Australian Government
Australian Taxation Office

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First home super saver scheme

This Guidance Note is about the First home super saver scheme which helps you to save for your first home inside your superannuation fund.

We are committed to providing you with accurate, consistent and clear advice and guidance to help you understand your rights and entitlements, and your obligations. If you follow our advice or guidance and it turns out to be incorrect, or you make a mistake because it was misleading, we will take this into account.

[Our commitment to you]

This guidance note contains general information and examples. It may omit details that could be significant in your personal circumstances.

This information is for people who are considering saving inside their super fund to purchase their first home

The First home super saver (FHSS) scheme allows you to save for your first home inside your super fund. This may assist first home buyers to save faster with the concessional tax treatment of super and the FHSS tax offset.

You should carefully consider if this is the best option for your circumstances and whether you need financial advice before commencing saving in your super.

Since 1 July 2017, you have been able to make voluntary concessional and non-concessional contributions into your super fund to save for your first home located in Australia.

From 1 July 2018, you have been able to request a FHSS determination from us and apply to release your eligible contributions, along with associated earnings, to help you purchase your first home located in Australia.

You can have a maximum of $15,000 of eligible contributions from any one financial year counted towards what can be released under the FHSS scheme.

There is also a limit of $50,000 of eligible contributions across all years, for FHSS determinations requested from 1 July 2022.

Previously, there was a limit of $30,000 of eligible contributions across all years, where you requested a FHSS determination before 1 July 2022.

You must meet the eligibility requirements to access amounts under the scheme.

Eligibility

You are eligible to use the FHSS scheme if you:

- have never held
  - a freehold interest in real property in Australia, including investment or commercial property or vacant land
  - a long-term lease of land in Australia, such as Crown leases in the ACT
  - a company title interest in land in Australia

  unless we determine you have suffered a financial hardship resulting in the loss of all relevant property interests
- are 18 years or over, and
- have not previously requested a release of an amount from super under the FHSS scheme.

There is no requirement for you to be an Australian citizen, Australian resident or an Australian resident for taxation purposes.

However, if you are not an Australian resident for tax purposes you will pay any income tax on the assessable income from the FHSS scheme at the non-resident tax rate.

You should also check whether there are any other limitations to you purchasing residential property, new or established, in Australia.

Never held a freehold interest in real property

You must not have previously held a freehold interest in property in Australia (unless we determine that you have suffered a financial hardship).

Holding an interest includes:

- legal interests, such as the 'ownership' you receive when a property is transferred to you at settlement, and

- equitable interests, such as the rights you hold in relation to a property between the time you sign a contract and when the contract settles.

This can mean that you are not eligible to request a FHSS determination from us if you have already signed a contract to acquire property.

It does not matter whether you acquired an interest in property by buying it, inheriting it or having it transferred to you in some other way. However, if you are the beneficiary of a deceased estate you do not 'own' property until the executor actually transfers the property to you. As such, if you are the beneficiary of a deceased estate but property has not yet been transferred to you, you can still be eligible to request a FHSS determination to purchase a different property.

If a deceased estate contains property that is sold, and you receive capital proceeds as a beneficiary, you will not have held an interest in relation to that real property.

Being a trustee or beneficiary of a trust

If you are the trustee of a trust, including a unit trust or a self-managed super fund (SMSF), you are taken to have a legal entity as the trustee that is separate from your individual capacity.

If you are a trustee of a trust, including a unit trust or a SMSF that holds real property, this will not prevent you from being eligible for the FHSS scheme. This includes if you are the director of a corporate trustee.

If you are the beneficiary of a trust, your eligibility will depend on the particular rights you have as a beneficiary.

Being a member of a super fund that holds real property will not prevent you from being eligible for the FHSS scheme.

Financial hardship

You may still be eligible for the FHSS scheme even if you have previously held an interest in real property in Australia, if we determine that you have suffered a financial hardship that resulted in a loss of ownership of all relevant real property located in Australia.

