



GST at settlement

- <https://www.ato.gov.au/Business/GST/In-detail/Your-industry/Property/GST-at-settlement/>
- Last modified: 25 May 2020
- QC 55431

GST at settlement

We acknowledge the difficult time the community is experiencing during COVID-19, however if you are buying or selling new residential property or land:

- purchasers must continue to lodge GST at settlement forms, withhold and pay the required withholding amount
- suppliers must report the sales information in the period the sale was finalised even if your activity statement has a different due date.

Changes to the way GST is paid for certain property transactions will affect purchasers, suppliers and their representatives.

From 1 July 2018, most purchasers will be required to pay a withholding amount from the contract price at the date of settlement. This applies to:

- [new residential premises](#)
- land that could be used to build new residential property (['potential residential land'](#)).

The withholding amount is paid directly to the ATO rather than to the property supplier.

Watch:

Media: GST withholding for certain taxable sales of property
<http://tv.ato.gov.au/ato-tv/media?v=bd1bdiunr9g59c>²⁷ (Duration: 0:31)

See also:

- [GST property settlement online forms and instructions](#)
- [GST at settlement – a guide for purchasers and their representatives](#)

- [GST at settlement – a guide for suppliers and their representatives](#)

Find out about:

- [If you are selling property](#)
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If you are selling property

- <https://www.ato.gov.au/Business/GST/In-detail/Your-industry/Property/GST-at-settlement/?page=2>
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If you are selling residential premises or potential residential land you must:

- notify the purchaser in writing (supplier notification)
- advise whether they need to pay a withholding amount – or not – from the contract price for the property
- state the withholding amount.

This can be included in the sales contract or in a separate document, prior to settlement. Most states have updated their standard contracts to include this information.

If you realise you have made a mistake on the notification, you are obliged to provide the purchaser with an amended one.

You may incur penalties if you fail to provide the required notice.

The purchaser pays the withholding amount directly to the ATO at the time of settlement – instead of to you.

Reporting obligations

The standard elements of selling a property and reporting the GST on your sales apply.

You must still report all property sales at label G1 and the GST on sales at label 1A on your business activity statement (BAS). See [Step 8 Supplier lodges BAS](#).

You will receive a credit in your GST property credits account. This is equal to the withheld amount paid by the purchaser or, if there are multiple suppliers involved in the property transaction, your portion of the withheld amount.

This credit is transferred from the GST property credits account into your activity statement account when you lodge your BAS for the relevant period.

If you're unsure of the correct GST treatment of the supply, we recommend you seek advice from us or your tax professional.

Conveyancers and real estate agents are not able to provide GST advice unless they are registered tax or BAS agents. However, they can assist purchasers to complete the forms.

See also:

- [GST at settlement – a guide for suppliers and their representatives](#)

Return to:

- [GST at settlement](#)

If you are purchasing property

- <https://www.ato.gov.au/Business/GST/In-detail/Your-industry/Property/GST-at-settlement/?page=3>
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If you are purchasing a property, ensure you have a written notification advising if you have a withholding obligation on the property or not.

Withholding obligation

If you have a withholding obligation, you must:

- ensure you have a written notification from the supplier stating if the sale is subject to GST
- lodge Form one: *GST property settlement withholding notification*
- lodge Form two: *GST property settlement date confirmation*
- pay the withheld amount to us (to the nearest dollar).

You don't need to register for GST just because you have a withholding obligation.

If you're unsure or require further advice regarding the information provided in the supplier's notification, you should seek advice from us or your tax professional.

You may incur penalties if you fail to lodge the forms and make the payment to us.

We won't impose penalties when it's reasonable for you to rely on a notification from a supplier. However, if you know a supplier is registered for GST and they're selling new residential premises not previously sold, it's unreasonable not to withhold and pay an amount to us at settlement.

Using a representative

If you authorise a representative to lodge the forms on your behalf, you are required to provide them with a signed declaration.

