

# FORM OSR – D2.1

Version 9 – 20 March 2013

Duties Act 2001 Section 95



## Guide to claiming a home or first home transfer duty concession

Keep this guide for future reference. It contains important information about the concession and your obligations after you receive the concession.

**By completing and submitting this form, you are declaring that you are eligible for the concession and will comply with your obligations. If you fail to comply, you will be required to repay all or part of the concession amount. Penalty tax and interest may also apply.**

**It is an offence to falsely claim a concession. The maximum penalty is an additional \$11,000.**

Terms in *italics* are explained in 'Meaning of terms' on page 3 of this guide.

### Eligibility

To be eligible for a concession, you must:

- be an *individual*
- occupy the *residence* as your *home* within 1 year of the *transfer date*
- not *dispose* of the land, either
  - before you occupy the *residence* as your *home*
  - or
  - within 1 year after you start to occupy the *residence* as your *home*.

**There is a strict requirement to not 'dispose' (see page 3 of this guide) of the property. If you are unsure how this applies to your situation, you should seek professional advice.**

### Additional requirements for the first home concession

To be eligible for a first home concession:

- you must be at least 18 years of age
- the *home* must be your *first home*.

### Your obligations

You must *notify* us within 28 days if you:

- do not occupy the *residence* as your *home* within 1 year of the *transfer date*
- *dispose* of the *land*, either
  - before you occupy the *residence* as your *home*
  - or
  - within 1 year after you start to occupy the *residence* as your *home*.

Failing to *notify* is an offence—the maximum penalty is \$11,000.

## How to complete this form

- Each person must complete a separate form.
- Print or type all responses in the boxed spaces, and tick appropriate boxes.
- If you are claiming the concession as trustee, complete the questions in Parts B, C and E of this form as if they refer to the beneficiaries and the beneficiaries are acquiring the land.

### Question 1— Name

The claimant must be an *individual*.

A trustee of a trust may be eligible for a concession where:

- the trust is not a discretionary or unit trust
- all the beneficiaries of the trust are under a legal disability
- all of the beneficiaries will occupy the *residence* as their *home*.

### Question 4— Age

In special circumstances, we may allow the concession for *individuals* younger than 18 years of age. To have your circumstances considered, submit your completed form together with full details explaining why you are acquiring the land.

### Question 7— Occupation date

This is the date you commenced or will commence occupying the *residence* as your *home*. See Public Ruling DA085.1 *Concessions for homes and first homes—occupancy requirements* for more information.

### Question 8— Land acquired

The lot number, plan type, plan number and title reference are shown on the agreement for sale or the title search for the land that you or your solicitor obtained from the Land Registry.

### Question 10— Interest acquired

This is the interest you are acquiring as a result of the transaction. If it is a part interest, express it as a fraction (such as  $\frac{1}{2}$  or  $\frac{1}{3}$ ). For example:

- You are buying the property by yourself. Your interest before the transaction is 0 and your interest after the transaction is 1.
- You are buying the property as joint tenant with your spouse. Your interest before the transaction is 0 and your interest after the transaction is  $\frac{1}{2}$ .
- You own the property jointly with your sister and are buying her share of the property. Your interest before the transaction is  $\frac{1}{2}$  and your interest after the transaction is 1.

### Question 11— Dutiable value

The dutiable value is the consideration paid or the *unencumbered value* of the property, whichever is higher. Enter the dutiable value of the entire property, not just the interest relating to the transaction.

Also state the value of any *non-residential land*. You can not claim the concession on any part of the land that will not be used for residential purposes. This includes any part of your *residence* that you will use for commercial purposes or other *residences* on the land that you will not live in as your *home*. See Public Ruling DA087.1 *Transfer duty concession for homes and first homes—residential purposes* for more information.

### Part E— Declaration

An administrator appointed under the *Guardianship and Administration Act 2000* may sign this declaration on behalf of claimants with impaired capacity.

## Meaning of Terms

### Dispose

You dispose of the property if you transfer, lease or otherwise grant *exclusive possession* of part or all of the land to another person. This may include selling the property or renting out one or more rooms. There are some *exceptions*.

Where a concession relates to leasehold land, disposal means surrendering the lease.

