



Substantially Renovated Homes

This Commissioner's practice details the factors the Commissioner will take into consideration when determining whether a home¹ is a *substantially renovated home* for the purposes of the first home owner grant (grant).

Background

Where the commencement date of an eligible transaction is on or after 3 October 2015, section 19(2CA) of the *First Home Owner Grant Act 2000* (FHOG Act) provides that the amount of a grant is the lesser of \$10,000 or the consideration for the transaction.

The *commencement date* of a transaction is defined in section 14AA of the FHOG Act as:

- (a) in the case of a contract – the date when the contract is made or
- (b) in the case of the building of a home by an owner builder –
 - (i) the date when laying the foundations for the home begins or
 - (ii) another date (on or after 1 July 2000) the Commissioner considers appropriate in the circumstances of the case.

The grant is available for eligible first home buyers who enter into a contract to purchase or build a new home, or who build a new home as an owner builder. A *substantially renovated home*² may be considered to be a new home.

Where a contract to purchase a substantially renovated home is entered into, an applicant may be eligible for the grant if:

- (a) the sale of the home under that contract is, under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (GST Act), a taxable supply as a sale of new residential premises³ and
- (b) the home, as so renovated, has not been previously occupied or sold as a place of residence and
- (c) the applicant meets the eligibility criteria for the grant.

GST Ruling GSTR 2003/3⁴ states that the sale of new residential premises by a registered entity (for example, a builder or developer) in the course or furtherance of an enterprise it carries on is a taxable supply. The sale of a person's private residential premises will not be subject to GST, even if the premises are new residential premises, unless the sale is in the course or furtherance of that person's enterprise and that person is registered or required to be registered for GST.

¹ Home is defined in section 4 of the FHOG Act.

² *Substantially renovated home* is defined in section 3 of the FHOG Act.

³ *New residential premises* is defined in section 40.75 of the GST Act.

⁴ GSTR 2003/3 is accessible on the ATO website at <https://www.ato.gov.au/law/view/document?docid=GST/GSTR20033/NAT/ATO/00001>

The GST Act defines *substantial renovations*⁵ of a building as renovations in which all, or substantially all, of a building is removed or replaced.

The term *substantial* is given its ordinary meaning as “of real worth and importance [and] belonging to substance” where *substance* is the “material or essential part of a thing”.⁶ The term *renovate* means “to make new or as if new again; to reinvigorate, refresh, revive”.⁷

Under subsection 40.75(1) of the GST Act, residential premises are new residential premises where:

- (a) they have not previously been sold as residential premises (other than commercial residential premises) and have not previously been the subject of a long-term lease or
- (b) they have been created through substantial renovations of a building or
- (c) they have been built, or contain a building that has been built, to replace demolished premises on the same land.

Commissioner’s Practice

1. When determining whether a home has been substantially renovated with regard to the nature and extent of the renovations, the Commissioner will consider each case on the basis of all relevant facts and circumstances.
2. Where a home is purchased as part of a larger complex such as an apartment block or a strata-titled unit, an individual unit or apartment is a *building* and its structure is enclosed within the external walls of that building rather than the entire complex.
3. When considering whether a home has been substantially renovated, the Commissioner must be satisfied the renovations:
 - 3.1 affected the building as a whole or most rooms in the building and
 - 3.2 resulted in the removal or replacement of all or substantially all of the building.
4. Building work can be considered *structural* or *non-structural*.
 - 4.1 Structural building work includes:
 - 4.1.1 altering or replacing foundations
 - 4.1.2 replacing, removing or altering floors or supporting walls, or parts thereof (interior or exterior)
 - 4.1.3 lifting or modifying roofs and
 - 4.1.4 replacing existing windows and doors such that it is necessary to alter brickwork (for example, replacing a single door with a double sliding door).
 - 4.2 Non-structural building work includes:
 - 4.2.1 replacing electrical wiring
 - 4.2.2 replacing, removing or altering non-supporting walls, or parts thereof (interior or exterior)

⁵ *Substantial renovations* is defined in section 195.1 of the GST Act.

⁶ Black’s Law Dictionary [6th ed] (1990) West Publishing Co: St Paul, Minnesota.

⁷ Macquarie Dictionary [5th ed] (2009) Macquarie Dictionary Publishers Pty Ltd: Sydney, Australia.

- 4.2.3 plastering or rendering an entire wall or walls
- 4.2.4 plumbing (for example, replacing old metal pipes with copper or plastic pipes)
- 4.2.5 removing or replacing fixtures such as kitchen cupboards, benches or bathroom cabinets and
- 4.2.6 removing or replacing air-conditioning or security systems.

