

# ***GSTR 2000/20A - Addendum - Goods and services tax: commercial residential premises***

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## Addendum

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### **Goods and Services Tax Ruling**

### **Goods and Services Tax: commercial residential premises**

#### **At paragraph 4 – second dot point**

Delete the word ‘or’ from the end of the dot point.

After the second dot point, insert a third dot point reading:

- the application of GST to marinas or marina berths occupied by **ships** used as residences; or

After the word ‘residences’ insert a footnote numbered 2a with the following text:

‘<sup>2a</sup> Since this Ruling issued the law in relation to marinas has been amended (by Act No 156 of 2000). See subsection 40-35(1A) and section 195-1 definition of ‘commercial residential premises’ paragraph (da).’

#### **At paragraph 19 – second sentence**

Delete the second sentence beginning ‘It is their physical characteristics that mark them out ...’ and substitute with the following:

‘It is their physical characteristics that mark them out as a residence. In turn, these characteristics determine when the use or proposed use is for residential accommodation.’

The paragraph now reads:

‘Further, the requirement in paragraph 40-35(2)(a) and subsection 40-65(1) that input taxing only applies to the extent that the premises are ‘to be used predominantly for residential accommodation’ indicates that premises that are residential premises are capable of use for purposes other than residential accommodation. It is their physical characteristics that mark them out as a residence. In turn, these characteristics determine when the use or proposed use is for residential accommodation.’

## **At paragraph 36 – second sentence**

Change the full stop at the end of the second sentence to a comma and add the following:

‘even if only for short term occupancy. A certain zoning, or a change of zoning cannot, by itself, alter the character of premises.’

The paragraph now reads:

‘For premises to be residential, it must be legal for them to be used for accommodation. As the concepts of ‘residential’ are given a broad treatment under GST, it is only necessary that the land on which premises stand is zoned by the Council or Shire in a way that contemplates human habitation or accommodation, even if only for short term occupancy. A certain zoning, or a change of zoning cannot, by itself, alter the character of premises.’

## **At paragraph 57 – end of paragraph**

Add the sentence:

‘In agency arrangements, it is the owner of the unit who bears the risk to their own income, of the unit remaining vacant.’

After the word ‘vacant’ insert a footnote numbered 22a with the following text:

‘<sup>22a</sup> Where the manager bears the risk on an ongoing basis (that is, the owner’s income is assured, even where their unit has not been let out by the manager), then the relationship is unlikely to simply be one of agency.’

## **At paragraph 133**

Delete the entire paragraph, excluding example 7.

## **At paragraph 160**

After paragraph (d) of the definition insert:

‘(da) a marina at which one of more of the berths are occupied, or are to be occupied, by \*ships used as residences; or’

The definition now reads as it does in the *ANTS (Goods and Services) Act 1999* (as amended).

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ATO references:

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