Property Transactions

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What is a Property Transaction?

When dealing with property – for example, buying, selling, leasing or developing – the seller and/or the purchaser may be deemed to be conducting an enterprise. If this is the case and the turnover from these activities is more than the GST registration threshold, they will be required to register for GST.

Many people are actually carrying on an enterprise when making property transactions, but do not register for goods and services tax (GST) when they are required to do so. Even with a one-off transaction, a property owner may still be required to register for GST because the activities in carrying out this one-off property transaction may constitute an enterprise.

Property includes any of the following:

- land
- land and buildings
- an interest in land
- rights over land
- a licence to occupy land

Residential Properties

- Houses
- Units
- Flats

Commercial Properties

- Shops
- Factories
- Warehouses

Commercial Residential Properties

- Hotels, motels, inns
- Hostels, boarding houses
- Caravan parks, camping grounds
- Establishments that provide residential premises that are similar to hotels, motels, inns, hostels and boarding houses

Property Types

Term	Definition
Apartment	A home unit within a building occupied or intended to be occupied as a residence.
Bed and Breakfast	A place, usually a home, at which board and lodging are provided for a fee on a short-term basis.
Boarding house	A place, usually a home, at which board and lodging are provided for a fee.
Caravan park	Premises where guests are provided with sites with or without a caravan, demountable home, or permanent cabin to occupy for a fee.
Commercial premises	The term 'Commercial premises' is generally used to describe property that is not residential or commercial residential and includes shops, factories, warehouses, showrooms and depots.
Commercial residential premises	Premises such as hotels, motels, inns, hostels, boarding houses, marinas, caravan parks and camping grounds, or premises similar to these types of premises.
Factory	Refer to: *Commercial premises*
Farmland	Land upon which a farming business has been carried on.
Hostel	A supervised place of accommodation, usually supplying board and lodging, provided at a comparatively low cost, as one for students, young people, nurses or the like.
Hotel	A building in which accommodation, food and alcoholic drinks are available from a central management.
House	Free standing building occupied or intended to be occupied as a residence.
Inn	A small hotel that provides lodging, food and/or refreshments for travellers and others.
Long Term Lease	A lease for at least 50 years, which is expected to continue for at least 50 years and, unless the lessor is an Australian government agency, the lessee has substantially the same rights to the premises as those enjoyed by the lessor.
Marina	A boat harbour offering dockage and other services for small craft.
Motel	A roadside hotel which provides accommodation for travellers in selfcontained, serviced units, with parking for their vehicles.
New residential premises	Premises that have not previously been sold as residential premises, including premises substantially renovated or built to replace demolished premises other than premises that have been rented out as residences for a period of at least five years.
Part office/shop – part residential	Premises that consist of both commercial and residential premises.

Term	Definition
Partly developed property	Property where building development works are not complete.
Residential premises	Premises such as a house, apartment, or unit occupied, or intended and capable of being occupied, as a residence or for residential accommodation.
Serviced apartment	Apartments offered for hire with some level of service provided. As a minimum, regular cleaning and security are offered. In other cases, full hotel services are offered, but self-catering facilities are provided.
Shop	Refer to: *Commercial premises*
Showroom	Refer to: *Commercial premises*
Vacant land	Land upon which there are no buildings, or land where any previously existing buildings have since been degraded or demolished.
Warehouse	Refer to: *Commercial premises*

Commercial Property

If commercial premises are sold, such as shops and factories, the vendor is generally liable for GST on the supply. The GST treatment is different according to the property type, i.e., residential, commercial or commercial residential.

How GST Applies

The vendor can claim GST credits on purchases made that relate to selling the property (subject to the normal rules on GST credits) – for example, the GST included in real estate agent's fees.

If commercial premises are purchased to use in a GST-registered business, the GST can be claimed from the purchase price of the premises. You may also be able to claim GST on other expenses that relate to buying the property – for example the GST included in solicitors' fees.

The seller/vendor cannot claim GST credits if **either** of the following apply:

- The seller used the margin scheme to work out the GST included in the price.
- The seller is not registered or required to be registered for GST.

