



Before you read this QWBA

This QWBA is one of a series covering the tax rules for short-stay accommodation hosts. Check [Overview – Short-stay accommodation items](#) to make sure it's the item that's relevant to your circumstances.

QUESTION WE'VE BEEN ASKED

QB 19/09

Can I register for GST if I supply short-stay accommodation to guests in my home or holiday home?

This "Question We've Been Asked" (QWBA) explains whether hosts who provide short-stay accommodation in their house or property can register for GST. This QWBA is part of a series of items dealing with common issues encountered by those listing properties through peer-to-peer websites (eg, Airbnb, Bookabach and Holiday Houses).

Key provisions

Goods and Services Tax Act 1985 (the Act) sections: 2 (definition "dwelling"), 5, 6, 8, 11(1)(mb), 14, 20, 21, 21F and 51.

Question

Can I register for GST if I supply short-stay accommodation to guests in my home or holiday home?

Answer

Yes. Supplies of short-stay accommodation are taxable supplies. Provided you have a "taxable activity" of continuously or regularly supplying (or intending to supply) short-stay accommodation to guests for payment, you may register for GST.

If your supplies exceed \$60,000, or are likely to, in any 12-month period you must register. In most cases supplies of short-stay accommodation will likely be below the registration threshold of \$60,000 in a 12-month period but you may voluntarily register for GST. However, registering for GST will not be right for everyone.

If you register for GST, there are on-going requirements and when you sell your property or stop providing short-stay accommodation you will likely have GST to pay.

Key terms

Guest: means the recipient of the supply of short-stay accommodation.

Host: means the person supplying the short-stay accommodation.

Short-stay accommodation: means accommodation provided for up to four weeks in a dwelling that is not the guest's principal place of residence. It does not include accommodation provided to residential tenants, boarders or care home residents, and it does not include student or emergency accommodation.

Explanation

1. If you supply short-stay accommodation by renting out your house, a room in your house, a separate dwelling on your property, or your bach or holiday home then you can potentially register for GST.
2. To register under the Act, you need to have a “taxable activity”. A taxable activity involves making taxable supplies but excludes making exempt supplies. Confusion exists because some supplies of residential accommodation (such as long-term residential rental) are exempt under the Act. However, supplies of short-stay accommodation (as that term is used in this QWBA) are taxable supplies, so are not excluded from a taxable activity.
3. A taxable activity involves continuously or regularly supplying (or intending to supply) short-stay accommodation to guests for consideration (ie, payment). Determining whether your level of activity is sufficient to be a taxable activity is a question of fact.
4. If you carry on a taxable activity, you may register for GST. If your supplies exceed \$60,000 in a 12-month period, you must register for GST. If your supplies are less than this amount, you may still voluntarily register for GST. If you register for GST you will have additional compliance costs in terms of recordkeeping, invoicing, regular filing of returns and adjustments for private and income-earning use. You will also need to balance the benefit of an initial GST refund for a portion of the property against the subsequent GST tax liability when the property is sold or your taxable activity ends. Because GST is charged on the property’s value and property usually increases in value, your GST tax liability when you sell or stop your activity will generally be greater than any initial benefit you receive.
5. In working out whether to register for GST, you need to understand the following aspects of GST:
 - supplies of short-stay accommodation;
 - carrying on a taxable activity;
 - registering for GST;
 - on-going requirements; and
 - stopping a taxable activity.

Supplies of short-stay accommodation

6. A taxable activity involves making taxable supplies but excludes making exempt supplies. The Act treats the supply of accommodation in a “dwelling” as an exempt supply. A question arises as to whether the supply of short-stay accommodation in a room in your home or property is the supply of accommodation in a “dwelling” and an exempt supply.
7. “Dwelling” is defined in the Act by the nature of the use of the accommodation by the guest and not the function of the premises. While the accommodation may be a dwelling from your perspective, it does not mean there is a supply of accommodation in a dwelling from the guest’s perspective. For a supply of accommodation to a guest to be in a “dwelling”:
 - the premises must be the guest’s principal place of residence;
 - the guest must have rights of quiet enjoyment (from s 38 of the Residential Tenancies Act 1986); and
 - the premises cannot be a commercial dwelling.