You can apply to us for a FHSS determination under the financial hardship provisions.

Some examples of the types of events that we consider in determining financial hardship that has resulted in a loss of property interests include:

- losing employment
- being affected by a natural disaster
- experiencing bankruptcy
- experiencing illness, and
- experiencing divorce, separation from a de facto partner, or other relationship breakdown.

We must be satisfied that the event led to you losing all real property interests you held at the time the hardship occurred. Your application for the financial hardship determination must be supported by evidence that demonstrates this link.

You also must not have acquired a new property since you lost the earlier property interest. This includes signing a contract for property between losing your earlier interest in property and receiving a FHSS determination.

If we decide not to make a determination that you suffered a financial hardship and you are dissatisfied with the decision you can lodge an objection with us.

Eligible contributions

The following kinds of contributions are eligible for release under the FHSS scheme:

- Voluntary concessional contributions including salary sacrifice amounts or contributions for which a tax deduction has been claimed (see Claiming deductions for personal super contributions). These are taxed at 15% in the fund.
- Voluntary non-concessional contributions including personal after-tax contributions where a tax deduction has not been claimed.

If you transfer an amount into an Australian super fund from a KiwiSaver scheme, the amount will be an eligible contribution, except for certain amounts listed below (see also Trans-Tasman retirement savings portability scheme for individuals). Also, transfers from other foreign funds into an Australian super fund are eligible (except for the amounts listed below).

The following contributions are not eligible:

- super guarantee (SG) contributions made by your employer
- mandated employer or member contributions made for you under an award, industrial agreement
- member contributions made for you by your spouse, parent or other friends or family
- amounts you receive under a contributions-splitting arrangement
- government co-contributions
- contributions under a structured settlement or personal injury order

- amounts contributed to super as part of the small business CGT concessions
- amounts transferred from a KiwiSaver scheme that are Australian-sourced amounts or returning New Zealand-sourced amounts
- applicable fund earnings from a foreign fund transfer that you elect to include in the receiving fund's assessable income (see Tax Treatment of transfers from foreign super funds)
- amounts that are COVID-19 early release of super re-contributions.

Contributions to a defined benefit interest or constitutionally protected fund, or contributions that are required to be made under a law of a State or Territory, or the rules of a fund are also excluded from being eligible.

Excess concessional or non-concessional contributions are not eligible even if they otherwise would have been.

Your eligible contributions are not put aside separately in your fund or in a new account. They are not a new type of contribution and they are reported to us under existing reporting requirements. You do not need to notify your fund at the time you are making contributions that you plan to release them under the FHSS scheme.

However, before contributing amounts you want to release under the FHSS scheme you should check with your fund:

- that they will release contributions you make
- if there are any fees or charges that may apply, and
- if there is any loss of insurance coverage that may be attached to your account after amounts are released.

Voluntary contributions made under an award

Some funds may not be able to distinguish and report which contributions under an award are mandated and which are voluntary contributions. This means that contributions reported to us could be incorrectly omitted from or included in your eligible contributions.

If you have previously made or currently make additional voluntary contributions under an award, you will need to make sure that all of your eligible voluntary contributions have been correctly included in your FHSS determination. If your fund cannot determine which contributions are mandatory and voluntary, you should be able to confirm these amounts from either your payslips or employer payroll area.

If there are any missing or incorrect eligible contributions, you can edit your contribution details in your FHSS determination request.

Applying for a FHSS determination

The first step in the process of releasing eligible funds is to request a FHSS determination which sets out the maximum amount that you can have released under the FHSS scheme, known as the **FHSS maximum release amount**.

There is a limit of $15,000 of eligible contributions per financial year that are counted towards this amount. There is also a total limit of:

- $50,000 of eligible contributions across all years, for determinations requested from 1 July 2022 or
- $30,000 of eligible contributions across all years, where you request a FHSS determination before 1 July 2022.

