

FACT SHEET | PUKA MEKA

When is a subdivision project a taxable activity for GST purposes?

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QB 24/04 FS 1

This fact sheet accompanies QB 24/04, which considers when a subdivision project is an activity carried on continuously or regularly in the definition of “taxable activity” for GST purposes.

Introduction | Whakataki

1. If you are considering subdividing land you own into two or more lots, or are looking to acquire land to subdivide, you need to consider whether you have to register for GST.
2. You must register for and charge GST on the supply (sale) of most goods and services if you're carrying on a taxable activity and the value of those supplies exceeds the registration threshold of \$60,000.
3. This fact sheet summarises the QWBA to help you understand when a subdivision project is a taxable activity. It focuses on subdivisions that result in the sale of some, or all, of the subdivided lots of land. Usually, any land sale will exceed the GST registration threshold, so if you are carrying on a taxable activity you will likely need to register for GST.

What if I only sell one lot?

4. A taxable activity must be carried on continuously or regularly. For a subdivision to be continuous or regular, it usually needs to involve the sale of more than one lot. A subdivision leading to only one sale is usually a one-off activity and not continuous or regular.
5. Some subdivisions leading to only one sale may be continuous or regular, but this will only be if the level of activity involved is very high. Working out the level of activity is explained below, but "very high" in this context means something like the construction and sale of a large office building or apartment block.
6. Building and selling an ordinary residential dwelling on subdivided land involves a lot of activity but it is not enough to be continuous or regular.

What if I sell more than one lot?

7. The more sales involved in the subdivision, the more likely it is to be continuous or regular. If the subdivision leads to the sale of four or more lots, this is usually continuous or regular unless the level of activity involved is very low.
8. If the subdivision leads to the sale of two or three lots, it will be important to consider the amount of activity involved to subdivide and sell the lots.

9. The following diagram illustrates that the more lots sold, the less activity is needed for the subdivision to be continuous or regular:



10. This approach comparing the number of sales with the level of activity may also be relevant for other land development projects, but it is not relevant for other types of potential taxable activity.

How do I work out how much activity is involved?

11. When considering the level of activity in light of the number of lots sold, the following factors may be relevant:
- **The scale of the subdivision.** This means how large or extensive the project is.
 - **The level of development work.** This includes any physical work done to develop the land, such as earthworks, roading, installation of infrastructure, and the construction of walls and fences, structures, and buildings.
 - **The time and effort involved.** Time means how long it takes for the project to be completed, combined with the work that needs to be done to complete it. However, if a project takes a long time because there are stages where no or very little work is being done, this might suggest the subdivision project is not

continuous or regular. Effort includes non-physical work done on your part, such as arranging consent and engaging with lawyers and surveyors.

- **The level of financial investment.** This is unlikely to be relevant on its own, but a higher level of financial investment might support other factors like the scale. If you buy a piece of land to sell, this may involve a higher level of financial investment than subdividing the land on your own property purchased for other purposes.
 - **Level of repetition.** Even if your subdivision project is a relatively small one involving only one lot, if you repeat this process multiple times, it is more likely to be continuous or regular.
12. The greater the extent to which these factors are present, the more likely the subdivision is to be continuous or regular. These factors may overlap, and there may be other factors that are relevant in different circumstances. Your situation needs to be considered carefully on its own facts.

What factors are not relevant?

13. Factors that are not likely to be relevant to whether an activity is continuous or regular include:
- **Commerciality.** This means it does not matter whether a subdivision has a “commercial” flavour, or whether you are simply subdividing your own private land to downsize (although this might affect the cost, as mentioned earlier).
 - **Activity before intention to sell.** Anything you do as part of a subdivision project that was done without an intention to sell the resulting land is not relevant. This means if you build a house on a subdivided lot with the intention of living in it, but later change your mind and decide to sell, work done before you change your mind is not relevant.
 - **Activity relating to land not sold.** For the same reason, anything you do on land you do not sell is not relevant. If you create two lots, build two houses to live in one and sell the other, work relating to the house you live in and the land it is on is not relevant.

What else do I need to consider?

14. If you are already registered for GST, you need to consider whether the subdivision project is carried on as part of that activity. If it is, then any lots you sell will need to be included as part of your existing taxable activity.

15. You also need to consider when you can register for GST. The initial or preparatory steps taken in a subdivision project can form part of the taxable activity, so you can register from early in the process. However, if the subdivision does not proceed as planned beyond preparatory steps, or it is found the subdivision project is not a taxable activity, your registration may be cancelled from when you first registered.

What about income tax?

16. Regardless of whether you are carrying on a taxable activity, any land you sell may be subject to income tax. Please see the Inland Revenue website for information on when land sales may be taxable for income tax purposes.

About this document | Mō tēnei tuhinga

Some of the Tax Counsel Office's longer or more complex items are accompanied by a fact sheet that summarises and explains an item's main points. While it summarises the Commissioner's considered views, a fact sheet should be read alongside the full item to completely understand the guidance. Fact sheets are not binding on the Commissioner. See further [Status of Commissioner's advice](#) (Commissioner's Statement, Inland Revenue, December 2012).