Note: Conveyancers aren't able to provide GST advice unless they're a registered tax or BAS agent.

If you're acting as the representative for the purchaser, you need to understand what you can or can't do under the *Tax Agent Services Act 2009* (TASA).

See also:

- [GST at settlement – a guide for purchasers and their representatives](#)
- [GST property settlement online forms and instructions](#)
- [GST and property – property and registering for GST](#)
- [Conveyancers and GST withholding for certain supplies of property](#)^{EQ}

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Properties that are included and excluded

- <https://www.ato.gov.au/Business/GST/In-detail/Your-industry/Property/GST-at-settlement/?page=4>
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You need to determine if GST at settlement applies when selling or purchasing property.

Included property transactions

Withholding may apply if you purchase or sell:

- new residential premises

- house and land
- off-the-plan
- display homes
- new apartments
- potential residential land
 - property subdivision plan
 - land that could be used to build new residential premises.

Excluded property transactions

Some property transactions are excluded from the withholding obligation.

Withholding doesn't apply to:

- new residential premises created through substantial renovations
- new commercial residential premises (for example, hotels, boarding houses, caravan parks)
- commercial property
- residential premises that are no longer new because they have previously been sold (or subject to a long-term lease) or have been continuously and solely rented for more than five years
- potential residential land supplied to a GST registered business that acquired it for a creditable purpose for example, to develop the land, construct and sell new residential premises.
- potential residential land that contains a building that is currently in use for a commercial purpose (for example, a factory or shop being operated in an area where local zoning permits mixed use)

If you're selling a family home you may also be excluded from the withholding obligation.

See also:

- [Registered entity acquiring land for a creditable purpose](#)

Transitional arrangements

Transitional arrangements apply to contracts entered into before 1 July 2018.

See also:

- [GST and property – property and registering for GST](#)
- [GST and the margin scheme](#)
- [Residential premises](#)

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- [GST at settlement](#)

GST at settlement process

- <https://www.ato.gov.au/Business/GST/In-detail/Your-industry/Property/GST-at-settlement/?page=5>
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Watch our video for a quick overview about how the GST at settlement process works when buying or selling new residential property.

Watch:

Media: GST at settlement process

<http://tv.ato.gov.au/ato-tv/media?v=bd1bdiunw5u8wb> [Ⓔ] (Duration: 2:31)

For contracts entered into from 1 July 2018, follow these steps:

- [Step 1: Supplier must notify purchaser](#)
- [Step 2: Purchaser or representative lodges Form one – GST property settlement withholding notification](#)
- [Step 3: Form one email confirmation](#)
- [Step 4: Purchaser or representative lodges Form two – GST property settlement date confirmation](#)
- [Step 5: Purchaser makes the payment](#)
- [Step 6: Payment email confirmation](#)
- [Step 7: Supplier credit and email confirmation](#)
- [Step 8: Supplier lodges business activity statement \(BAS\)](#)

Step 1: Supplier must notify purchaser

The supplier is the entity that is required to report the property transaction to the ATO on their BAS.

When the contract between the supplier and purchaser is signed, the supplier must notify the purchaser in writing (supplier notification) before settlement of the property whether or not they have a withholding obligation.

The notification can be included in the sales contract or in a separate document provided before settlement. All law societies (except for NT) have revised their standard land contracts to include the notification.

If the purchaser doesn't have a withholding obligation your notice must make it clear that no withholding is required.

If the purchaser does have a withholding obligation then your notice must include:

- the name and ABN of all suppliers
- GST branch number (if applicable)
- the amount they must withhold (round down to the nearest dollar)
- when they must pay it to us

- GST-inclusive contract price (plus the GST inclusive market value of non-monetary consideration).

See also:

- [Supplier notification](#)

Step 2: Purchaser or representative lodges Form one – GST property settlement withholding notification

The purchaser is required to lodge Form one: *GST property settlement withholding notification* online to us once the contract has been entered into up until the due date for payment of the withholding amount.

