First home super saver scheme

This Guidance Note is about the first home super saver scheme which allows 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.

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.

Before using the FHSS scheme, you should carefully consider if it is the best option for your circumstances and whether you need financial advice.

The FHSS scheme generally works like this:

- You make voluntary contributions into your super fund to build your first home savings.
- You request an FHSS determination from us which shows your maximum amount that can be released under the FHSS scheme.
- You make a request to us to release an amount from your super fund.
- Within the allowable timeframes, you either
  - enter a contract to purchase or construct residential premises in Australia, or
  - recontribute the amount that was released under the FHSS scheme (less withholding) back into your super.
- You notify us when you have entered a contract to purchase or construct residential premises or have recontributed the required amount back into your super.

This Guidance Note is divided into 8 sections. These sections describe the following aspects of the FHSS scheme:

1. Making voluntary contributions.
2. Eligibility to release amounts from super using the FHSS scheme.
3. Requesting an FHSS determination.
4. Release of amounts from your super fund.
5. Purchasing or constructing a home.
6. If you don't purchase or construct a home.
7. Tax implications of using the FHSS scheme.
8. Unsuccessful attempts to use the FHSS scheme before 15 September 2024.

1. Making voluntary contributions

You can make voluntary contributions into your super fund and later apply for them to be released under the FHSS scheme when you are ready to use them.

Before doing so, you should check with your super fund:

- that they will release the 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.

You do not otherwise need to notify your fund, or us, at the time you are making voluntary contributions that you plan to release them under the FHSS scheme.

You should remember that there are limits on the amount of voluntary contributions you can release from super under the FHSS scheme. Section 3 of this Guidance Note explains these limits.

Contributions caps

There are limits on how much you can contribute to your super each financial year. Those limits are called 'contributions caps'.

Voluntary contributions you make to your super that you plan to release under the FHSS scheme count towards your contributions caps, and if you exceed those caps you may need to pay extra tax.

Contributions that exceed your contributions caps are not eligible to be released under the FHSS scheme.

Contributions that are eligible for release under the first home super saver scheme

The following kinds of contributions made on or after 1 July 2017 are eligible for release under the FHSS scheme:

- voluntary concessional contributions including
  - salary sacrificed amounts
  - contributions for which a tax deduction has been claimed (see Personal super contributions)
- voluntary non-concessional contributions including personal after-tax contributions where a tax deduction has not been claimed
- amounts transferred into a complying Australian super fund from a foreign super fund (except applicable fund earnings that you elect to include in the receiving fund's assessable income – see Transfer from a foreign super fund to an Australian super fund).

Excess concessional or non-concessional contributions are not eligible.

Amounts transferred from a KiwiSaver scheme

Amounts transferred from a New Zealand KiwiSaver scheme into a complying Australian super fund (see Trans-Tasman retirement savings transfers) are eligible to be released under the FHSS scheme, except:

- Australian-sourced amounts – these are amounts that were originally contributed to an Australian super fund, transferred to a KiwiSaver scheme, and then back into the Australian super system
- returning New Zealand-sourced amounts – these are amounts that were transferred from a KiwiSaver scheme into an Australian super fund, then back to a KiwiSaver scheme before being transferred back into the Australian super system for a second (or subsequent) time.

There is a $15,000 limit on contributions made during a financial year which may be released under the FHSS scheme. Amounts transferred from a KiwiSaver scheme count towards this limit for the year they are transferred to Australia. You cannot split these amounts to avoid the limit. Section 3 of this Guidance Note provides more information about the limits on the amount of eligible contributions that may be released under the FHSS scheme.

Contributions that are not eligible for release under the first home super saver scheme

The following kinds of contributions are not eligible for release under the FHSS scheme:

- all contributions made before 1 July 2017
- super guarantee contributions made by your employer
- member contributions made for you by your spouse, parent or other friends or family
- contributions to a defined benefit interest or a constitutionally protected fund
- mandated employer or member contributions made for you under an award or industrial agreement
- 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 capital gains tax concessions
- amounts that are downsizer contributions
- amounts that are COVID-19 early release of super re-contributions
- contributions that are required to be made under a law of a State or Territory, or the rules of a fund
- amounts you have received under a family law superannuation splitting arrangement.

2. Eligibility to release amounts from super using the first home super saver scheme

The first step in accessing an amount from your super under the FHSS scheme is to request an FHSS determination from us.

To be able to request an FHSS determination, you must satisfy eligibility criteria relating to:

- age
- previous FHSS release requests
- relevant property interests.

You are not required to be an:

- Australian citizen
- Australian resident for migration purposes, or
- Australian resident for tax purposes.

However, you should check whether there are any other limitations to you purchasing residential property in Australia. If you are not an Australian resident for tax purposes, you may pay income tax on amounts released under the FHSS scheme at a higher rate.

