

2018

Risk Management Intensive

24 July, 1 and 9 August



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GST withholding by purchasers

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Legislative treatment

Schedule 1, *Taxation Administration Act 1953*

Application

- Contracts entered into on or after 1/7/2018
- Contracts entered into before 1/7/2018 if first consideration provided on or after 1/7/2020

Important terms

- Residential premises
- New residential premises
- Commercial residential premises
- Potential residential land
- Property subdivision plan
- Price and contract price

Contract treatment

- Creates contractual obligations
- Can introduce protocols and timelines not inconsistent with Act
- Can deal with creditable purpose
- Can include vendor notification

Supplier enquiries

- Own GST status status and GST consequences
- New residential premises?
 - Created through substantial renovations?
 - Commercial residential premises?
- Potential residential land
 - On property subdivision plan?
 - Include building in use for commercial purpose?
- Recipient registered?
- Creditable purpose?

Recipient enquiries

- Same as supplier
- Reason: Neither failure of supplier to notify or deficient notification exonerates recipient from administrative penalty

Nomination

- Fresh enquiries as to status and purpose of nominee
- Nominated transferee must lodge fresh online notification to ATO

Supplier notification (s.14-255)

- More widely cast than withholding
- Whether or not registered and even where supply will not be taxable, e.g. residential premises
- Not commercial residential premises
- Not potential residential land where recipient is registered and acquires for creditable purpose (even partly)
- Content of notification
- Penalties

Supplier notification (continued)

SUPPLY	NOTIFICATION
Existing (not new) residential premises	Yes
New residential premises due to substantial renovations	No
Other non-commercial new residential premises	Yes
Commercial residential premises	No
PRL to registered entity for creditable purpose	No
PRL not to registered entity for creditable purpose	Yes

Withholding (s.14-250)

- Only where supply taxable
- Only applies to new residential premises not created through substantial renovations and that are not commercial residential purposes
- Only applies to potential residential land in a property subdivision plan and that does not contain a building in use for a commercial purpose
- Does not apply to supply of potential residential land where recipient is registered and acquires for an (even partly) creditable purpose
- Penalty - Administrative penalty equal to GST required to be withheld – 2 exceptions

Withholding (continued)

SUPPLY	WITHHOLDING
Not taxable supply	No
Existing (not new) residential premises	No
New residential premises due to substantial renovations	No
New residential premises (not CRP)	*Yes
New or existing CRP	No
PRL – you are registered and creditable purpose	No
PRL on PSP & not containing b'ldg in use for commercial purpose	*Yes
PRL not on PSP	No
PRL on PSP but with b'ldg in use for commercial purpose	No

* If taxable supply

Calculation of withholding

- Contract “price”
- Default calculation: 1/11 of contract price
- Margin scheme: 7% of contract price
- Associates: 10% of GST exclusive value
- Supplies only partly caught: apportionment

Recipient's online notifications

- Withholding notification – lodged soon after day of sale– to obtain a PRN
- Settlement date confirmation – on day of settlement

Settlement/withholding protocols

- Payment by recipient to ATO on day of settlement:
 - Electronic settlements
 - Other direct payment – ***How to pay*** link
- Bank cheque to vendor – exoneration from administrative penalty – but be aware of LIV SC15B.7

Important resources

- Legislation itself
- LCR 2018/4
- ATO website
- Flow chart

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