Taking into account these limits, the FHSS maximum release amount is calculated as the sum of:

- 100% of the eligible non-concessional contributions, such as after-tax contributions
- 85% of eligible contributions where you have claimed a superannuation tax deduction
- 85% of other eligible concessional contributions, such as salary sacrifice super contributions, and
- associated earnings for these contributions.

The associated earnings are a notional amount of earnings calculated at the shortfall interest charge rate (this is not the actual earnings in your super fund), for the following periods:

- for contributions made in 2017–18, from 1 July 2017 to the date of the FHSS determination, and
- for contributions made in later financial years, from the first day of the month the contribution is made to the date of the FHSS determination.

You can request more than one FHSS determination, however, once you have requested a release under the scheme you will not be able to seek further FHSS determinations. If you already have a FHSS determination and signed a contract for residential premises before making a valid release request, you have 14 days to request a release of your FHSS amounts. You are not eligible for a new determination in this case, because you hold a freehold interest in real property in Australia.

The ordering rules for contributions

When you apply for a FHSS determination, we will apply ordering rules to determine which eligible contributions are counted when calculating your FHSS maximum release amount.

Your eligible contributions will be counted in the order in which they were made. If eligible non-concessional and eligible concessional contributions are received at the same time the non-concessional contributions will be counted first.

If you claim a deduction for some or all of your personal contributions in a financial year, the personal contributions for which a deduction is claimed will be concessional contributions and any remainder will be non-concessional. In this case, the resulting eligible non-concessional contributions, if any, are taken to be made before any eligible concessional contributions.

These ordering rules are designed to:

- broadly maximise the amount available to you for release, and
- remove the need for you to make specific elections about which contributions should be eligible, or about how particular contributions must be characterised.

Releasing amounts under the FHSS scheme

This is the second step in the process. Once you have received a FHSS determination, you can apply to us to have an amount released from your super fund (or funds) up to the FHSS maximum release amount.

You can only request a release once, so it is important to check that the details in the determination are correct and that you do not want to make further contributions to count towards your FHSS maximum release amount.

You can enter into a contract to purchase or construct a residential premises up to 14 days before the day you make a valid release request.

Alternatively, you must enter into a contract to purchase or construct a residential premises within 12 months (or a further period allowed by us, up to a maximum of 12 extra months) after the day you make a valid release request.

There is no requirement that the contributions and earnings that are identified in a FHSS determination be released from the same super interest (or super fund) that the contributions were made to.

You must confirm as part of your release application that you will not claim further tax deductions on the non-concessional contributions included in the determination.

You should also carefully consider whether releasing amounts under the FHSS scheme is appropriate for your circumstances. The released amount may have tax withheld from it, and it could be offset against Commonwealth debts including debts owed to the ATO and Services Australia, including Centrelink and for child support. The balance will be deposited into your nominated account.

Released amounts will **not** be offset to reduce the balance of a study assistance loan, such as HECS-HELP or FEE-HELP, as repayments for these loans are only compulsory when you lodge a tax return and are assessed to make repayments.

We will withhold an amount from your assessable FHSS released amount, based on an estimate of your tax liability using ATO-held information including your previous income tax returns.

The withholding rate will be calculated as:

- your estimated marginal tax rate, plus Medicare levy, less the 30% FHSS tax offset, or
- 17% if we are unable to estimate your marginal tax rate.

Once you request a release, we will issue a release authority to your super fund (or funds), and they will send any releasable amounts to us.

If your fund receives a release authority, and your interest in that fund is less than the amount on the FHSS release authority, they only need to pay the maximum available amount from your interest in the fund (that is, the balance of your account). If you ask us to, we will send a further release authority to any other fund you hold a superannuation interest in to request the balance of the FHSS release amount.

