

Common GST question - new residential property and no GST registration

Here is a **deceptively simple GST question with a few twists.**



Q: Our client built a new house to replace an old house on a block of land two years ago and since then has been occupying the property. The client, a sole owner, now intends to sell the property and is not registered for GST. Is GST payable?

A: This example raises the need for several enquiries:

New residential premises?

The sale is a supply of 'new residential premises' because the house has been built in the last five years and has not been sold since it was built.

The sale will therefore attract a GST payment (be taxable) if:

- the vendor is registered for GST, or required to be, and
- the sale is 'in the course or furtherance of an enterprise'.

Required to be registered for GST?

The client is not registered for GST but the question you need to ask is whether they are required to be registered.

Relevant points to note are:

- an entity is required to be registered if its GST turnover from an enterprise is at or above the GST registration threshold of \$75,000 p.a.
- GST turnover consists of current GST turnover and projected GST turnover and includes turnover from all sources other than salaries and input taxed turnover
- it is not a requirement that the enterprise be one relating to dealings in land
- whether an entity is required to be registered is not judged on a property by property basis.

If the position is that your client is neither registered nor required to be registered for GST, section 188-25 of the GST Act excludes the proceeds of sale 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. Land may become trading stock for income tax and GST purposes if acquired for the purpose of resale.

In the course or furtherance of an enterprise?

A supply will be 'in the course or furtherance of an enterprise' if there is any connection between an entity's enterprise and the supply. In circumstances where the supplier is a natural person and the property supplied is a residence occupied by them, the requirement of a connection between the supply and an enterprise would not be satisfied. So, in this case, if the client is selling their own residence then, notwithstanding that the supply is of new residential premises, the supply will not be taxable.

While a withholding notice must be given by the vendor because it is new residential property, the notice will say no GST withholding is required.

More GST information

Got a question about GST? Our website has plenty of information about GST including [GST FAQs](#).

Check this information when you have a GST issue before you use our GST hotline enquiry service, as the answers to many of the enquiries can be found in the [FAQs](#).

You could also use our handy [GST checklist](#) to assist you in analysing your question.



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