8. Short-stay accommodation in this QWBA means accommodation provided for up to four weeks in a dwelling that is not the guest's principal place of residence. It is assumed the guest will have a main residence elsewhere. This means the first requirement for the supply of accommodation to be an exempt supply will not be satisfied.
9. Quiet enjoyment in the Residential Tenancies Act 1986 generally applies to longer-term residential tenancies and not to short-stay accommodation that is commonly offered on peer-to-peer websites. The quiet enjoyment must be without interruption from the landlord. It is unlikely you will provide this, and the standard terms and conditions on peer-to-peer websites normally exclude such rights of quiet enjoyment. The second requirement for the supply of accommodation to be an exempt supply is not satisfied either.
10. This means the supply of short-stay accommodation to a guest in your home or property will not be the supply of accommodation in a "dwelling" and an exempt supply. Your home or property will not be the guest's principal place of residence and the guest will not have rights of quiet enjoyment. Because short-stay accommodation fails to satisfy these two requirements it is irrelevant whether your premises are also a "commercial dwelling".
11. This means the supply of short-stay accommodation is a taxable supply, so you might be able to register for GST.

Carrying on a taxable activity

12. To register for GST, you must be carrying on a taxable activity. For a taxable activity to exist:
 - there must be an activity;
 - which is carried on continuously or regularly by a person; and
 - that involves, or is intended to involve, supplies made to another person for consideration.
13. Where you provide short-stay accommodation, you will usually be carrying on an activity and the first requirement will be met.
14. The second requirement is that your activity is "carried on continuously or regularly". For an activity to be carried on "continuously", you must carry on the activity over a period or in a sequence uninterrupted in time. The activity must not have stopped in a permanent sense or have been interrupted in a significant way. For your activity to be carried on "regularly", it must be carried on at reasonably short intervals with a steadiness or uniformity of action. Your activity must recur or be repeated at fairly fixed times, or at generally uniform intervals, to be of a habitual nature and character. An activity that is intermittent or occasional does not qualify. (*Newman v CIR* (1994) 16 NZTC 11,229 (HC), *Allen Yacht Charters Ltd v CIR* (1994) 16 NZTC 11,270, *Wakelin v CIR* (1997) 18 NZTC 13,182 and *Case N27* (1991) 13 NZTC 3,229).
15. A "taxable activity" must also be an activity that "involves or is intended to involve" the supply of goods and services to another person for consideration. This means your activity of providing short-stay accommodation must be for money. Sometimes you can have a taxable activity before you start getting paying guests. In determining the nature and character of an activity, any stated intention can be tested against the objective realities of the case and generally "actions speak louder than words" (*Case N27*). Where you are registering because you intend to start carrying on a taxable activity you must specify a commencement date.
16. Determining whether a taxable activity is being carried on, including whether it is being carried on continuously or regularly, is a question of fact and degree. If short-stay

accommodation is offered in your own home and does not occur very often, it can be difficult to determine whether the activity is sufficiently continuous or regular. All of the circumstances will need to be considered. The factor that usually will be the strongest indicator of a taxable activity is occupancy. Some factors that **may be** relevant in the short-stay accommodation context (particularly where the premises are your own home) could potentially include:

- the level of occupancy;
- the steps you have taken to start providing short-stay accommodation (for example, undertaking feasibility studies, preparing business plans, advertising (nature and extent), and approaching local authorities for necessary consent, if required);
- whether your property is listed on various websites and at an appropriate price;
- the type, size, design and layout of your home or premises;
- the location of your home or premises and hence it's desirability;
- the extent and nature of modifications to your home or property to enable you to provide short-stay accommodation;
- the time you dedicate, and can dedicate, to the activity;
- whether you make the short-stay accommodation available over a sustained period;
- the steps you have taken that demonstrate a continuing commitment to supply short-stay accommodation, for example, advertising and ongoing marketing activities; and
- future bookings.

17. If you do not have a taxable activity, then you cannot register for GST. However, there may still be income tax implications. For more information see [Overview – Short-stay accommodation items](#) (Inland Revenue). If you do have a taxable activity, then you may register for GST. However, this does not necessarily mean that registration is either compulsory or right for you. These issues are discussed in the next section of this QWBA.

