

GST FREQUENTLY ASKED ISSUES (FAI)

ITEM 7:

Land Development Agreement between a land owner and a developer

When there is a land development agreement between a land owner and a developer to develop a land, can the developer issue invoice to the buyer under the developer's own name and account for output tax?

When there is a land development agreement between a land owner and a developer (Parties) to develop a land – *(Amended 31/3/2015)*

- (1) In relation to commercial properties –
 - (a) the land owner (if registered) must –
 - (i) issue a tax invoice and charge GST to the developer based on the amount of land owner's entitlement (as per the terms of such land development agreement entered by parties) for the supply of rights to use the land or for the supply of land; and
 - (ii) account the GST.
 - (b) the developer must issue a tax invoice under his name to the end buyer and charge GST on the supply of developed property at the gross development value (GDV);
 - (c) the developer can claim GST paid as his input on –
 - (i) his acquisition of rights to use the land or supply of land from the land owner; and
 - (ii) cost incurred in relation to those directly used for the development of the commercial properties(if registered);
- (2) In relation to mixed supplies (Commercial and Residential Properties) –
 - (a) if the approved used of land has not been established by the Parties, the land owner (if registered) must –
 - (i) issue a tax invoice and charge GST to the developer based on the amount of land owner's entitlement (as per the terms of such land development agreement entered by parties) for the supply of rights to use the land or the supply of land; and

- (ii) account the GST.
- (b) if the approved use of land is established by the Parties (supported by *Surat Kebenaran Merancang* and Approved Master Layout Plan as documentary evidences), the land owner must –
 - (i) issue a tax invoice and charge GST to the developer based on the amount of land owner's entitlement (as per the terms of the agreement entered by parties) for the supply of rights to use the land or the supply of land which relates to commercial portion only; and
 - (ii) account the GST.
- (c) The developer must issue a tax invoice under his name and charge GST to the end buyer on the supply of the developed commercial properties at the gross development value (GDV).
- (d) The developer –
 - (i) can claim input tax incurred in relation to those inputs directly used for the supply of the commercial properties;
 - (ii) cannot claim input tax incurred in relation to those inputs directly used for the supply of the residential properties; and
 - (iii) must apportion the input tax incurred for both residential and commercial properties (residual) based on apportionment formula.
- (3) In relation to exempt supplies (Residential Properties) –
 - (a) The land owner (if registered) cannot charge GST to the developer on the supply of rights to use the land or supply of land;
 - (b) The developer must charge GST on fixtures and fittings and marketing services on the land owner's entitlement (if the developer market the developed property own by the land owner).

* GDV is referred to the total selling price to the end buyer.