Presbyterian Church of Victoria

GST on Sale of Property

It is important that the GST implications are assessed on every property transaction. The attached checklist and charts are for guidance only and will not cover every possible situation. We recommend that each assessment is reviewed by a taxation specialist prior to settlement.

	Issue	Comment	Actioned
1.	Who is selling the property?	Critical to understand and document who the legal seller is given the titles are generally in the name of PCOV	
2.	Is the seller registered for GST?	This will determine the need to further assess the GST implications.	
3.	What type of property is being sold – Residential or Other	Different types of property are treated differently for GST. The sale of property should be closely examined in order to determine the correct classification.	
4.	Is the property new residential?	The sale of new residential is generally subject to GST.	
5.	Is the property sold at fair market value?	There are concessions for certain entities selling at certain levels below market value.	
6.	Is the margin scheme being applied?	There are certain concessions and additional requirements where the margin scheme is applied.	
7.	Was the property owned pre 1 July 2000?	There are certain concessions and additional requirements where the margin scheme is applied.	
8.	Is the contract consistent with GST analysis?	It is critical that the contract is correctly drafted.	
9.	Has a tax invoice been prepared?	If the property is subject to GST a tax invoice should be prepared in the name of the selling entity.	
10.	Have we adequately documented the GST assessment and sought expert assistance where required?	The GST assessment for each property transaction should be documented.	

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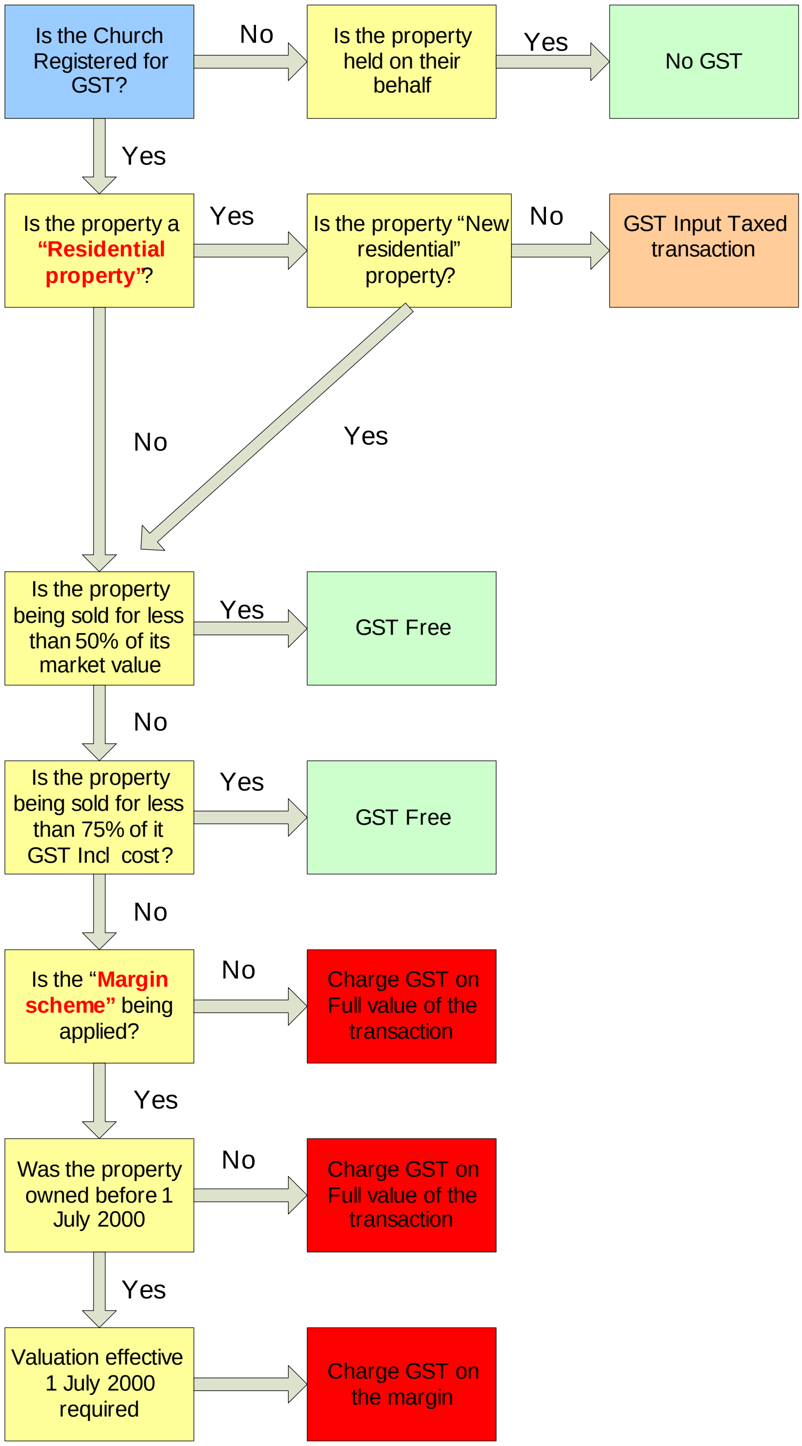
Sample Checklist that could be used:

