



GSTA TPP 016 - Goods and services tax: Is the supply of each stratum unit in a building capable of being sold as a GST-free supply of a going concern?

 This cover sheet is provided for information only. It does not form part of *GSTA TPP 016 - Goods and services tax: Is the supply of each stratum unit in a building capable of being sold as a GST-free supply of a going concern?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *14 June 2005*



Goods and Services Tax Advice

Goods and services tax: Is the supply of each stratum unit in a building capable of being sold as a GST-free supply of a going concern?

Preamble

*This document is a ruling for the purposes of section 37 of the Taxation Administration Act 1953. It illustrates the principles contained in **Goods and Services Tax Ruling GSTR 2002/5 on going concerns**. You can rely on the information presented in this document, which provides advice on the operation of the GST system.*

Answer

The supply of individually strata titled units in a building to several recipients may be separate supplies of going concerns.

Explanation

Subsection 38-325(2) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) provides that a supply of a going concern is a supply under an arrangement under which the supplier supplies to the recipient all of the things necessary for the continued operation of an enterprise and the supplier carries on the enterprise until the day of the supply.

The leasing of an individual strata-titled unit in a building may be a separate enterprise if it is capable of independent operation. Consequently, the sale of the unit may be the supply of a going concern provided:

- the unit is sold subject to an existing lease,
- the recipient is not the lessee of the unit, and
- the other requirements of section 38-325 of the GST Act are met.

Note: Division 135 of the GST Act requires the purchaser to make increasing adjustments if the supplies that the purchaser intends to make are input taxed. If the purchaser intends to supply the unit by way of an input taxed lease, for example of residential premises, then Division 135 applies.

Application of this GST Advice

This Advice is based on GSTR 2002/5. It explains our view of the law as it applied from 1 July 2000. You can rely on this Advice on and from its date of issue for the purposes of section 37 of the *Taxation Administration Act 1953*. Goods and Services Tax Ruling GSTR 1999/1 explains the GST rulings system and our view of when you can rely on our interpretation of the law in GST public and private rulings.

If this Advice conflicts with a previous private ruling that you have obtained, this public ruling prevails. However, if you have relied on a private ruling, you are protected in respect of what you have done up to the date of issue of this public ruling. This means that if you have underpaid an amount of GST, you are not liable for the shortfall prior to the date of issue of this later ruling. Similarly, you are not liable to repay an amount overpaid by the Commissioner as a refund.

Commissioner of Taxation

Date

Subject references:

supply of a going concern
enterprise
GST-free

Legislative references:

ANTS(GST)A 1999 38-325
ANTS(GST)A 1999 38-325(2)
ANTS(GST)A 1999 Div 135
TAA 1953 37

ATO references

NO:	05/3095
ISSN:	1833-0053