The purchaser can authorise a representative to lodge one or both forms on their behalf by providing the representative with a signed declaration. Depending on the state or territory the property is located in, the purchaser's representative can include either a conveyancer or solicitor.

The purchaser will include the information from the supplier's notice, their details and the expected settlement date. Some information required in Form one may not be available until closer to settlement (for example, address information for off-the-plan sales).

When the form has been successfully lodged, an online confirmation screen (which you can print) will appear with a payment reference number (PRN) and lodgment reference number (LRN).

A separate payment advice pdf can be printed and kept for your records.

You need to retain these numbers as you will need them when lodging Form two: *GST property settlement date confirmation* and when making your payment.

See also:

- [GST property settlement online forms and instructions](#)

Step 3: Form one email confirmation

If the purchaser has elected to receive emails on Form one an email will be sent to the purchaser confirming that Form one has been processed by us. This will include a summary of the key particulars and an attached payment advice pdf. The purchaser should keep a copy of this email.

It may take 24 to 48 hours before you receive the confirmation email.

Step 4: Purchaser or representative lodges Form two – GST property settlement date confirmation

The contract type will determine when you need to lodge Form two: *GST property settlement date confirmation* and make the payment to us.

Under a standard land contract

Under a standard land contract, you must quote the LRN and PRN you received when Form one was lodged when you lodge Form two: *GST property settlement date confirmation*.

You must lodge Form two online either:

- within two business days before settlement
- on the day of settlement
- on the next business day after settlement.

When the form has been successfully lodged an online confirmation screen will confirm that the form has been successfully lodged. This records the purchaser's withholding liability against the purchaser's account as occurring on the settlement date. You can print the confirmation screen and keep it with your records.

See also:

- [GST property settlement online forms and instructions](#)

Under an instalment contract

Under an instalment contract the timing of the obligation to pay the withholding amount is different to a standard land contract.

The obligation to pay the withholding amount under an instalment contract is on or before the date the first payment is made (other than a genuine deposit).

Under an instalment contract, you must quote the LRN and PRN you received when Form one was lodged when you lodge Form two: *GST property settlement date confirmation*.

You must lodge Form two online either:

- within two business days before the first instalment
- on the day of the first instalment
- on the next business day after the first instalment.

When the form has been successfully lodged an online confirmation screen will confirm that the form has been successfully lodged. This records the purchaser's withholding liability against the purchaser's account as occurring on the date that the first instalment is made. You can print the confirmation screen and keep it with your records.

See also:

- [GST property settlement online forms and instructions](#)

Step 5: Purchaser makes the payment

Once Form two: *GST property settlement date confirmation* has been lodged, you are required to pay the withholding amount (rounded down to the nearest dollar)

when settlement occurs. You must quote the PRN you received when Form one was lodged.

See also:

- [How to pay the withholding amount](#)

Step 6: Payment email confirmation

If the purchaser has elected to receive emails on Form two, an email will be sent to this email address once Form two and the payment have both been processed by us.

It may take 24 to 48 hours before you receive the confirmation email.

Step 7: Supplier credit and email confirmation

The credit for the amount withheld is allocated to the supplier's GST property credits withholding account. If there are multiple suppliers in the property transaction, the credit will be the equivalent proportion of the withheld amount.

The supplier (or agent) will receive an email confirmation to the email address on the supplier's activity statement account. This includes identifiers for the property transaction and confirms the credit has been received.

A supplier can view their GST property credits account online through either:

- [Online services for individuals and sole traders](#) (you will need a myGov account linked to the ATO)
- the [Business Portal](#)
- [Online services for agents](#)

See also:

- [GST at settlement – a guide for suppliers and their representatives](#)

Step 8: Supplier lodges business activity statement (BAS)

The supplier must report on their BAS:

- all property sales at label G1
- the GST on sales at label 1A.

The property sale must be reported in the BAS period in which settlement occurred. For example, if the property settled on 5 December, you must report the property transaction in the December BAS.

