

KiwiSaver Withdrawal for the purpose of purchasing a First (or second-chance) Home and the KiwiSaver First (or second-chance) Home Deposit Subsidy

There are two parts to the KiwiSaver first (or second chance) home assistance programme:

1. KiwiSaver withdrawal for purpose of purchase of first or second chance home

- A one-off KiwiSaver withdrawal permitted in certain circumstances.
- This is administrated by [name KiwiSaver Provider].

Further information is provided below

2. KiwiSaver first or second chance home deposit subsidy

- A 'deposit subsidy' paid by the Crown in certain circumstances.
- This component is administrated by Housing New Zealand Corporation (HNZC). KiwiSaver providers may need to provide their members with records of their annual KiwiSaver contributions to support an application to HNZC.

Further information is provided below

(Please note: the Mortgage Diversion facility was closed to new participants by legislation from 1 June 2009). *Ref: Taxation (Budget Tax Measures) Act 2009*

FOR COMPREHENSIVE INFORMATION ON THE KIWI SAVER FIRST HOME WITHDRAWAL AND THE KIWI SAVER FIRST HOME DEPOSIT SUBSIDY, VISIT:

<http://www.hnzc.co.nz/kiwisaver>

References

First home withdrawal is provided for in:

1. *KiwiSaver Act 2006 - Schedule 1 clause 8; and*
2. *KiwiSaver Regulations 2006 – Regulations 30-31: added on 19 December 2007, by section 118 of the Taxation (KiwiSaver) Act 2007.*

The Income Tax (Social Assistance Suspensory Loans) Amendment Order 2010 confirms the deposit subsidy is tax free

KiwiSaver withdrawal for the purpose of purchasing a first home

Who can apply?

A KiwiSaver member may apply for a first home withdrawal, provided:

1. at least three years has passed since the Commissioner received the first contribution for the member, or the member has been a member of one or more KiwiSaver schemes for at least three years; and
2. the member has not made a withdrawal from a KiwiSaver scheme for the purchase of a home before; and
3. the property the member is purchasing is, or is intended to be, the principal place of residence for the member or for the member and the member's family; and
4. the property the member is purchasing qualifies as an estate in land within the meaning of the KiwiSaver Act 2006; and
5. prior to applying for a first home withdrawal, the member has not held an estate in land whether alone or jointly with another person, i.e. has never purchased a property before.

In certain circumstances, previous home owners may be eligible for the first home withdrawal (see "Second Chance" below).

Other exceptions

A KiwiSaver member may still be eligible if they hold, or previously held, an estate in land:

- (a) as a bare trustee; or
- (b) as a trustee who is a discretionary, contingent, or vested beneficiary under the relevant trust; but has no reasonable expectation of being entitled to occupy the land as the principal place of residence for the person or the person's family until the death of the

person who currently occupies the land (the occupier) or the death of the occupier's survivor.

For the purposes of the KiwiSaver Act 2006, estate in land means a fee simple, leasehold or stratum estate. **[we think the below summaries risk over simplifying the concepts. There is also a potential copyright issue to the extent these have been taken directly from the HNZC website]**

What can I withdraw?

This one-off KiwiSaver withdrawal does not include the Government \$1,000 kick-start or Member Tax Credits (disregarding any positive or negative investment returns for the purpose of calculating the amount of Government contributions).

How to apply:

KiwiSaver members need to complete the KiwiSaver First or Second Chance Home Withdrawal Pre-Approval Form available from [insert details]. Payments will only be made to the KiwiSaver member's solicitor.

Before a withdrawal can be made, the trustee will require the following:

- o a pre-printed bank deposit slip from the member's solicitor's trust account; and
- o a certificate from the member's solicitor enclosing a copy of the sale and purchase agreement which clearly shows the member as the purchaser and contains an undertaking in a form acceptable to the trustee, relating to the unconditional nature of the agreement and the application of funds withdrawn.

KiwiSaver Withdrawal for purpose of 'Second Chance' Home Purchase

Previous home owners are eligible for the KiwiSaver first home withdrawal and KiwiSaver deposit subsidy if "*the Minister of Housing or [a] delegate is satisfied that the income, assets and liabilities of the person represent a financial position that would be expected of a person that has never held an estate in land.*" (clause 31(c), KiwiSaver Regulations 2006)

Who can apply?

A Member may apply for a second chance home withdrawal, provided:

1. at least three years has passed since the Commissioner received the first contribution for the member, or the Member has been a Member of one or more KiwiSaver schemes for at least three years; and
2. the Member has not made a withdrawal from a KiwiSaver scheme for the purchase of a home before; and
3. the property the Member is purchasing is, or is intended to be, the principal place of residence for the Member or for the Member and the member's family; and
4. the property the Member is purchasing qualifies as an estate in land within the meaning of the KiwiSaver Act 2006; and
5. the Minister of Housing (or a delegate) is satisfied that the income, assets and liabilities of the Member represent a financial position that would be expected of a person who has never owned a property.

Details of how previous home owners will qualify under the last bullet point above are set by HNZC and can be found on their website www.hnzc.govt.nz/kiwisaver.

Other exceptions (Rule 8(5) of the KiwiSaver Rules)

A KiwiSaver member may still be eligible if they hold or previously held an estate in land

- (a) as a bare trustee; or
- (b) as a trustee who is a discretionary, contingent, or vested beneficiary under the relevant trust; but has no reasonable expectation of being entitled to occupy the land as the principal place of residence for the person or the person's family until the death of the person who currently occupies the land (the occupier) or the death of the occupier's survivor.