### Exceptions

You do not *dispose* of the property in the following situations:

- The transferor occupies the property after the *transfer date* but vacates it within 6 months of the *transfer date*.
- The existing tenants occupy the property after the *transfer date* but vacate it at the end of the current term of the lease or within 6 months of the *transfer date*, whichever happens first.

**Note:** For the above to apply, the lease arrangement needs to have been in place before the *transfer date*. Otherwise, it will be considered you have disposed of the property.

#### *Examples of disposal*

- You enter into a new lease with the existing tenants or another person.
- The existing tenants stay in the property after the end of the current term of the lease (e.g. a periodic or week-to-week lease).

You will need to make appropriate arrangements to ensure existing tenants vacate the property within 6 months of the *transfer date*. Information on leasing arrangements and obligations (such as giving tenants notice to leave) is available from the Residential Tenancies Authority who administers the *Residential Tenancies and Rooming Accommodation Act 2008*.

- An intervening event occurs, such as a natural disaster or the death or incapacity of the transferee, lessee or home borrower.
- You transfer part of the land to your spouse and the transfer is exempt from duty under s.151 of the *Duties Act 2001*.
- You are acquiring *residential land* that is an accommodation unit in a retirement village and you enter into a retirement village leasing arrangement for the unit.

### Exclusive possession

Exclusive possession generally means the right to exclude all others, including the owner, from all or part of the property.

Whether exclusive possession has been granted depends on:

- where there is a written agreement, the terms of the agreement
- where there is no written agreement, the particular facts and circumstances of the arrangement.

In either case, you may also grant exclusive possession by virtue of the law. For example, the *Residential Tenancies and Rooming Accommodation Act 2008* applies to certain renting arrangements. The effect can be that you are deemed to have granted exclusive possession. You should consider seeking professional advice before arranging to rent out all or any part of your *home*. Further information regarding leasing arrangements and obligations is available from the Residential Tenancies Authority.

### First home

A *home* is your first home if before acquiring the *home* you have never:

- held an interest in *residential land* anywhere in the world except as trustee for another person, lessee (where you rented the *residence*) or holder of a security interest
- received the first home vacant land concession.

### Home

A *residence* is your home if you occupy it as your principal place of *residence* within 1 year of the *transfer date*. See Public Ruling DA085.1 *Concessions for homes and first homes—occupancy requirements* for more information.

A home also includes *residential land* that is leased where a premium, fine or consideration is paid for the lease.

## Individual

An individual means a natural person.

## Notify

You notify the Office of State Revenue by submitting a completed Form OSR–D2.4 *Notice for reassessment—transfer duty and vacant land concessions* together with the original stamped documents. The form is available at [www.osr.qld.gov.au/forms](http://www.osr.qld.gov.au/forms).

## Qualified witness

A qualified witness is a Justice of the Peace, Commissioner for Declarations or solicitor.

## Residence

A residence is a building, or part of a building, that is all of the following:

- fixed to land
- designed, or approved by a local government, for human habitation by a single family unit
- used for residential purposes.

## Residential land

Residential land is land, or the part of land, on which a *residence* is constructed and includes the surrounding land used for residential purposes (curtilage). See Public Ruling DA087.1 *Transfer duty concession for homes and first homes—residential purposes* for more information.

## Transfer date

The transfer date is the date you are entitled to possession. This is usually the date of settlement or the date the land is vested in your name. See Public Ruling DA085.1 *Concessions for homes and first homes—occupancy requirements* for more information.

## Unencumbered value

The unencumbered value is the value of the land disregarding (i.e. not reduced by) the amount of any encumbrance; for example, monies owing under a mortgage.

The Office of State Revenue is collecting the information on this form for the purposes of administering State revenue. Collection of this information is authorised by the *Duties Act 2001*. Your personal information will not be disclosed without your consent except in the circumstances outlined in the *Taxation Administration Act 2001* or as otherwise authorised by law.

Office of State Revenue  
GPO Box 2593  
Brisbane Qld 4001

Client Contact Centre Ph: 1300 300 734

Visit our website at [www.osr.qld.gov.au](http://www.osr.qld.gov.au) to obtain public rulings, approved forms and information relating to this and other State taxation subjects.