Note: the withholding payment that is paid by the purchaser that is allocated as a credit to the supplier's GST property credits account must not be reported on the BAS. It is the actual GST on the sale that needs to be reported on the BAS at label 1A.

The credit allocated to the supplier's GST property credits account will be

transferred into the suppliers activity statement account when the relevant BAS is lodged.

See also:

- [GST at settlement – a guide for suppliers and their representatives](#)
- [Completing your BAS for GST](#)

Examples of withholding at settlement

Example 1: Withholding at settlement – new residential premises

BuildCo has developed an apartment block and is making taxable sales of new residential premises.

On 14 September 2018, Kath enters into a contract for the purchase of a new apartment from BuildCo. The contract price is \$900,000 and Kath pays a 10% deposit of \$90,000. The contract of sale states that the [margin scheme](#) doesn't apply and includes the supplier's notification to the purchaser that there is a withholding obligation of \$81,818 (1/11th of \$900,000).

Kath authorises her conveyancer to lodge Form one and Form two on her behalf by providing a signed declaration.

Kath's conveyancer uses the information from the seller's notification to complete Form one: *GST property settlement withholding notification* online and obtains a PRN and LRN from the confirmation screen.

Settlement occurs on 25 November 2018. At settlement, Kath's conveyancer:

- lodges Form two: *GST property settlement date confirmation* using the PRN and LRN obtained when Form one was lodged
- pays the balance of the apartment contract price to BuildCo of \$728,182 (\$900,000 less \$90,000 deposit less \$81,818 withholding amount)
- pays the withheld amount of \$81,818 to us electronically using the PRN obtained when Form one was lodged.

BuildCo lodges their BAS (no other taxable supplies were made) for the December quarter reporting the full sale price of \$900,000 at label G1 and the GST payable at label 1A of \$81,818. When the BAS is processed, BuildCo receives a credit of \$81,818 representing the amount withheld and remitted by Kath.

Example 2: Withholding at settlement – potential residential land

On 10 September 2018, Land Co purchases a vacant block of land with the intention of subdividing it into two lots. The block is zoned to allow residential use and does not contain any buildings.

Land Co registers the plan of subdivision and proceeds to make taxable supplies of both lots of vacant land.

On 25 September Land Co enters into a contract to sell one of the lots to Nick for \$770,000. Nick pays a 10% deposit of \$77,000 with the balance due at settlement. As the sale is not under the margin scheme and Nick is not carrying on an enterprise, Nick has a withholding obligation of \$70,000 (1/11th of \$770,000).

Land Co includes its withholding notification to the purchaser into the contract. Nick has provided his solicitor with a signed declaration authorising his solicitor to lodge the withholding forms on his behalf. The information from the contract enables Nick's solicitor to complete Form one: *GST property settlement withholding notification* online and obtain a PRN and LRN from the confirmation screen.

Settlement occurs on 21 November 2018. At settlement, Nick's solicitor:

- lodges Form two: *GST property settlement date confirmation* using the PRN and LRN obtained from Form one
- pays the balance of the contract price to Land Co of \$623,000 (\$770,000 less \$77,000 deposit less \$70,000 withholding amount)
- pays the withheld amount (quoting the PRN obtained from Form one) of \$70,000 to us using BPAY.

Land Co lodges their BAS (no other taxable supplies were made) for the December quarter. They report the full sale price of \$770,000 at label G1 and the GST payable of \$70,000 at label 1A. When the BAS is processed, Land Co receives a \$70,000 credit for the amount withheld and remitted by Nick.

See also:

- [GST at settlement – a guide for suppliers and their representatives](#)
- [GST – completing your BAS for GST](#)

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How to amend or cancel your forms

- <https://www.ato.gov.au/Business/GST/In-detail/Your-industry/Property/GST-at-settlement/?page=6>
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All parties should view Form one: *GST property settlement withholding notification* before settlement occurs to ensure there are no changes required to the form. If changes are identified you should contact us.