Leasing or Renting Commercial Premises

The lessor (owner) of a factory or shop is liable for GST on the rent charged if they are registered, or required to be registered, for GST.

The owner can claim GST credits on purchases made which relate to renting out the property (subject to the normal rules on GST credits).

Generally, an immediate deduction for expenses relating to the management and maintenance of the property can be claimed, including interest on loans and the GST included in the managing agent's fees.

Some expenses are claimed over a number of years, including depreciation costs (decline in value of depreciating assets such as carpet, furniture and appliances), and certain construction expenditure.

A lessee (tenant) may be able to claim GST credits for the GST included in rent paid if the property is leased to carry on a business and the tenant is registered for GST.

Rental Bonds from Commercial Premises

A bond is a value withheld as a holding deposit to ensure goods are returned or services paid before departure. For example, a bond is paid for commercial rental premises and returned on vacating the premises.

How to treat the GST on a Bond?

You do not pay GST on a bond unless the amount is forfeited or part is withheld as payment for damage to the premises/goods.

Accounting Entry Example for a Business Renting Commercial Premises

Cash and Accrual Basis	Debit	Credit
Bank		$5,000
Rental Bond Asset	$5,000	

On Vacating Premises, Partial Return of Bond Due to Property Damage

Cash and Accrual Basis	Debit	Credit
Bank	$3,900	
Repairs/Cleaning Expenses	$,1000	
GST Paid	$100	
Rental Bond Asset		$5,000

A rental bond for a commercial property is to be allocated as an asset for future reimbursement by the property owner on departure of the property.

Bookkeeping Considerations
for Leasing or Renting of Commercial Premises

Common expenses that can be claimed:

- Managing agent fees and commissions
- Improvements to the property
- Repairs and maintenance
- Interest on loans
- Borrowing expenses, depreciation and capital works
  - these expenses may be claimed over several or many years
- Advertising for tenants
- Body corporate fees
- Council rates, water rates, land tax
- Cleaning and grounds maintenance
- Pest control
- Building insurance, including public liability and contents
- Travel undertaken by owner to inspect property, collect rent or documents, or to conduct maintenance

Things that can't be claimed:

- Water, gas, electricity or other expenses that are paid directly by the tenant
- Acquisition and disposal costs, including the purchase cost
- Conveyancing and advertising as part of purchase
- Residential rental property expenses

Apportioning Expenses

Some expenses may need to be apportioned between deductible and non-deductible.

This may apply if:

- The property is only available for part of the year.
- Only part of the property is available for rent.
- Note that special rules for claiming expenses may apply if premises are leased at less than commercial rates – for example; to family members. You may need advice from a tax agent on this.

Prepaid expenses may also need to be considered either for part year apportioning or apportioning over more than one financial year.

Residential Properties

Residential premises include houses, units and flats. It does not include vacant land.

Properties are residential premises if they can be occupied, are occupied, or are intended to be occupied as residences.

GST on Residential Property Transactions

Generally, selling or renting existing residential premises are input-taxed sales and do not include GST. However, if the residential premise is considered 'new', it is a taxable sale and GST is applicable.

A residential property is classed as new when any of the following apply:

- It has not previously been sold as residential premises
- It has been created through substantial renovations
- A new building replaces a demolished building on the same land

A residential property is no longer classed as new if it has been 5 years since:

- It first became a residential premise
- It was last substantially renovated
- It was built to replace demolished premises

If you buy property, old or new, with the intention of selling it at a profit or developing it to sell, you may be considered to be carrying on a business and may be required to register for GST.

Generally, you are not considered to be carrying on a business if your property transactions are for private purposes such as when you are constructing or selling your family home.

Rent or Bonds from Residential Premises

If residential premises are rented out for residential accommodation, the rent received is input-taxed and GST is not included in the rental charge. The owner can't claim credits for the GST included in any costs relating to the rental, such as agent's commission or repairs and maintenance on the premises.