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Queensland  
Government

## Claim for home or first home transfer duty concession

### About this form

Complete this form if you are acquiring a *residence* that you will occupy as your *home* or *first home*.

Before you begin, read the 'Guide to claiming a home or first home transfer duty concession' to ensure you are eligible for the concession and understand your obligations.

Terms in *italics* are explained in 'Meaning of terms' on page 3 of the guide.

**There is a strict requirement to not 'dispose' (see page 3 of the guide) of the property. If you are unsure how this applies to your situation, you should seek professional advice.**

### Part A – Your details

#### 1. Name

Given names

Surname

Date of birth

 

#### 2. Your contact details

Correspondence address

Unit/Flat/  
Building

House no./Street  
address/PO Box

Suburb

State

Postcode

Telephone number

Email address  
If available

### Part B – Claim type

#### 3. Claim type

Concession claim type

Home

If you are claiming a  
home concession, go  
to question 7.

First home

If you are claiming a first  
home concession, go to  
question 4.

## Part C – Eligibility

### 4. Age

Were you at least 18 years of age when you agreed to acquire the land (or if there was no agreement when the transfer for the land was signed)?

Yes

If Yes, go to question 5.

No

If No, the concession will only be available in appropriate cases. Additional information will be required.

### 5. Previous home ownership

Before acquiring this property, have you ever held an interest in residential land in Queensland or elsewhere?

Yes

If Yes, the first home concession is not available; however, the home concession may still apply. Go to question 7.

No

If No, go to question 6.

### 6. Previous concession claims

Have you ever received a transfer duty concession for first home vacant land?

Yes

If Yes, the first home concession is not available; however, the home concession may still apply. Go to question 7.

No

If No, go to question 7.

### 7. Occupation date

What is the date when you, as owner, will first occupy the residence as your home?

## Part D – Transaction details

### 8. Land acquired

What is the description and address of the land acquired?

Lot no.

Plan type

Plan number

Title reference

Address

### 9. Transfer date

What is the transfer date for the land?

### 10. Interest acquired

What interest did you hold in the property before the transaction?

What interest will you hold in the property after the transaction?

Your share in the ownership of the property that is being acquired expressed as a fraction (such as  $\frac{1}{2}$ ,  $\frac{1}{3}$ ,  $\frac{1}{4}$ ) or 1 if you are the sole owner of the property.

### 11. Dutiable value

What is the dutiable value of the entire property?

If this property includes non-residential property, what is the dutiable value of the non-residential property?

## Part E – Declaration

There is a strict requirement to not ‘dispose’ (see page 3 of the guide) of the property. If you are unsure how this applies to your situation, you should seek professional advice.

You must sign this declaration in the presence of a *qualified witness*.

I declare:

- (a) I have read the ‘Guide to claiming a home or first home transfer duty concession’ and will keep it for future reference.
- (b) I have occupied or will occupy the *residence* as my *home* within 1 year of the *transfer date*.
- (c) I will *notify* the Office of State Revenue within 28 days if I –
- i. do not occupy the *residence* as my *home* within 1 year of the *transfer date*  
or
  - ii. *dispose* of the land, either
    - before I occupy the *residence* as my *home*  
or
    - within 1 year after I start to occupy the *residence* as my *home*.
- (d) The information supplied in this form is true and correct.

I understand that if I do not comply with these obligations I will be required to repay all or part of the concession amount and pay any associated penalty tax and interest.

I understand that to make a false claim for the concession may result in an additional penalty and/or prosecution.

I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1867*.

Claimant’s signature	<input type="text"/>	Date	<input type="text"/>
Claimant’s name	<input type="text"/>		
Qualified witness signature	<input type="text"/>	Date	<input type="text"/>
Qualified witness name	<input type="text"/>		

For registered self assessors only:

Client number  Transaction number

The Office of State Revenue is collecting the information on this form for the purposes of administering State revenue. Collection of this information is authorised by the *Duties Act 2001*. Your personal information will not be disclosed without your consent except in the circumstances outlined in the *Taxation Administration Act 2001* or as otherwise authorised by law.

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