

IRAS e-Tax Guide

Self-Accounting of GST by Listed REITs and their SPVs for Property Purchases

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TABLE OF CONTENTS

| | | |
|---|---|---|
| 1 | OVERVIEW..... | 1 |
| 2 | GST TREATMENT..... | 1 |
| 3 | QUALIFYING CONDITIONS..... | 1 |
| 4 | RESPONSIBILITY OF BUYER AND SELLER..... | 2 |

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1 OVERVIEW

- 1.1 Since 01 Jul 2006, GST-registered Real Estate Investment Trusts (REITs) listed on the Singapore Exchange have been allowed to self-account the GST payable when they purchase non-residential properties from a taxable person. This GST treatment helps to ease the cash flow problems faced by these REITs.
- 1.2 With effect from 01 Jan 2009, in addition to the current GST treatment applicable to public-listed REITs, the same GST treatment will be extended to GST-registered special purpose vehicles (SPVs) of such REITs, subject to certain conditions.
- 1.3 This e-Tax Guide explains the application and operational details of this GST treatment.

2 GST TREATMENT

- 2.1 Section 38 of the GST Act provides for the buyer to account on behalf of the seller the GST chargeable on a prescribed supply of goods or services. Regulation 104A of the GST (General) Regulations provides that a taxable supply of immoveable property made to:

- (a) a GST-registered listed REIT; or
- (b) a GST-registered SPV of a GST-registered listed REIT

is a prescribed supply for the purpose of section 38 of the GST Act.

- 2.2 Consequently, the seller of the non-residential property need not charge and account GST on the sale. Instead, the GST-registered REIT or its SPV will self-account the GST chargeable.
- 2.3 The above GST treatment applies only to the supply of unfurnished non-residential properties (which would also include fixtures permanently attached to them). It does not apply to moveable furniture and fittings, even if they are sold together with the properties. In such instances, the seller is still required to charge and account for GST chargeable on the portion relating to the furniture and fittings.

3 QUALIFYING CONDITIONS

3.1 For the GST-registered REIT

- 3.1.1 The GST-registered REIT¹ must be listed or is to be listed on the Singapore Exchange within one month from the time of supply of the property.

¹ Refers to a trust that is constituted as a collective investment scheme authorized under section 286 of the Securities and Futures Act.

Self-accounting of GST by Listed REITs and their SPVs for Property Purchases

3.2 For the GST-registered SPV

3.2.1 The GST-registered SPV of the above REIT is either:

- (a) a company established by the REIT to hold its properties; or
- (b) a trust established by the REIT for its trustee to hold the REIT's properties.

3.2.2 The trustee of the REIT must have veto rights over the key operational issues of the SPV. Key operational issues include:

- Amendment of the joint venture agreement, memorandum and articles of association, trust deed, or other constitutive document of the SPV;
- Cessation or change of the business of the SPV;
- Winding up or dissolution of the SPV;
- Changes to the equity capital structure of the SPV;
- Changes to the dividend distribution policy of the SPV;
- Issue of securities by the SPV
- Incurring of borrowings by the SPV;
- Creation of security over the assets of the SPV;
- Transfer or disposal of the assets of the SPVs;
- Approval of asset enhancement and capital expenditure plans for the assets of the SPV; and
- Entry into interested party transactions.

The veto rights should be provided for in the joint venture agreement, memorandum, articles of association, trust deed or other constitutive documents of the SPV.

4 RESPONSIBILITY OF BUYER AND SELLER

4.1 Where the sale of a non-residential property qualifies to be treated as a prescribed supply under section 38 of the GST Act, it becomes the buyer's responsibility to account GST (output tax) on that sale on behalf of the seller. Thus the seller is not required to collect the GST amount from the buyer, even though the seller is still considered to be making a taxable supply of that property to the buyer. They also have to comply with the requirements explained below.

4.2 For the buyer:

- (a) The buyer needs to clearly notify the seller that he qualifies for the conditions listed in paragraph 3 and that its purchase would qualify as a prescribed transaction within Regulation 104A;
- (b) As the buyer is accounting GST (output tax) on behalf of the seller, he has to include the sale price of the property and corresponding GST amount as part of the value of standard-rated supplies and output tax

Self-accounting of GST by Listed REITs and their SPVs for Property Purchases

respectively in his GST return for the prescribed accounting period in which the supply takes place; and

- (c) He will claim input tax on the purchase of the property in the same manner as any other taxable purchases, subject to the normal input tax recovery rules. The input tax claim and taxable purchase (i.e. purchase price of property) will be included in his GST return for the prescribed accounting period in which the supply takes place.

4.3 For the seller:

- (a) The seller only needs to collect the GST-exclusive price of the immovable non-residential property from the buyer;
- (b) He has to issue a tax invoice to the buyer for the taxable supply. It has to show all the information normally required to be shown on tax invoices;
- (c) The seller's tax invoice must include a clause to the effect that the output tax shown on the invoice is payable to the Comptroller of GST by the buyer of the property. The suggested wording is "\$XXX output tax on this supply of property to be accounted for to Comptroller of GST by the buyer".
- (d) He is required to include the GST-exclusive price as part of the value of standard-rated supplies in his GST return for the prescribed accounting period in which the supply takes place.

4.4 The prescribed supply of a non-residential property under section 38 of the GST Act is treated as taking place only when the property is made available to the buyer, which is usually upon date of completion of the sale. The issue of tax invoice or receipt of payment by the seller will not trigger the time of supply in this instance. Please take note that this is a deviation from the usual time of supply rules that apply to a supply of property not treated as a prescribed supply.

4.5 If the property that is sold to the GST-registered listed REIT or its GST-registered SPV comprises both residential and non-residential portion, only the non-residential portion is treated as a prescribed supply under section 38 of GST Act for which the requirements as explained in paragraphs 4.2 and 4.3 would apply.