Taxation of released amounts

When you have amounts released under the FHSS scheme, an amount may be included in your assessable income in the financial year you request release. **This may not be the same year you receive the money**. This **assessable FHSS released amount**, included in your FHSS determination, is the sum of:

- the concessional contributions, and
- the associated earnings.

You are entitled to a tax offset of 30% of this assessable amount.

If you release less than your FHSS maximum release amount, your assessable FHSS released amount is reduced by the difference between the FHSS maximum release amount and the amount actually released.

You will receive a FHSS payment summary from us at the end of the financial year that shows your assessable FHSS released amount and the amount of tax withheld. You must ensure these amounts are included in your tax return in the year you requested the FHSS amount (not the year you receive this amount).

Your assessable FHSS released amount is not counted for certain income tests, including for determining, amongst others:

- eligibility for Government payments such as family assistance
- eligibility for certain tax offsets
- liability for the Medicare levy surcharge
- thresholds for repayment of HELP debts, and
- child support payments.

Requirement to purchase a house

You have 12 months (or a further period allowed by the ATO, up to a maximum of 12 extra months) after the day you make a valid request for release under the FHSS scheme to sign a contract to purchase or construct a home. You can sign the contract up to 14 days prior to the day you make a valid request for release. However, the contract to purchase or construct a home to which the valid request for release relates has to be entered into on or after 1 July 2018 and after a FHSS determination has been made for you.

This home has to be residential premises located in Australia, and cannot be:

- any premises not capable of being occupied as a residence
- a houseboat
- a motor home
- vacant land (but see *Purchasing vacant land* below).

You must genuinely intend to occupy the home as soon as practicable, and intend to occupy it for at least 6 of the first 12 months that it is practicable for you to occupy it.

The price of the purchase or construction must be at least equal to the total amount to be released that is stated in the valid request.

You must notify us, in the approved form, that you have signed a contract, within 28 days (or further period allowed by us) of entering into the contract to purchase or construct the residential premises.

Purchasing vacant land

If you have, or intend to purchase, a vacant block of land in Australia to build a home on, you cannot have purchased the vacant land before the commencement of the FHSS scheme, or before requesting a FHSS determination. If you did, you would not be eligible as you would already hold an interest in real property in Australia.

If you do purchase vacant land after requesting a FHSS determination you will need to enter into the contract to construct the premises within the period from 14 days before you make a valid request for release until 12 months (or a further period allowed by us up to a maximum of 12 extra months) after the day you make a valid request for release. The purchase of vacant land alone within this period is not enough to satisfy the requirements under the FHSS scheme.

If you do not enter a contract to purchase or construct a property

If you do not sign a contract to purchase or construct a home within 12 months from the date you requested a release, we may grant you an extension of time to do so for a further 12 months. There is no need to apply for this extension; we will generally grant it unless we have reason to believe that doing so would be inappropriate. We will notify you if an extension is granted.

If you do not sign a contract to purchase or construct a home in the time allowed, you can either:

- Re-contribute the required amount into your super fund and notify us in the approved form of the re-contributed amounts. This re-contribution must be made within 12 months (24 months if an extension of time is granted) from the date of your release request, must be a non-concessional contribution and will count towards your non-concessional contributions cap. It must be at least equal to your assessable FHSS released amount, less any tax withheld. These amounts are stated in your payment summary that we will send to you.
- Keep the released amount and after 12 months (or 24 months if an extension is granted) be subject to FHSS tax. This is a flat tax equal to 20% of your assessable FHSS released amounts (which may not be the total amount released).

EXAMPLES

Example 1 – eligibility to request a FHSS determination

Andrew:

- *currently owns a residential property in Melbourne*
- *decides to sell his property and buy another home with his partner Laura.*

Laura:

- *has never held an interest in real property in Australia*
- *decides to buy a home with Andrew.*

Andrew is not eligible for the FHSS scheme as he has already held a freehold interest in real property in Australia. He cannot make a valid request for a FHSS determination.

