

Handy hints for GST

Some of the enquiries on our **GST hotline** in the last few months required some basic GST knowledge and logical thinking to answer. Here are some handy hints to help you navigate your next GST question.

The starting point for all GST questions should be: is the vendor registered for GST or required to be registered?

Registered for GST?

A search of the **ABN lookup site** will answer the registration question. You do however need to know in what capacity the vendor holds the property or asset as it is the GST status of this capacity that is relevant. Is it in their own right, in a partnership, as a trustee or part of a group? These are questions you should ask the vendor.

Required to be registered?

If the vendor is not registered, are they required to be registered? Registration is required if the vendor's turnover from their enterprise is \$75,000 or more.

Turnover consists of current and projected GST turnover and includes turnover from all activities and sources other than salaries and input taxed turnover such as residential rents.

It is not a requirement that the enterprise be one relating to dealings in land and is not judged on a property by property basis.



Section 188-25 of the **A New Tax System (Goods and Services Tax) Act 1999** (GST Act) excludes the proceeds of realisation of a capital asset from projected GST turnover, so avoiding the situation where the sale itself triggers a requirement to be registered. This exclusion does not apply where land is trading stock, and land may become trading stock for income tax and GST purposes if acquired for the purpose of resale. The proceeds will be considered turnover and invariably exceed the \$75,000 threshold resulting in a need for registration. This means you need to understand the vendor's purpose when they bought the property.

See **GSTR 2001/7** about the meaning of turnover.

Mortgagee in possession

If your vendor is selling as mortgagee in possession then the GST consequences are determined not by the GST status of the mortgagee, but by that of the mortgagor - see s.105-5, **GST Act**.

The primary issue is whether a hypothetical supply by the mortgagor would have been taxable. If it would, then the mortgagee's supply will be taxable.

However, if the mortgagee believes on reasonable information that the sale or supply is not taxable, or the mortgagor gives the mortgagee a written notice stating fully the reasons why it is not a taxable supply, section 105-5 says it will not be a taxable supply.

Similarly, for sales by executors or administrators, the GST consequences will be the same as if made by the deceased.

Once you determine if the vendor is registered, or required to be registered, you need to consider the property being sold. New residential premises have some simple issues that catch out some practitioners.

New residential premises

For new residential premises, namely, substantially renovated or built in the last five years and not previously sold, to be a taxable supply it must be sold in the 'furtherance of an enterprise'.

The sale of a vendor's own home will not be a supply in the furtherance of an enterprise, even if the vendor is registered for GST. GST will not be payable, but a withholding notice must still be provided by the vendor. It should state that the property is a private asset used for domestic purpose and not sold in the furtherance of an enterprise.

New residential premises will be sold in the furtherance of an enterprise and subject to GST if the vendor built the premises with a view to selling it for a profit, even if it is a one-off transaction. It does not need to be a multi-lot development to constitute an enterprise.

More information

These are just some of the GST basics to consider.

Our [GST checklist](#) has more information and links to relevant GST rulings and Australian Tax Office information.

The ATO also has a [GST property decision tool](#) that can help guide you through the questions and answers when considering if GST applies.