

# First home saver accounts – what qualifies as a home?

To open a first home saver account, you need to be buying or building a home in Australia to live in – either on your own or jointly. You must not have previously owned (either on your own or jointly) a home in Australia that you have lived in.

Australia includes Christmas Island, the Cocos (Keeling) Islands and Norfolk Island.

## WHAT IS A HOME?

A home is a dwelling that is your main residence. A 'dwelling' is a unit of accommodation that is fixed to the land such as a house, flat, unit, townhouse or other building suitable for occupation as a residence.

Boats, caravans, mobile homes, demountable homes and transportable homes are not dwellings unless they are suitable for occupation as a residence, are fixed to the land and you own the land.

## EXAMPLE

An apartment is a dwelling. However, a permanent on-site caravan you own which is located at a caravan park owned by someone else, such as a local council, is not a dwelling.

Whether or not a dwelling is your 'main residence' depends on your circumstances. The following factors are relevant in determining if a dwelling is your main residence:

- whether you and/or your family is living in the dwelling
- the length of time you stay there
- whether you keep personal belongings at the dwelling
- whether mail is delivered to the dwelling
- whether the dwelling address is on the electoral roll against your name

- the connection of services such as telephone, gas and electricity, and
- your intention in occupying the dwelling.

The relevance and weight to be given to each of these or other factors depends on your individual circumstances. A mere intention to occupy a dwelling as your main residence, without actually doing so, is insufficient to make it your main residence.

## CASE STUDY

Rod lives in a rented house and also rents an apartment where he stays for short holidays. The house is where Rod spends most of his time. It is also his mailing address and his address on the electoral roll. The house is Rod's main residence but the apartment is not.

Therefore, if Rod wishes to purchase the apartment but still live mainly in his rental home, he cannot use his first home saver account funds to make a payment to purchase the apartment.

## WHAT IS MEANT BY 'OWN'?

You are the owner if you are recorded as such on the title to the dwelling. This is the case if you have:

- freehold ownership
- title to the property under a long-term Crown lease – for example, as generally applies in the Australian Capital Territory.

You are also considered to be the owner if:

- you have a lease granted by a government that gives you reasonable security of tenure over the dwelling – such as a perpetual lease
- you have a licence granted by the Commonwealth, a state or territory that gives you reasonable security of tenure over the dwelling



- the dwelling is a flat or home unit, and you own a share in a company that owns the land and that share gives you the right to occupy the flat or home unit (such as a strata title lot located on land owned by a body corporate), or
- the dwelling is in an aged care facility or retirement village and you hold the right to occupy the dwelling.

### CASE STUDY

Tom pays a lump sum to acquire a right to occupy a unit in a retirement home for the rest of his life. Although Tom does not have title to the unit because the property is owned by the retirement home, he may use the funds in his first home saver account to pay the lump sum.

You are considered to be the owner even if a financial institution or someone else holds a mortgage over the property.

### WHAT CAN I USE THE FUNDS IN THE ACCOUNT FOR AND HOW LONG DO I HAVE TO SPEND THEM?

Firstly the funds have to be used in the course of buying or constructing your first home. This can include:

- paying a deposit for the purchase of an existing home
- paying a deposit or instalments for a home and land package
- paying for the purchase of vacant land on which your home will be built
- paying a deposit or instalments for the construction of a home on land you own
- meeting incidental costs you incur in acquiring the home – such as legal expenses, council fees, stamp duty, building and pest inspections, finance approval and loan establishment costs.

This could include the purchase of a farm if a dwelling that is on the farm, or is to be constructed on the farm, becomes your main residence.

Secondly, you have six months to spend the funds after you close the account.

If you meet both of these conditions, you satisfy the 'payment rule'.

**!** There are some special rules that allow you to reopen your account or open a new account within six months of closing the old one if the purchase does not eventuate.

### CASE STUDY

Daniel is a builder, and he's been saving money in a first home saver account so he can buy a block of land to build his first home on. He withdraws the funds from his account on 10 October 2013 and enters into a contract in 14 October 2013 to buy a block. He spends all the funds before 10 April 2014 on the deposit, legal fees, council fees and building materials.

Daniel has satisfied the payment rule, because the money was used to acquire his first home and he spent all the funds in the first home saver account within six months of closing it.