Non-structural building work may contribute to substantial renovations when carried out in conjunction with structural building work.

- 5. The following work would not be considered as contributing to substantial renovations:
 - 5.1 work associated with the land around the building, such as landscaping
 - 5.2 additions to a building where the building without the additions would not be considered substantially renovated
 - 5.3 non-structural building work where structural building work has not also been carried out
 - 5.4 cosmetic work such as painting, sanding floors, removing and replacing worn or out-of-date fittings such as light fittings, or replacing curtains or carpets or
 - 5.5 renovations carried out by a previous owner that is not the vendor.
- 6. For the Commissioner to assess whether a building is a taxable supply of new residential premises because substantial renovations have been carried out, the applicant must demonstrate the extent of the renovations by providing documentation that includes:
 - 6.1 evidence the vendor was registered for GST at the time the contract for sale was entered into, and the sale of the property was as a taxable supply
 - 6.2 floor plans or architectural drafts showing the design of the building before and after the renovations
 - 6.3 contracts and correspondence from the vendor indicating the renovations that have been carried out
 - 6.4 council approvals where these have been required and
 - 6.5 a statement from the vendor confirming that, since the renovation was carried out, this is the first sale of the property and the building has not been occupied as a residence.

The following examples illustrate scenarios in which an applicant may or may not be eligible to receive the grant.

Example 1

John is registered for GST as a sole trader and carries on an enterprise of renovating old houses. He purchases a dilapidated three bedroom, one bathroom house with the intention to renovate for sale, and carries out the following renovations:

- an upstairs extension to create a new bedroom and bathroom
- replacement of the roof and all ground floor ceilings
- rewiring of the ground floor and replacement of gyprock to repair cracked walls
- cement rendering of exposed bricks in the combined family room and kitchen
- stairs installed to the upstairs extension necessitating the removal of two walls and replacement of the floor in two of the ground floor rooms and
- cosmetic work throughout the house including repainting, polishing floorboards, and replacing all fittings in the kitchen and existing bathroom.

John then sells the house to Peter as a taxable supply. As all rooms in the house have been affected by the work which has included significant structural renovations, the work carried out by John constitutes substantial renovations.

Subject to satisfying the eligibility requirements, and provided the house has not been occupied as a residence following the renovations, Peter may be entitled to the grant.

Example 2

The townhouse Simon purchased directly from the developer is part of a four townhouse complex that had previously been used as a church. All of the townhouses are enclosed within common external walls and have a common entryway and central courtyard. Simon's townhouse has not previously been used for residential purposes.

Simon is able to provide evidence that the property was converted for use as residential premises by a developer who was registered for GST, and that he is the first purchaser of this townhouse. As this is considered the sale of new residential premises, Simon may be eligible to receive the grant provided he satisfies the grant eligibility criteria.

Example 3

Mary lives in a large two storey house. She is not registered for GST. She engages a builder to carry out a number of renovations and moves out to enable the work to be done.

The renovation work includes entirely replacing the kitchen, removing a number of internal walls throughout the house and replacing some external walls with doors, constructing a new bathroom and balcony, replacing all flooring, the internal staircase and all internal doors, and replacing the roof of the house.

When the renovations are complete, Mary decides not to move back in. She sells the house to Tom who applies for a grant on the basis that the vendor had substantially renovated the house and the house had not been occupied as a residence since the renovations.

Although the house is considered to have undergone substantial renovations, Tom is not eligible for the grant because Mary was not registered for GST and the sale of the premises was not a taxable supply.

Example 4

Sam applies for a grant for a large four bedroom house that he believes had been substantially renovated by the vendor. The documentation provided by Sam shows that:

- the house had not been occupied as a residence or otherwise sold since the renovations were completed and
- the renovations consisted of the removal of a wall between two bedrooms for the purpose of creating a large bedroom with ensuite, the replacement of one bedroom door with gyprock so that the newly created larger bedroom can only be entered by one doorway, repainting and recarpeting of the room, and construction and fitting out of the new adjoined ensuite.

Although significant, the work does not constitute substantial renovations as only one area of the house was affected. Further, the sale of the property was not a taxable supply under the GST Act. Sam is not eligible for the grant.

Date of Effect

This Commissioner's practice takes effect from 1 September 2017.

Nicki Godecke
COMMISSIONER OF STATE REVENUE

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Commissioner's Practice History

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