Example 1

Luke and Betty own a three-bedroom house in a suburb of Lower Hutt. They were not that interested in renting out their home to strangers and they thought the income would be only modest as demand is limited for short-stay rentals in their suburban neighbourhood. That changed when they heard the area was set to host the Golden Oldies Commonwealth Games and that they could rent out their house for \$1,000 a night. They listed their home on a website, and it was booked for 10 nights. They spent the time visiting their grandchildren in Australia.

Luke and Betty thought it worked so well that they plan to do something similar in two years' time during a rugby tournament. Apart from that, they have no intention of listing their property again.

One-off or occasional rentals (even though they can be lucrative) will not be a taxable activity as the activity does not satisfy the requirement of being continuous or regular. The rugby tournament is too far away for the activity to be continuous (and Luke and Betty's plans are too uncertain). Therefore, Luke and Betty do not have a taxable activity as this was essentially a one-off.

Example 2

Peggy has seen various news items about Airbnb homestays. She has heard that it is a growth industry and a way of meeting interesting people. Her husband, who

is in full-time employment, agrees. The couple live in a small farming town situated just off a main highway. It is a pleasant enough place, but does not have any notable attractions. The couple investigate the possibility of selling their existing home and buying a bigger property. They register for GST stating their taxable activity to be "homestay operators". They sell their present home and buy a three-bedroom home about 10 kilometres from town. They claim an input tax deduction on part of the purchase price of the house.

As soon as they move in, they advertise the homestay on a peer-to-peer website and put up a homestay sign outside the front gate.

Inland Revenue queries the input tax deduction claim. Enquiries reveal that:

- the town is too remote to attract guests on a regular basis;*
- the taxpayers have not undertaken research into the local market and have not taken any significant steps to ascertain the viability of the activity;*
- the distance of the home from the remote town makes it less likely that anyone would choose to stay there on holiday; and*
- at the time the claim is queried (6 months after registration) only two paying guests have stayed (and they were relatives of town residents).*

In the absence of other evidence being provided, this claim would probably be disallowed on the basis that the taxpayers are not carrying on a taxable activity.

Example 3

Mai owns a small one-bedroom apartment in central Auckland. To help pay the mortgage she lets her entire apartment on Airbnb and goes and stays with her family in the Waikato. To make it worth her while she lists her apartment for \$350 a night for a minimum of two nights. Charging a premium means she generally has guests only for weekends when there are big events on. She researches and targets big events like concerts, sports games and cultural events.

Over the Christmas and summer holidays her apartment is rented for 4 weekends. Mai also has guests for 2 weekends for big concerts during February and a further weekend in March when the Black Caps play Australia. Over the next 9 months there are periods when there are no big events and Mai has far fewer bookings. She has guests for only 6 weekends during those remaining 9 months.

Mai has a taxable activity. Although there are periods when she does not make supplies she has not stopped the activity in a permanent sense. The activity is also carried on regularly at (mostly) short intervals. There are "seasonal fluctuations" depending on what events are scheduled but the rental activity recurs and is habitual in nature and character. Further Mai dedicates a lot of time researching events coming up in Auckland and ensuring her pricing is profitable but competitive.

Registering for GST

18. Provided you have a taxable activity, the Act requires you to register when the value of supplies you make in the course of carrying on "all" your taxable activities has or will exceed \$60,000 (exclusive of GST) in any 12-month period. This is the total amount you receive before taking expenses into account. You need to be aware of two issues when calculating the \$60,000 threshold:

- Because all taxable activities are included, it is not necessary that any one taxable activity exceeds \$60,000 in annual supplies. Amounts you earn from other taxable activities are included in calculating whether you exceed the registration threshold. This could apply, for instance, if you have another business.

- The threshold calculation includes supplies to “associated persons” that will be valued at the open market value. This could apply, for instance, if a holiday home is owned by a family trust and rented out by the trustees who also allow the beneficiaries to stay for no or reduced consideration. The use of the property by the beneficiaries may be valued at market rates in calculating whether you exceed the registration threshold.
19. Even if the value of your supplies is less than \$60,000 per year, you may voluntarily register if you carry on a taxable activity. However, as the following discussion shows, there are on-going requirements and obligations if you register for GST.

On-going requirements if you register for GST

20. If you register for GST, you must satisfy on-going requirements and obligations. The following paragraphs summarise some of the main consequences of registration. This summary is a broad overview intended only as general guidance. Individual circumstances are inevitably different. Some aspects of GST, such as adjustments, depend on the particular circumstances, and hosts should consider seeking advice from a tax advisor.

