


# ***GSTD 2000/9A3 - Addendum - Goods and services tax: if you let out a residence do you need to get an ABN for PAYG purposes or register for GST?***

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# Addendum

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## Goods and Services Tax Determination

Goods and services tax: if you let out a residence do you need to get an ABN for PAYG purposes or register for GST?

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Goods and Services Tax Determination GSTD 2000/9 to reflect the withdrawal and replacement of Goods and Services Tax Ruling GSTR 2000/20 *Goods and services tax: commercial and residential premises* and other minor amendments arising from the *Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006*.

### GSTD 2000/9 is amended as follows:

**1. Title**

In the title, omit 'a residence'; substitute 'residential premises,'.

**2. Paragraph 1**

In footnote 1, omit 'Miscellaneous Taxation Ruling MT 2000/1 and Goods and Services Tax Determination GSTD 2000/8 for the purposes of GST.'; substitute 'Miscellaneous Taxation Ruling MT 2006/1 *The New Tax System: the meaning of entity carrying on an enterprise for the purposes of entitlement to an Australian Business Number*, and for GST purposes see Goods and Services Tax Determination GSTD 2006/6 *Goods and services tax: does MT 2006/1 have equal application to the meaning of 'entity' and 'enterprise' for the purposes of the A New Tax System (Goods and Services Tax) Act 1999?*'.

**3. Paragraph 2**

After the third sentence; insert 'A supply by way of lease or licence of residential premises to be used predominantly for residential accommodation is an input taxed supply.<sup>5A</sup>'.

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<sup>5A</sup> Section 40-35 ANTS(GST)A 1999. See Goods and Services Tax Ruling GSTR 2012/5 *Goods and services tax: residential premises*.

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## 4. Paragraph 4

- (a) In the first sentence, after 'commercial premises'; insert footnote 6A:

<sup>6A</sup>. References in this Determination to 'commercial premises' or 'commercial property' are references to premises that are neither residential premises to be used predominantly for residential accommodation, nor commercial residential premises.

- (b) In footnote 7, omit 'paragraphs 38(1)(a), 38(1)(b) and 38(1)(c)'; substitute 'section 41'.

## 5. Paragraph 6

Omit the paragraph; substitute

6. The letting of a property by itself is an activity in the nature of investment rather than a business, or an adventure or concern in the nature of trade.<sup>9</sup> Therefore, paragraphs (a) and (b) do not need to be considered any further.

## 6. Paragraph 8

Omit from the first sentence 'MT 2000/1'; substitute 'MT 2006/1'.

## 7. Paragraph 16

- (a) Omit the first two sentences; substitute 'In some cases you may let out premises that are only partially residential premises to be used predominantly for residential accommodation which the tenant uses for both private and business purposes. An example of this is where a tenant both lives in and conducts a medical practice from a house that has been partially converted as a doctor's surgery. The conversion results in part of the premises ceasing to be residential premises to be used predominantly for residential accommodation. In this case the supply by way of lease of the premises is not a wholly input taxed supply.<sup>16A</sup>'
- (b) In the third sentence, omit: 'residential'.
- (c) In the last sentence, omit: 'property'; substitute: 'premises'.

## 8. Paragraph 17

At the end of the paragraph; insert footnote 16B:

<sup>16B</sup>. The exception in (iv) may also apply where the premises are residential premises to be used predominantly for residential accommodation and the supply is input taxed regardless of the use by the tenant.

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<sup>9</sup> *Cripps v FC of T* 99 ATC 2428; (1999) 43 ATR 1202.

<sup>16A</sup> See GSTR 2012/5 at paragraphs 40 to 45.

**9. Paragraph 18**

- (a) Omit the second sentence; substitute '*Two rooms of the house have been modified so as to be designed as a veterinary surgery. The modification results in the two rooms ceasing to be residential premises to be used predominantly for residential accommodation.*'.
- (b) Omit the fourth sentence; substitute '*Even though Brian uses part of the premises as his veterinary surgery, he resides in the remaining part of the premises.*'.