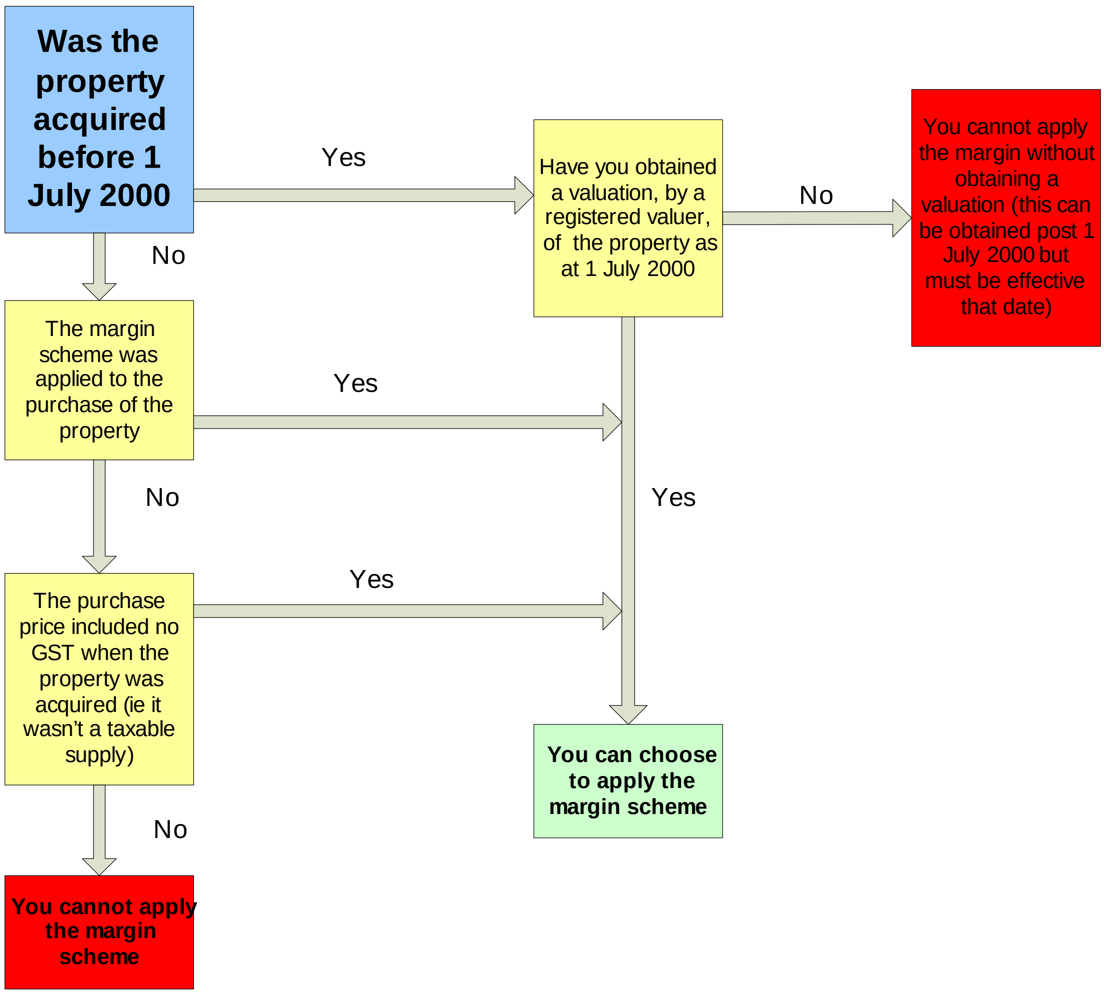
	Issue	Details	Actioned
1.	Who is selling the property?	Name and ABN	
2.	Is the seller registered for GST?	Copy of Australian Business Register Printout	
3.	What type of property is being sold – Residential or Other	Document type of property	
4.	Is the property new residential?	Attach Copy of Assessment	
5.	Is the property sold at fair market value?	Document assessment if not being sold at market value	
6.	Is the margin scheme being applied?	Attach Copy of Assessment	
7.	Was the property owned pre 1 July 2000?	Date acquired	
8.	Is the contract consistent with GST analysis?		
9.	Has a tax invoice been prepared?	Attached copy where required	
10.	Have we adequately documented the GST assessment and sought expert assistance where required?		