However, eligibility for the FHSS scheme is determined on an individual basis, so Andrew having owned property will not stop Laura from being eligible to request a FHSS determination.

Laura will be eligible to request a FHSS determination, provided she is over 18 and has not previously requested the release of an amount under the FHSS scheme. Laura must also have eligible contributions to release.

Example 2 – financial hardship – Stu

Stu:

- *receives an early release of super on compassionate grounds as the bank is going to foreclose on his home*
- *had the foreclosure deferred as a result of the early release of super benefits; later, the bank forecloses on the home anyway*
- *has not acquired another real property interest since that event*
- *is over 18 and has not requested release under the FHSS scheme previously.*

We make a determination that Stu is eligible under the financial hardship provisions.

Stu is able to demonstrate that he experienced financial hardship that led to the loss of his home and he has not acquired another real property interest since that event.

Example 3 – financial hardship – Gai

Gai:

- *over a number of years has purchased and sold multiple properties located in Australia*
- *becomes bankrupt and loses all her real property interests*
- *has not acquired another real property interest located in Australia since that event*
- *is over 18 and has not requested release under the FHSS scheme previously.*

We make a determination that Gai is eligible for the hardship provisions. The bankruptcy event led to the loss of all her real property interests located in Australia. She is considered to be 'starting again'.

There is no requirement for the financial hardship to be linked to the loss of a first home, as long as it has resulted in the loss of all of her current real property interests located in Australia.

Example 4 – financial hardship – Leanne

Leanne:

- *owns both a residential property and a commercial property located in Australia*
- *suffers financial hardship that results in her losing the residential property, however she continues to hold the commercial premises*
- *is over 18 and has not requested a release under the FHSS scheme previously.*

We make a determination that Leanne is not eligible for a FHSS determination under the financial hardship provision, as her financial hardship has not resulted in the loss of all of her real property interests located in Australia.

Example 5 – eligible contributions – John

John:

- *is required to contribute a minimum of 2% of after-tax salary under his award to his accumulation interest*
- *elects to contribute a total of 5% of his after-tax salary*
- *his employer is required under the award to match his after-tax contributions by making additional contributions above the super guarantee rate.*

The amount equal to 2% of after-tax salary that John is required to contribute does not form part of eligible contributions, as his award requires it. However, the extra contributions beyond that required minimum amount, equal to 3% of after-tax salary, are considered 'voluntary' member contributions and form part of eligible contributions for the FHSS scheme.

If John's fund cannot distinguish between these contributions, John will need to check with his employer to obtain and validate details of the voluntary components of his contributions. When he applies for a FHSS determination, he should ensure that the contributions equivalent to the 3% after-tax salary are included. If requested, he will need to provide this additional information to verify his eligible contributions.

The extra contributions made above the super guarantee rate by John's employer are not eligible contributions, as they are also required by the award.

Example 6 – ordering rules for eligible contributions – Megan

Megan:

- *made voluntary personal contributions of $3,000 per month to her SMSF during 2021–22*
- *had no other contributions made for her in 2021–22*
- *claimed a $25,000 deduction for some of her contributions*
- *is within her contributions caps for the financial year.*

Megan has $25,000 eligible concessional contributions and $11,000 eligible non-concessional contributions in 2021–22.

The ordering rules ensure that the earlier contributions that she made are taken to be the non-concessional contributions.

Table 1 of this Guidance Note illustrates which of Megan's eligible contributions will be counted when determining her FHSS maximum release amount.

Table 1: Megan's eligible contributions

Month	***07/2021***	***08/2021***	***09/2021***	***10/2021***	***11/2021***
Non-concessional contributions	*$3,000*	*$3,000*	*$3,000*	*$2,000*	*$0*
Concessional contributions	*$0*	*$0*	*$0*	*$1,000*	*$3,000*

Megan will have $11,000 of eligible non-concessional contributions and $4,000 of eligible concessional contributions counted when determining her FHSS maximum release amount. Her remaining eligible contributions for the year are not counted as they are over the $15,000 annual limit.

