

GST withholding key date looming – what you need to know

Certain contracts entered into before 1 July 2018 that settle after 1 July 2020 will be subject to GST withholding requirements. With this crucial date close by practitioners need to remember to consider GST withholding for these older contracts.

LPLC receives regular enquiries from practitioners about the GST withholding regime, so here are some reminders of the key ways it works.

There are two separate issues to consider.

1. Does the purchaser need to withhold GST at settlement?
2. Does the vendor need to provide a withholding notice to the purchaser?

When will the purchaser need to withhold GST?

First and foremost, GST withholding will only be required if the vendor is registered or required to be registered for GST. If neither apply, then there is no GST payable, so none needs to be withheld by the purchaser.

Second, GST withholding requirements only apply to relevant contracts of sale or long-term leases (50 year or more):

- entered into after 1 July 2018, or
- entered into before 1 July 2018, if the first payment, after the deposit, occurs on or after 1 July 2020. This date is nearly upon us and practitioners acting for pre-1 July 2018 contracts settling after 1 July 2020 need to consider the GST withholding requirements. The ATO has recently published a reminder about this issue [here](#).

Third, the relevant contracts or long-term leases to which GST withholding applies are contracts for:



- new residential premises that are not:
 - created through substantial renovations or
 - commercial residential premises (e.g. motel – see GSTR 2012/6 for definition)
- potential residential land that is included in a property subdivision plan at the time of supply (i.e. settlement), where:
 - the land does not contain buildings used for residential or commercial purposes, i.e. vacant land
 - the recipient is not registered for GST and does not acquire the land for a creditable purpose.

The property subdivision plan does not need to be a new subdivision, it can be an old one. Most property was part of a subdivision at some point, other than property being sold on crown allotments.

When is a vendor withholding notice required?

A vendor of residential premises or potential residential land must give a purchaser a written notice stating whether withholding is required before settlement. Importantly, this requirement applies to **all residential land**, not just new residential land **except for**:

- supply of commercial residential premises
- supply of potential residential land where the purchaser is registered for GST and acquires the land for a creditable purpose (section 14-255(2)).

This means the vendor must give a withholding notice for most existing residential land even though it will say that no withholding is required.

For more detail on the withholding requirements see our range of articles, flow charts and practical examples set out below.

Bulletin: Some purchasers required to withhold GST from 1 July 2018 **GST vendor/supplier withholding notice**

GST withholding flowchart 1

Bulletin: GST withholding practical examples

GST withholding flowchart 2

Blog: Common GST question – new residential property and no GST registration

GST withholding flowchart 3

GST withholding special condition