Age

You must be at least 18 years old to request an FHSS determination.

Your FHSS determination can include eligible contributions that were made before you turned 18.

Previous first home super saver release requests

You can only request an FHSS determination in the following circumstances:

- You have not previously made a valid release request in relation to an FHSS determination made in relation to you.
- If you have previously made a valid release request in relation to an FHSS determination made in relation to you, for each previous request
  - you withdrew the request, or
  - we revoked the release authority issued in relation to the request.
- If you have previously made a valid release request in relation to an FHSS determination made in relation to you and that request was amended
  - you withdrew the latest of the amended requests, or
  - we revoked the release authority issued in relation to the latest of the amended requests.

Section 4 of this Guidance Note explains requests for amounts to be released from your super fund.

Relevant property interests

You must have never held a relevant property interest in Australia (unless we determine you have suffered a financial hardship event). Real property is, generally, land and structures upon the land. This includes investment or commercial property and vacant land.

A relevant property interest in Australia includes:

- a legal interest in an estate in fee simple – this is the most common form of property ownership in Australia and is the ownership that transfers to a purchaser on registration of their interest in real property with the relevant land title office following settlement of a property sale contract
- a legal interest in certain long-term leases of land – this is the ownership of a lease, such as Crown leases in the Australian Capital Territory
- where you held a company title interest in land – this is usually a right to occupy land (or a building or part of a building erected on the land) that arises because you hold shares in a company that owns the land or building.

For the purposes of the FHSS scheme, a relevant property interest in Australia includes property interests in:

- Norfolk Island
- the Coral Sea Islands Territory
- the Territory of Ashmore and Cartier Islands
- the Territory of Christmas Island
- the Territory of Cocos (Keeling) Islands
- the Territory of Heard Island and the McDonald Islands.

Inheriting property

You will have held a relevant property interest if you inherited the kinds of property described in Relevant property interests and the interest is transferred to you.

However, you are not considered to have held a relevant interest in inherited property if:

- you are the beneficiary of a deceased estate but the property has not yet been transferred to you, or
- a deceased estate contains property that is sold, and you receive proceeds of that sale as a beneficiary.

Being a trustee of a trust

If you are the trustee of a trust that holds a relevant property interest, including a unit trust or a self-managed super fund, this will not prevent you from being eligible for the FHSS scheme. This is because, for the purposes of the FHSS scheme, your capacity as the trustee is separate from your individual capacity.

Financial hardship

If you have previously held a relevant property interest in Australia, you may still be eligible for the FHSS scheme if we determine that you have suffered a financial hardship event that resulted in a loss of ownership of all such property interests.

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

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

If you believe this may apply to your circumstances, you can apply to us for a hardship determination through myGov:

- sign in to your myGov account
- select **ATO** from your linked services
- select **Super** from the top menu
- select **Manage**
- select **First home saver**.

Your application for a hardship determination must be supported by evidence that demonstrates:

- what the event was
- that it led to you losing all relevant property interests you held at the time it occurred.

You also must not have acquired a new property interest since you lost the earlier property.

If we determine that you have not suffered a financial hardship and you are dissatisfied with the decision, you can lodge an objection – see object to a decision for more information.

3. Requesting a first home super saver determination

An FHSS determination is a document which shows the maximum amount you can request to be released from your super fund, called your FHSS maximum release amount.

When to request a first home super saver determination

You should request an FHSS determination when you have made all your eligible contributions and are ready to use the FHSS scheme.

Don't forget that you must meet the eligibility requirements at the time you request an FHSS determination, including that you have never held a relevant property interest. You should ensure you have requested an FHSS determination before a relevant property interest is transferred to you. Section 2 of this Guidance Note explains the eligibility requirements.

How to request a first home super saver determination

To request an FHSS determination through myGov:

- sign in to your myGov account
- select **ATO** from your linked services
- select **Super** from the top menu
- select **Manage**
- select **First home saver**.

You will need to answer some questions about your eligibility for the FHSS scheme.

You will also need to provide information about your eligible contributions and any personal super contribution deductions you have claimed, or intend to claim, in relation to those contributions. We will pre-populate this information if we have it but you should still check to ensure the pre-populated information is correct.

Not all of my eligible contributions appear

We may not have received all information from your super fund about your contributions by the time you make a request for an FHSS determination.

If you have eligible contributions which are not pre-populated, you can add details of those contributions.

When doing so, you should refer to your super fund statement to confirm the dates, amounts and types of each contribution. Do not use payslips because:

- payslips usually will not provide the correct date for the contribution
- your employer may not have paid your salary sacrificed contributions to your super fund in the same pattern as they appear on your payslip.