### CASE STUDY

Anna, Daniel's next door neighbour, already owns a vacant block of land on which she wishes to have Daniel build her first home. Anna enters into a contract with Daniel on 15 June 2014 for the construction. Anna withdraws the funds from her first home saver account on 20 July 2014 to pay Daniel the first instalment due under the contract. Anna satisfies the payment rule because she is using her funds to acquire a dwelling that will become her main residence.

You cannot withdraw the funds from your first home saver account if you are not paying money to acquire the dwelling – for example:

- if the dwelling or a share in the dwelling is being given to you as a gift – for example, if your name is being placed on the title of your partner's home and no payment is required
- if you inherit the home
- if you win the home – for example, in a lottery, or
- to renovate or improve a dwelling you already own or renovate a dwelling you inherit.

### CASE STUDY

Rahul is currently renting an apartment in which he lives and he also owns an investment property. He would like to move into his investment property but wants to renovate it first. He will be unable to withdraw the money from his first home saver account to pay for the renovations, because he already owns the property and would therefore not be using the money to acquire it.

The funds from a first home saver account may be withdrawn to purchase or construct your home even if, under the same contract or arrangement, other dwellings are being purchased or constructed that will not be your main residence.

### CASE STUDY

Leanne engages a developer and enters into a contract for them to build three townhouses on a block of land she owns. Leanne will use the money in her first home saver account to help fund the cost of one of the units, which she will occupy as her main residence.

She will spend all the funds in her account within six months of closing it. As she satisfies the other eligibility conditions, Leanne can withdraw the money to pay the developer.

You can use your first home saver account to buy or build a home jointly – for example, as a couple - but joint first home saver accounts are not available. Each person who qualifies to hold an account can open their own. You can also buy a home jointly using the funds from your first home saver account, even if the other joint owner(s) don't have a first home saver account.

### THE OCCUPANCY RULE

The dwelling you acquire must be your main residence for a continuous period of at least six months. The six month period must start:

- within 12 months of you becoming the owner of the home (which happens on settlement of the contract), or
- if the home is being built, within 12 months of the construction being completed. This is generally when the certificate of occupancy is issued.

### CASE STUDY

Toni is having a home built by a builder. She makes the first payment using all her first home saver account funds. However, the home takes 18 months to construct. After her final inspection and receipt of an occupancy certificate Toni moves into her home. Toni must live in the home for a continuous period of six months from that date.

If, because of circumstances beyond your control that were not reasonably foreseeable, you are unable to live in the dwelling for six months within this 12 month period, the time for you to satisfy the six months continuous occupancy may be extended.

### WHAT IF MY HOME PURCHASE FALLS THROUGH?

You may open a new first home saver account and re-contribute the funds you withdrew, providing you do so within six months of closing your old account.

You can also open a new first home saver account and contribute less than the full amount you withdrew, providing you do so within six months of closing your old account and:

- the sale fell through for reasons that were beyond your control and were not reasonably foreseeable, and
- you spent some of the funds you withdrew in the course of acquiring the dwelling before the sale fell through (for example, on legal fees, council fees, building inspection costs or seeking finance approval).

You will not be penalised for having failed to buy or build a home in these circumstances.

### CASE STUDY

With the help of his solicitor, Andrew negotiates a price for the purchase of his first home – a unit – and signs a contract to buy it. Andrew withdraws \$50,000 from his first home saver account to purchase it. After signing the contract and paying the deposit Andrew's employment is unexpectedly terminated. He has to pull out of the purchase.

Andrew incurred some legal expenses and forfeited the deposit to the seller. He can re-contribute the money (minus the expenses he incurred) to a new first home saver account.

## MORE INFORMATION

For more information about the first home saver account:

■ refer to:

- *The first home saver account – what you need to know* (NAT 72406)
- *First home saver accounts – who is eligible?* (NAT 72449)
- *First home saver accounts – how can you benefit?* (NAT 72451)
- *First home saver accounts – how do they work?* (NAT 72452)
- *First home saver accounts – how does the account balance cap work?* (NAT 72450)
- *First home saver accounts – common questions* (NAT 72404)

■ seek professional advice from a financial planner.

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This publication was current in **August 2008**.