

## **GST complications of going commercial**

Owning commercial rental properties usually means registering for GST which can make life more complicated.

An entity that owns commercial rental properties isn't required to register for GST if its annual turnover is less than \$50,000. Not all income is included as turnover. Section 188-15 of the *A New Tax System (GST) Act* excludes input taxed supplies (i.e. supplies with no GST liability, such as domestic rents). Section 188-25 excludes the proceeds from the sale of capital assets. This is why owners of even large numbers of domestic properties aren't required to be registered.

If the commercial rents are more than \$50,000 per annum you'll need to register for GST. If it's less, registration is optional.

Regardless, you still won't have to charge GST on any domestic rents. Not being registered for GST will save you paperwork but it won't make your commercial rent any cheaper to your tenants. If they're registered they'll be able to claim the GST back anyway.

Commercial tenants normally pay all the expenses but if you, as the landlord, incur some expenses, registering will normally mean you can claim back the GST.

If you're not registered but your tenant is, it would be practical to ask the tenant to pay the expense and then reduce their rent by 10/11ths of the cost; they can claim the rest from the Australian Tax Office (ATO).

### **Trading properties**

The main area of concern is when you buy or sell.

If you're registered you can claim back any GST on the price you paid for a commercial building. This may save you a lot in interest over the period of time you own the property.

When you sell you'll have to pay the ATO GST on the selling price. Your purchaser might not mind because they're registered for GST and can claim it back anyway.

If you're both registered you may even be able to use the sale of a going concern provision to exempt the transaction from GST completely.

This concession just saves a lot of mucking around - it doesn't really save any GST because both the buyer and the seller are required to be registered to qualify, so the GST would eventually cancel itself out anyway.

The big disadvantage of being registered for GST, when selling, is an unregistered buyer will have to pay more to buy the property from you than from an unregistered seller.

What's worse is missing out on the input credits by not being registered when you buy the property but being forced to register as rents rise or you buy another property.

The first sale of a new domestic rental property is subject to GST if the owner is registered and the property hasn't been used continuously as a rental for more than five years. This would apply if you purchased land and then arranged to build the rental property.

Normally owners of domestic rental properties aren't required to register for GST because their annual turnover, as explained earlier, is less than \$50,000. So even if they sell a new property in less than five years they won't have to charge GST, simply because they're not registered.

If they also receive commercial rents of more than \$50,000 then they're forced to register and charge GST on the first new sale or major renovation of a domestic property.

Except for very unusual circumstances the purchaser won't be able to claim the GST back so it's going to come straight out of the profit.

Note: In the May 2007 budget it was proposed that the \$50,000 GST registration threshold be increased to \$75,000 subject to the unanimous agreement of the states and territories.

This information is of a general nature only and does not constitute professional advice. You must seek professional advice in relation to your particular circumstances before acting.

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