# GST at Settlement

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## RuleBase Logic - Purchaser

### *Interview Purpose*

The person is a purchaser of property if

The person = “Purchaser”.

The person is a seller of property if

The person = “Seller”.

### *Index Logic*

[Taxation Administration Act 1953 (Cth) 14-250] The purchaser will be liable to pay an amount to the Commissioner if

Either

[(1)(a)] The user knows that the purchaser is a ‘recipient’ of a ‘taxable supply’ = “Yes”

[(1)(a)] The purchaser is a ‘recipient’ of a ‘taxable supply’.

AND

Either

[(2)] The user knows that the supply is by way of sale of long-term lease = “Yes”

[(2)] The supply is by way of sale or long-term lease.

AND

Either

[(2)(a)] The user knows that the supply is of new residential premises or of potential residential land = “Yes”

[(2)(a)] The supply is of new residential premises or of potential residential land.

AND

Either

[Tag] The user knows that the Transitional Rules apply = “No”

[Tag] The Transitional Rules do not apply.

Comment – The two cases in each rules have the following logic:

* First Case -> When the user is confident/knows that the base conditions is met;
* Second case -> Triggered when the user is unsure/more info, which directs the user to a branch containing more definitions & legal tests.

### *Branch Logic – Recipient of taxable supply*

[A New Tax System (Goods and Services Tax) Act 1999] The purchaser is a ‘recipient' of a ‘taxable supply’ if

[s 184-1(1)] The purchaser is an entity and

[s 9-5,195-1] The supply is made for consideration and

[s 9-20, 195-1] The supply is made in the course or furtherance of an enterprise that the entity carries on and

[s 9-25(4), 195-1; Taxation Ruling GSTD 2004/3 para 2] The supply is connected with Australia and

[s 57-20, 195-1, 144-5] The entity is registered, or required to be registered, for GST and

Both

[Subdivision 40; Law Companion Ruling LCR 2018/4 para 15, 18] The sale of the residential premises is not input taxes and

[Subdivision 38] The sale is not a GST-free supply.

### *Branch Logic – Supply by way of sale or long-term lease*

[A New Tax System (Goods and Services Tax) Act 1999] The supply is by way of sale or long-term lease if

[9-10] The transaction is defined as a supply and

Either

[Goods and Services Tax Ruling GSTR 2003/03 para 18] The supply is by way of sale or

[s 195-1 definitions ‘long-term lease’] The supply is by way of long-term lease.

### *Branch Logic – New Residential Premises*

[A New Tax System (Goods and Services Tax) Act] The supply is of new residential premises if

[s 40-75] The supply is defined as a ‘new residential premises’ and

Both

[s 40-65(2)] The supply has not been created through substantial renovations and

[s 40-65(2)] The supply is not of commercial residential premises.

### *Branch Logic – New Residential Premises – ‘new residential premises’*

The supply is defined as a ‘new residential premises' if

[s 40-75(1)(a)] The supply has not previously been sold as a residential premises (other than commercial residential premises) or

[s 40-75(1(c)] It has been built, or contain a building that has been built, to replace demolished premises on the same land.

Comment – s 40-75(1)(b), states a further definition for ‘new residential premises,’ where “they have been created through substantial renovation of a building.” It is our interpretation that this has been displaced by *Taxation Administration Act 1953* (Cth) ss 14-250(2)(a)(i) which states that ‘This subsection applies to… new residential premises that not been created through substantial renovation of a building.’

### *Branch Logic – Exception – Transitional Rules*

The Transitional Rules do not apply

The contracts were exchanged between the parties before 1 July 2018, or

both

The contract was entered into by the purchaser and the vendor executing two copies of the contract in turn and

The acceptance of the offer was communicated to the other party before 1 July 2018.

The supply is of new residential premises or of potential residential land if

The supply is defined to be of potential residential land or

The supply is defined to be of new residential premises.

19-23

The supply is of potential residential land if

The property is of 'potential residential land' and

The property is included in a 'property subdivision plan’ and

The property does not contain any building that is in use for a commercial purpose and

either

The purchaser is not registered for GST or

The purchaser is registered but does not purchase the property for a creditable purpose.

1 -2 need to be true

3 – needs to be false

4 – Software maps question to be positive – so input needs to be false - needs to be false or

5 - needs to be false

17.

Source

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