If you salary sacrificed contributions during the 2017–18 financial year, you will need to add the details of those contributions.

We may ask you to provide further evidence about the contributions you include in your request.

Understanding my first home super saver determination

When you request an FHSS determination, we use the information included in your request to work out your

FHSS maximum release amount. We do this by applying:

- ordering rules for contributions, and
- limits on the amount of eligible contributions that can be released.

Ordering rules for contributions

When you apply for an 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 in the financial year. If eligible non-concessional and eligible concessional contributions are made 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 counted before any eligible concessional contributions that were made at the same time.

Limits on the amount of eligible contributions that can be released

There are 2 limits on the amount of eligible contributions that can be released under the FHSS scheme:

- A limit of $15,000 on the amount of contributions made in a single financial year, meaning that even if you contribute more than $15,000 in a single year, you can only access a maximum of $15,000 of eligible contributions from that year using the FHSS scheme.
- An overall limit of $50,000, meaning that the total amount of eligible contributions you can access under the FHSS scheme for all financial years is limited to a maximum of $50,000. For FHSS determinations that were requested before 1 July 2022, this limit was $30,000.

Information shown on my first home super saver determination

Your FHSS determination will show your FHSS maximum release amount.

This amount comprises your FHSS releasable contributions amount together with associated earnings calculated by reference to those contributions.

Subject to the ordering rules and limits described above, the FHSS releasable contributions amount is the sum of:

- eligible non-concessional contributions made on or after 1 July 2017, and
- 85% of eligible concessional contributions you made on or after 1 July 2017.

When we issue an FHSS determination, it will state the:

- maximum release amount available
- amount of concessional contributions included in the maximum release amount
- amount of non-concessional contributions included in the maximum release amount
- associated earnings included in the maximum release amount.

Associated earnings represent the earnings on your contributions while they were in your super fund. This is not the actual earnings, but instead a deemed amount which is calculated based on the shortfall interest charge rate. This rate is set by law and we cannot change it even if your super fund had a different amount of earnings.

Correcting a mistake in your first home super saver determination

The easiest way to correct a mistake in your FHSS determination is to request a new one.

If you are requesting a new FHSS determination, you must meet the eligibility requirements at the time you make the new request. Section 2 of this Guidance Note explains the eligibility requirements.

You request a new FHSS determination the same way as you requested the earlier one.

Alternatively, you can ask us to amend your FHSS determination (also through myGov). You must also meet the eligibility requirements at that time for us to be able to amend your FHSS determination.

If you meet the eligibility requirements and are deciding between requesting a new FHSS determination and amending your existing FHSS determination, you should remember that a new determination is the only way to include additional contributions made and associated earnings after the date of your existing FHSS determination in the FHSS maximum release amount. Accordingly, amending your determination may result in your maximum release amount being lower than if you requested a new determination.

4. Release of amounts from your super fund

After receiving an FHSS determination, the next step is to request an amount be released from your super fund.

When to request a release

Before you request a release, you should make sure that you have:

- made all of the voluntary super contributions you want to make
- resolved any issues with your FHSS determination (for example, by ensuring that you have received an FHSS determination which accounts for all of the eligible contributions you wish to be included).

You should also consider whether the timeframes that apply under the FHSS scheme affect your decision about when to request release. See, for example, Purchasing vacant land in section 5 of this Guidance Note.

The release request should be made within 60 days after we issue your FHSS determination. However, we may also allow you further time to make the release request.

How to request a release

To request release of an amount from your super under the FHSS scheme through myGov:

- sign in to your myGov account
- select **ATO** from your linked services
- select **Super** from the top menu
- select **Manage**
- select **First home saver**.

When you request a release, you will need to choose the FHSS determination you are basing your request on and give us some information including the:

- amount you wish to be released
- bank account you wish us to pay your released amount to, and
- super fund or funds that you wish the amount to be released from.

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

If you make a mistake in your release request

If you have made a mistake in your release request you should let us know as soon as possible because there is only a limited time during which a mistake can be corrected.

We will not be able to take any action to correct any mistakes after we have started processing amounts your super fund sends to us.

To change your release request through myGov:

- sign in to your myGov account
- select **ATO** from your linked services
- select **Super** from the top menu
- select **Manage**
- select **First home saver**.

If you no longer wish to proceed with your release request

If you decide that you no longer wish to proceed with your release request, you should let us know as soon as possible because there is only a limited time to prevent your release request being actioned.

We will not be able to take any action to stop your release request after we have started processing amounts your super fund sends to us.

To let us know that you no longer wish to proceed with your release request through myGov:

- sign in to your myGov account
- select **ATO** from your linked services
- select **Super** from the top menu
- select **Manage**
- select **First home saver**.

