

BC'S BUSINESS BRIEFS

2017 and the NZ Housing Market & GST Pitfalls

The NZ residential property market has been rising dramatically in value for more than a short period of time. In the first instance Auckland lead the way but in more recent times many other areas have experienced value growth rates we would only expect to see once in a lifetime. Combined with the rapid advancement in technology, we see ways of renting houses today that did not exist a few very short years ago. Internet based marketing of properties such as 'bookabach' and 'airbnb' are two such means of renting out residential housing that have become popular in New Zealand.

Long term rental of 'dwellings' has always been exempt from GST while short term rental of residential accommodation (such as Motels/Hotels) has never been exempt and falls within the GST net.

A relatively recent change to tax law in this country has occurred that ensures that a person can only own one 'Dwelling'. For a residential property to be classified as a Dwelling for an individual, it must be their principal place of residence. A person can only have one principal place of residence and should they own more than one residential property, any of those properties not the principal place of residence that is rented out could potentially be caught in the GST net, depending on circumstances.

If a residential property is rented out long term, it remains an exempt activity for GST purposes. However if that property was not rented out long term and instead was rented out on a short term basis (such as through 'bookabach' or 'airbnb') any rental received loses its status as exempt and effectively becomes commercial rental subject GST. So long as the rent received is under \$60,000pa and the owner is not GST registered for another activity, then the rent will fall outside the GST net.

Issues can arise however where the owner of a residential rental property renting the property out on a short term basis has another taxable activity which can have far reaching effects. A recent example of this that I am aware of illustrates the point.

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A Trust owned a holiday Bach that was being marketed through 'bookabach' and was earning approx. \$20,000pa in rental income. The Trust also owned a commercial property which was earning approx. \$50,000pa in rental from their family business. While the Trustees were aware of the need to be GST registered if their commercial rent exceeded \$60,000, they were unaware that the rental income being received from the Bach was effectively commercial rent and with the addition of the rent from the Bach they were deemed to be registered for GST from the time that the total rent from both sources would exceed \$60,000 within the next 12 months. This meant that from the time of deemed registration in the next 12 months the Trustees were out of pocket to the tune of approx. \$9,100 for the GST they were deemed to have collected.

Furthermore, while the Bach wasn't rented out for the entire year, from time to time numerous family members and friends used the Bach during the year, rent free. However the rent free nature makes no difference to the GST treatment. GST is deemed to have been earned in certain circumstances at the market rate in these circumstances and the Trustees were further out of pocket for the deemed market rent received (easy to establish as the property was listed on 'bookabach' for rent at a set rate) went let out free of charge.

Finally while GST had not been claimed on the purchase of the Bach, the property was now included in the GST net and GST would have to be accounted for on the sale of the property. Being a Residential property for sale (amongst thousands of others) the reality of charging extra for GST over and above the competition on sale is likely to be remote, as opposed to the Commercial property, which if sold to another GST registered party would always be Zero rated for GST.

The recent changes to GST as they relate to residential property are complex. Our advice to clients purchasing residential property is in general to ensure that it is separated from entities which conduct other taxable activities to ensure the mixed use issues illustrated above are minimised. However every case is different and the message is to take advice before you enter into a contract to purchase not afterwards.

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