



***GSTR 2005/5A2 - Addendum - Goods and services tax: arrangements of the kind described in Taxpayer Alert TA 2004/8: use of the Going Concern provisions and the Margin Scheme to avoid or reduce the Goods and Services Tax on the sale of new residential premises***

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## Addendum

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### Goods and Services Tax Ruling

Goods and services tax: arrangements of the kind described in Taxpayer Alert TA 2004/8: use of the Going Concern provisions and the Margin Scheme to avoid or reduce the Goods and Services Tax on the sale of new residential premises

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Goods and Services Tax Ruling GSTR 2005/5 to reference as appropriate the Federal Court's decision in *Aurora Developments Pty Ltd v. Federal Commissioner of Taxation* (2011) 192 FCR 519; [2011] FCA 232; (2011) 82 ATR 91; 2011 ATC 20-250, where the supply of a residential development site was held not to be a GST-free supply of a going concern.

#### **GSTR 2005/5 is amended as follows:**

**1. Paragraph 29**

Insert the footnote at the end of last bullet point:

<sup>3A</sup> See, for example, *Aurora Developments* (2011) 192 FCR 519; [2011] FCA 232; (2011) 82 ATR 91; 2011 ATC 20-250, which is discussed briefly in GST Ruling GSTR 2002/5 at paragraphs 29A to 29D.

**2. Paragraph 32**

Insert the footnote at the end of the paragraph:

<sup>4A</sup> In *Aurora Developments Pty Ltd v. Federal Commissioner of Taxation* (2011) 192 FCR 519 at 571; [2011] FCA 232 at [241] (*Aurora Developments*) the Court, in determining the proper construction of a contract for the sale of a residential development site, had regard to the text of the contract, the surrounding circumstances known to the parties and the purpose and object of the transaction. Ultimately it was held to be a sale of land on particular terms that was not a supply of a going concern.

### 3. Case references

Insert:

- Aurora Developments Pty Ltd v. Federal Commissioner of Taxation (2011) 192 FCR 519; [2011] FCA 232; (2011) 82 ATR 91; 2011 ATC 20-250

This Addendum applies on and from 27 March 2013.

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**Commissioner of Taxation**

27 March 2013

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ATO references

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