

IRAS e-Tax Guide

GST Guide on Purchase of Land for Residential Development (Second Edition)



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1 Aim

1.1 This e-tax guide clarifies¹:

- (a) the application of regulation 41 of the GST (General) Regulations to a taxable person; and
- (b) the circumstances under which the Comptroller may consider to allow the same relief to a non-taxable person via remission under section 89(1) of the GST Act.

2 At a glance

2.1 Paragraph 2 of Part 1 of the Fourth Schedule to the GST Act exempts the sale and lease of residential properties. Residential properties refer to:

- (a) any vacant land zoned 'Residential' 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 land where the supply is made by the Government or such public authority as may be approved by the Minister or such other person as the Minister may appoint, and the land –
 - (i) is approved exclusively for residential or condominium development; and
 - (ii) is vacant or has any building on it that is required by the Government or the public authority to be demolished;
- (c) any land or part of any land with any building on the land or part, being a building which is used or to be used principally for residential purposes, but not if –
 - (i) the land or part is supplied by the Government or such public authority as may be approved by the Minister or such other person as the Minister may appoint;
 - (ii) the building on the land or part is required by the Government or the public authority to be demolished; and
 - (iii) the land or part (with the building demolished) is not approved exclusively for residential or condominium development.

2.2 The sale and lease of all other properties aside from those specified under paragraph 2.1 above will be subject to GST when supplied by a GST registered person.

¹ This e-Tax guide replaces the IRAS' e-Tax guide on "GST Incurred on Purchase of Land for Residential Development (Fifth Edition)" published on 19 Oct 2012.

2.3 A 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.

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.

3 Exceptional Relief Under Regulation 41 for taxable persons

- 3.1 To relieve 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 for under regulation 41(1) of the GST (General) Regulations.
- 3.2 The relief under regulation 41(1) is only applicable for the GST incurred on the purchase of the following types of land for residential development:
- (a) vacant land, or
 - (b) land with buildings that will be demolished.
- 3.3 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.

Land for both residential and non-residential development

- 3.4 If a land³ is to be used for both residential and non-residential development, 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.
- 3.5 The GST incurred 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.

Land with buildings

- 3.6 In the case of 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.
- 3.7 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 valuation⁵ indicating separately the value of the land and that of the building(s). GST for the cost incurred on the building will not be claimable under regulation 41.

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).

4 Remission under Section 89(1) for non-taxable persons⁶

- 4.1 Developers who are not GST-registered may purchase land for the same purpose of developing residential properties (whether wholly or partially). The relief under regulation 41 of the GST (General) Regulations does not apply to these developers, as they are non-taxable persons.
- 4.2 A non GST-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 incurred.
- 4.3 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 GST-registered developer undertaking a mixed development, the non GST-registered developer will need to identify the GST incurred on that part of the land to be used for residential development and maintain relevant documents to support the remission.
- 4.4 The remission is also confined to land, and not any building on it. Any existing building on the land that is to be demolished has to be demolished before a remission will be considered.
- 4.5 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.
- 4.6 Each application for remission under Section 89(1) of the GST Act will be considered based on its own merits and the Comptroller's decision is final. The Comptroller may set conditions when granting a remission. If the developer fails to comply with the conditions for the remission, he is required to repay the tax remitted to him previously within 1 month after the service of a notice by the Comptroller.

5 Claiming of GST under Regulation 41 & Application for Remission

- 5.1 Both the GST-registered developer who is claiming the relief under regulation 41, as well as a non GST-registered developer who is seeking remission under section 89(1), must satisfy the following criteria:
 - (a) He is the legal owner / lessee of the land;
 - (b) He is the developer of the residential properties;
 - (c) He has paid the purchase price and GST charged on the land;

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

- (d) He has obtained the Written Permission (WP) from URA to develop wholly residential development or mixed (residential and non-residential) development;
- (e) He has obtained a Valuation Report⁷ to identify the cost attributable to that part of the land for residential development in the case of mixed development;
- (f) 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); and
- (g) He maintains the following 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) Valuation report in the case of mixed development;
 - (iii) Relevant tax invoice(s);
 - (iv) Payment evidence of the purchase price including GST;
 - (v) Written Permission from URA on the proposed development and the relevant documents; and
 - (vi) Documents from the relevant authorities, proving that any existing building on the land has been demolished (if the building is not to be retained).

Claiming of GST under Regulation 41

- 5.2 A GST-registered developer can obtain the relief under regulation 41 through his GST return(s) without seeking approval from the Comptroller. He should do so only if he satisfies all the conditions listed under paragraph 5.1 above.
- 5.3 In the event that the GST-registered developer is found to be ineligible for the claim, the GST-registered developer would need to repay the GST. Any wrong claim is subject to late payment penalty and penalty for the submission of incorrect return(s).
- 5.4 If the making of exempt supply of residential properties did not commence within 4 years from the date of purchase of the land, the GST-registered developer will need to inform the Comptroller. The Comptroller has the right to deny the claim previously made.
- 5.5 Subsequent to the claim, if the GST-registered 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.

⁷ The Valuation Report should show the land cost (purchase price of the land) attributable to the residential and non-residential portion of the proposed development respectively. The gross floor area (GFA) of the residential and non-residential portion of the proposed development in the Valuation Report should match with the WP.

This 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.

Application for Remission

- 5.6 To apply for a remission, the non GST-registered developer has to furnish the following details in writing to the Comptroller of GST:
- (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) Completion 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 (e.g. commencement date of construction); and
 - (h) Expected date of completion of the development.
- 5.7 The non GST-registered developer also has to attach a copy of the documents listed under paragraph 5.1(g) above in his application for remission.

6 Contact Information

- 6.1 For enquiries on this e-Tax guide, please contact:

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7 Updates and amendments

	Date of amendment	Amendments made
1	1 Jan 2018	<ul style="list-style-type: none">• Amended paragraph 2.1 on definition of residential properties