

TA 2004/2 - Avoidance of Goods and Services Tax (GST) on the sale of new residential premises

 This cover sheet is provided for information only. It does not form part of *TA 2004/2 - Avoidance of Goods and Services Tax (GST) on the sale of new residential premises*



Australian Government
Australian Taxation Office

TA 2004/2

Taxpayer Alert

The Taxation Office view on this arrangement is set out in GST Ruling GSTR 2004/3.

FOI status: may be released

Taxpayer Alerts are intended to be an "early warning" of significant new and emerging tax planning issues or arrangements that the ATO has under risk assessment.

Taxpayer Alerts will provide information that is in the interests of an open tax administration to taxpayers. Taxpayer Alerts are written principally for taxpayers and their advisers and they also serve to inform ATO officers of new and emerging tax planning issues. Not all potential tax planning issues that the ATO has under risk assessment will be the subject of a Taxpayer Alert, and some arrangements that are the subject of a Taxpayer Alert may on further examination be found not to be of concern to the ATO.

Taxpayer Alerts will give the title of the issue (which may be a scheme, arrangement or particular transaction), briefly describe the issue and will highlight the features which the ATO considers give rise to taxation issues. These issues will generally require more detailed analysis to provide an ATO view to taxpayers.

The developers and marketers of an arrangement which is the subject of a Taxpayer Alert should provide the full facts of the arrangement to the ATO to enable the ATO to finalise its view.

Taxpayers who have entered into or are contemplating entering into an arrangement similar to that described in this Taxpayer Alert can seek a formal determination of the ATO's position through a Private Ruling. Such taxpayers might obtain their own advice and/or contact the ATO officer named in the Alert.

This Taxpayer Alert is issued under the authority of the Commissioner.

TITLE: Avoidance of Goods and Services Tax (GST) on the sale of new residential premises

This Taxpayer Alert describes an arrangement using the joint venture provisions to attempt to avoid GST on the sale of new residential premises. The parties to the arrangement purportedly form a joint venture for the purpose of creating an 'internal sale' of new home units/houses by the joint venture operator to a participant in the joint venture. This is to support a claim that the units/houses are no longer 'new residential premises'. On this basis, any subsequent sale of the residential units/houses is claimed to be input taxed and not subject to GST.

DESCRIPTION

The alert applies to arrangements that exhibit some or all of the following features:

joint venture
input taxed
Goods and Services Tax

related taxation rulings:

legislative references: GST Act Division 165
GST Act subsection 51-5
GST Act subsection 51-30(2)
GST Act subsection 40-75
GST Regulation 51-5.01

related taxpayer alerts:

related practice statements: PS LA 2008/15 - Taxpayer Alerts

related media releases:

file references:

Date issued:	
Authorised by:	Mr Des Maloney First Assistant Commissioner
Contact Officer:	Mr Walter Hadeed
Business Line:	Goods and Services Tax
Section:	ILEC – Aggressive Tax Planning Team
Phone:	(03) 9275 -4307