Presbyterian Church of Victoria GST on Property Transactions



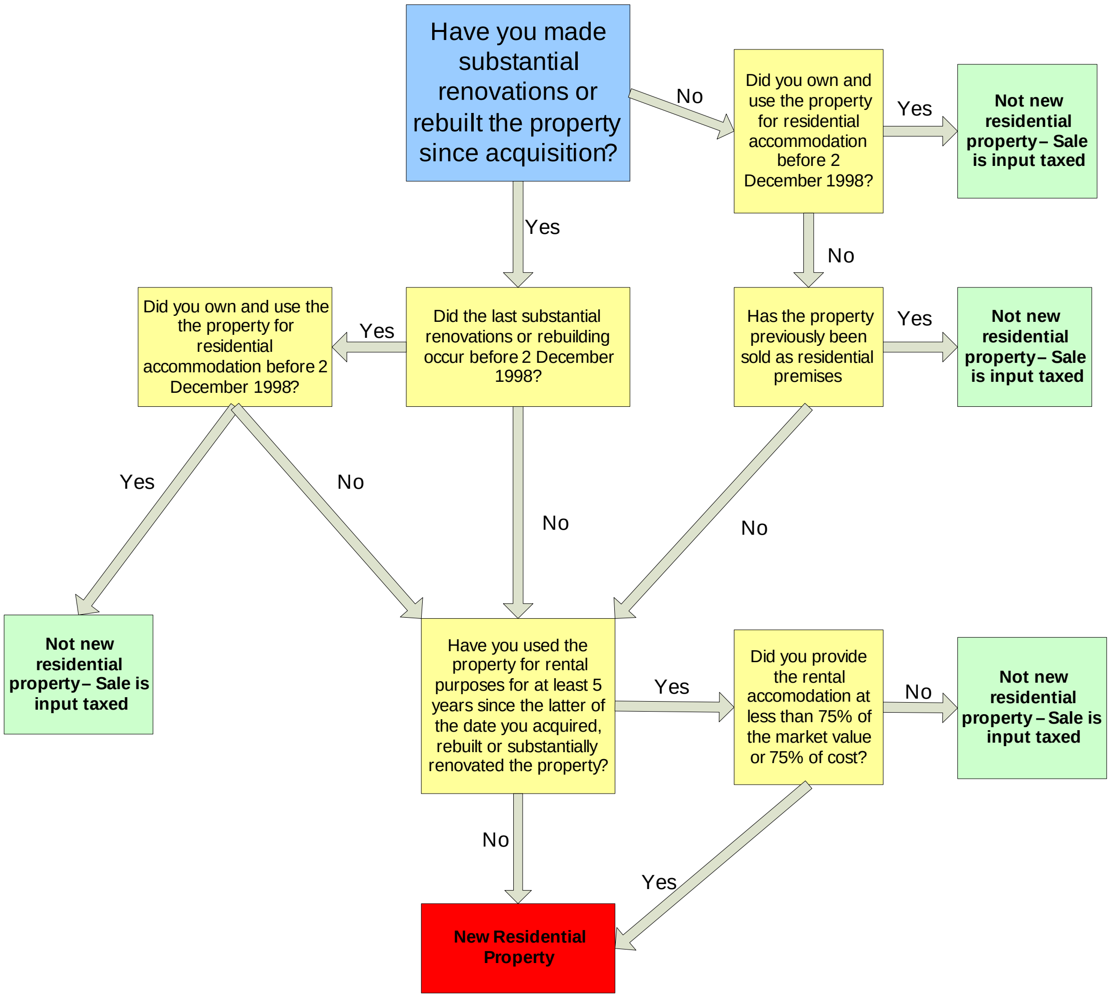
Presbyterian Church of Victoria
GST on Property Transactions