If residential premises are leased, the owner needs to consider both that:

- They are not liable for GST on the rent charged
- They cannot claim GST credits for anything they purchase or import to lease the premises.

If a bond or security deposit is received for leased residential premises, the owner needs to consider both that:

- They are not liable for GST on the bond or security received
- They cannot claim GST credits for anything they purchase or import to lease the premises.

Sharing Accommodation

Renting a Room, House or Unit

Renting out a room, house or unit for a short-time basis using a third-party app or website is very popular. Two of the more common services are Airbnb and Stayz.

These services bring together property owners looking to rent rooms or whole properties to potential guests, and enables people to lease or rent short term accommodation covering rentals, homestays, hostels and caravans to name a few.

Bookings and most communication between the parties is handled via the third-party website or mobile app.

GST Implications

A participant in the sharing economy needs to consider the implications in regard to GST and earnings generated.

Things to be considered by the provider include:

- Are they carrying on as an enterprise or as an individual?
- Does the activity constitute a hobby as per the ATO definition?
- Is the amount of revenue received $75,000 or above?
- Do they need an ABN?
- Do they need to register for GST and lodge activity statements?
- Will the price of the goods or services provided include GST?
- When tax invoices should be provided.
- What GST credits and income tax deductions can be claimed for expenses related to earning the income?
- If combining different sharing economy activities (e.g. Airbnb and Uber) how does this impact GST and income tax obligations?

Bookkeeping for Provider of Sharing Accommodation

It is important that the provider keep records of all income received and expenses incurred to include in their income tax return.

As a business, it is recommended that the Chart of Accounts reflect the relevant income and expense streams, and possibly utilise job codes or tracking categories to easily report on the different activities.

The important thing that needs to be determined is the business cost vs private cost regarding the expenses incurred in operating a shared accommodation venture.

As it wouldn't be known until the end of the financial year how many days the room has been rented, it is recommended all relevant expenses be entered and then at EOY the accountant can confirm the calculation and journal the private portion to the owner drawings/loan accounts.

ATO Example - Renting out part of a unit

Jane has a two-bedroom unit with two bathrooms. She lives alone and only uses her spare room as an occasional home office, for storage and when she has guests. Jane mainly uses the ensuite bathroom. The second bathroom is accessible from the main areas and mainly used by visitors.

Jane decides to rent out the spare room via Airbnb or other sharing economy websites to earn extra income. When paying guests come to stay, Jane removes all excess items from the room and does not access the area. She also gives paying guests access to common areas including the second bathroom, kitchen, living area and balcony, and to her Wi-Fi.

For the period guests are staying and have access to these items and areas, Jane can claim 50% of associated costs This is based on Jane having the room available and occupied 150 days in the year and using this for personal storage or a home office all the other days.

Jane calculates what she can claim based on the following additional factors:

- The room is 10 square metres
- The house is 80 square metres
- The common areas are 50 square metres

She works out she can claim 17.97% of her general expenses, (such as electricity, interest on her mortgage, internet expenses, rates and body corporate fees), after adding the following two calculations together:

- Room occupancy: (10/80 × 150/365) × 100 = 5.13%
- Common areas: ((50/80 × 150/365) × 50%) × 100 = 12.84%
- She can claim 100% of the expenses associated solely with renting out the room, such as the sharing economy (e.g.: Airbnb) commissions and/or administration fees.

Using Janes' example above, it was determined that she is able to claim 17.97% of her expenses; below is the journal detailing the movement from the expense account to drawings.

Total Expense @ 30th June 20XX	Total Amount
Internet and phone costs	$ 960
Water, power and council rates	$2,500
Repairs and maintenance	$1,480
Food	$1,620
Cleaning	$1,200
Total	$7,760

Calculate the business portion:

$7,760 x 17.97% = $1,394.47

Drawings = $7,760 - $1,394.47 = $6,365.53

Journal to allocate balance to drawings account:

Total Expense @ 30th June 20XX	Debit	Credit
Private portion of expense to drawings	$1,394.47	
Private portion of expenses to reduce expense		$1,394.47

Bookkeeping for Receiver of Sharing Accommodation

If you are undertaking the bookkeeping for a business using sharing accommodation such as Airbnb, the transactions are no different from any other expense. There will be no GST on the expense and a copy of any relevant invoice must be retained. *Refer to ICB resource: Sharing Economy – Accommodation*

Real Estate Agent or Property Owner
On-charge of Expenses

A real estate agent will often act on behalf of the owner of the property where an agreement is often put in place for the agent to pay all expenses on behalf of the owner of the property. Equally an owner of the property who self managed the property, may be registered for GST, therefore the below applies.

