

Contents	Page
What this Ruling is about	1
Ruling and explanation	3
Date of effect	4
References	4

Public Ruling

First Home Owner Grant: CONVERSION OF NON-RESIDENTIAL PREMISES TO A HOME

A Public Ruling, when issued, is the published view of the Commissioner of State Revenue (the Commissioner) on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, memoranda, manuals and advice provided by the Commissioner in respect of the issue/s it addresses. Where a change in legislation or case law (the law) affects the content of a Public Ruling, the change in the law overrides the Public Ruling—that is, the Commissioner will determine the tax liability or eligibility for a concession, grant or exemption, as the case may be, in accordance with the law.

What this Ruling is about

1. The *First Home Owner Grant Act 2000* (the FHOG Act) provides that the first home owner grant (the grant) is payable on an application if the applicant (or if there are two or more applicants, each of the applicants) complies with the eligibility criteria and the transaction for which the grant is sought is an eligible transaction and has been completed.¹
2. Subject to paragraph 3, an eligible transaction is:²
 - (a) a contract made on or after 1 July 2000 for the purchase of a home³ in Queensland or
 - (b) a comprehensive home building contract made on or after 1 July 2000 by the owner of land in Queensland, or a person who will be, on completion of the contract, the owner of land in Queensland, to have a home built on the land or
 - (c) the building of a home in Queensland by an owner builder if the building work starts on or after 1 July 2000.
3. A transaction is not an eligible transaction if:
 - (a) the Commissioner is satisfied it forms part of a scheme to circumvent limitations on, or requirements affecting, eligibility or entitlement to the grant⁴
 - (b) the consideration for the transaction is \$750,000 or more⁵

¹ Section 10(1) of the FHOG Act

² Section 5(1) of the FHOG Act

³ A 'home' is defined in s.6 of the FHOG Act.

⁴ Section 5(4) of the FHOG Act

⁵ Section 5(6) of the FHOG Act

FHOGA006.1.4

- (c) in relation to a contract mentioned in paragraph 2(a), the total of the unencumbered value of the home and the unencumbered value of the relevant interest in the land on which the home is built or to be built at the commencement date for the contract is \$750,000 or more⁶
 - (d) in relation to a comprehensive home building contract mentioned in paragraph 2(b), the total of the consideration for the transaction and the unencumbered value of the land at the commencement date for the contract is \$750,000 or more⁷
 - (e) in relation to a building of a home mentioned in paragraph 2(c), the total of the consideration for the transaction and the unencumbered value of the land at the commencement date for the transaction is \$750,000 or more⁸.
4. A comprehensive home building contract is a contract under which a builder undertakes to build a home from the start of building work to the point where the home is ready for occupation and, if for any reason, the work to be carried out under the contract is not completed, includes any further contract under which the work is to be completed.⁹
5. An owner builder is an owner of land who builds a home, or has a home built, on the land without entering into a comprehensive home building contract.¹⁰
6. The purpose of this Public Ruling is to clarify the first home owner grant treatment of construction undertaken to convert non-residential premises into a home.¹¹
7. For the purposes of this Public Ruling, non-residential premises means any building or structure that is not a home and includes a partially completed home where:
- (a) a person acquires a relevant interest¹² in land on which a partially completed home is situated and subsequently undertakes construction (whether under a contract with a builder or otherwise) to complete the home or
 - (b) a person enters into a comprehensive home building contract (the original contract) and, for any reason (e.g. liquidation of the builder), enters into a further comprehensive home building contract with another builder to complete the home (the replacement contract).

⁶ Section 5(7) of the FHOG Act

⁷ Section 5(8) of the FHOG Act

⁸ Section 5(9) of the FHOG Act

⁹ Definition of 'comprehensive home building contract' in the Schedule of the FHOG Act

¹⁰ Definition of 'owner builder' in the Schedule of the FHOG Act

¹¹ See Public Ruling FHOG000.1—*The meaning of 'home' and 'residential property'* for the evidence that the Commissioner may require to determine whether or not a building is a home for the purposes of s.6 of the FHOG Act.

¹² A 'relevant interest' is defined in s.8 of the FHOG Act.

Ruling and explanation

8. Subject to paragraph 11, construction undertaken to convert non-residential premises to a home will be considered to be the building of a home or new home¹³ by an owner builder, regardless of whether or not the construction is undertaken by a builder under a contract entered into between the builder and the applicant.
9. The construction must still constitute an eligible transaction and satisfy the eligibility criteria before the grant will be payable.

Example 1

X purchases land in Queensland on which an old church, and no other building, is situated. X subsequently enters into a contract with a builder to convert the church into a home and claims the first home owner grant in respect of the conversion. The conversion will be considered the building of a home by an owner builder. The first home owner grant may be payable for the transaction provided that X satisfies the eligibility criteria in respect of the transaction.

10. The commencement date¹⁴ for the building of the home will be a date determined by the Commissioner as being appropriate given the circumstances of the case.
11. Where construction is undertaken to complete a partially completed home in the circumstances outlined in paragraph 7(b) the eligible transaction is the replacement contract rather than the original contract and therefore the commencement date for the eligible transaction is the date of the replacement contract.¹⁵

Example 2

Y enters into a comprehensive home building contract with A Co Ltd on 7 January 2009 to have a home built in Queensland. However, after construction has commenced but before its completion, A Co. Ltd goes into liquidation. On 17 July 2009 Y enters into a contract for completion of the home with B Co Ltd. The contract with B Co. Ltd would be considered a comprehensive home building contract with a commencement date of 17 July 2009.

12. The renovation or expansion of an existing home does not constitute an eligible transaction for the purposes of s.5 of the FHOG Act.
13. In many cases, it will be a straightforward matter to determine if a building or structure constituted a 'home' before construction commenced. However, there are cases where doubt arises. In these cases, the Commissioner may require the production of evidence that the building or structure was not a 'home', in accordance with Public Ruling FHOGA000.1—*The meaning of 'home' and 'residential property'*.

¹³ A 'new home' is defined in s.25A of the FHOG Act, and is relevant for the purposes of determining whether the amount of the grant payable is increased on the basis that there is a special eligible transaction (as defined in s.25B of the FHOG Act).

¹⁴ See the definition of 'commencement date' paragraph (b), in the Schedule of the FHOG Act.

¹⁵ See the definition of 'comprehensive home building contract' and 'commencement date', paragraph (a), in the Schedule of the FHOG Act.

Date of effect

14. This Public Ruling takes effect from 31 March 2010.

David Smith
 Commissioner of State Revenue
 Date of Issue 30 March 2010

References

Public Ruling	Issued	Dates of effect	
		From	To
FHOGA006.1.4	30 March 2010	31 March 2010	Current
FHOGA006.1.3	21 December 2009	1 January 2010	30 March 2010
FHOGA006.1.2	3 July 2009	3 July 2009	31 December 2009
FHOGA006.1.1	24 February 2009	24 February 2009	2 July 2009
Supersedes Practice Direction FHOG 6.2	22 January 2009	22 January 2009	23 February 2009