Can the Margin Scheme be Applied ?



Presbyterian Church of Victoria
GST on Property Transactions

New Residential Property



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1 Residential Premises

The sale of residential premises is input taxed unless the residential premises are considered "new". No GST is charged on an input taxed transaction. However, you cannot claim input tax credits for the GST included in selling costs, such as commission, conveyancing, etc. The sale of new residential premises is subject to GST. Therefore, you must determine whether the property being sold is "new".

New residential premises are premises that met one of the following criteria:

- Have not previously been sold as residential premises
- Have been created through substantial renovations
- Have been built to replace demolished premises

Therefore if a church builds a manse or substantially renovates it, GST will need to be charged when the property is sold, unless one of the two exceptions is met. These two exceptions to the rules for new residential premises are the five year rule and residential accommodation before 2 December 1998.

Five Year Rule

New residential premises exclude premises that have been used for making input taxed supplies for at least 5 years since the premises were acquired or built or since they were substantially renovated.

However, even if the property has been used for more than five years as a residential home by the ministers of the church, this GST exemption may not apply. Many churches are able to provide the manse as GST free accommodation as it is provided at less than 75% of market value. Therefore the manse has not been used for making input taxed supplies.

Residential Accommodation before 2/12/98

New residential premises exclude premises used for residential accommodation before 2 December 1998. However, if there has been a change to the premises after that date, eg substantial renovations, the premises will still be considered to be new.

Substantial Renovations

Substantial renovations are defined in the GST Act to be "renovations in which all, or substantially all, of a building is removed or replaced. However, the renovations need not involve removal or replacement of foundations, external walls, interior supporting walls, floors, roof or staircase".

The Commissioner states that you need to consider the building in its entirety and not just certain rooms. Substantial renovations should directly affect most rooms in the building.

Generally, substantial renovations will involve the removal or replacement of structural components of the building, such as alterations to foundations, floors or supporting walls, modification of roofs or replacing doors in a way that alters the brickwork.

However, substantial renovations can occur where there are changes to non-structural components with little alteration to structural components. This is particularly true of units and apartments. Non-structural work includes electrical wiring, alteration to non-supporting walls, plastering, plumbing, kitchen cupboards, bathroom fixtures and air conditioning. Cosmetic work by itself, such as painting and replacing curtains and light fittings, cannot give rise to substantial renovations.

Whether substantial renovations have occurred is a question of fact and degree. A draft GST ruling from the Taxation Office provides some examples that may be of assistance. In one example, substantial renovations occurred where there were removal and replacement of exterior walls, removal of some internal walls to create a more open plan house and the replacement of flooring and the kitchen.

