



**CONVEYANCING SET TO CHANGE -  
ON CERTAIN PROPERTY TRANSACTIONS  
FROM 1 JULY 2018**



## Overview

- Purchasers of new residential premises or potential residential land for subdivision (or some long-term leases: see page 4) will be required to withhold an amount from the contract price and remit this to the ATO on or before settlement.
- Some property transactions are excluded from withholding at settlement including: sales of commercial property (for example, factory or shop) and commercial residential developments (for example, hotel or motel), new residential premises created by substantial renovations and fully taxable supplies of vacant land between GST registered businesses where the purchaser is entitled to a GST refund from the purchase.
- The amended legislation includes a transitional arrangement that excludes sale contracts entered into before 1 July 2018 providing the property transaction settles before 1 July 2020.
- The vendor must notify the purchaser in writing that the GST needs to be paid to the ATO and advise the amount that must be paid. In most situations, the amount will be 1/11th of the contract price.
- If there is a mixed supply, for example only partly a supply of new residential premises or potential residential land, then a reduced GST amount is calculated using a reasonable apportionment of the contract price or price multiplied by the applicable rate.
- Where the margin scheme is used, the GST is 7% of the contract price. Where the transaction is between associates, it is 10% of the GST-exclusive market value.
- Where there are multiple purchasers (not joint tenants), then the GST is 7% (margin scheme) or 1/11th of the contract price or price for their % interest in the property purchased.
- Notification rules will also apply to the vendor even if the transaction does not trigger a GST liability. An example would be the sale of an existing (not new) residence.
- When the contract doesn't settle there is no obligation on the purchaser to withhold the relevant GST. This is because the supplier has not made a taxable supply of the property.

## Contract for the Sale and Purchase of land 2018 Edition

### Page 2 – Tax information

A new tick a box choice has been added to enable the vendor to indicate whether or not the purchaser must make a residential withholding payment at settlement. This permits the vendor to satisfy the ATO imposed obligation to notify the purchaser whether or not the transaction is subject to withholding.

### Page 2 – RW (Residential Withholding) Payment – Further Details

This is for those situations where a residential withholding payment must be made. It sets out all the particulars that must be supplied by the vendor to the purchaser and also sets out what the purchaser will need to complete on the two ATO forms. When a property has sold at **auction**, the GST amount the purchaser must pay will usually not be completed in the contract on page 2. In those circumstances the vendor must provide all these details in a separate notice to the purchaser within 14 days of the contract date.

## Payment of the withholding amount at settlement and provision of evidence of the payment

Property transactions of new residential premises or potential residential land that require an amount to be paid directly to the ATO on or before settlement require purchasers or their representatives to use the following online forms to advise the ATO of a purchase:

- Form 1: GST property settlement withholding notification prior to settlement to obtain a unique PRN (Payment Reference Number) and LRN (Lodgement Reference Number)
- Form 2: GST property settlement date confirmation to confirm settlement has taken place

The online forms provide the details of:

- The contact person
- The property
- The GST withholding amount
- Purchaser and the supplier (vendor/seller)

Only the purchaser is required to submit these online forms.

Note: These online forms will be available from late June 2018.

## How to Pay

E- Conveyancing:

If the conveyancing occurs via e-conveyancing, the purchaser or their representative will electronically transfer funds to the ATO platform with instructions on where it should be distributed to at settlement.

BPAY, Credit Card or Mail:

See payment slip available late June.

Mail:

Mail payment details and a cheque or money order to:

Australian Taxation  
Office  
Locked Bag 1936  
ALBURY NSW 1936

Make sure cheques and money orders are:

- In Australian Dollars
- Payable to 'Deputy Commissioner of Taxation'
- Crossed 'Not Negotiable'
- Not post dated

Allow time for mail delivery as well as the time to process a cheque or money order. It is necessary to include a payment slip, with the following sections completed:

- Purchaser name
- Date
- PRN
- Amount Paid

Note: a link to a payment slip will be made available in late June.

## Example:

George Clooney makes an offer to buy a new apartment from BuildCo for \$900,000 and BuildCo accepts. George pays a 10% deposit of \$90,000 on contract exchange. The required details for the supplier's notification are in the sale contract from BuildCo and the amount to be withheld is \$81,818 (1/11<sup>th</sup> of the contract price).

The sale contract (\$900,000) was entered into by both parties on 14 September 2018 and the expected settlement date is 26 November 2018. George will need to withhold an amount of \$81,818 and pay it to the ATO on or

before settlement so he requests his conveyancer to submit Form 1 (GST – property settlement withholding notification) online with the ATO before settlement to obtain a Lodgement Reference Number (LRN) and Payment Reference Number (PRN).

On the day of settlement George's conveyancer goes through the normal settlement process with BuildCo's conveyancer. George's \$81,818 is paid to the ATO using e-conveyancing and his conveyancer submits Form 2 (GST property settlement date confirmation) online with the ATO. The LRN & PRN are entered, and the settlement date is confirmed as 26 November 2018.

## Long Term leases

These types of Property supplies are defined in the GST Act and the term

relates to a supply by lease, hire or licence for at least 50 years (including renewals or extensions). Leases of residential property that are less than 50 years should not generally be caught by these new rules.

## Supplier's (Vendor's) BAS Obligation

This law change does not affect the supplier's obligation to lodge its Business Activity Statement (BAS) and report their GST liabilities or entitlements on taxable supplies of these types of properties. Once the supplier lodges the BAS and it is processed, the supplier will receive a credit of the amount the purchaser withheld and paid to the ATO.

The material and contents provided in this publication are informative in nature only. It is not intended to be advice and you should not act specifically on the basis of this information alone. If expert assistance is required, professional advice should be obtained. We are here to help, contact us today:

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