If the payment has been made and you have identified a change is required on either or both forms, contact us.

If the contract does not settle, the purchaser does not need to pay a withholding amount or lodge either Form one: *GST property settlement withholding notification* or Form two: *GST property settlement date confirmation*. If either of the forms has already been lodged, the purchaser, or their representative, will need to contact us to have the form(s) cancelled.

See also:

- [GST property settlement online forms and instructions](#)

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How to submit a missing credit or transfer request

- <https://www.ato.gov.au/Business/GST/In-detail/Your-industry/Property/GST-at-settlement/?page=7>
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If a credit isn't showing on the *GST property credit* account after two weeks of settlement you may need to submit a missing credit request.

If the credit hasn't transferred from the *GST property credit* account into the activity statement account or the credit has been allocated to an incorrect supplier, you may need to submit a transfer request.

See also:

- [GST at settlement – a guide for suppliers and their representatives](#)

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How to apply for a refund

- <https://www.ato.gov.au/Business/GST/In-detail/Your-industry/Property/GST-at-settlement/?page=8>
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If you are a supplier you can apply for a refund where your purchaser has paid us an amount that they withheld in error.

If you are a purchaser you can apply for a refund where you have made the payment to us in error (for example, made the same payment twice in error).

To request a refund you must provide us with the following information:

- details identifying the purchaser and contact details
- details identifying the supplier (including ABN) and contact details
- details identifying the authorised person lodging the form and contact details.

Provide accompanying supporting documentation to evidence the requested refund amount has been withheld from the supplier and paid to the Commissioner of Taxation in error (for example, a sales contract showing contract price, the settlement statement and receipts).

For suppliers the refund request must be made in writing and be lodged a minimum of 14 days before you have to pay GST on the supply (in your BAS).

Completed refund requests and supporting documents should be sent to:

Australian Taxation Office
Locked Bag 1127
ALBURY NSW 2640

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Property contract considerations

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There are many different types of property contract considerations. Common ones include:

- [Margin scheme](#)

- [Multiple supplies in one contract](#)

Margin scheme

A margin scheme enables GST to be calculated on a concessional basis. Rules depend on when a property was first purchased.

You can only apply the margin scheme if the sale of a property is taxable.

Generally the GST is based on the difference between:

- the price the you paid for the property when you first purchased it, and
- the subsequent sale price of the property.

There must be a written agreement to say the sale of the property is under the margin scheme before the settlement date.

If you purchase a property where the margin scheme is applied to the sale, you can't claim a GST credit for the GST included in the price.

If you're charged the full rate of GST when you purchase a property as part of your business, generally you can claim the GST back. However you can't apply the margin scheme on a subsequent sale.

Example: How the margin scheme works

John is registered for GST and purchases a property for \$100,000 in January 2018 from a seller not registered for GST.

He builds a house on the property for \$165,000 and holds tax invoices for all the costs. He is entitled to claim GST credits of \$15,000 (1/11th of \$165,000).

John sells the house to Peter for \$400,000 in September 2018. The margin is calculated at $\$400,000 - \$100,000 = \$300,000$. Therefore GST under the margin scheme is $(1 \div 11) \times \$300,000 = \$27,272$.

Note: Under GST at settlement rules, Peter has an obligation to withhold and pay the GST.

As Peter is purchasing a property subject to the margin scheme, he withholds and pays 7% of the contract price (\$28,000).

John still has to report the sale of the property on his September BAS, including the GST of \$27,272. The withheld credit is offset against this amount, and John receives a refund of \$728.

John's purchase and GST payable

Supplier	Purchaser
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Land purchased for \$100,000	n/a
House built \$165,000	n/a
GST credits claimed \$15000 (1/11th of \$165,000)	n/a
New property sold \$400,000	\$400,000
Margin is calculated at \$400,000 – \$100,000 = \$300,000	Margin 7%
Lodge BAS <ul style="list-style-type: none"> • Label G1 (Total sales) \$300,000 • Label 1A (GST on sales) \$27,272 ((1 ÷ 11) × \$300,000) 	n/a
GST property credit \$728 (\$28,000 – \$27,272)	GST payable \$28,000

Multiple supplies in one contract

There are contracts that include multiple supplies (for example, new residential premises and commercial premises) of different kinds. This is where each supply hasn't been allocated a particular portion of the total contract price.