After you have requested a release

After you request a release, we will issue a release authority to your super fund (or funds), and the fund will send the requested amount to us.

If your fund receives a release authority and your super in that fund is less than the amount on the release authority, they only need to pay the maximum amount available from your account. If you have asked us to, we will send a further release authority to another fund to request the unreleased amount if you have another account available.

It will usually take between 15 and 20 business days from when you request release until we pay any released amount to you.

In most cases, the amount you have requested to be released will not be the same as the amount we pay to you. This is because we must withhold an amount from the payment to cover income tax that you may need to pay. Section 7 of this Guidance Note explains the amount we withhold and the income tax you need to pay on amounts released under the FHSS scheme.

Offsetting amounts released against tax or other Commonwealth debts

If you have any unpaid debts to Australian government agencies, such as to us or Services Australia (including child support), we use the money released under the FHSS scheme to pay those debts before we can pay the remainder (if any) to you.

Released amounts will not be used 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.

5. Purchasing or constructing a home

To satisfy the requirements of the FHSS scheme, you must enter into a contract to purchase or build eligible residential premises within a specific time period.

This time period starts:

- if your FHSS determination was made before 15 September 2024 – 14 days before the day you requested release of money from your super
- if the FHSS determination was made on or after 15 September 2024 – 90 days before the day you requested release of money from your super.

This time period ends 12 months after the day you requested release of money from your super (or after a further period allowed by us, up to a maximum of 12 extra months).

Eligible residential premises

To be eligible residential premises for the FHSS scheme, the home has to be residential premises located in Australia. It cannot be:

- any premises not capable of being occupied as a residence
- vacant land (see Purchasing vacant land, where vacant land is purchased to construct residential premises)
- a houseboat
- a motor home.

The price for purchase or construction of the home must be at least equal to the total amount stated in your release request.

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.

Purchasing vacant land

You can use the FHSS scheme if you intend to buy vacant land and construct residential premises on it. However, it is important to understand how the various aspects of the FHSS scheme apply.

To be eligible to use the FHSS scheme, you must have requested an FHSS determination from us before your interest in the land is registered with the relevant land title office. If you do not do this, you will not be eligible to request an FHSS determination as you already hold a relevant property interest. Sections 2 and 3 of this Guidance Note provide more information about eligibility and requesting an FHSS determination.

Purchasing vacant land alone is not enough to satisfy the requirements of the FHSS scheme. You must also enter a contract to construct residential premises on that land within a specific time period.

This time period starts:

- if your FHSS determination was made before 15 September 2024 – 14 days before the day you requested release of money from your super
- if the FHSS determination was made on or after 15 September 2024 – 90 days before the day you requested release of money from your super.

This time period ends 12 months after the day you requested release of money from your super (or after a further period allowed by us, up to a maximum of 12 extra months).

Off-the-plan purchases

Your off-the-plan purchase may involve:

- separate contracts, with one covering purchase of the land and another covering construction of a home on that land, or
- a single contract covering everything.

If your purchase involves separate contracts for land and construction, see Purchasing vacant land.

If your purchase involves a single contract, you should pay careful attention to the requirement described in this section to enter into a contract to purchase or build eligible residential premises within a specific time period.

This time period starts:

- if your FHSS determination was made before 15 September 2024 – 14 days before the day you requested release of money from your super
- if the FHSS determination was made on or after 15 September 2024 – 90 days before the day you requested release of money from your super.

This time period ends 12 months after the day you requested release of money from your super (or after a further period allowed by us, up to a maximum of 12 extra months).

However, the way these timeframes apply to you can be very different depending on whether you request release of money from your super before or after signing the contract.

If you have entered into an off-the-plan contract and you have not yet requested release of money from your super, you should consider making that request within:

- if your FHSS determination was made before 15 September 2024 – 14 days after entering into the contract
- if the FHSS determination was made on or after 15 September 2024 – 90 days after entering into the contract.

If you don't request a release within that time, your off-the-plan contract won't meet the requirements of the FHSS scheme and if you request release of money from your super later you will need to:

- sign another contract which does meet the requirements of the FHSS scheme
- choose to recontribute the released amount to your super, or
- pay additional FHSS tax.

Section 6 of this Guidance Note explains recontributing to super, and section 7 of this Guidance Note provides more information about FHSS tax.

Notifying us that you have bought a home

When you sign a contract to purchase an established home or construct a new home (unless we allow further time), you must notify us within:

- if your FHSS determination was made before 15 September 2024 – 28 days of the contract date
- if the FHSS determination was made on or after 15 September 2024 – 90 days of the contract date.

The contract date is the date that both parties have signed the contract. If the parties to the contract sign on different days, it is the day when all parties have signed.

Where you have separate contracts for purchasing land and constructing a home on that land, you must notify us of the construction contract.