**10. Paragraph 21**

- (a) In the second sentence, omit 'and all of the premises must be used predominantly for residential accommodation'; substitute "to be used predominantly for residential accommodation'.
- (b) In footnote 17, omit the second sentence; substitute 'See also GSTR 2012/5.'.

**11. Paragraph 22**

Omit the third, fourth, fifth, and sixth sentences; substitute '*The physical characteristics of the house evidence that it is residential premises to be used predominantly for residential accommodation. Amy has set up one room as a home office in which she does her writing. Amy's use of the premises does not change the character of the supply of the house by way of lease from being an input taxed supply of residential premises to be used predominantly for residential accommodation.*<sup>17A</sup> *As the whole of the supply is input taxed, the exception in (iv) applies.*'.

**12. Paragraph 23**

Omit the fourth and fifth sentences; substitute '*Although Steve uses the garage for business purposes, the supply of the house, including the garage, is an input taxed supply of residential premises to be used predominantly for residential accommodation.*'.

**13. Paragraph 25**

In the third sentence, omit '*will be used only for residential purposes*'; substitute '*is residential premises to be used predominately for residential accommodation*'.

**14. Paragraph 28**

- (a) In the heading immediately before the paragraph, omit '*Accommodation*'; substitute '*premises*'.
- (b) In the first sentence, omit 'for residential accommodation'; substitute 'that are to be used predominantly for residential accommodation'.

**15. Paragraph 30**

- (a) Omit the heading immediately before the paragraph; substitute '*Commercial premises and commercial residential premises*'.

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<sup>17A</sup> See GSTR 2012/5 at paragraphs 44 and 45.

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- (b) In the first sentence, omit 'property for purposes other than residential accommodation'; substitute 'commercial property or commercial residential premises<sup>18A</sup>'.

## 16. Paragraph 32

- (a) Omit the first sentence; substitute 'A supply by way of lease of premises is an input taxed supply to the extent that the premises are residential premises to be used predominantly for residential accommodation.'
- (b) In the third sentence, after 'the premises are not'; insert 'residential premises'.
- (c) Omit footnote 20; substitute 'Section 40-35 ANTS(GST)A 1999. See GSTR 2012/5 at paragraphs 40 to 45.'

## 17. Paragraph 33

In the second sentence, omit 'to be used predominantly for purposes other than residential accommodation'; substitute 'not residential premises to be used predominantly for residential accommodation'.

## 18. Paragraph 34

Omit the second sentence; substitute 'If your GST turnover is below the registration turnover threshold you are not required to register but you can voluntarily register. If you are not registered or required to be registered, the supply of mixed property is not taxable to any extent.'

## 19. Paragraph 35

In the first sentence, omit 'house used'; substitute: 'premises designed'

## 20. Related Rulings/Determinations

Omit 'MT 2000/1; GSTR 2000/20; GSTD 2000/8'; substitute 'MT 2006/1; GSTR 2012/5; GSTR 2012/6; GSTR 2012/7; GSTD 2006/6.'

## 21. Subject References

Insert:

- residential premises

## 22. Legislative References

Omit 'ANTS(GST)A 99 40-35(2)(a); ANTS(ABN)A 99 38(1)(a); ANTS(ABN)A 99 38(1)(b); ANTS(ABN)A 99 38(1)(c)'; insert 'ANTS(GST)A 99 87-25.'

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<sup>18A</sup> Pursuant to section 40-35 ANTS(GST)A, a supply by way of lease or licence of commercial residential premises is not an input taxed supply. A supply of accommodation in commercial residential premises provided to an individual by the entity that owns or controls the commercial residential premises is not an input taxed supply unless the supply is a supply of long-term accommodation and a choice is made under section 87-25 not to apply Division 87. See Goods and Services Tax Ruling GSTR 2012/6 *Goods and services tax: commercial residential premises* and Goods and Services Tax Ruling GSTR 2012/7 *Goods and services tax: long-term accommodation in commercial residential premises*.

This Addendum applies before and after its date of issue subject to the relevant application provision contained in the *Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006*.

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**Commissioner of Taxation**11 June 2014

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## ATO references

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