In this situation a supplier needs to determine a reasonable apportionment of the contract price that applies to the withholding obligation.

If it's not practical to apportion the price, the withholding amount should be based on the total price for the supply.

See also:

- [Long term leases](#)
- [If acquisitions are for a creditable purpose](#)

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Compliance and penalties

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If you made a mistake or forgot to include information on a form or lodge one, contact us and we will help you to fix that issue.

See also:

- [GST property settlement online forms and instructions](#)

Reporting non-compliance

If you're concerned someone is doing the wrong thing, you can tell us about it confidentially.

Your information will get to the right area if you mention some key words, such as:

- GST at settlement
- sale of property
- Form one
- Form two.

Data matching

We regularly receive data from state and territory land title offices and revenue agencies with details that include sales and transfers of real property.

Penalties

Penalties may apply for suppliers or purchasers.

Supplier penalties

A supplier who fails to provide a supplier notification to a purchaser may incur one of the following penalty types:

- Strict liability offence – 100 [penalty units](#), which may be prosecuted before the court, or
- Administrative penalty – 100 [penalty units](#) (not applied if the strict liability offence is prosecuted).

Penalties won't apply if you:

- reasonably believed you weren't required to meet the notice requirements
- made an honest and reasonable mistake about how the notice requirements apply to a particular supply.

Purchaser penalties

There are two types of penalties for purchasers:

- If a purchaser fails to withhold or pay an amount required, the administrative penalty is equal to the amount the purchaser was required to pay. Exceptions to this include when
 - there's been reasonable reliance on the supplier's notice
 - the purchaser has given the supplier a bank cheque payable to the Commissioner for the withholding amount.
- If a purchaser fails to notify us they are required to withhold (not lodging the two online forms)
 - *Failure to lodge administrative penalty* – one [penalty unit](#) for each 28-day period (up to a maximum of five penalty units)
 - higher penalty units may be applied to entities based on turnover.

See also:

- [Data matching](#)
- [Report fraud, phoenix, tax evasion, black economy activity or unpaid super](#)

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Transitional arrangements end 30 June 2020

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The GST at settlement transitional arrangements end on 30 June 2020.

From 1 July 2020 contracts entered into before 1 July 2018 for new residential premises or potential residential land may be subject to the withholding obligations under GST at settlement.

Example: End of transition period

On 11 May 2018, Rachael entered into a contract to purchase a new home unit from developer Watson Home Co for a contract price of \$650,000. Rachael pays a 10% deposit of \$65,000.

As the supplier of the property, Watson Home Co needs to notify Rachael that she has to withhold \$59,090 (1/11th of \$650,000) and pay it to the ATO at settlement.

Rachael is required to complete and lodge the two online forms to the ATO.

Rachael's property is finished and the settlement date is 2 July 2020.

At settlement, on 2 July 2020, Rachael must withhold and pay \$59,090 to the ATO and pay Watson Home Co the balance of the contract price (being \$525,910).

The GST at settlement process doesn't apply to contracts entered into before 1 July 2018 where any payment or consideration for the supply (other than a deposit) is provided before 1 July 2020 (that is, settlement occurs before 1 July 2020).

See also:

- [LCR 2018/4](#) *Purchaser's obligation to pay an amount for GST on taxable supplies of certain real property*

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Foreign resident capital gain withholding and GST at settlement

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If you are selling residential premises or potential residential land in Australia it can be subject to both:

- Foreign resident capital gain withholding (FRCGW)
- GST withholding obligation (GST at settlement).

There is no precedence between FRCGW and GST at settlement. Both are applicable and hold no priority over each other.

