

DEFERRAL OF DUTY LODGMENT GUIDE AND APPLICATION FORM

LODGMENT GUIDE

The information in this lodgment guide is for information only and should not be lodged with your application.

BEFORE LODGING THE APPLICATION, REMOVE PAGES 1 TO 4 OF THE LODGMENT GUIDE

Notes

- Use this application form if the date of the eligible transaction is on or after 1 September 2013;
- Do not use this application if your transaction date is on or before 31 August 2013;
- All Applicants must fully complete and sign the application form and lodge it together with the required supporting documents, incomplete applications will delay processing times;
- If there are more than two applicants a second form must be attached;
- If you are applying for the Deferral of Duty and the First Home Owner Grant (FHOG) for a new or substantially renovated property, you must have already lodged your First Home Owner Grant application with an approved agent. Please provide your UIN Number in Section 3.

WHEN TO LODGE YOUR APPLICATION

An application must be lodged with the ACT Revenue Office by the date the duty must be paid. Duty is payable within 90 days of the grant, transfer or agreement, whichever is earlier or, for an **Off the Plan** agreement within 14 days if one of the events happen under section 16A of the *Duties Act 1999*.

ELIGIBILITY CRITERIA

- If purchasing a new property: all applicants must be eligible for the Home Buyer Concession Scheme (HBCS) or the FHOG.
- If purchasing an established property: applicants must be eligible for the FHOG under the *First Home Owner Grant Act 2000* (the Act) except for the requirement under section 12B of the Act that the property be new or substantially renovated.
- At least one applicant must occupy the home as their principal place of residence for a continuous period of 12 months starting within 1 year of completion of the eligible transaction or issue of the Certificate of Occupancy.
- Application for deferral of duty will only be considered where the market value or purchase price (whichever is the greater) is equal to or below the relevant HBC upper threshold.
- The minimum amount of duty that can be deferred is \$1,000.

TERMS AND CONDITIONS OF DEFERRAL OF DUTY

- The maximum term of the deferral of duty is for not more than five years after the day of the dutiable transaction taking place. The first payment (or instalment) must be made within the first five year period. Payment of the unpaid duty and any interest accrued and accruing must be paid in full no later than ten years after the day of the dutiable transaction taking place.
- Applicants agree that by making an application for deferral of duty, upon approval, they have entered into a time payment arrangement under section 52 of the *Taxation Administration Act 1999* to pay the deferred duty and any accrued interest by way of instalments as determined by the Commissioner for ACT Revenue (the Commissioner).
- Simple interest will accrue on the deferred duty arrangement from the date the duty is payable and will continue to accrue until the deferred duty is paid in full. Interest is calculated daily at the market rate under section 26 (2) of the *Taxation Administration Act 1999*.
- Applicants may make voluntary payments over and above the instalment amount at any time.
- Applicants must acknowledge that any outstanding amounts will be held as a charge against the subject property.

- Where the applicants are approved for a deferral of duty, a time payment arrangement under section 52 of the *Taxation Administration Act 1999* is deemed to have commenced. Under section 52 (4) of the *Taxation Administration Act 1999*, if the minimum instalment of duty is not paid on or before the day an instalment payment is due, this constitutes a tax default and will result in the full amount of duty deferred and any interest becoming immediately due and payable.
- Where a tax default occurs, the premium rate of interest (8 per cent per annum) will also apply to the outstanding deferred duty amount, in addition to the market rate of interest. Penalty tax may also apply in certain circumstances (section 31 of the *Taxation Administration Act 1999*). The Commissioner may seek to recover these amounts.
- For the purposes of section 97 of the *Taxation Administration Act 1999*, applicants must consent to the display of any outstanding amount in connection with this agreement on any Certificate of Rates, Land Tax and Other Charges produced in relation to the subject property.
- All outstanding deferred duty and interest must be paid in full prior to the subject property being sold or transferred to another party.
- Applicants must notify the ACT Revenue Office within 14 days of any change to their address or any other detail relevant to their application.
- Applicants will be notified in writing of the outcome of their application together with any conditions that will form part of the deferral of duty.
- Applicant/s approved for deferral of duty but subsequently determined not to have met the eligibility criteria for the HBCS and/or the FHOG, the Commissioner may issue a reassessment. Interest and penalties may apply to any unpaid duty and may result in interest and penalties being imposed together with the requirement for the applicant to immediately pay all outstanding amounts.

PAYMENT OF DEFERRED DUTY

- If applicants are approved for the Deferral of Duty, they must enter into a time payment arrangement.
- As a condition of this time payment arrangement, the Commissioner has determined (under section 52(2) of the *Taxation Administration Act 1999*) that payment of deferred duty and any accrued interest must be made via direct debit. Applicants must provide the Commissioner with a completed Direct Debit Authority within fourteen (14) days prior to the due date for the first instalment amount.
- The Direct Debit Authority can be found on the ACT Revenue Office website at: <http://www.revenue.act.gov.au/publications-and-legislation/forms>

WHEN YOU MUST MOVE IN AND FOR HOW LONG

- At least one **applicant** must start occupying the **home** within 1 year after completion of the **eligible transaction** or issue of the Certificate of Occupancy, as their **principal place of residence** for a continuous period of at least 12 months.
- **Applicants** who do not satisfy the residency requirements must notify the **Commissioner** in writing within 14 days of the **notifiable event**.

