GST Advice for Purchase of Common Property

Below is a high-level overview of the New Zealand Goods and Services Tax (GST) regime and how the regime is applied to a number of common property transaction scenarios when the vendor is registered for GST.

Overview

GST is a value-added tax. A GST registered entity is required to file a GST return with Inland Revenue to account for tax on the value of its supplies (output tax) and deduct the value of tax paid to its suppliers (input tax).

GST is levied by a GST registered entity at 15% of the value of its supplies.

Various adjustments are required to be made for assets that are used in the entities business operations and privately. These assets are described as "mixed use assets". The adjustment regime for mixed use assets is described below.

GST must be included in the sale price of any property sold by a GST registered entity that was subject to the GST regime. However, if the purchaser is also GST registered, the transaction can be zero rated.

Registration Requirements

An entity or individual is required to register for GST if the turnover from their "taxable activity" is $60,000 or more within a rolling 12 month period. Voluntary registration is allowed if turnover is less than $60,000.

Explanation of Taxable Activity for GST Purposes

Only certain activities of an entity or an individual qualify as a taxable activity. With regards to property:

1. Short term rental of property within or similar to hotel, motel or bed and breakfast operation falls within the definition of a taxable activity,
2. Long term rental of property does not fall within the definition of a taxable activity.
3. Private use of rental property does not fall within the definition of a taxable activity.

Please note that regardless of the GST aspects, all net rental income is subject to income tax whether derived from a short or long term rental activity.

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Zero Rating of Land Transactions

Transactions between two GST-registered parties involving land or in which land is a component are required to be zero-rated (GST is charged at a rate of 0% instead of the standard rate of 15%) provided that:

1. The transactions is between GST registered entity,
2. The purchaser acquires the goods with the intention of using them for making taxable supplies, and 3. The land cannot be intended to be used as a principal place of residence of the purchaser
3. or someone associated with them.

Apportionment Regime

At acquisition and throughout ownership of the property a GST registered person is required to make apportionment adjustments to the extent that they anticipate and actually use the property for making taxable supplies i.e. only claim GST that relates to short term rental and not long term rental or private use.

When the purchaser acquires land that is zero-rated, complex rules apply where the purchaser is required to:

1. Identify the nominal amount of GST that would have been charged if the purchase was not zero rated,
2. Estimate the intended taxable use of the property using a method that produces a fair and reasonable result,
3. In the first GST return, account for output tax for the proportion of the nominal GST component for any non-taxable use of the property based on the estimation made,
4. In the GST return ending on the first balance date (usually 31 March), calculate the actual business use of the property and make an adjustment for any differences i.e. if the initial estimation of business use is too high then GST is required to be paid back,
5. After the first balance date complete annual adjustments to account for the business and private use of the asset, this calculation can result in a further GST refund or payment if the use of the property changes from the prior year.
6. On disposal of the property, output tax is payable and a calculation is made to claim any input tax not previously claimed.

Common Property Transaction Scenarios

Below outlines the GST consequences of the purchase of property, from a GST registered entity, for a number of common scenarios.

Property is used 100% for short term accommodation with expected annual turnover of less than $60,000.

There is no requirement to register for GST however there is an ability to voluntarily register for GST as a taxable activity is being undertaken. If the purchaser does not register for GST the purchase price is plus GST and there is no requirement to include GST on the sale of the property.

If the purchaser voluntarily registers for GST, the transaction will be zero rated assuming the criteria stated above is met. The purchaser effectively pays the GST exclusive purchase price. No adjustments are required as 100% of the property's use is for a taxable activity. On disposal, the sale price will include GST if the sale is to a non-registered person or the sale price will be zero rated if it is to another GST registered entity.

Property used for a mixture of private and short term accommodation with expected annual turnover under $60,000.

There is no requirement to register for GST however there is an ability to voluntarily register for GST as a taxable activity is being undertaken. If the purchaser voluntarily registers for GST the transaction will be zero rated assuming the criteria stated above is met.
In the purchasers' first GST return, they make a payment of GST based on the estimated private use of the property. In the GST return that ends on the purchaser's persons first balance date, a wash up calculation is completed and further GST is paid or refunded based on the difference between the actual and estimated use of the property. For each GST return that ends on the purchaser's balance date, a calculation is completed to determine the actual ratio of private and business use and further GST is paid or refunded. On disposal, the sale price will include GST a calculation is completed to claim any input tax not previously claimed.

For example, if a property was purchased for $1,000,000 + GST and the purchaser intended to use the property for 20 days a year and contemplated 180 rental days.

1. The purchaser would initially pay $1,000,000 to the vendor as the transaction was zero rated,

2. In the purchasers' first GST return, a payment of $15,000 would be required to be made to Inland Revenue being the non-taxable use of 10% [20 private use days / 200 of total use days] multiplied by the nominal GST amount on purchase of $150,000.
3. In the purchaser's GST return that covers their balance date a calculation would be made to determine the difference between the actual and estimated use of the property. An adjustment is required only if the change in use is either 10% more or the value of the adjustment is $1k or more.

Property used for a mixture of private and short term accommodation with expected annual turnover of greater than $60,000.

There is a requirement to register for GST. The transaction will be zero rated assuming the criteria stated above is met. In the purchasers' first GST return, they make a payment of GST based on the estimated private use of the property. In the GST return that ends on the purchaser's first balance date, a wash up calculation is completed and further GST is paid or refunded based on the difference between the actual and estimated use of the property. For each GST return that ends on the purchaser's balance date, a calculation is completed to determine the actual ratio of private and business use and further GST is paid or refunded. On disposal, the sale price will include GST a calculation is completed to claim any input tax not previously claimed.

Property used 100% for long term rental activity

There is no requirement or ability to register for GST as there is no taxable activity being undertaken. The purchaser pays the purchase price plus GST. On sale, the property is not subject to the GST regime and the price does not include GST.

Property used 100% for private use

There is no requirement or ability to register for GST as there is no taxable activity being undertaken. The purchaser pays the purchase price plus GST. On sale, the property is not subject to the GST regime and the price does not include GST.

Disclaimer

Please note this letter contains general information only. The information is not advice, and should not be treated as such. The GST regime is complex and the examples provided are generic only, your specific situation may change the outcome of the scenarios detailed and it is important that you seek independent advice regarding your specific circumstances.

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