

Farmed for five years but not immediately prior to the sale -

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Primary Production Industry Partnership

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Question

1. Is the sale of farm land GST-free if a farming business has been carried on for five years but not for the five years immediately prior to the sale?

Answer

2. 'Carrying on' an enterprise, as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act), includes doing anything in the course of the commencement or termination of the enterprise (section 195-1 of the GST Act).

3. 'Preceding' is not defined in the Act. According to the *Macquarie Concise Dictionary*, 'precede' means 'to go before'.

4. Paragraph 38-480(a) of the GST Act refers to the period of five years preceding the supply. It does not say a period of five years. If it was the latter, then any period of five years before the sale would suffice. Therefore, the period of five years must mean immediately before the supply and consequently, the sale would not be GST-free in circumstances where the farming business had been carried on for a five year period, but not immediately preceding the sale.