Notifiable Event	Notification Timeframe
Failing to comply with the residency requirements	Within 14 days of the earlier of the date: <ul style="list-style-type: none"> • by which the applicants were required to have taken occupation of the home; • on which it became apparent that the applicants would not comply with the residency requirements during the period allowed for compliance.

YOUR RIGHTS

For information regarding your rights is available at:

<http://www.revenue.act.gov.au/interest-and-penalties/your-rights>

FALSE OR MISLEADING INFORMATION AND PENALTIES

For information regarding internal compliance investigations visit:

<http://www.revenue.act.gov.au/interest-and-penalties/compliance>

REQUIRED DOCUMENTS

REQUIRED IF APPLYING FOR DEFERRAL OF DUTY VIA THE HOME BUYER CONCESSION SCHEME

- Completed Conveyance Lodgment form
- Original exchanged Contract for Sale
- Original Transfer form
- Completed Deferral of Duty application form
- Completed Home Buyer Concession form and supporting documentation (please refer to the guide and checklist of the Home Buyer Concession application).

REQUIRED IF APPLYING FOR DEFERRAL OF DUTY VIA THE FIRST HOME OWNER GRANT SCHEME FOR NEW OR SUBSTANTIALLY RENOVATED PROPERTIES ONLY

Note: At least one applicant must be an Australian citizen or permanent resident at the time of application.

- Completed Conveyance Lodgment form
- Original exchanged Contract for Sale
- Original Transfer form
- Completed Deferral of Duty application form
- First Home Owner Grant UIN reference number

Note: You must have already lodged your First Home Owner Grant application with an approved agent. Please provide your **UIN Number** in Section 3.

REQUIRED IF APPLYING FOR DEFERRAL OF DUTY AND PURCHASING AN ESTABLISHED PROPERTY

Note: At least one applicant must be an Australian citizen or permanent resident at the time of application.

- Completed Conveyance Lodgment form
- Original exchanged Contract for Sale
- Original Transfer form
- Completed Deferral of Duty application form
- A copy of at least one Category One document listed below

CATEGORY ONE –Evidence of citizenship or permanent residency

Note: At least one **applicant** must be an Australian citizen or **permanent resident** at the time of application.

IF BORN IN AUSTRALIA:

- Full Australian birth certificate issued by Registrar of Births, Deaths and Marriages (**EXTRACTS and Passports are not accepted NO exceptions to this requirement if born in Australia**)

IF BORN OVERSEAS:

- Australian passport **OR**
- New Zealand passport **OR**
- International passport and Citizenship Certificate **OR**
- International passport and current Australian Visa issued for entry into Australia (VEVO).

CHECKLIST

Complete the checklist to ensure the supporting documents are attached to your application.
To ensure your application is processed in a timely manner, ensure it is fully completed, signed and dated.

Incomplete applications will delay processing times.

REQUIRED IF APPLYING FOR DEFERRAL OF DUTY VIA THE HOME BUYER CONCESSION SCHEME	
<ul style="list-style-type: none">• Completed Conveyance Lodgment form*• Original exchanged Contract for sale *• Original Transfer form*• Completed Duty Deferral application form• Completed Home Buyer Concession form and supporting documentation <p>*If you are employing the services of a conveyancing solicitor please ensure you liaise with them first in regards to the listed supporting documentation.</p>	Tick if attached <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>

REQUIRED IF APPLYING FOR DEFERRAL OF DUTY VIA THE FIRST HOME OWNER GRANT SCHEME	
<ul style="list-style-type: none">• Completed Conveyance Lodgment form*• Original exchanged Contract for sale *• Original Transfer form*• Completed Duty Deferral application form• First Home Owner Grant UIN reference number <p>*If you are employing the services of a conveyancing solicitor please ensure you liaise with them first in regards to the listed supporting documentation.</p>	Tick if attached <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

REQUIRED IF APPLYING FOR DEFERRAL OF DUTY AND PURCHASING AN ESTABLISHED PROPERTY	
<ul style="list-style-type: none">• Completed Conveyance Lodgment form*• Original exchanged Contract for sale*• Original Transfer form*• Completed Duty Deferral application form• Copy of a Category One document <p>*If you are employing the services of a conveyancing solicitor please ensure you liaise with them first in regards to the listed supporting documentation.</p>	Tick if attached <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

