

Are all boarding houses treated as 'commercial residential premises'? -

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! This document has changed over time. This is a consolidated version of the ruling which was published on *1 July 2010*



Property and Construction Industry Partnership

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ATO position

1. The definition of 'commercial residential premises' in paragraph 195-1(a) of the GST Act specifically includes a 'boarding house'. However, in some States of Australia the State legislation requires the guest and provider to enter into a Residential Tenancy Agreement, in some circumstances. In such cases, the premises exhibit characteristics that take them out of the class of 'boarding houses' for the purposes of paragraph (a) of the definition.
2. Although they bear the name, 'boarding house', they are not. In effect they are very similar to residential flats. It is noted in GSTR 2000/20 that 'guests' have the right to occupy and enjoy the premises, but not to the extent of having a legal interest in the premises. However, if a residential tenancy agreement exists, the individuals would have a legal interest in the premises and do not have the status of 'guest'. Furthermore, the managers do not have 'control' over those parts of the premises that are subject to the residential tenancy agreements.