There is often confusion about whether tenants should pay GST on top of **outgoings** which did not include GST. Water, rates and land tax. However, if the real estate agent pays outgoings on behalf of their client, GST law states, if an expense is being provided by a GST registered business, then the charge must include a charge for GST.

Typical outgoings include expenses such as:

- Rates (includes water and sewerage charges)
- Land Tax
- Building Insurance
- Body corporate fees
- Property management fees
- Repairs, cleaning, gardening, and maintenance but excluding capital works.

Examples:

- **Water charged to tenant —** the water charge is GST free but because it is paid for by the agent, the agent has performed a service and therefore should add GST.
- **Rates or insurance (GST inc)** are charged to the tenant with GST added to the total cost. As above, the agent has performed a service for the tenant.

Purchase and Sale of Property

Going Concern

For GST purposes, when a business is sold, it is considered to be a going concern if all of the things necessary for the continued operation of the business are sold, and the business will carry on until the day of the sale.

A sale of a going concern is GST-free if, in general, all of the following apply:

- The sale is for payment
- The purchaser is registered, or required to be registered, for GST
- The purchaser and seller have agreed in writing that the sale is of a going concern.

Selling Property as Part of a Going Concern

If a property is sold that is part of a GST-free sale of a going concern:

- The seller is not liable for GST on the sale
- The seller and the purchaser may be able to claim GST credits on expenses that relate to selling and buying the property respectively – for example, the GST included in solicitors' fees.
- Property that is part of a sale of a going concern can include any of the following:
  - the business' premises, when sold together with the assets and operating structure of the business
  - a fully tenanted building, where the property and all leases, agreements and covenants are included in the sale
  - the sale of a partially tenanted building, where the vacant part of the building is either being actively marketed for lease or undergoing repairs or refurbishment, and all leases, agreements and covenants are included in the sale.

GST and Margin Scheme

Generally, the amount of GST paid on property sales is equal to one-eleventh of the sale price. If eligible, the seller may be able to use the margin scheme on the property sale. The margin scheme is an alternative way of working out the GST amount on the sale of a property.

You can use the margin scheme if either:

- The property was purchased before 1 July 2000 (the start of GST), or
- The property was purchased after 1 July 2000 from someone who:
  - Was not registered or required to be registered for GST
  - Sold existing residential premise
  - Sold the property as part of a GST-free going concern or GST-free farmland
  - Sold the property using the margin scheme.

To work out if the vendor can use the margin scheme on the sale of their property, the ATO has provided a GST property tool.

Under the margin scheme the amount of GST payable on a property sale is one-eleventh of the margin for sale. The owner can only apply the margin scheme if the sale is taxable.

If they were charged the full rate of GST when they originally purchased the property, the margin scheme can't be used. Generally, if they were charged the full rate of GST when they purchased a property as part of their business, they would have claimed the GST back.

The margin is generally the difference between the sale price and one of the following:

- The amount paid to purchase the property
- An appropriate property valuation

The margin is not:

- The profit margin; unlike an accounting profit margin, the margin on the sale does not consider costs incurred to develop the new property or subdivide the land
- The selling price minus a valuation of the property for a property purchased after 1 July 2000
- Worked out the same way as a capital gain – it is possible that GST is still paid under the margin scheme when there is no capital gain for income tax purposes.

Methods to Work out the Margin

There are two methods you can use to work out the margin:

- Consideration method
- Valuation method

The method that can be used will depend on when the property being sold was originally purchased.