To notify us through myGov:

- sign in to your myGov account
- select **ATO** from your linked services
- select **Super** from the top menu
- select **Manage**
- select **First home saver**.

You will need to:

- answer some questions about the property and your contract, and
- confirm that you intend to occupy the premises as soon as practicable and for at least 6 of the first 12 months after it becomes practicable.

If you do not notify us, you may have to pay additional FHSS tax. Section 7 of this Guidance Note explains FHSS tax.

6. If you don't purchase or construct a home

If you have not entered into a contract to purchase or construct an eligible residential premises, or you have not notified us that you have bought an eligible residential premises, within the required time period (including any extension by us of that time), you will need to pay additional FHSS tax unless you have:

- recontributed money to your super, and
- notified us that you have recontributed.

Recontributing to your super

You can recontribute to your super instead of using the released amount to help buy your first home. If you do this, there are some rules:

- You can make multiple contributions, as long as the total amount you contribute is at least equal to your assessable FHSS released amount, less any tax we withheld.
- You must make the contribution (or contributions) within the same time period that applies to entering a contract for purchasing or building a home. This time period starts:
  - if your FHSS determination was made before 15 September 2024 – 14 days

before the day you requested release of money from your super

  - if the FHSS determination was made on or after 15 September 2024 – 90 days before the day you requested release of money from your super.

  This time period ends 12 months after the day you requested release of money from your super (or after a further period allowed by us, up to a maximum of 12 extra months).

- The contribution (or contributions) must be non-concessional contributions and will count towards your non-concessional contributions cap. You are not permitted to claim an income tax deduction for these contributions.

If you recontribute, you will not be allowed to use the FHSS scheme to withdraw it from your super again.

Notifying us that you have recontributed

When you recontribute, you must notify us that you have done so by the last day of the time period for making the recontribution. If you make multiple contributions, you should only notify us after you have recontributed the whole amount required.

You can notify us of recontributions through myGov:

- sign in to your myGov account
- select **ATO** from your linked services
- select **Super** from the top menu
- select **Manage**
- select **First home saver**.

You will need to answer some questions about your recontributions.

If you have recontributed the full amount required in accordance with the rules described above, you will not need to pay additional FHSS tax.

If you recontribute but do not notify us, you will still have to pay additional FHSS tax.

Keeping the released amount

You can choose to keep the money released from your super under the FHSS scheme. Do not notify us if this is your choice.

However, if you do this you will be required to pay additional FHSS tax. Section 7 of this Guidance Note explains FHSS tax.

7. Tax implications of using the first home super saver scheme

Depending on your circumstances, you may need to pay tax on amounts that you have released using the FHSS scheme. This may be:

- income tax on released amounts
- additional FHSS tax.

Income tax on released amounts

When you have amounts released under the FHSS scheme, you need to pay income tax on the assessable FHSS released amount. This amount is typically the sum of the concessional contributions and the associated earnings included in your FHSS determination.

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.

Voluntary non-concessional contributions (including personal after-tax contributions where a tax deduction has not been claimed) are not included in your assessable FHSS released amount. You do not pay further income tax on released amounts that consist of non-concessional contributions.

Withholding tax from the payment to you

Before we send any money released under the FHSS scheme to you, we must withhold tax on your assessable FHSS released amount based on an estimate of the income tax you may need to pay. We will determine this amount using information we hold, including your previous tax returns.

We will calculate the amount to withhold at the following rates:

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

At the end of the financial year in which you request release, we will give you an FHSS payment summary to assist you in completing your tax return. The FHSS payment summary shows your assessable FHSS released amount and the amount of tax withheld.

Completing your tax return

If you have an assessable FHSS released amount or an amount of tax withheld, you need to include those amounts in your tax return for the year that you requested release. This is the case even if the amount is released from the super fund to you in the following income year.

You pay tax on your assessable FHSS released amount at your marginal tax rate, plus Medicare levy, less a 30% FHSS tax offset. You will have a credit for the tax we have already withheld.

Your assessable FHSS released amount is not counted for various income tests, including for determining:

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

First home super saver tax

When you release amounts using the FHSS scheme, you must (within the applicable time limits):

- enter a contract to purchase or construct residential premises in Australia, or recontribute the required amount to your super, and
- notify us when you have done so.

Sections 5 and 6 of this Guidance Note provide more information about these requirements.

If you do not satisfy these requirements, you will be required to pay FHSS tax. This FHSS tax is in addition to any income tax you need to pay on the amount released.

The amount of FHSS tax you need to pay is calculated as 20% of your assessable FHSS released amount.

When you need to pay FHSS tax, we will send you a notice of assessment which tells you the amount of FHSS tax, the due date for payment, and how to pay.

