

IRAS e-Tax Guide

GST incurred on Purchase of Land for Residential Development (4th Edition)



INLAND REVENUE
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GST incurred on purchase of land for residential development

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1 Introduction

- 1.1 Paragraph 2 of the Fourth Schedule to the GST Act exempts the sale and lease of residential properties.¹ The sale and lease of all other properties aside from those specified under this paragraph will be subject to GST when supplied by a GST registered person.
- 1.2 A GST-registered developer may claim the GST incurred on the purchase of land if he intends to develop² the land for non-residential use to generate taxable supplies. If he intends to develop the land wholly or partially for residential use to make exempt supplies, GST incurred on that part of the land is not claimable.
- 1.3 To relief GST-registered developers from the GST paid on land purchased for residential development (whether wholly or partially), the Comptroller can allow the GST incurred to be attributable to the making of taxable supplies. This is provided under regulation 41 of the GST (General) Regulations.
- 1.4 This e-tax guide replaces the previous e-tax guide dated 29 Nov 2004 and clarifies:
- (a) The application of regulation 41 of the GST (General) Regulations to a GST-registered person following its amendments which take effect from 1 Jan 2007; and
 - (b) The circumstances under which the Comptroller may consider to allow the same relief to a non-registered person via remission.

2 Exceptional Relief under Regulation 41

- 2.1 The amended regulation 41(1) of the GST (General) Regulations provides for exceptional relief for the GST incurred on the purchase of vacant land, or land with buildings that will be demolished, for residential development. This is regardless of the zoning of the land at the point of purchase, or whether there will be any subsequent rezoning of the land. In the case of

¹ Specifically, the exemption applies to -
The grant, assignment or surrender of any interest in or right over land of any of the following descriptions or of any licence to occupy such land:

- (a) any vacant land zoned 'Residential' or 'Rural Centre and Settlement' in the Master Plan under the Planning Act (Cap.232) and used or to be used for residential purposes or for the purposes of condominium development;
- (b) any vacant land approved exclusively for residential or condominium development where the supply is made by such public or statutory authority as may be approved by the Minister or such other person as he may appoint; or
- (c) any land or part thereof with any building, flat or tenement thereon, being a building, flat or tenement which is used or to be used principally for residential purposes.

² In the context of this GST e-tax guide, "develop" refers to the constructing of any building in, on, over or under land, or making material change in the use of the land.

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a land supplied with building(s), for which the building(s) will not be demolished, regulation 41(2) continues to provide relief for only the GST incurred on the cost of the land (and not the building(s)) for residential development.

- 2.2 If a land³ is to be used for both residential and non-residential development, input tax for that part of the land to be used for non-residential development is claimable if the conditions under section 19 and 20 of the GST Act are satisfied. The relief under regulation 41 is limited to the portion of GST incurred for that part of the land to be used for residential development. As such, for mixed development, a taxable person needs to identify the amount of GST incurred for residential development before obtaining the claim. This value should be supported by an independent valuation of the cost attributable to that part of the land for such development.
- 2.3 In instances where the land was purchased with building(s) which was put to use⁴ prior to demolition, or that the building(s) will be retained for residential use, the developer is required to obtain an independent valuation indicating separately the value of the land and that of the building(s)⁵. GST for the cost incurred on the building will not be claimable under regulation 41.
- 2.4 A taxable person can obtain the relief under regulation 41 through his GST return(s) without seeking approval from the Comptroller, provided he maintains all supporting documents required. He should do so only if he satisfies all the conditions provided under this regulation and those listed under paragraph 4.1, and in the case where the land is to be used for mixed development, he is able to identify the GST incurred purely for the residential development. He should be prepared to support the claim with relevant documents at all times.
- 2.5 In the event that a taxable person is found to be ineligible for the claim, the taxable person would need to repay the GST claimed. If the making of exempt supply of residential properties did not commence within 4 years from the date of purchase of the land, the taxable person will need to inform the Comptroller. The Comptroller has the right to deny the claim previously made. Any wrong claim is subject to late payment penalty and penalty for the submission of incorrect return(s).
- 2.6 Subsequent to the claim, if the developer is unable to proceed with the residential development and intends to dispose of or transfer the property to another party, he is required to repay the GST claimed for the portion of the land previously intended to be used for residential development. This

³ This includes vacant land and land with building(s), whether or not it is to be demolished.