A clearance certificate for FRCGW is only applicable to that measure. GST at settlement is still payable. They are treated independently of each other.

See also:

- [Capital gains withholding: Impacts on foreign and Australian residents](#)

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History

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The withholding obligation was announced in the May 2017 Federal Budget. The measure was introduced to ensure that payment of GST is not avoided by 'phoenixing' activity in the property sector involving property developers and vendors.

Phoenixing activity involves the use of insolvency to avoid the payment of debts, including taxes. 'Phoenixing' in the property development industry has grown significantly.

Paying GST at settlement will help prevent non-compliance by property suppliers who sell properties for a price that includes the GST and avoid remitting the GST to us. They may avoid tax by liquidating their businesses and restarting their business again under a different entity before their next BAS lodgment.

Following Treasury consultation with key property industry and tax professional stakeholders, the new measure was introduced to Parliament into Schedule 1 of the *Taxation Administration Act 1953* by Schedule 5 of [Treasury Laws Amendment \(2018 Measures No.1\) Bill 2018](#)²⁷. The bill received royal assent on 29 March 2018.

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Terms we use

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Residential premises

- At its simplest, residential premises are premises containing basic living facilities that are fit for human occupation as residential accommodation.
- The sale or [long term lease](#) of residential premises is input taxed, except for two specific classifications of residential premises
 - new residential premises (for example, houses, apartments and villas)
 - commercial residential premises (for example, hotels, motels and hostels).
- If residential premises are [input taxed](#) it means that you don't charge GST if you sell it, and you can't claim back GST if you buy it, even if registered for GST.

See also:

- [GST and residential property](#)

New residential premises

New residential premises are residential premises where any of the following apply to the premises:

- they have not previously been sold (or subject to a long term lease) as residential premises
- they have been created through substantial renovations (but note new residential premises of this kind are excluded from the withholding obligation)
- they are new buildings which have been built to replace demolished buildings on the same land.

Note: residential premises cease to be new residential premises if they have been used solely for renting for a period of at least five years since they were constructed.

See also:

- [Property and registering for GST](#)

Potential residential land

Potential residential land is land that it is permissible to be used for residential purposes but does not contain any buildings that are residential premises (for example, houses and strata units).

It also includes land where local government zoning may permit a mixture of residential and commercial use.

Supplier

The supplier may or may not be the vendor under the contract or the registered proprietor on the certificate of title. The supplier is the entity(s) liable for the GST on the property transaction.

Purchaser

The purchaser is the entity(s) that has purchased the property.

If the property is sold, the purchaser is the entity that is buying the property. If the supply is a long-term lease, the purchaser is the entity that is leasing the property.

Tenants in common

If you are purchasing as tenants in common, each purchaser should be treated as a separate recipient. The withholding amount for each purchaser should be based on their portion of ownership. On the death or dissolution of an owner, the interest in the property does not automatically pass to the remaining owners. The total of the interests in the property must add up to 100%.

Joint tenants

With joint tenants, each owner has an undivided 100% interest in the property and if an owner dies or corporate owner dissolves, the interest in the property passes to the remaining joint tenant(s).

If you are purchasing as joint tenants, you will be jointly responsible for the total withholding amount.

Purchaser's or supplier's representative

Depending on which state or territory the property is located in, the purchaser's or supplier's representative for the conveyancing process can include either a:

- licenced conveyancer
- solicitor.

Note: Some jurisdictions may allow DIY conveyancing.

Contract price

In most cases, the contract price is the GST-inclusive price of the supply as listed in the contract.

The contract price is normally used for calculating the amount a purchaser needs to withhold from the supplier and remit to us.

The contract price may be varied by the parties before completion.

Normal settlement day adjustments can be disregarded (for example, disbursements paid to reflect apportionment of council rates, water rates).

Note: If the contract includes non-monetary consideration, see [price of the supply](#) for calculating the withholding amount.