8. Unsuccessful attempts to use the first home super saver scheme before 15 September 2024

Transitional rules have been introduced to provide assistance to individuals who made unsuccessful attempts to release amounts from their super under the FHSS scheme before 15 September 2024.

Provided that we have not started processing any amounts that your super fund has sent us under the FHSS scheme, an amount will be able to be released from your super under the FHSS scheme if all of the following apply:

- An FHSS determination was made in relation to you between 1 July 2018 and 14 September 2024 (inclusive).
- After that determination was made, you begin to hold a relevant property interest (as described in section 2 of this Guidance Note).
- By 14 September 2027, you have applied to amend your original determination, or a release request or release authority issued in respect of that original determination.

We will be reviewing all previous release requests. If the special rules outlined above apply to you, we will contact you to find out if you wish to request an amount be released from your super under the FHSS scheme.

If you release an amount from your super under the transitional rules, there are some things to know:

- You cannot release an amount from your super that exceeds the amount you could have released at the time your FHSS determination was originally made.
- The overall limit on the amount of eligible contributions that can be released are the limits which applied at the time your FHSS determination was originally made. These limits are:
  - for FHSS determinations requested before 1 July 2022 – $30,000
  - for FHSS determinations requested on or after 1 July 2022 – $50,000.

You do not need to meet the requirements for purchasing or constructing a home, recontributing to super, or notifying us that are outlined in sections 5 and 6 of this Guidance Note.

EXAMPLES

Example 1 – eligible contributions

Anh:

- *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*
- *has an employer who 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 Anh 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 Anh's fund cannot distinguish between these contributions, Anh needs to check with his employer to obtain and validate details of the voluntary components of his contributions. When he applies for an FHSS determination, Anh 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 Anh's employer makes above the super guarantee rate are not eligible contributions, as they are also required by the award.

Example 2 – amounts transferred from a KiwiSaver scheme

Mei returns to Australia in June 2024 after several years working in New Zealand. At that time, she transfers her retirement savings of A$18,000 from her KiwiSaver scheme to her Australian super fund. No part of this balance has previously been transferred to New Zealand from her Australian super fund.

Even though Mei's contributions to her KiwiSaver scheme were made over several years, for the FHSS scheme, Mei's transfer from her KiwiSaver scheme is a single eligible contribution of $18,000 in the 2023–24 financial year.

As there is a limit on the amount of eligible contributions made in a single financial year that can be released under the FHSS scheme, the maximum release amount stated in Mei's FHSS determination only includes $15,000 from her KiwiSaver scheme transferred amount.

Example 3 – eligibility to request a first home super saver determination

Sushant:

- *was born in 1987*
- *has never used the FHSS scheme before*
- *has never held a relevant property interest.*

On 20 February 2025, Sushant enters a contract to purchase a house in Broome. Sushant registers his interest in the property with the Western Australian Land Title Office on 17 April 2025.

Sushant is eligible to request an FHSS determination as long as he does so before 17 April 2025. He is not eligible to request one after that time because he will then hold a relevant property interest, being a legal interest in real property in Australia.

Example 4 – eligibility to request a first home super saver determination

Guo:

- *is over 18*
- *has never used the FHSS scheme before*
- *currently owns a residential property in Melbourne*
- *decides to sell his property and buy another home with his partner, Caleb.*

Caleb:

- *is over 18*
- *has never used the FHSS scheme before*
- *has never held any interest in real property in Australia*
- *decides to buy a home with Guo.*

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

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

Caleb is eligible to request an FHSS determination, as he is over 18 and has not previously requested the release of an amount under the FHSS scheme. Caleb must also have eligible contributions to be able to release an amount from his super under the FHSS scheme.

Example 5 – financial hardship

Peter:

- *over a number of years, buys and sells multiple properties located in Australia*
- *becomes bankrupt and loses all his real property interests*
- *does not acquire another real property interest located in Australia after his bankruptcy*
- *is over 18 and has not used the FHSS scheme previously.*

We make a determination that Peter suffered a financial hardship that led to the loss of all his real property interests located in Australia.

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 his current real property interests located in Australia.

Example 6 – FHSS maximum release amount

Jill:

- *makes monthly salary sacrifice contributions of $1,500 from July 2020 until October 2024*
- *receives an FHSS determination on 15 December 2024.*

As there are limits on the eligible contributions that Jill can release from super using the FHSS scheme, not all of these contributions will count towards Jill's FHSS maximum release amount.

