



ADJUSTMENT AND PAYMENT OF THE PURCHASE PRICE

On the day of settlement, the purchaser has to pay the balance of the purchase price in accordance with the vendor's instructions.

The vendor generally requires the money to be disbursed in various ways. For example, they may need to discharge a mortgage and payout the bank, or the funds may be required for a property they are purchasing.

In the absence of a Special Condition in the Contract, General Condition 11.3(b) entitles the vendor to request up to three bank cheques free of charge. Any additional cheques required by the vendor will attract fees which are deducted from the balance due to the vendor at settlement. If a vendor requires more than three cheques but does not require more than 3 BANK cheques, the purchaser cannot charge for any bank cheques that the purchaser chooses to provide beyond the three requested by the vendor.

Adjustments

Adjustments are conducted in accordance with General Condition 15.

The rates for a property are levied by the local council and by the water and sewerage authority. Sometimes the local council is responsible for both.

These rates are generally calculated on an annual basis and are *usually* paid in quarterly instalments.

Calculating Rates

Solicitors obtain a certificate from the Council and Water authorities detailing the rates and charges and then calculate an apportionment between the vendor and purchaser for the time that each party has occupation of the property. If the rates are paid in advance then the purchasers' portion of the annual rate is *added* to the purchase price. If rates are outstanding, they are treated as paid, the purchaser's portion is *added* to the purchase price and cheques are drawn from the amount due to the vendor in payment of any outstanding amount. This method of adjustment ensures that the rates are always paid in full immediately after settlement and avoids future difficulties.

Water usage is more difficult to determine, as it is dependent on meter readings. Solicitors ask the water authority for a meter reading when requesting a certificate detailing the rates and charges. The water authority supplies an estimate of daily consumption to the date of settlement.

If the property is subject to a lease, no estimate will be given, as the tenant is responsible for payment of water usage.

Owners Corporation Fees

Owners Corporation Fees are adjusted in the same way as Council rates. On occasions, there are special levies and these are dealt with in compliance with the terms of the Contract, usually in accordance with General Condition 21.

Land Tax

Land Tax is dealt with differently. If the vendor resides in the property, the property is considered the vendor's Principal Place of Residence and is usually exempt from payment.

If the vendor is a corporation, or owns more than one property, land tax may be payable.

The purchaser may be liable to contribute to a portion of the land tax payable. The Land Tax Certificate will set out an amount due to the State Revenue Office on the first page and also sets out the amount of land tax payable on a '**single holding basis**' on the second page. Land tax is apportioned between the vendor and purchaser on a single holding basis. If the tax has been paid, or partly paid, adjustment should be made on the basis that it is fully paid and an appropriate allowance made by the purchaser. A cheque for any balance due should be drawn from funds due to the vendor at settlement and sent to the SRO after settlement in payment of any outstanding amount.

It is important to remember that if land tax is payable on a property, the appropriate apportionment is made, regardless of whether it has in fact been paid in advance by the vendor.

Payment

The purchaser is entitled to insist upon **all** annual rates being paid in full and cheques for the whole outstanding amounts (including any water usage to date of settlement) are then deducted from the balance due to the vendor and paid to the relevant authority after settlement. These cheques do not need to be bank cheques but if the purchaser's financier insists on providing bank cheques, these bank cheques are **not** calculated against the vendor's entitlement to 3 bank cheques.

Rent

If the property is sold subject to a lease, rent is generally adjusted. The managing agent will advise the amount of rent payable, and the date up to which it has been paid.

Like all other adjustments, the vendor is entitled to collect rent to the day of settlement and the purchaser is entitled to the remainder of the rent for the rental period.

If the rent has in fact been paid for a period extending beyond the date of settlement, an allowance is made in favour of the purchaser and this amount is deducted from the balance due to the vendor.

If the rent is unpaid, the parties may agree that the purchaser is entitled to collect the rental for the period after settlement and an allowance is made in favour of the vendor for the vendor's portion of the rental. However the purchaser is not obliged to enter into such an arrangement and the vendor should include an appropriate Special Condition in the contract or accept an undertaking from the purchaser that the pre-settlement rent will be remitted to the vendor after settlement, if received.

It should be discussed with the managing agent whether it will be necessary to make an adjustment at all as sometimes agents prefer to do this internally.

The issue of transferring any bond paid by the tenant also needs to be considered.

GST

If GST is payable on the Contract price, then GST is also payable on the rate adjustments. GST should be calculated on the adjusted purchase price, ignoring the deposit. This is because the payment of rates is regarded as part of the vendor's supply.

If the rates are paid and the purchase price is thereby increased then GST is calculated on the increased purchase price.

If rates are unpaid at settlement, thereby reducing the price, the rates that are to be paid after settlement should be added back into the reduced purchase price, thereby giving the same result as if the rates were paid. GST is calculated on the adjusted purchase price PLUS these rates.

Allowances

There are a number of other allowances which may be required at settlement, such as an allowance by the vendor for registration fees on a discharge of mortgage. GST is not payable on these allowances. Nor is GST payable on any interest that the purchaser may have to pay to the vendor as interest is a financial supply and not subject to GST.