In another example, there were no substantial renovations to a four bedroom, two story house. This was despite the fact that a new bathroom was constructed in an upstairs bedroom, the kitchen was renovated, including the removal of a wall and changes to the door and back window, and the replacement of the roof, ground floor floorboards and ceilings. The ruling states that the house in its entirety has not been substantially renovated (the four upstairs bedrooms are untouched with the exception of one room that has become a bathroom). Consequently substantial renovations have not occurred.

Renovations undertaken by previous owners are ignored. However, if the church undertakes various renovations over a period of time, the renovations may eventually become substantial. Note that renovations that occurred before 2 December 1998 can be ignored.

Non-commercial Supplies

A sale of property by a charity will be a non-commercial supply if the consideration received is less than

- 50% of the GST-inclusive market value of the property or
- 75% of the amount paid by the charity for the property.

It is unlikely that the sale of property will meet either of these tests. If you want to apply the market value test, you should obtain at least two independent market value appraisals. In calculating the original costs of the property, government charges and taxes, such as stamp duty, should be excluded.

2 Margin Scheme

Where the sale of property is a taxable supply, the GST will be 1/11th of the sale price unless the margin scheme is applied. Under the margin scheme, GST is only charged on the difference between the sale price and the value of the property at 30 June 2000. If you acquired the property after 30 June 2000, then GST is charged on the difference between the sale proceeds and the purchase price.

The margin scheme can only be used if one of the following applies:

- You owned the property at 30 June 2000
- You acquired the property after 30 June 2000 but the margin scheme was applied to the purchase
- You acquired the property after 30 June 2000 but it was not a taxable supply, for example, the seller was not registered for GST

If the margin scheme is applied, the purchaser cannot obtain an input tax credit for any GST included in the purchase price. Nor can they claim input tax credits on costs associated with the purchase, such as conveyancing. The seller can claim input tax credits on their selling costs, such as legal fees, agent's commission, etc.

If you owned the property at 30 June 2000, you will need to know the value of the property at that date in order to apply the margin scheme. It is not necessary that you have obtained the valuation before the property is sold. However, the valuation must be obtained by the end of the GST period in which the sale occurs. The Taxation Office is not giving extensions of time to obtain such valuations. The valuation must be undertaken by a professional valuer. A professional valuer is a person registered to carry out valuations under State, Commonwealth or Territory Law or who is a member of the Australian Property Institute and is accredited as a Certified Practising Valuer. A valuation from a real estate agent is not sufficient.

The margin scheme may be advantageous to a purchaser if:

- The purchaser is not registered for GST and therefore cannot claim input tax credits
- The purchaser is an input taxed supplier, eg a financial institution, and therefore again cannot claim input tax credits
- The purchaser is a residential property developer and will sell the resulting residential property to private consumers who are not registered for GST
- There has been little increase in the value of the property since 1 July 2000 and therefore the GST charged under the margin scheme is small

Application of the margin scheme can also reduce the stamp duty cost. As stamp duty is imposed on the GST inclusive price, the lower the GST amount the lower the stamp duty imposed.

GST on Sale of Property

It is the seller that determines whether the margin scheme is applied. Therefore if the purchaser wants the margin scheme to be used, it is important that they ensure that it is included in the contract before the contract is signed.

Example
You are buying a property for $500,000. The seller owned the property on 30 June 2000 when it was worth $495,000. Without the margin scheme, the seller would charge you GST of $50,000. You must pay that to the seller and at the end of the month or quarter, claim it back from the Taxation Office on your Business Activity Statement. You have to finance this amount for a short period of time and wear the interest cost. Alternatively, you can ask the seller to apply the margin scheme. The GST is charged on the increase in value since 30 June 2000. Therefore the GST is only $500. You cannot claim this back, but you do not have to finance a large GST amount for a short period of time.