

BRICKS & MORTAR

API experts answer questions from readers.

CHANGE OF CIRCUMSTANCES

Q I'm a soldier in the army. I purchased a unit in 2009 and received the \$21,000 First Home Owner Grant. I received a posting order to move north. I've lived in the unit for more than six months and intend to rent it out.

My solicitor advised me to inform the Office of State Revenue and I may have to pay stamp duty.

Should I provide proof of my posting and explain I don't have a say in this posting or do you think I'll have to pay some or all of it?

A The conditions of the First Home Owner Grant and the First Home Owner Boost is that at least one of the recipients of the grant occupy the home for at least six months commencing some time within the first 12 months.

You've certainly satisfied this condition, having already occupied the home for more than six months.

Furthermore, the conditions of the grant also provide an exemption to permanent members of the Australian Defence Force that actually removes the residence requirement, which

means you simply have to satisfy the requirement of not having owned and lived in a property before to keep this grant.

You don't say what state you're in, or if you also qualified at the time for a full or partial stamp duty exemption. If this is so, you may still not be required to now pay stamp duty, as most states also allow members of the Defence Force to be exempt from the residence requirement as long as the property was purchased after particular 2009 qualifying dates.

You should go to the Office of State Revenue website of the state in which you own the property and download a 'First Home Owners' fact sheet. This will clearly spell out the eligibility requirements of any grant and any additional benefits you may have received, and you can then set about making arrangements to make any required payments. *Margaret Lomas*

SIGNING ON THE DOTTED LINE

Q What's the correct way to sign a contract for the sale of real property that will ultimately be owned by a trust or company? Is it correct to sign 'and/or nominees'?

A Your question seeks advice in respect of 'signing' a contract, however it appears your real enquiry is directed to the correct 'description' of the party as the purchaser on the contract in circumstances where ultimately the registered proprietor will be a trust or a company.

Provided the trust or the company are in existence at the time of execution of the contract, and provided the trust or company have duly appointed the person who is signing as its 'agent', then the wording "and/or

nominee" is suitable. If, however, the trust or the company don't exist at the time of execution of the contract then "and/or nominee" won't give effect to your intentions.

In this case an 'assignment' of the contract would need to be executed which has potential stamp duty and taxation consequences.

The position may differ in each state (especially New South Wales which has some specific limitations) and it would be wise to consult your local conveyancer/solicitor before execution. *Sean Ryan*

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If you have a question for our panel, please send it in 100 words or less via email to editor@apimagazine.com.au

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