⁴ "Use" includes all temporary approvals to use the buildings, temporary leases, fulfilment of existing leases, etc.

⁵ The valuation will be subject to the Comptroller's review. The Comptroller reserves the right to use any appropriate and reasonable proxy to determine the value of the building(s).

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would occur in situations where the disposal or transfer of the vacant land or land with building is an exempt supply. Otherwise, GST should be charged and accounted on the taxable supplies made from the sales. In this case, there will not be a need to repay the GST previously claimed.

3 Circumstances for considering Remission to a Non-taxable person⁶

- 3.1 Developers who are not GST-registered may purchase land for the same purpose of developing residential properties (whether wholly or partially). Relief under regulation 41 of the GST (General) Regulations does not apply to these developers, as they are non-taxable persons.
- 3.2 A non-registered developer who satisfies the conditions of regulation 41 (other than the fact that he is not a taxable person) can make an application to the Comptroller of GST for remission under section 89(1) of the GST Act for the GST incurred⁷. The Comptroller will only consider remitting the portion of GST incurred on that part of the land to be used for residential development. Similar to a taxable person undertaking a mixed development, the non-taxable person will need to identify the GST incurred on that part of the land to be used for residential development, and to maintain relevant documents to support the remission. The remission is also confined to land, and not any building on it.
- 3.3 If a land is purchased prior to a developer's GST registration, the claim for GST for the land (or part of the land) to be used for residential development shall be treated as an application for remission as he was not a taxable person at the point of purchase.

4 Claiming GST under Regulation 41 & Application for Remission

- 4.1 A taxable person who is claiming the relief under regulation 41, as well as a non-taxable person who wishes to seek remission for the GST incurred, must first satisfy the following criteria:
- (i) He is the legal owner / lessee of the land;
 - (ii) He is the developer of the residential properties;
 - (iii) He has paid the purchase price and GST charged on the land;
 - (iv) He has obtained Written Permission from URA to develop wholly residential developments or mixed (residential and non-residential) developments; and

⁶ A non-taxable person is one who is not liable for GST registration under the First Schedule to the GST Act.

⁷ Each application for remission will be considered based on its own merits and the Comptroller's decision is final. Conditions could be imposed in granting the remission.

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- (v) His claim of GST under regulation 41 or remission under section 89(1) is made within 5 years from the date of purchase of the land (with effect from 1 Jan 2007).

In the case of a non-taxable person, any existing building on the land that is to be demolished has to be demolished before a remission will be considered.

- 4.2 In the case of a remission, the non-taxable person should furnish the following details in writing to the Comptroller of GST, attaching a copy of the stated documents:

Details of the purchase and proposed development

- (a) Location of the land including legal description of the property;
- (b) Date of purchase;
- (c) Purchase price and amount of GST payable;
- (d) Description of the proposed development, stating specifically if it is a wholly residential development, or a mixed residential and non-residential development;
- (e) Amount of GST sought for remission. In the case of a mixed development, or the purchase of a land with building on it, this should be supported by a professional valuation of the land cost attributable to residential development, and/or cost attributable to the existing building (which will not be demolished, or is put to temporary use before demolition) on the land;
- (f) Date of demolition of existing building(s) on the land (if the building is not to be retained);
- (g) Date of commencement of the development;
- (h) Expected date of completion of the development;

Documents to support purchase of land, payment of GST and proposed development

- (i) Tender document, building agreement and sales and purchase agreement (whichever is applicable);
- (ii) Relevant tax invoice(s);
- (iii) Payment evidence of the purchase price including GST;
- (iv) Written Permission from URA on the proposed development and the relevant documents; and
- (v) Documents from the relevant authorities, proving that any existing building on the land has been demolished (if the building is not to be retained).

5 Contact Information

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