Flow chart three. GST withholding provisions apply – steps when acting for a purchaser

GST withholding provisions apply

Advise the purchaser of their obligation to make payment of GST to the ATO.

Check whether the contract of sale includes a special condition dealing with the GST withholding requirements.

Check whether the contract of sale includes a GST withholding notice.

Tip – refer to the ATO Law companion ruling LCR 2018/D1 for more details about notice requirements.

If no notice is provided in the contract request that the vendor's legal representative provide the GST withholding notice as soon as possible or for longer settlement timeframes, diarise to ask for the notice within a reasonable time prior to settlement.

If you do not receive a GST withholding notice inform the vendor's legal representative that the purchaser will withhold the GST.

Where the purchaser has received a withholding notice and has a withholding payment obligation, complete the purchaser notification (form 1) as soon as possible and before settlement to obtain the PRN and LRN (see above).

Complete form 2 prior to or at settlement, confirming when settlement is to occur. Note that contractually, some vendors may require the purchaser to provide them with copies of evidence of lodgement of these forms.

Ensure GST is withheld at settlement.

Tip –the purchaser may, subject to what the contract says, draw a bank cheque payable to the ATO for the GST amount and the vendor's legal representative will collect this cheque and send to the ATO. This cheque will be shown in the settlement statement which accompanies the statement of adjustments.