

# CALLING ALL VENDORS – ARE YOU READY FOR THE NEW GST WITHHOLDING REGIME?

The growing responsibility imposed on parties to Victorian conveyancing transactions to calculate and in some instances collect state and federal taxes on behalf of the Victorian State Revenue Office and the Australian Taxation Office (ATO) is next week set to become more onerous than ever.

In the last few years alone, we have seen the introduction of:

- the Foreign Resident Capital Gains Withholding Tax;
- the Foreign Purchaser Additional Duty; and
- various changes to off the plan stamp duty concessions.

From 1 July 2018, the Federal Government's new regime designed to ensure that GST is collected at settlement of new residential premises and new subdivisions will commence.

The regime will apply to all contracts of sale for new residential premises and new subdivisions entered on and from 1 July 2018 and to contracts for new residential premises and new subdivisions entered into prior to 1 July 2018 but settling after 1 July 2020.

Purchasers to which the new regime applies must withhold from the settlement funds payable to the vendor and remit to the ATO:

- 1/11<sup>th</sup> of the purchase price; or
- Currently 7% of the purchase price if the margin scheme applies (but the Minister may determine a percentage between 7%-9%).

Vendors will have a statutory obligation to notify all purchasers of residential property (irrespective of whether or not the regime applies) if the purchaser is required to withhold and remit GST to the ATO, the exact amount to be remitted and the due date for remittance. A failure to provide the necessary notification is a strict liability offence with significant financial penalties for both individuals and corporations. Administrative financial penalties also apply.

All off the plan contracts of sale must be updated to address the new GST withholding regime. At minimum, vendors should require purchasers to:

- provide to the vendor for approval copies of the 'GST Property Settlement Withholding Notification Form' and 'GST Property Settlement Date Confirmation Form' prior to submitting the completed forms (completion of which is a purchaser obligation) to the ATO;
- warrant that they will remit the GST to the ATO by the due date; and
- indemnify the vendor in respect of any breach by the purchaser of its obligations regarding the withholding of and remitting of GST.

Vendors of residential property may also consider updating their contracts to reflect the new notification requirements imposed on vendors.

If you have contracts of sale which require updating to reflect the new withholding regime, please contact [Lisa Fowler](#) or any member of the KKI Property Team.

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