


GSTA TPP 013 - Goods and services tax: Where new residential premises are sold with certain chattels included (for example, a furniture package and moveable dishwasher), should the supplier apportion the 'real property' element of the sale (which can be subject to the margin scheme) and the 'chattels' element (which may not)?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *31 October 2012*



Goods and Services Tax Advice

Goods and services tax: where new residential premises are sold with certain chattels included (for example, a furniture package and moveable dishwasher), should the supplier apportion the 'real property' element of the sale (which can be subject to the margin scheme) and the 'chattels' element (which may not)?

Preamble

*This document was published prior to 1 July 2010 and was a public ruling for the purposes of former section 37 of the **Taxation Administration Act 1953** and former section 105-60 of Schedule 1 to the **Taxation Administration Act 1953**.*

*From 1 July 2010, this document is taken to be a public ruling under Division 358 of Schedule 1 to the **Taxation Administration Act 1953**.*

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

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.

[Note: *This is a consolidated version of this document. Refer to the Legal Database (<http://law.ato.gov.au>) to check its currency and to view the details of all changes.]*

Answer

Yes, the supplier should apportion the real property element and the chattels element when calculating the margin in this situation.

Background

An entity is selling new residential premises with chattels included (for example, a furniture package and moveable dishwasher). The entity chooses to apply the margin scheme under section 75-5 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).

Explanation

The sale of new residential premises with chattels included is a transaction that consists of separate supplies of the new residential premises and the chattels. This is because, as a matter of commercial reality, the sale of the real property and the chattels are separately identifiable in the sale contract and from the circumstances surrounding the transaction. Otherwise, the purchaser buying the property with the chattels is not able to ensure the legal transfer of the chattels from the vendor given that the chattels, by their nature, are not affixed to the real property.

Application of this GST Advice

This Advice applies [to tax periods commencing] both before and after its date of issue. However, this Advice will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Advice (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

Related Rulings/Determinations/GST Advice:

TR 2006/10

Subject references:

residential premises
separate supplies
mixed supplies
composite supplies

Legislative references:

ANTS(GST)A 1999 75-5
TAA 1953 Sch 1 Div 358

ATO references

NO:	05/3095
ISSN:	1833-0053