

Redeemable preference share and GST exemption -

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Retirement Villages Industry Partnership

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If you rely on this ruling, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you – provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

Does the right of occupation acquired by a resident who purchases a redeemable preference share need to be less than 50 years to retain any GST exemption?

GST law

1. Section 40-5, financial supplies and related regulations.
2. Section 40-70, supplies of residential premises by way of long-term lease.

ATO position

3. The 'share'.
4. On perusal of Regulation 40-5.09 and Schedule 1 to the Regulations a supply of 'share' is a financial supply. Subsection 40-5(1) provides that a financial supply is input taxed. Since the share is input taxed it is not necessary to consider the issue of 50 years.