Consideration Method

The consideration method can be used regardless of when the property being sold was originally purchased. Using the consideration method, the margin is the difference between the property's selling price and the original purchase price. That is, the sale price less the purchase price equals the 'margin'. The sale price must include any settlement adjustments contained within the sales contract.

When working out the margin using the consideration method, do not include any of the following as part of the purchase price:

- Costs for developing the property
- Legal fees
- Any options you purchased
- Stamp duty
- Any other related purchase expenses

Property purchased on or after 1 July 2000	Property purchased before 1 July 2000
■ On 1 December 2002, a block of land is purchased for $150,000 from a vendor who was not registered for GST. $550 in conveyancing fees and $7,000 in stamp duty on the purchase of the land are included in the tax invoice for legal fees. A GST credit of $50 ($550 × 1/11th) for the conveyancing fees can be claimed in the tax period in which the purchase applies. ■ A house is constructed on the land and when completed the house and land sell for $315,000. ■ The sale price of the property minus the purchase price of the property is ($315,000 − $150,000). Therefore, the margin for the sale of the house and land package is $165,000 ■ The GST payable on the margin for the sale is $15,000 ($165,000 × 1/11th). ■ Tax invoices for $110,000 of business purchases for the construction of the house are held and so a claim of $10,000 in GST credits for these purchases. The stamp duty is exempt from GST.	■ On 15 June 2000 vacant land is purchased for $110,000. In May 2008, the land is sold for $220,000 and the contract specifies the margin scheme will be applied. ■ The sale price of the property minus the purchase price of the property ($220,000 − $110,000). The margin for the sale of the land is $110,000. ■ The GST on the margin for the sale is $10,000 ($110,000 × 1/11th). ■ Because the margin scheme was applied, the purchaser cannot claim a GST credit.

Valuation Method

The valuation method is generally used to work out the margin if the property was originally purchased before 1 July 2000. Using the valuation method, the margin is the difference between the selling price and the value of the property (as at 1 July 2000). The valuation method can only be used if there is an approved valuation.

Example of the valuation method:

- A company is a GST registered property developer. Land was purchased in 1980 for $40,000 and in September 2010 a contract was negotiated to sell the land for $1.44 million. The contract stated that the margin scheme would be used to work out the GST on the sale. Settlement occurred on 2 December 2010.
- A professional valuation of the land (as at 1 July 2000) of $1 million was obtained in July 2010.
- Using the valuation method, the margin is calculated as the selling price minus the value of the land provided in the professional valuation received, that is ($1,440,000 − $1,000,000) which equals $440,000. GST of $40,000 on the sale of the land is reportable on the December 2010 BAS.
- Because the margin scheme was applied to the sale, the purchaser cannot claim a GST credit for the GST included in the price they paid for the property.

Changing Methods

The seller can change how they calculate the margin, using either the consideration or valuation method, up until the due date for lodgement of the business activity statement for the relevant tax period if all of the following apply:

- The property was purchased before 1 July 2000
- A decision to apply the margin scheme was made at or before the time the property was sold.

Example of Journal Entry to Record Property Sale with Margin Scheme

Details	Account	Debit	Credit	Tax Code
Sale of property	Income		$474,000	No Tax
Legal costs	Expense	$2,120		GST
Financial Institution – payment to discharge mortgage	Liability	$471,100		No Tax
Council rates	Expense	$768		No Tax
Rent received	Income		$200	INP
Account for GST on Margin Scheme $474,000 less land price $155,000	Income		$319,000	GST
Account for GST on Margin Scheme $474,000 less land price $155,000	Income		$350,900	No Tax
GST		$212	$31,900	
Total		**$825,100**	**$825,100**	

Property Withholding Rules
– ATO Clearance Certificate

The ATO has introduced withholding rules to property transactions with a value of $2 million or more. The rules apply to contracts entered into after 1 July 2016. According to the new rules, Australian sellers of $2 million+ properties will be classified as or treated the same as overseas investors unless they get a special tax clearance from the ATO. This means that all buyers of such properties must deduct 10% from the purchase price and forward this to the ATO unless the seller can provide the tax clearance certificate.

