MSV 2005/3 -

Australian Government
Australian Taxation Office

Australian Taxation Office Legislative Instrument
Instrument ID: MSV 2005/3

A New Tax System (Goods and Services Tax) Margin Scheme Valuation Requirements Determination MSV 2005/3

I, Neil Edward Mann, make the following determination under subsection 75-35(1) of the *A New Tax System (Goods and Services Tax) Act 1999* ('the GST Act').

Citation

1. This determination may be cited as the *A New Tax System* (*Goods and Services Tax*) *Margin Scheme Valuation Requirements Determination* MSV *2005/3*.

Commencement

2. This determination commences on 1 December 2005.

Application of this Determination

3. This determination specifies the requirements for making valuations for calculating the margin for taxable supplies of real property made on or after 1 December 2005 for the purposes of Division 75 of the GST Act.

4. The *A New Tax System* (*Goods and Services Tax*) *Margin Scheme Valuation Requirements Determination* (*No*.1*) 2000*, the *A New Tax System* (*Goods and Services Tax*) *Margin Scheme Valuation Requirements Determination* (*No*.2*) 2000* and the *A New Tax System* (*Goods and Services Tax*) *Margin Scheme Valuation Requirements Determination* MSV 2005/1 continue to apply for supplies made before 1 December 2005, but do not apply to supplies made on or after 1 December 2005. The *A New Tax System (Goods and Services Tax) Margin Scheme Valuation Requirements Determination MSV 2* continues to apply in the circumstances specified in that determination.

What is the freehold interest, stratum unit or long-term lease that you value?

5. If the real property supplied is the same interest, unit or lease that existed at the valuation date, the valuation must be of that interest, unit or lease.

6. If the real property that is supplied is not the same interest, unit or lease that existed at the valuation date, but was derived from an interest, unit or lease that was in existence at that date, the valuation must be made as follows:

(a) a valuation of the interest, unit or lease in existence at the valuation date must be made; and

(b) the valuation of that interest, unit or lease must be apportioned on a fair and reasonable basis, to ascertain the part of the valuation that relates to the interest, unit or lease that you supply.

Mixed supplies

7. If you make a supply of an interest, unit or lease that is partly input taxed and partly taxable or partly taxable and partly GST-free (a mixed supply), the valuation must be made as follows:

(a) a valuation of the entire interest, unit or lease in existence at the valuation date must be made; and

(b) the valuation of that interest, unit or lease must be apportioned on a fair and reasonable basis, to ascertain the part of the valuation that relates to that part of the interest, unit or lease that you supply under the margin scheme.

The valuation methods that can be used for the purposes of Division 75

8. A valuation complies with the requirements determined by the Commissioner under subsection 75-35(1) if it is made in accordance with any of the following methods and is made by the time specified in paragraphs 15 and 16 below.

Method 1:

9. A written valuation by a professional valuer determining the market value of the interest, unit or lease at the valuation date. The valuation must be made in a manner that is not contrary to the professional standards recognised in Australia for the making of real property valuations.

10. The valuation must include a signed certificate which specifies:

(a) a full description of the property being valued;

(b) the applicable valuation date;

(c) the date the valuer provides the valuation to the supplier;

(d) the market value of the property at the valuation date;

(e) the valuation approach and the valuation calculation; and

(f) the qualifications of the valuer.

11. However, if:

(a) the interest, unit or lease has been supplied by the Commonwealth, a State or a Territory; and

(b) the supplier has held the interest, unit or lease since before 1 July 2000; and

(c) there were no improvements on the land or premises in question as at 1 July 2000; and

(d) there are improvements on the land or premises in question on the day on which the taxable supply takes place,

the valuation must be a valuation, made in writing by a professional valuer determining the market value of the interest, unit or lease, that is not contrary to professional standards recognised in Australia for the making of real property valuations, as if no improvements had been made at the date of the supply.

Method 2:

12. A valuation made by adopting as the value the consideration provided by a purchaser in a contract for the sale and purchase of the real property executed or exchanged before the valuation date by parties dealing at arm's length.

13. Method 2 is not available if:

> (a) the interest, unit or lease has been supplied by the Commonwealth, a State or Territory; and
>
> (b) the supplier has held the interest, unit or lease since before 1 July 2000; and
>
> (c) there were no improvements on the land or premises in question as at 1 July 2000; and
>
> (d) there are improvements on the land or premises in question on the day on which the taxable supply takes place.

Method 3:

14. A valuation made by adopting as the valuation the most recent value as determined before the valuation date by or on behalf of a State Government or a Territory Government department as the unimproved value, the site value, or the capital value of the land, for rating or land tax purposes.

When must the valuation be made?

15. The valuation must be made by the due date for lodgment of the supplier's Activity Statement for the tax period to which the GST on the supply is attributable.

16. However, if the Commissioner has allowed a further period under paragraph 75-5(1A)(b) for the supplier and recipient to agree in writing that the margin scheme is to apply in working out the GST on the supply, the valuation must be made by the later of:

> (i) 6 weeks from the further period that the Commissioner has allowed under paragraph 75-5(1A)(b); or
>
> (ii) 6 weeks from the date of the Commissioner's decision to extend the further period under paragraph 75-5(1A)(b).

17. If the valuation is not made within the time periods specified in paragraphs 15 and 16, the Commissioner may for good reason allow an additional period within which a valuation may be made.

Definitions

18. ***Professional valuer*** is defined for the purposes of this determination to mean:

(a) a person registered or licensed to carry out real property valuations under a Commonwealth, State or Territory law; or

(b) a person who carries on a business as a valuer in a State or Territory where that person is not required to be licensed or registered to carry on a business as a valuer; or

(c) a member of the Australian Property Institute and is accredited as a Certified Practising Valuer.

19. Other expressions in this determination have the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999*.

Dated this 7th day of September 2005

Signed by Neil Mann

Neil Edward Mann
Deputy Commissioner and
Delegate of the Commissioner