Administrative requirements

21. If you register for GST, you must file a GST return for each return period. For most hosts this will mean 6-monthly or 2-monthly returns. You will also need to satisfy the administrative requirements around invoicing and record keeping.

Output tax

22. The GST charged on the supplies a registered person makes is called output tax. GST that you pay on goods and services you acquire is called input tax. If you register for GST, you need to account for GST output tax on all supplies you make of short-stay accommodation (including supplies to “associated persons”). From the amount of output tax payable in any return period, you can deduct some of the input tax you paid to determine the amount of tax payable.

Input tax

23. Generally, you can claim input tax deductions to the extent to which the goods or services you acquire are used for, or are available for use in, making taxable supplies. Where the short-stay accommodation is provided in your own home or in a property that you also use privately, you cannot claim the full amount of GST input tax that you paid. You need to do an apportionment calculation.

Apportionment

24. Where the goods or services are used for both private purposes and making taxable supplies then the expenditure must be apportioned based on use (or intended use). Input tax on buying a property is apportioned based on how you intend to use the property and is subject to subsequent on-going adjustments where the actual use is different from the intended use.

Change-in-use adjustments

25. If you register for GST, the Act requires you to work out at the end of an “adjustment period”, whether an adjustment is required for any difference between your intended use and the actual use of a property used for providing short-stay accommodation. An adjustment period is generally a year ending on your balance date. The calculation is then repeated each year.

26. Not every change of use requires an actual adjustment provided the value and change of use remain below the thresholds in the Act. However, the requirement to calculate whether you need to make an adjustment applies for the whole time you own the land and remain registered for GST. In practice, this means when you claimed GST input tax on the purchase price or construction, you need to make annual adjustments where actual use is different to that initial intended use.

Special rules for mixed-use assets

27. There are special rules for calculating input tax for "mixed-use assets". A mixed-use asset is an asset that has both an income earning use and private use but is unused for at least 62 days a year (eg, holiday homes and bachs). Put simply, the calculation ignores periods of non-use (eg, when a bach is empty) and input tax is divided between income-earning use and private use.

Entitlement to input tax deduction for goods acquired before registration

28. Under the Act you may make an adjustment for goods purchased before you became GST registered that you subsequently use to make taxable supplies. Land and buildings can be "goods" in this context. This rule means an adjustment is allowed for your property if you acquired it before you registered for GST. This means your property will become subject to the same apportionment rules as any other asset. It also means a likely GST liability on sale or cancellation of registration. The Act allows you to bring property purchased pre-registration into the GST rules, but it does not allow you to claim GST input tax for periods when you owned that property prior to registration.

Stopping a taxable activity

29. If you must register, or decide to register for GST, you need to be aware of what happens if you sell your property or stop providing short-stay accommodation from your property. In both cases, you will need to pay GST.

Accounting for GST on sale

30. When you sell your property, you will have to account for GST output tax on the sale of the property. Depending on your circumstances, you may have to charge and account for GST on the sale proceeds from the property, but a deduction will be allowed for input tax that has not previously been claimed on the purchase price. Given the likely appreciation in value of the property, GST on sale will exceed (possibly significantly) the further input tax claimable.
31. There are a number of special provisions that deal with supplies of a dwelling and treatment on disposal that may apply to the sale of your property. Particularly relevant are the zero-rating provisions that charge GST at 0% on certain supplies of land and dwellings. However, for this to apply, the buyer of your property must be registered and have the intention of using the property to make taxable supplies – whether by also providing short-stay accommodation or some other taxable supplies. If this and other criteria are met, then GST is charged at 0%. This effectively means that you don't pay GST on sale. However, the more common situation with sales of residential property would be to non-registered persons and such sales will attract GST.

Cancelling GST registration

32. You can ask the Commissioner to cancel your registration where the value of your taxable supplies is below the registration threshold. Alternatively, if you stop your taxable activity, you **must** notify the Commissioner within 21 days and your registration for GST will be cancelled. However, if you have taxable activities other than providing short-stay accommodation (eg, if you have another business) you may

remain registered for GST but you will be required to undertake a change-in-use adjustment for your property.

