

Revenue Ruling

Public Ruling

Ruling Number	:	PUB-FG-2007-5
Title	:	Long Term Purchase Contracts
Tax Line	:	First Home Owners Grant
Legislative Reference	:	First Home Owner Grant Act 2000
Previous Ruling	:	PUB-FG-2003-2
Date of Ruling	:	24 December 2007
Attachments	:	none

Please Note: Information contained in this ruling, including references to Legislation and other Revenue Rulings, is relevant to the date of this ruling.

Preamble

Under the First Home Owner Grant Act 2000, a First Home Owner Grant is payable on an application if an applicant complies with the eligibility criteria and the transaction for which the grant is sought is an eligible transaction that has been completed.

A contract for the purchase of a home is completed when the purchaser becomes entitled to possession and the necessary steps to obtain registration of the purchaser's title have been taken (section 13(5) of the Act).

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 immediately entitled to receive a conveyance in exchange for the payment or payments.

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

This Ruling 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 the discretion available under section 17(2) of the Act to pay the grant to purchasers under instalment contracts, prior to completion of the contract, if all of the following circumstances exist:-

1. the contract has been in existence for at least one year;
2. the purchaser has paid regular monetary instalments under the contract;
3. the purchaser is not in default under the contract which would entitle the vendor to cancel the contract; and
4. the purchaser has occupied the home as their principal place of residence under the contract for a period of at least six continuous months during the previous twelve months.

In calculating the amount paid to the vendor, any of the following payments 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, imposed under section 21 of the Act:

- condition **(a)** That the contract will be completed and will not be cancelled or terminated.
- condition **(b)** That within fourteen days of non-compliance with condition **(a)**, the purchaser will notify the Commissioner of their non-compliance and will repay the grant.

Procedure

A claim for payment of the grant under the terms of this Ruling must be supported by:

1. a statement from the vendor that the four conditions referred to in the section titled "Conditional payment prior to completion" have been met.
2. a statement in writing from the purchaser confirming their intention to comply with conditions (a) and (b) in the section title "Conditions of payment" above.

Applicants are also required to produce at least three forms of documentary evidence to establish that they have occupied the home as their principal place of residence for at least six months during the previous twelve months.

Penalties apply for failure to comply with a condition of the grant, for making false and misleading statements to the Commissioner or if the applicant knew a document given to the

Commissioner was false or misleading in a material matter (refer to sections 21(4), 37(1) & (2) & 38(2) of the Act).

Enquiries in relation to this Revenue Ruling should be directed to the Legislative Review section on telephone (03) 6166 4400 (1800 001 388 for Tasmanian callers outside the 62 area) or by e-mail.

All rulings must be read subject to Revenue Ruling PUB-GEN-2005-5.

A handwritten signature in blue ink, reading "W K Sawford". The signature is written in a cursive style with a large initial "W".

W K Sawford
Commissioner of State Revenue