



## Monthly Information Newsletter – Tax & Super

November 2020

### The investment option that can hide unexpected GST

New residential property is a popular investment for many, and can be especially so for self-managed superannuation funds, however the ATO is concerned that not every investor in residential property is fully aware that it is an option that may bring with it unexpected GST obligations.

The ATO says that from 1 July 2018, most purchasers must withhold an amount from the contract price at the date of settlement and pay it directly to the ATO. The sale price is paid to the property supplier. This applies to:

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

Purchasers who engage a representative when buying new residential property will need to complete a signed declaration so the representative can lodge two required forms and pay GST on behalf of the purchaser.

Purchasers who have a GST withholding obligation must complete and lodge two forms:

- when they sign the contract, lodge Form one: *GST property settlement withholding notification* using information from the supplier notification (see below)
- when the property settles
  - lodge Form two: *GST property settlement date confirmation*, and
  - pay the GST withheld amount.

Ask us if you require these forms.

If there were any mistakes on Form two, the ATO should be contacted to have it cancelled before lodging a new form. If multiple properties are bought, lodging a new form for each property transaction will be required.

#### Supplier notification

To complete Form one, the supplier (seller/vendor) needs to give the buyer a "supplier notification" so the purchaser knows whether or not there is a GST withholding obligation.

If there's an obligation to withhold GST, the supplier notification must include:

- the name and ABN of all suppliers
- GST branch number (if applicable)
- the amount of GST to be withheld (rounded down to the nearest dollar)
- when the GST must be paid
- GST-inclusive contract price (plus the GST inclusive market value of non-monetary considerations).

A supplier's written notice can be relied on:

- when it states a purchaser isn't required to pay an amount to the ATO. In most states and territories, the standard contract of sale clearly states if a purchaser is required to withhold GST or not
- if the purchaser is unaware of an error on the notice and the supplier doesn't tell them.

However, if the purchaser or their representative knows that a supplier is registered for GST and selling new residential premises, the ATO considers it unreasonable not to withhold and pay an amount to it at settlement.

The ATO has stated that it won't retrospectively penalise purchasers who acted reasonably if it's later found that a supplier hasn't met their obligations.

#### DISCLAIMER

All information provided in this article is of a general nature only and is not personal financial or investment advice. Also, changes in legislation may occur frequently. We recommend that our formal advice be obtained before acting on the basis of this information.

***Our liability may be limited by a scheme approved under Professional Standards Legislation.***