Price of the supply

The price of the supply is usually the contract price but in certain circumstances the price of the supply may also include non-monetary consideration (for example, land swaps).

If that is the case, the amount to be withheld by the purchaser needs to be calculated using the total consideration for the supply, and not just the monetary amount listed as the contract price.

There are special rules for calculating the withholding amount where the contract is between associates and the contract price is less than the GST inclusive market value of the property.

Withholding amount

The amount a purchaser must withhold and pay to us (rounded down to the nearest dollar) is generally either:

- 1/11th of the contract price (for taxable supplies)
- 7% of the contract price (for [margin scheme](#) supplies)
- 10% of the GST exclusive market value of the supply for supplies between associates (for consideration less than GST-inclusive market value).

Note: If the contract includes non-monetary consideration, see [price of the supply](#) for calculating the withholding amount.

Long term leases

Long term lease means a supply by way of lease, hire, or licence (including a renewal or extension of a lease, hire or licence) for at least 50 years if:

- at the time of the lease, hire or licence, or the renewal or extension of the lease, hire or licence, it was reasonable to expect that it would continue for at least 50 years
- the terms of the lease, hire or licence, or the renewal or extension of the lease, hire or licence, as they apply to the [recipient](#) are substantially the same as those under which the supplier held the premises – unless the supplier is an Australian Government agency.

Property subdivision plan

A property subdivision plan means a plan for the division of real property that has been registered under an Australian law. For example, strata plans, community plans or subdivision plans registered with the relevant state or territory land titles office.

The ATO considers that where the physical description of a parcel of land is changed and identified in a registered deposited plan, that parcel of land is 'included in a property sub-division plan'. The purpose for which the deposited plan was registered is not relevant (for example, if it is a consolidation/amalgamation or division).

Registered entity acquiring land for a creditable purpose

A GST registered entity who acquires land for a creditable purpose is not subject to a withholding obligation.

An entity will acquire property for a creditable purpose if they are registered for GST and they acquire it, to any extent, in carrying on an enterprise and the acquisition is not related to making [input-taxed](#) supplies or of a private or domestic nature.

Note a purchaser under the margin scheme may acquire property for a creditable purpose although it isn't a creditable acquisition.

You can check whether an entity is registered for GST by searching the [Australian Business Register](#)²⁷. You can rely on a copy of the search on a relevant date.

You can rely on either written correspondence from an entity, or a statement in the relevant contract, as to whether the entity is acquiring the land for a creditable purpose.

Taxable supply

A supply will be a taxable supply if you are registered (or required to be registered) for GST and the supply is:

- made for consideration
- made in the course or furtherance of an enterprise you carry on
- not a GST-free or input taxed supply (for example, a supply made as part of a GST-free supply of a going concern or a supply of GST-free farmland).

See also:

- [GST definitions](#) – sales (supplies)

Return to:

- [GST at settlement](#)

Resources

- <https://www.ato.gov.au/Business/GST/In-detail/Your-industry/Property/GST-at-settlement/?page=15>
- Last modified: 25 May 2020
- QC 55431

Law companion rulings

- [Law companion ruling LCR 2018/4](#) *Purchaser's obligation to pay an amount for GST on taxable supplies of certain real property* describes how we apply the law.

Legislation

- [Treasury Laws Amendment \(2018 Measures No. 1\) Bill 2018](#) [↗]

Webinars

Watch:

- [Webinar – GST at settlement – Overview](#) [↗]
- [Webinar – How to get GST at settlement right](#) [↗]
- [Webinar – GST at settlement – Cutting through the complexities](#) [↗]

Online forms and information

The following information is available to help you meet your obligations:

- [GST property settlement online forms and instructions](#)
- [How to pay the withholding amount](#)
- [GST at settlement – a guide for purchasers and their representatives](#)
- [GST at settlement – a guide for suppliers and their representatives](#)
- [GST and property](#)
- [GST and the margin scheme](#)

Return to:

- [GST at settlement](#)

Our commitment to you

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If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

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