

Public Ruling

Ruling Number	: PUB-FG-2003-2
Title	: Long-Term Purchase Contracts
Tax Line	: First Home Owners Grant
Legislative Reference	: <i>First Home Owner Grant Act 2000</i>
Previous Ruling	:
Date of Ruling	: 27 March 2003
Attachments	:

Preamble

Under the *First Home Owner Grant Act 2000* ("FHOG Act") a grant is payable to applicants who enter into an eligible transaction that is completed if the applicants satisfy the eligibility criteria. Under subsection 13(5) of the FHOG Act a contract for the purchase of a home is completed if the purchaser becomes entitled to possession and the purchaser's title to the land is registered.

Where a purchaser enters into a contract to purchase land under a long-term purchase ("instalment") contract, the purchaser is bound to make a payment or payments (other than a deposit) without becoming entitled to receive a conveyance in exchange for the payment or payments.

Under subsection 17(2) of the FHOG Act the Commissioner of State Revenue ("the Commissioner") may authorise payment of the grant before completion of an eligible transaction if satisfied that it is appropriate in the circumstances. In addition under section 21 of the FHOG Act the Commissioner may attach conditions to the payment of the grant.

This Guideline clarifies when the grant will be paid to purchasers prior to completion of an instalment contract, assuming other conditions of payment of the grant are satisfied.

Conditional payment prior to completion

The Commissioner will exercise his discretion under subsection 17(2) of the FHOG Act to pay the grant to purchasers under instalment contracts, prior to completion of the contract, if all of the following circumstances exist.

- The contract has been in existence for at least one year;
- The purchaser has made regular monetary instalments under the contract;
- The purchaser is not in default under the contract which would entitle the vendor to cancel the contract; and
- The purchaser has occupied the home as their principal place of residence under the contract.

In calculating the amount paid to the vendor, any of the following can be taken into account:-

- any deposit paid by the purchaser to the vendor;
- any interest paid by the purchaser to the vendor; and
- any other amounts which have been paid and deducted from the balance of the purchase price.

Conditions of payment

A grant paid prior to completion of an instalment contract will be paid subject to the following conditions.

- That the contract will be completed and will not be cancelled or terminated.
- That, following payment of the grant, the purchaser will remain in possession of the property as their principal place of residence and will continue in possession following completion of the contract to satisfy the residence condition of the grant.
- That within fourteen days of non-compliance with any of the abovementioned conditions the purchaser will notify the Commissioner of non-compliance and will repay the grant.

Procedure

It is a requirement that when the purchaser under an instalment contract claims payment of the grant under the terms of this Guideline that the application must be supported by a statement from the purchaser confirming their intention in relation to the conditions specified in the abovementioned paragraphs A & B and a statement from the vendor as to the prerequisites referred to and numbered 1 to 4 herein.

Where the Commissioner imposes the condition in paragraph C the purchaser must agree in writing before payment of the grant to notify the Commissioner and repay the grant in accordance with paragraph C.

Under subsections 21(4), 37(1) & (2) & 38(2) of the FHOG Act penalties apply for failure to comply with a condition of the grant, for providing the Commissioner with false and misleading statements or if the applicant knew a document given to the Commissioner was false or misleading in a material matter.

Enquiries in relation to this Revenue Ruling should be directed to the Revenue Advice and Audit Section on telephone (03) 6233 5438 or e-mail at audithelp@treasury.tas.gov.au. Copies of this ruling may be obtained from our Web site at www.treasury.tas.gov.au/tax and follow the "Revenue Rulings" link.

All rulings must be read subject to Revenue Ruling PUB-GEN-2001-1.



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