH WA 6000	Telephone	(08) 9262 1100 1300 368 364 (WA country STD callers only – local call charge)
Office hours	8:00 am – 5:00 pm Monday to Friday	Facsimile	(08) 9226 0834
Postal	Office of State Revenue GPO Box T1600 PERTH WA 6845	Web Enquiry Website	www.osr.wa.gov.au/DutiesEnquiry www.osr.wa.gov.au

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.