If she requested a FHSS determination now her FHSS maximum release amount will be $14,400 and an amount of associated earnings. The $14,400 comprises $11,000 eligible non-concessional contributions and $3,400 eligible concessional contributions (85% of $4,000).

Example 7 – ordering rules for eligible contributions – Henry

Henry:

- *salary sacrifices $1,000 in contributions on the 15th of each month from January 2020*
- *makes personal contributions on 30 June 2020 and 30 June 2021 of $5,000 – each to the same fund*
- *applies for a FHSS determination on 15 July 2022.*

Henry's total eligible contributions for 2019–20, 2020–21, 2021–22 are illustrated in Table 2 of this Guidance Note.

Table 2: Henry's eligible contributions

Financial year	*2019–20*	*2020–21*	*2021–22*
Non-concessional contributions	*$5,000*	*$5,000*	*$0*
Concessional contributions	*$6,000*	*$12,000*	*$12,000*

Henry's eligible contributions are counted in the order they are received. Table 3 of this Guidance Note illustrates which of Henry's eligible contributions will be counted when determining his FHSS maximum release amount.

Table 3: Henry's eligible contributions when determining his FHSS maximum release amount

Financial year	*2019–20*	*2020–21*	*2021–22*
Non-concessional contributions	*$5,000*	*$3,000*	*$0*
Concessional contributions	*$6,000*	*$12,000*	*$12,000*

The remaining $2,000 of Henry's eligible non-concessional contribution in 2020–21 is not counted because the $15,000 annual limit has been reached. The $12,000 contribution in the 2021–22 year counts towards his determination requested after 1 July 2022.

Example 8 – FHSS maximum release amount – Henry

Henry (continued):

- *receives a FHSS determination on 15 July 2022*
- *$8,000 eligible non-concessional contributions count towards the FHSS maximum release amount, and*
- *$30,000 eligible concessional contributions count towards the FHSS maximum release amount.*

Taking into account the yearly and total limits of eligible contributions, Henry's FHSS maximum release amount is calculated as the sum of:

- *$8,000 (his eligible non-concessional contributions)*
- *$25,500 (85% of his eligible concessional contributions), and*
- *$1,800 (his associated earnings).*

Henry's FHSS maximum release amount is $35,300. He can request release of this amount or a lesser amount under the FHSS scheme.

Example 9 – FHSS maximum release amount – Jill

Jill:

- *receives a FHSS determination on 15 December 2022*
- *makes monthly salary sacrifice contributions of $1,500 from July 2018*
- *eligible concessional contributions of $15,000 from 2018–19, 2019–20 and 2020-21 count towards the FHSS maximum release amount, and*

- *eligible concessional contributions of $5,000 (July to October) from 2021–22 count towards the FHSS maximum release amount.*

As Jill has requested a FHSS determination on or after 1 July 2022, her total limit on eligible contributions across all years is $50,000.

Total eligible contributions were included from each financial year, as follows:

- *$15,000 ($1,500 each month July 2018–Apr 2019) 2018–19*
- *$15,000 ($1,500 each month July 2019–Apr 2020) 2019–20*
- *$15,000 ($1,500 each month July 2020–Apr 2021) 2020–21, and*
- *$5,000 ($1,500 each month July–Sept 2021 and $500 from October 2021) 2021–22.*

Jill's maximum release amount is calculated as the sum of:

- *$42,500 concessional contributions (85% of eligible concessional contributions), and*
- *$5,190 (approx. associated earnings).*

Jill's FHSS maximum release amount is $47,690.

