

RULINGS > PRODUCT

Kāinga Ora – Homes and Communities

Issued: 5 October 2021

BR Prd 21/07

This Ruling applies to confirm the GST consequences for GST-registered persons who:

- supply a property in the course or furtherance of their taxable activity to an eligible home buyer (Home Buyer) and Kāinga Ora – Homes and Communities (the Applicant) for use in the First Home Partner scheme; or
- acquire such a property from a Home Buyer and the Applicant for use in making taxable supplies.

START DATE – END DATE

05/10/2021 – 05/10/2026

(THIS TITLE PAGE DOES NOT FORM PART OF THE RULING.)

Product Ruling – BR Prd 21/07

This is a product ruling made under s 91F of the Tax Administration Act 1994.

Name of person who applied for the Ruling

This Ruling has been applied for by Kāinga Ora – Homes and Communities (the Applicant).

Taxation Laws

All legislative references are to the Goods and Services Tax Act 1985 unless otherwise stated.

This Ruling applies in respect of ss 8(1), 11(1)(mb) and 20(3).

The Arrangement to which this Ruling applies

The Arrangement is the First Home Partner scheme entered into between the Applicant and eligible home buyers (Home Buyers), which involves (amongst other things):

- the Applicant buying properties with the Home Buyers as tenants in common; and
- in some cases, the Applicant and Home Buyers selling a property to third-party purchasers.

Further details of the Arrangement are set out below.

First Home Partner scheme

- 1) The purpose of the First Home Partner scheme is to increase opportunities for people to access home ownership who would not have otherwise been able to. The Applicant does this by buying part of a property with a Home Buyer and providing a pathway for the Home Buyer to later buy the Applicant's share in the property so the Home Buyer can move into full home ownership.
- 2) Under the Arrangement, the Applicant's interest in the property will be a maximum of the lesser of a 25% interest in the property or \$200,000.
- 3) The Home Buyer will occupy the property as their (and/or their family's) principal place of residence.
- 4) The Applicant will be carrying on a taxable activity for GST purposes in relation to the acquisition and sale of interests in properties as part of this scheme.

Purchasing properties from GST-registered vendors

- 5) The Applicant has a largely passive role in the property selection process. Generally, the properties subject to the scheme will require a code of completion certificate that is less than one year old.
- 6) Under a Shared Ownership Agreement between the Applicant and a Home Buyer, the following factors will exist:
 - The Home Buyer will initiate the purchase of a property by selecting a property and applying to the Applicant.
 - Provided the Home Buyer has complied with the relevant requirements, the Applicant will agree to purchase a share in the property along with the Home Buyer from the vendor on the day set out in the purchase agreement.
 - The Applicant and the Home Buyer will acquire and own the property as tenants in common.
 - The Applicant will be a named purchaser on the Sale and Purchase Agreement and will not be a nominated person.
 - The Applicant will be named on a "tax invoice" (for GST purposes) issued in respect of the supply, but its interest in a property does not need to be recorded on the tax invoice; instead, the Applicant's proportional interest in a property will be recorded on a separate Ownership Share Register between the Applicant and a Home Buyer.
- 7) The Applicant or a Home Buyer is not expected to be an "associated person" as defined in s 2A with the vendor of a property. If either party is associated with a vendor, the consideration for the supply of the property must be market value.

Sales of properties to GST-registered purchasers

- 8) Generally, the Applicant's interests in a property will be sold over time to the Home Buyer. However, the Applicant and a Home Buyer together may sell the property to a third party.
- 9) This Ruling applies where a purchaser of such a property is GST registered and acquires the property for use in making taxable supplies.

How the Taxation Laws apply to the Arrangement

The Taxation Laws apply to the Arrangement as follows:

- (a) Where a GST-registered person supplies a property in the course or furtherance of their taxable activity to a Home Buyer and the Applicant, that supply of the property will not be zero-rated under s 11(1)(mb) and will be standard rated under s 8(1).
- (b) Where a GST-registered person acquires a property from the Applicant and a Home Buyer:
 - (i) the Home Buyer's interest in the property will not be a taxable supply under s 8(1) and will be a "secondhand good" for the purposes of s 20(3)(a)(ia); and
 - (ii) the Applicant's interest in the property is a taxable supply under s 8(1) that will be:
 - (A) zero-rated under s 11(1)(mb) where the person acquires the property to make taxable supplies and is not acquiring the property as a principal place of residence for itself or an "associated person" as defined in s 2A; or
 - (B) standard rated under s 8(1) in other cases.

The period or income year for which this Ruling applies

This Ruling will apply for the period beginning on 5 October 2021 and ending on 5 October 2026.

This Ruling is signed by me on the 5th day of October 2021.



Howard Davis

Group Leader, Tax Counsel Office

About this document

Product Rulings are issued by the Tax Counsel Office and Customer and Compliance Services. Product Rulings set out the Commissioner's view on how tax laws apply to a particular "product" – which is an arrangement that a specified taxpayer is likely to enter into with a number of people on identical terms. Taxpayers who enter into the arrangement described in a Product Ruling may apply the ruling, but are not obliged to do so. Product Rulings are binding on the Commissioner. This means that if you are entitled to apply a Product Ruling and you have calculated your tax liability in accordance with the ruling, the Commissioner must accept that assessment. A Product Ruling applies only to the taxation laws and arrangement set out in the ruling, and only for the period specified in the ruling. It is important to note that a general similarity to an arrangement covered by a Product Ruling will not necessarily lead to the same tax result.