



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 *31 October 2012*



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 was published prior to 1 July 2010 and was a public ruling for the purposes of former section 37 of the **Taxation Administration Act 1953** and former section 105-60 of Schedule 1 to the **Taxation Administration Act 1953**.*

*From 1 July 2010, this document is taken to be a public ruling under Division 358 of Schedule 1 to the **Taxation Administration Act 1953**.*

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you – provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

[Note: This is a consolidated version of this document. Refer to the Legal Database (<http://law.ato.gov.au>) to check its currency and to view the details of all changes.]

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 applies [to tax periods commencing] both before and after its date of issue. However, this Advice will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Advice (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

Related Rulings/Determinations/GST Advice:

TR 2006/10

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 Sch 1 Div 358

ATO references

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