GSTR 2003/3EC - Compendium

Australian Government
Australian Taxation Office

Goods and Services Tax Ruling compendium – GSTR 2003/3

Relying on this Compendium

This Compendium of comments provides responses to comments received on draft Goods and Services Tax Ruling GSTR 2003/3DC *Goods and services tax: when is a sale of real property a sale of new residential premises?*. It is not a publication that has been approved to allow you to rely on it for any purpose and is not intended to provide you with advice or guidance, nor does it set out the ATO's general administrative practice. Therefore, this Compendium does not provide protection from primary tax, penalties or interest for any taxpayer that purports to rely on any views expressed in it.

Summary of issues raised and responses

All legislative references in this compendium are to the *A New Tax System (Goods and Services Tax) Act 1999*, unless otherwise indicated.

Issue number	Issue raised	ATO response
1	The ATO has previously expressed the view that subsection 40-75(2) does not apply to premises that have been used solely to make GST-free supplies. However, this view is not stated in ATO public advice and guidance. This view should be included in Goods and Services Tax Ruling GSTR 2009/4 *Goods and services tax: new residential premises and adjustments for changes in extent of creditable purpose*.	Paragraph 92 of Goods and Services Tax Ruling GSTR 2003/3 *Goods and services tax: when is a sale of real property a sale of new residential premises?*, which addresses subsection 40-75(2), has been amended to state that the 5-year period does not include periods during which premises are used to make GST-free supplies. Paragraph 133 of GSTR 2009/4 refers to the discussion of subsection 40-75(2) in paragraphs 89 to 93 of GSTR 2003/3. Further amendment to GSTR 2009/4 is, therefore, not necessary.