Example 10 – FHSS maximum release amount – Carolyn

Carolyn:

- *receives a FHSS determination on 3 December 2018*
- *eligible concessional contributions of $15,000 in 2017–18 count towards the FHSS maximum release amount, and*
- *eligible concessional contributions of $15,000 in 2018–19 (monthly $3,000 salary sacrifice contributions from July 2018 to November 2018) count towards the FHSS maximum release amount.*

Carolyn's FHSS maximum release amount is calculated as the sum of 85% of her eligible concessional contributions ($25,500), and her associated earnings.

For the amount of each of the contributions that are included in the FHSS maximum release amount that were made in 2017–18, Carolyn's associated earnings are calculated based on the period from 1 July 2017 to the date of the determination, using the shortfall interest charge rate for each day in the period.

Table 4: Carolyn's associated earnings

Period from	*Contribution amount*	*Associated earnings (approx)*
1 July 2017	*$12,750*	*$903*

For the amount of each of the contributions that is included in the FHSS maximum release amount that were made in 2018–19, the associated earnings are calculated separately for contributions made in each month, for the period from the first of the month to the date of the determination, using the shortfall interest charge rate for each day in the period.

Table 5: Carolyn's associated earnings per month

Period from	*Contribution amount*	*Associated earnings (approx)*
1 July 2018	*$2,550*	*$54*
1 August 2018	*$2,550*	*$43*
1 September 2018	*$2,550*	*$32*
1 October 2018	*$2,550*	*$22*
1 November 2018	*$2,550*	*$11*

Carolyn's FHSS maximum release amount is $26,565, including associated earnings of $1,065. The ATO calculates these associated earnings.

Example 11 – taxation of amounts released under the FHSS scheme – Sue

Sue:

- *receives a FHSS determination in 2022–23*
- *$10,000 eligible concessional contributions count towards the FHSS maximum release amount*
- *$5,000 eligible non-concessional contributions count towards the FHSS maximum release amount*
- *has no outstanding Commonwealth debts.*

Sue's FHSS maximum release amount is $14,350, comprising:

- *$5,000 (the eligible non-concessional contributions)*
- *$8,500 (85% of the eligible concessional contributions)*
- *$850 (associated earnings).*

Sue requests a release of the maximum amount in June 2023. A release authority is issued to her fund and they release the full amount to the ATO. We withhold tax and release the remainder to Sue on 3 July 2023. Sue is issued with a payment summary for 2022–23 as that was the financial year she requested the release.

Sue needs to include $9,350 in her assessable income for 2022–23, being the part of the released amount that represents the assessable FHSS released amount (85% of the eligible concessional contributions and the associated earnings). She will receive a credit for the tax withheld, which she will need to include in her 2022–23 tax return.

Sue will also receive a non-refundable tax offset of $2,805, being 30% of the assessable FHSS released amount.

Example 12 – taxation of amounts released under the FHSS scheme – Alex

Alex:

- *receives a FHSS determination in 2021–22 and requested a FHSS release*
- *$8,000 eligible concessional contributions count towards the FHSS maximum release amount*
- *$20,000 eligible non-concessional contributions count towards the FHSS maximum release amount*
- *had a marginal tax rate of 37% in 2020–21*
- *has no outstanding Commonwealth debts.*

Alex's FHSS maximum release amount is $28,500, comprising:

- *$20,000 (the eligible non-concessional contributions)*
- *$6,800 (85% of the eligible concessional contributions)*
- *$1,700 (associated earnings).*

When he made a FHSS release request we used Alex's previous tax return to estimate his marginal tax rate for 2021–22. His taxable income from the last year plus his assessable FHSS released amount provides an estimated income, which suggests that he will remain in the same marginal tax bracket of 37% for 2021–22.

Alex's estimated withholding rate is determined to be 9%, being the:

- *estimated marginal tax rate of 37%, plus*
- *2.0% Medicare levy, less*
- *30% tax offset.*

Following Alex's release request, a release authority is issued to his fund and his fund releases the full amount to the ATO.

We withhold $765 (9% of $8,500) from the released amount, and release the remaining $27,735 to Alex.