33. The Commissioner also has the power to cancel your GST registration if she is satisfied that you are not carrying on a taxable activity. The Commissioner might suspect this is the case if you continue to be registered but file only “nil” returns and no longer make any taxable supplies.
34. If you stop being eligible to be registered for GST, you must account for GST output tax on any goods and services forming part of the assets of your taxable activity immediately before you stopped being a registered person (s 5(3) of the Act). You must account for GST based on the open market value of your assets used in your taxable activity (s 10(7A)). This means you will pay GST output tax based on the value of your property if you stop providing short-stay accommodation. Without planning for this, this can cause issues for two main reasons:
- The output tax payable will usually be significantly more than the initial input tax claimed because property prices tend to rise over time. This means the relative amount of GST payable if you stop your activity will be more than the amount you originally claimed.
 - You may not have available funds to pay the GST. If you sell your property, you will have the money from the sale to pay the GST. If you just stop your activity, you still need to pay the GST, but you won't have the sale money to pay the GST.

Example 4

Baz has the opportunity to buy a house in Turangi. The house costs \$400,000 but Baz reckons the local housing market is so strong that it will be worth \$480,000 in a few years. He wants to either:

- *Rent the property to residential tenants; or*
- *List the property as a holiday home on a website. He will use the property exclusively for providing short-stay accommodation. He believes the property will be popular year-round because of the proximity to the ski fields, the Tongariro Crossing and good fly fishing spots.*

Baz wants to know whether he can register for GST.

Residential tenants

If he rents the property to residential tenants he cannot register for GST. The supply of accommodation in a dwelling is not a taxable supply. If rented to residential tenants it is likely to be a supply of accommodation in a dwelling because it is the tenants' principal place of residence and they have quiet enjoyment under their residential tenancy.

Short-stay accommodation

The provision of short-stay accommodation (as that term is used in this QWBA) is a taxable supply. It will not be an exempt supply of accommodation in a dwelling because the house will not be the guest's principal place of residence and they will not have rights akin to quiet enjoyment.

Baz can register for GST provided he has a taxable activity. Based on his research, Baz believes he can rent the property year-round. He estimates 120 nights of bookings per year at an average of \$200 per night (\$24,000 pa). If he proceeds with his plan Baz will have a taxable activity.

The value of supplies in any 12-month period will be well below the \$60,000 threshold and so registration is voluntary. If Baz does register for GST, there will be administrative requirements concerning invoicing and recordkeeping. He will also be required to make returns on either a two or six-monthly basis.

Output tax will need to be returned on the supplies Baz makes (about \$3,000 on his estimated supplies of \$24,000).

However, Baz will be able to claim input tax deductions on expenditure he incurs in providing the short-stay accommodation. This includes an input tax deduction on the purchase price of the property. (If Baz uses the property for his own use, he will need to apportion any input tax deductions and make subsequent adjustments. If there is private use, Baz will also have to consider the rules for mixed use assets.) If Baz sells (presuming it is not a zero-rated sale) he will have to account for GST output tax on the sale. Should Baz stop his taxable activity, his GST registration would be cancelled, and he would need to pay GST output tax based on the value of the property.

Decision not to register

Baz decides to use the property to solely provide short-stay accommodation but decides not to register for GST because he does not want the extra compliance costs. He also intends to retire in a few years and wants to use the house as a holiday home solely for his family. He does not want to be liable for GST output tax when he stops his taxable activity. Baz calculates the expected increase in the property's value would leave him over \$10,000 worse off:

- GST input tax will be $3/23 \times \$400,000 = \$52,174$
- GST output tax will be $3/23 \times \$480,000 = \$62,609$.

References

Subject references

GST
short-stay accommodation

Legislative references

Goods and Services Tax Act 1985 ss 2
(definition for "dwelling"), 5, 6, 8, 11(1)(mb),
14, 20, 21, 21F and 51.

Residential Tenancies Act 1986, s 38

Case references

Allen Yacht Charters Ltd v CIR (1994) 16 NZTC
1,270
Case N27 (1991) 13 NZTC 3,229
Newman v CIR (1994) 16 NZTC 11,229 (HC)
Wakelin v CIR (1997) 18 NZTC 13,182

Other references

[Overview – Short-stay accommodation items](#)
(Inland Revenue)