

## Checklist: Can the margin scheme be used?

The margin scheme enables the GST on certain sales of real property to be calculated on a concessional basis (GST Act 1999 Div [75](#)) provided certain conditions are met.

Broadly, the margin scheme can apply to a taxable supply of real property where the supplier and the recipient have agreed in writing and the supplier is eligible to apply the margin scheme.

Under the margin scheme, the GST on the sale is calculated as 1/11th of the margin, instead of 1/11th of the GST-inclusive price.

This Checklist can be used to determine if the margin scheme concession is available for a supply of real property. For relevant commentary, see [111-100](#).

<b>Client details</b>	
<b>Name:</b>	
<b>Client code:</b>	
<b>Year ending:</b>	

Can the margin scheme be used?	Yes	No	Ref
<p><b>1. Is there a “taxable supply of real property”?</b></p> <p><i>In order for a “supply” to be a “taxable supply”, the supply must be made for consideration, be made in the course of a registered supplier’s enterprise, and it must be connected with Australia and be neither GST-free nor input taxed (GST Act s <a href="#">9-5</a>).</i></p> <p><i>The supply of real property must be either:</i></p> <ul style="list-style-type: none"> <li>(a) the sale of a freehold interest in land</li> <li>(b) the sale of a stratum unit, or</li> <li>(c) the grant or sale of a long-term lease (GST Act s <a href="#">75-5(1)</a>).</li> </ul> <p><i>If ‘Yes’, continue to complete the Checklist.</i></p> <p><i>If ‘No’, the margin scheme is not available.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	
<p><b>2. Have the supplier and the recipient of the supply agreed in writing that the margin scheme is to apply (GST Act s <a href="#">75-5(1)</a>)?</b></p> <p><i>The agreement must be made:</i></p> <ul style="list-style-type: none"> <li>(a) on or before the making of the supply (this will normally be when settlement occurs), or</li> <li>(b) within such further period as the Commissioner allows (GST Act s <a href="#">75-5(1A)</a>; see Practice Statement <a href="#">PS LA 2005/15</a>).</li> </ul> <p><i>If ‘Yes’, continue to complete the Checklist.</i></p> <p><i>If ‘No’, the margin scheme is not available.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	

3. **Did the supplier acquire the property, the subject of the supply, in any of the following circumstances?**

- 3.1. The supplier acquired it under a taxable supply on which the GST was worked out without using the margin scheme.
- 3.2. The supplier acquired it by inheritance and the deceased person had acquired it through a supply that was in eligible for the margin scheme.
- 3.3. The supplier acquired it from another GST group member, and the last supply of the property from a non-group member had been ineligible for the margin scheme.
- 3.4. The supplier acquired it from the operator of a joint venture in which the supplier was a participant, and the operator had acquired it through a supply that was ineligible for the margin scheme.
- 3.5. The supplier acquired it as a GST-free supply of a going concern, a farm or subdivided farm land, from an entity that was registered or required to be, and that entity had acquired it through a taxable supply on which GST was worked out without applying the margin scheme.
- 3.6. The supplier acquired it for no consideration from an associate that was registered or required to be, where the supply by that associate was not a taxable supply in the course of an enterprise, and the associate had acquired the property through a taxable supply on which the GST was worked out without using the margin scheme. This exclusion can also apply where, for example, a government entity acquires the property for no consideration from an associate without the associate technically making a “supply”.

*The ineligibility rules in 3.5 and 3.6 are intended to prevent arrangements under which taxpayers “refresh” their eligibility to use the margin scheme by interposing a GST-free or non-taxable supply before selling the property. These rules apply to supplies of property that the taxpayer acquired through a supply that was:*

- (a) *made on or after 9 December 2008, and*
- (b) *not made under a written contract made before that date, or pursuant to an option granted before that date that specified the consideration or a way of working it out (GST Act s [75-5\(2\)](#), (3)).*

*It should be noted that the ineligibility rules in 3.5 and 3.6 do not apply if more than one GST-free or non-taxable supply is interposed.*

*If ‘No’ to all of the above, and ‘Yes’ to 1 and 2, the margin scheme is available to be used.*

*If ‘Yes’ to any of the above, or ‘No’ to either 1 or 2, the margin scheme is NOT available.*

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