The contributions that count towards Jill's FHSS maximum release amount are eligible concessional contributions of:

- *$15,000 in each of 2020–21, 2021–22 and 2022–23, and*
- *$5,000 ($1,500 each month from July to September 2024 and $500 for October 2024) from 2024–25.*

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

- *$42,500 concessional contributions (being 85% of the $50,000 eligible concessional contributions), and*
- *$5,190 associated earnings.*

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

Example 7 – ordering rules for contributions

Hasan:

- *makes salary sacrifice contributions of $1,000 on the 15th of each month from January 2023*
- *makes non-concessional contributions (for which he does not claim a deduction) on 30 June 2023 and 30 June 2024 of $5,000 – each to the same fund*

- *applies for an FHSS determination on 15 July 2025.*

Hasan's eligible concessional and non-concessional contributions for 2022–23, 2023–24 and 2024–25 are illustrated in Table 1.

Table 1: Hasan's total eligible concessional and non-concessional contributions

Eligible contributions	***2022–23***	***2023–24***	***2024–25***
Non-concessional contributions	*$5,000*	*$5,000*	*Nil*
Concessional contributions	*$6,000*	*$12,000*	*$12,000*

Noting the limits of $50,000 in total and $15,000 for each financial year, Hasan's eligible contributions that are able to be released are illustrated in Table 2.

Table 2: Hasan's eligible contributions that are able to be released

Eligible contributions	***2022–23***	***2023–24***	***2024–25***
Non-concessional contributions	*$5,000*	*$3,000*	*Nil*
Concessional contributions	*$6,000*	*$12,000*	*$12,000*

As the eligible concessional contributions of $12,000 in the 2023–24 financial year are received earlier than the eligible non-concessional contributions, we apply the eligible concessional contributions first. Therefore, only $3,000 in eligible non-concessional contributions is counted in the 2023–24 financial year. The remaining $2,000 of Hasan's eligible non-concessional contribution in 2023–24 is not counted because the $15,000 annual limit has been reached.

If the eligible contributions are received at the same time, the simultaneous contribution rule means that we apply the eligible non-concessional contributions first instead.

Example 8 – purchasing and notifying of a contract to purchase an established home

Kirra:

- *meets the eligibility requirements for the FHSS scheme*
- *requests an FHSS determination on 8 July 2025*
- *requests release of an amount from her super on 21 August 2025.*

On 9 November 2025, Kirra enters a contract to purchase an established townhouse in Devonport with settlement to occur on 14 December 2025.

Kirra must notify us that she has entered a contract to purchase her home by 7 February 2026, being 90 days after she entered the contract, unless we allow her additional time to do so.

Example 9 – purchasing vacant land before contract to construct home

Paloma:

- *meets the eligibility requirements for the FHSS scheme*
- *on 7 October 2024, enters a contract to purchase vacant land in Wagga Wagga, on which she plans to construct her home*
- *requests an FHSS determination on 17 October 2024.*

We make the FHSS determination on the same day as the request, on 17 October 2024.

Paloma registers her interest in the vacant land with the New South Wales Land Title Office on 27 November 2024. Paloma is not eligible to request another FHSS determination after she registers her interest, as she now holds a relevant interest, being a legal interest in real property in Australia.

Paloma is able to use the FHSS determination made on 17 October 2024 to request an amount be released from her super under the FHSS scheme. Paloma requests release of an amount from her super on 10 December 2024.

To meet the requirements of the FHSS scheme, Paloma must enter a contract for construction of her home by 10 December 2025, being 12 months after Paloma makes her release request. If she has not done so, we can allow her additional time, but only to a maximum of 12 extra months until 10 December 2026.

Example 10 – off-the-plan purchase

Dylan:

- *meets the eligibility requirements for the FHSS scheme*
- *has not previously requested an FHSS determination*
- *enters an off-the-plan contract to purchase an apartment in Brisbane on 25 May 2025*
- *registers this property interest with the Queensland Land Title Office on 30 September 2027.*

There are some specific steps that Dylan needs to take to make sure her off-the-plan contract counts as meeting the requirements of the FHSS scheme and to ensure she does not need to pay additional FHSS tax.

To do this Dylan needs to make sure that, by 23 August 2025 (90 days after the date of the off-the-plan contract), she:

- *requests an FHSS determination*
- *requests release of an amount from her super, and*
- *notifies us of the contract.*

Example 11 – income tax on released amounts

Sue receives an FHSS determination in 2024–25. This FHSS determination shows a maximum release amount of $14,350, comprising of:

- *$5,000 representing eligible non-concessional contributions*
- *$8,500 representing 85% of her eligible concessional contributions*
- *$850 representing associated earnings.*

Sue requests a release of the maximum amount on 26 June 2025. We issue a release authority to her fund and they release the full amount to us. We withhold tax of $1,589 and release the remainder to Sue on 12 July 2025. As Sue requests the release during the 2024–25 financial year, we give her an FHSS payment summary for 2024–25 showing:

- *the assessable FHSS released amount of $9,350 (85% of the eligible concessional contributions and the associated earnings)*
- *tax withheld of $1,589.*

Sue includes $9,350 in her tax return for 2024–25.

