

CHANGES TO THE MARGIN SCHEME

A summary of the key changes associated with the Margin Scheme in relation to the *Tax Laws Amendment (2005 Measures No. 2) Bill 2005* are:

- The application of the margin scheme will no longer be at the election of the vendor (supplier) but will have to be by written agreement of the vendor and purchaser (recipient). This agreement must be obtained by the day of supply.
- If the vendor did not pay the full contract price when it acquired the property, the margin is calculated by reference to the price actually paid by the vendor rather than the purchase price.
- If the vendor acquired the property GST-free as part of the supply of a going concern or supply of farm land, the margin is calculated by reference to an “approved valuation” of the property as at 1 July 2000, even if the vendor’s acquisition was after that date.
- If two or more parcels of land are amalgamated and part was acquired under a supply that was acquired as a taxable supply to which the margin scheme was not applied, the margin scheme may still be applied to the resupply of the whole but the vendor will have an increasing adjustment for any input tax credits claimed on the acquisition.
- A group member may only apply the margin scheme if the margin scheme would have been available before the first intra-group supply. To ascertain the margin refer to the last supply on or after 1 July 2000 in which the vendor and the purchaser were not members of the same group; if the parties were not “associates” the relevant consideration will be the actual consideration provided and if the parties were “associates”, the consideration will be determined by an “approved valuation” as at the relevant date. If there has been no earlier supply since 1 July 2000 where the vendor was not a member of the group, the base consideration for the margin scheme will be an “approved valuation” as at 1 July 2000.
- An intra-group sale of new residential premises is not treated as the first supply of new residential premises for the purposes of s 40-75 *A New Tax System (Goods and Services Tax) Act 1999*.
- A beneficiary will only be able to use the margin scheme if the deceased would have been able to do so. The beneficiary’s margin on supply will be calculated by reference to an “approved valuation” as at:
 - (a) if the deceased held the property at 1 July 2000 and, at the date of inheritance was not registered or required to be registered, the latest of:
 - (i) 1 July 2000;
 - (ii) the day the beneficiary inherited; and
 - (iii) the day the beneficiary became registered or required to be registered;
 - (b) if the deceased held the property at 1 July 2000 and, at the date of inheritance, was not registered or required to be registered, the later of:
 - (i) 1 July 2000; and
 - (ii) the day the deceased became registered or required to be registered; and
 - (c) if the deceased acquired the property on or after 1 July 2000, the date of acquisition.
- The costs of improvements post-acquisition are ignored as are ancillary costs (legal fees, stamp duty and the like).
- Reference to “valuation” is replaced by “approved valuation”.
- The Commissioner is given power to make a written determination for valuations for the purposes of the margin scheme. A valuation which complies is an “approved valuation”.