What can I withdraw?

The one-off withdrawal does not include the Government \$1,000 kick-start or the Member Tax Credits (disregarding any positive or negative investment returns for the purpose of calculating the amount of Government contributions).

How to apply for a KiwiSaver withdrawal as a previous homeowner:

This process is managed by HNZC. For more information and to apply visit:

<http://www.hnzc.co.nz/kiwisaver> and

<http://www.hnzc.co.nz/utills/downloads/4372180CE3F348846C0A0E1879A6DD4A.pdf>

To assess whether a previous home owner is eligible for a second chance home withdrawal, HNZC will consider whether:

- o the purchaser's or purchasers' income is within the income caps established for general eligibility for the deposit subsidy. The income caps are currently \$100,000 before tax for one or two people, and \$140,000 before tax for more than two people
- o The purchaser(s) have realisable assets of no more than 20 percent of the relevant regional house price cap (\$400,000 for Auckland City, North Shore City, Rodney District, Wellington City and Queenstown Lakes District and \$300,000 for all other areas, including Manukau, Waitakere City, Franklin District and Papakura District). This asset test is to ensure that previous home owners who have insufficient assets to obtain a mortgage without Government assistance will qualify for first home withdrawal. HNZC's website provides a summary of what it regards as realisable assets for this purpose.

In addition, as with the first home withdrawal conditions, before a withdrawal can be made, the trustee will require the following:

- o a pre-printed bank deposit slip from the member's solicitor's trust account; and
- o a certificate from the member's solicitor enclosing a copy of the sale and purchase agreement which clearly shows the member as the purchaser and contains an undertaking in a form acceptable to the trustee, relating to the unconditional nature of the agreement and the application of funds withdrawn.

KiwiSaver First Home Deposit Subsidy (administered by HNZC)

Who can apply?

Members, who have **contributed to** a KiwiSaver scheme, complying superannuation scheme or exempt employer scheme for three or more years, and meet the eligibility criteria, are entitled to a home ownership deposit subsidy of \$1,000 per year of savings, up to a maximum of \$5,000 per person. These three years do not have to be consecutive, so if the member takes a six month contribution holiday they will be eligible for the minimum deposit subsidy after three-and-a-half years. Payments are made for full years only (i.e. you don't get \$4,500 for 4 ½ years).

How to apply:

Applications for the deposit subsidy must be made via HNZC.

It is recommended that Members apply early in the purchase process to determine eligibility.

For the purpose of assessing the level of contributions, applicants will need to provide payment records from Inland Revenue, their employer or their scheme provider(s).

To apply, visit: <http://www.hnzc.co.nz/kiwisaver> and

<http://www.hnzc.co.nz/utills/downloads/4372180CE3F348846C0A0E1879A6DD4A.pdf>

To be eligible for the first home deposit subsidy, applicants must:

- be aged over 18
- have contributed* at least at the minimum rate of their income for at least three years to a KiwiSaver scheme (or a complying superannuation scheme, or an exempt employer scheme). The minimum rate is 4% income from 1 July 2007 to 31 March 2009 and 2% from 1 April 2009.
- be a first home buyer (or a previous home owner in a similar financial position to a first home buyer)
- be buying a house within the regional house price caps (see below)
- have a household income within the income caps (see below)

- live in the house for at least six months

***Definition of contributions**

What constitutes a regular contribution varies according to employment type:

- o wage and salary earners must contribute at least monthly and self employed people must contribute at least annually over the qualifying period
- o where a person has been earning a combination of salary, wage or self-employment income, a combination of the above approaches will be used to confirm regular contributions over the qualifying period
- o non-earners will be eligible for the deposit subsidy if they make an annual contribution equating to at least the minimum rate (outlined above) of the minimum annual wage over the qualifying period
- o beneficiaries will be eligible for the deposit subsidy if they make an annual contribution equating to at least the minimum rate (outlined above) of their gross benefit over the qualifying period.

Regional house price caps

The house price caps are **\$400,000** for Auckland City, North Shore City, Rodney District, Wellington City and Queenstown Lakes District and **\$300,000** for all other areas. Manukau City, Waitakere City, Franklin District and Papakura District are considered 'other areas'.

The new Auckland boundaries and new Auckland Council does not take effect until 1 November 2010. HNZN has indicated that the house price caps will be reviewed then.

Household income caps

Must have a combined yearly income of \$100,000 **or less (before tax)** for one or two buyers;
or

Must have a combined yearly income of \$140,000 **or less (before tax)** for three or more buyers.

Evidence required supporting the HNZN Application:

You will generally* be required to supply:

- o Proof of income for the past 52 weeks;
- o Proof of contributions to KiwiSaver scheme;
- o Identification; Photocopy of passport or birth certificate;
- o A copy of the sale and purchase agreement, which clearly shows you as the purchaser;

* **Evidence** may differ if you are self-employed or a non-earner or beneficiary.

The Government has also agreed the following rules for the first home deposit subsidy:

- o contributions made by KiwiSaver members prior to turning 18 years of age will count towards eligibility for the deposit subsidy if they meet minimum contribution requirements. However, applicants must be aged 18 years or over to meet standard lending criteria;
- o contributions made to an Australian superannuation scheme and then transferred to KiwiSaver will not count towards eligibility for the deposit subsidy;
- o applicants must be resident in New Zealand to be eligible for the deposit subsidy to align to the residency requirements in the KiwiSaver Act 2006.