She receives a credit of $1,589 for the tax withheld and a non-refundable tax offset of $2,805 (being 30% of the assessable FHSS released amount).

Example 12 – income tax on released amounts

Alex:

- *receives an FHSS determination in 2024–25, showing that:*
  - *$8,000 eligible concessional contributions count towards his FHSS maximum release amount*
  - *$20,000 eligible non-concessional contributions count towards his FHSS maximum release amount*
- *has a marginal tax rate of 37% in 2023–24*
- *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 makes an FHSS release request in 2024–25, Alex's previous tax return is used to estimate his marginal tax rate for 2024–25. His taxable income from the last year plus his assessable FHSS released amount provides an estimated taxable income, which suggests that he will remain in the same marginal tax bracket of 37% for 2024–25.

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

- *estimated marginal tax rate of 37%, plus*
- *2% Medicare levy, less*
- *30% FHSS tax offset.*

Alex requests release of $28,500. A release authority is issued to his fund for this amount. His fund releases the full amount to us.

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

Alex receives an FHSS payment summary from us at the end of the 2024–25 financial year and includes $8,500 of income, and the $765 withholding credit in his 2024–25 tax return. He receives a non-refundable tax offset of $2,550, being 30% of the assessable FHSS released amount.

Example 13 – first home super saver tax

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 us and receives $24,291*
- *subsequently 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.

George chooses to keep the money. He is required to pay additional FHSS tax of $4,020 ($20,100 × 20%).

Example 14 – assisting unsuccessful previous attempts before 15 September 2024 to use the first home super saver scheme

Milena receives an FHSS determination on 14 February 2020. The FHSS determination shows an FHSS maximum release amount of $27,365.

Milena immediately requests that we issue a release authority for the full amount to her super fund and a release authority is issued.

However, Milena's attempt to use the FHSS scheme in February 2020 is ultimately unsuccessful. We:

- *identify, using information reported by Milena's super fund, that Milena incorrectly included $10,000 of super guarantee contributions (which are not eligible to be released) in her request for an FHSS determination, and*
- *revoke the release authority before Milena's super fund release any amount.*

On 17 April 2021, Milena acquires a relevant property interest under the FHSS scheme by purchasing a house in Adelaide and registering her interest in the property with the South Australian Land Titles Office.

On 3 June 2025, we contact Milena. Milena confirms that she wishes to apply to amend her FHSS determination to remove the ineligible contributions and we assist her to make that application. Milena's FHSS determination is amended to only include her eligible contributions made up to 14 February 2020, plus the associated earnings in respect of those eligible contributions, calculated to 14 February 2020. The amended FHSS determination shows an FHSS maximum release amount of $16,419.

Milena is eligible to access the FHSS scheme using the transitional rules because:

- *She had an FHSS determination which was made between 1 July 2018 and 14 September 2024 – on 14 February 2020.*

- *After that FHSS determination was made, she acquired a relevant property interest in Australia – on 17 April 2021.*
- *Milena applies to amend her FHSS determination between 15 September 2024 and 14 September 2027 – on 3 June 2025.*
- *At the time of making the application to amend her FHSS determination on 3 June 2025, we have not begun treating any credit to which Milena has become entitled under the FHSS scheme – as the original release authority was revoked before Milena's super fund released the amount.*

On 10 June 2025, Milena makes a release request for $16,419 based on her amended FHSS determination and that amount is released from her super fund.

At the end of the 2024–25 financial year, Milena receives an FHSS payment summary showing the assessable FHSS released amount and the PAYG amount withheld. She correctly includes these amounts in her 2024–25 tax return.

However, as she is accessing the FHSS scheme using the transitional rules, Milena:

- *is not required to sign a contract to purchase or construct a home, and is not required to recontribute the super*
- *is not required to notify us of signing a contract to purchase or construct, or of recontributing*
- *will not be liable to pay FHSS tax.*

Legislative references:

- TAA 1953 Sch 1 Div 131
- TAA 1953 Sch 1 Div 138
- ITAA 1997 Div 313
- First Home Super Saver Tax Act 2017
- Treasury Laws Amendment (2023 Measures No. 3) Act 2023 Sch 4 Item 30

Public rulings:

- TR 2024/4

Other references:

Object to a decision

Business line: SEO

Date of issue: 16 September 2024

ISSN Number: 2651-9569

© AUSTRALIAN TAXATION OFFICE FOR THE COMMONWEALTH OF AUSTRALIA

You are free to copy, adapt, modify, transmit and distribute this material as you wish (but not in any way that suggests the ATO or the Commonwealth endorses you or any of your services or products).