Alex will receive a FHSS payment summary from the ATO at the end of the 2021–22 financial year and will need to include $8,500 in his assessable income, and the $765 withholding credit in his 2021–22 income tax return. He will also receive a non-refundable tax offset of $2,550, being 30% of the assessable FHSS released amount.

Example 13 – requirements after release and FHSS tax – George

George:

- *requests the release of $26,100 under the FHSS scheme*
- *$20,100 of this released amount is the assessable FHSS released amount*
- *has $1,809 withheld by the ATO and receives $24,291*
- *decides not to purchase a home.*

Since George has not and will not be entering into a contract to purchase or construct a home, he needs to recontribute the required amount to his super fund or, if he keeps the money, he needs to pay FHSS tax.

If George chooses to re-contribute, he will need to contribute non-concessional contributions to his super fund equal to $18,291, being the assessable FHSS released amount less the tax withheld ($20,100 less $1,809). He would need to contribute this amount during the period from 14 days before the day he made the valid request for release until 12 months after the day the valid request for release was made (or a further period allowed by the ATO) and notify the Commissioner within the same timeframe.

If George does not re-contribute, he will receive an assessment for FHSS tax of $4,020 ($20,100 × 20%).

Example 14 – requirements after release and FHSS tax – Marcus

- has *made monthly personal contributions of $1,500 on the 20th of each month since January 2019*
- *requests a FHSS determination on 25 September 2022*
- *enters into a contract to 17 October 2022.*

Marcus requests and receives a FHSS determination on 25 September 2022. On 17 October 2022, Marcus enters into a contract to purchase a block of land located in Australia, to construct his first house.

If Marcus makes a further request for a FHSS determination after 17 October 2022, he is not eligible for the scheme because he holds an interest in property when he signs a property contract.

Marcus must make a valid request for release of an amount under the FHSS scheme within 14 days of entering the contract, that is, by 31 October 2022.

A release request made after 31 October 2022 will result in the FHSS tax being applied.

Example 15 – requirements after release and FHSS tax – Anne

Anne:

- *requests a FHSS determination on 16 April 2022*
- *enters into a contract to purchase her first residential property on 20 April 2022*
- *requests a release under the FHSS scheme on the 28 April 2022.*

Anne requests and receives a FHSS determination on 16 April 2022. On 20 April 2022, Anne enters into a contract to purchase a house located in Australia. Anne makes a valid request to release an amount under the FHSS scheme within 14 days of entering the contract to purchase her new home.

Anne notifies the Commissioner in the approved form within 28 days of entering the contract to purchase her new home that:

- *she entered into a contract for a residential premises located in Australia within the allowed time period*
- *the price for the purchase was at least equal to the total FHSS amount released*
- *she intends to occupy the premises as soon as practicable*
- *she intends to occupy for at least 6 months of the first 12 months after it is practicable to occupy.*

Therefore, Anne has met the requirements of the scheme and will not be required to pay the FHSS tax.

More information:

For more information, see:

- Law Companion Ruling LCR 2018/5 *First home super saver scheme*
- *First home super saver scheme*
- *Claiming deductions for personal super contributions*

References:

- TAA 1953
- TAA 1953 Sch 1 Subdiv 131-A
- TAA 1953 Sch 1 Div 138
- ITAA 1997 Div 313
- *First Home Super Saver Tax Act 2017*
- *Treasury Laws Amendment (Enhancing Superannuation Outcomes For Australians and Helping Australian Businesses Invest) Act 2022*

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Amendment history

Date of amendment	Part	Comment
12 April 2023	Throughout	Updated to reflect FHSS scheme legislative changes
12 April 2023	Never held a freehold interest in real property	Further detail about our view that holding a freehold interest includes both legal proprietary interests and equitable proprietary interests
25 July 2019	Throughout	Updated to reflect FHSS scheme legislative changes