In most cases the Australian vendors will not have any difficulty in obtaining the certificate but this may raise issues for those who have not filed tax returns for some years; those who have filed tax returns, but that are not congruent with the amount of the purchase; where there may be a question about a profit making scheme by a developer and other such situations.

The application should be lodged as soon as possible by the vendor, as it is the vendor that has to provide the purchaser with the certificate. The vendor can apply directly to the ATO or have their solicitor, conveyancer or tax agent do this.

GST on Property Settlement

From 1 July 2018, purchasers (consumers who do not run a business) who acquire new residential premises (new residential subdivisions and potential residential land) will be required to withhold GST on the purchase price at or before settlement and pay it directly to the ATO.

The purchaser of the property (non-commercial), as the beneficiary and party receiving the supply, is required to pay the GST to the Commissioner either before or at settlement. When making the payment of GST by the purchaser, how payment is made will likely be a result of the type of settlement; either via Property Exchange Australia (PEXA) or not via PEXA. When a settlement is to is to occur on PEXA, the GST will be paid directly to the ATO via EFT. If settlement is to occur via the PEXA system, then the property purchaser may make payment of the GST via bank cheque to the ATO, prior to or at the time of settlement.

Again, if the seller of the property does not provide notice of obligations to the purchaser, then the purchaser and/or its conveyancer/lawyer may make payment of the GST to the ATO without having to pay any fines, if they can confirm they have not received any notice.

Property transactions of new residential premises, or potential residential land that requires an amount to be paid directly to the ATO on or before settlement, require purchasers or their representatives to use the following online forms to advise the ATO of a purchase:

- Form one is the GST property settlement withholding notification.
- Form two is the GST property settlement date confirmation.

The online forms provide the details of:

- the contact person
- the property
- the GST withholding amount
- the purchaser and the supplier (vendor, seller, etc.)

If you are a property supplier, you are not required to submit these online forms.

The forms are not yet available – they are due to be released in June/July 2018.

Refer to ICB resource GST on Property Transactions for further information.

Property Bookkeeping Checklist

Property Contract and Tax Invoice Checklist	✔
Is the vendor registered (or required to be registered) for GST?	
What is the correct GST treatment of the property transaction? ▪ Taxable ▪ GST free ▪ Input taxed ▪ Mixed	
Are any special rules being applied? ▪ Residential premises ▪ Commercial residential premises ▪ Commercial premises ▪ Retirement villages ▪ Farmland ▪ Going concerns ▪ Margin scheme ▪ Non-resident property owners	
Are there clauses in the contract appropriate for the GST treatment? ▪ Price is inclusive or exclusive of GST ▪ Whether GST has been determined by reference to the margin scheme ▪ Treatment if contract is later found to be incorrect ▪ Going concern clause (if relevant)	
Are there any settlement adjustments that may affect GST calculation? ▪ Council rates ▪ Land tax ▪ Other outgoings	
A tax invoice is required if all of the following apply: ▪ The sale, or part of, is taxable ▪ The vendor is registered for GST ▪ The margin scheme has not been applied	
Are necessary details included in the invoice? ▪ The document clearly shows it is intended to be a "tax invoice" ▪ Date of issue ▪ ABN ▪ Purchaser's identity and ABN ▪ Details of what is being sold ▪ Details of what is taxable or GST free ▪ The total price payable ▪ The amount of GST payable	
ATO clearance certificate obtained if needed (for property sales over $2 million)	

References

- ATO – GST and Property
- ATO – GST and the Margin Scheme
- ATO – Leasing and Renting Commercial Premises
- ICB – Commercial Accommodation and Concessional GST
- ICB – Property Settlements – Beware of the GST
- ICB – GST on Property Transactions
- ATO – Property Contract and Tax Invoice Checklist
- ICB – Going Concern
- ATO – Clearance Certificate Application
- ATO – Valuation Method
- PEXA – Property Exchange Australia Ltd