SECTION 4 – ELIGIBILITY DECLARATION BY APPLICANTS PURCHASING AN ESTABLISHED PROPERTY

Only complete this section if you are purchasing an established property

1. Does the applicant(s) and/or their domestic partner declare that he/she has never received a grant under the <i>First Home Owner Grant Act 2000</i> anywhere in Australia?	Yes No
2. Does each applicant and their domestic partner declare that before 1 July 2000 he/she has never owned a residential property anywhere in Australia either jointly, separately or with some other person/s?	Yes No
3. Does each applicant and their domestic partner declare that he/she has never occupied residential property anywhere in Australia in which they acquired a relevant interest either jointly, separately or with some other person/s, on or after 1 July 2000 but before 1 January 2004?	Yes No
4. Does each applicant and their domestic partner declare that he/she has never occupied residential property anywhere in Australia for a continuous period of at least 6 months in which they acquired a relevant interest either jointly, separately or with some other person/s, on or after 1 January 2004?	Yes No
5. Is each applicant an individual (e.g. not a company or trust except a trustee for a person with a legal disability) and at least 18 years of age?	Yes No
6. Is at least one applicant an Australian citizen or permanent resident at the time of making the application?	Yes No
7. Will at least one applicant be occupying the home as their principal place of residence for a continuous period of at least 12 months, with the period of occupation starting within 1 year after the completion date of the eligible transaction ?	Yes No

SECTION 5 – PAYMENT INSTALMENT OPTIONS (Please tick one box out of the following two options)

1. Commence instalment payments for deferred duty immediately (that is, within 90 days, or within one year for an off the plan purchase, from the date of the dutiable transaction) to pay the total amount of duty plus accrued interest within 10 years of the date of the dutiable transaction.	<input type="checkbox"/>
2. Defer the first instalment payment of deferred duty for not more than five years from the date of the dutiable transaction and then pay the total amount of duty plus accrued interest by further instalments within 10 years from the date of the dutiable transaction.	<input type="checkbox"/>
Note: Applicants may make voluntary payments over and above the instalment amount at any time. Applicants who commence instalment payments under their indicated preference above and then wish to change the payment option should contact the ACT Revenue Office for advice.	

SECTION 6 – DECLARATION

I/We declare that:

1. I/we have completed the application form and declare that all information in this application and in all supporting documentation is true and correct and to the best of my/our knowledge, no information relevant to the consideration of this application has been omitted. All copies of documents attached in support of this application are a true copy of the original document;
2. I/we understand that signing this declaration and undertaking constitutes an application for deferral of duty and acceptance and agreement to the terms and conditions of that deferral;
3. all applicants are over 18 years of age;
4. I/we have read and understood the terms and conditions set out in this form;
5. I/we have read and understood the Privacy Statement;
6. I/we have completed all relevant Sections of this form;
7. for the purposes of section 97 of the *Taxation Administration Act 1999* and section 13 of the *Information Privacy Act 2014*, I/we consent to any outstanding amount in connection with this agreement being displayed in any Certificate of Rates, Land Tax and Other Charges produced by the ACT Revenue Office in relation to the subject property;
8. I/we will be residing in the home to which this application relates as my principal place of residence for a continuous period of at least 12 months, with the period of occupation starting within 1 year after the completion date of the eligible transaction or issue of Certificate of Occupancy;
9. I/we authorise the ACT Revenue Office to access and exchange information about me to verify my eligibility for the FHOG with the approved agent (where applicable), State, Territory and Australian Government agencies, as permitted by law; and
10. I/we understand that the approved agent is not authorised by the ACT Revenue Office to offer any advice or assistance on the conditions of eligibility for the FHOG, or on the completion of this application.

TERMS AND CONDITIONS:

I/We understand and agree that:

1. as part of this application for a deferral of duty, approval of this application constitutes me/us as the applicants entering a time payment arrangement under section 52 of the *Taxation Administration Act 1999*;
2. payment, or the first instalment of the payment, of the duty may be deferred for not more than 5 years after the date of the dutiable transaction (the first payment or instalment must be made within the first 5 year period);
3. as a condition of the time payment arrangement, the required payment method of any deferred duty and accrued interest instalments will be via direct debit and that a Direct Debit Authority is to be provided by me/us to the Commissioner within fourteen (14) days prior to the due date for the first instalment amount;
4. under section 52 (4) of the *Taxation Administration Act 1999*, if the minimum instalment of duty is not paid on or before the day that any payment is due, this constitutes a tax default and will result in the full deferred amount and interest becoming immediately due and payable;
5. where a tax default occurs, the premium rate of interest (8 per cent per annum) will also apply to any outstanding deferred duty amount, in addition to the market rate of interest. Penalty tax may also apply in certain circumstances (section 31 of the *Taxation Administration Act 1999*);
6. the Commissioner may seek to recover any overdue amount;
7. if applying under the HBCS and/or the FHOG the information provided on the application forms may be used by the ACT Revenue Office to determine our eligibility for a deferral of duty;
8. in the event that an application for deferral of duty is approved, and it is subsequently determined that I/we have not met the eligibility criteria for the HBCS and/or the FHOG, the Commissioner may issue a reassessment. A reassessment may result in interest and penalties being imposed together with the requirement for the applicant to immediately pay all outstanding amounts;
9. any outstanding amounts in respect of deferred duty and interest will be held as a charge against the subject property;

