

TECHNICAL DECISION SUMMARY > PRIVATE RULING

WHAKARĀPOPOTO WHAKATAU HANGARAU > WHAKATAUNGA TŪMATAITI

GST – supply of accommodation

Decision date | Rā o te Whakatau: 10 June 2025

Issue date | Rā Tuku: 4 September 2025

TDS 25/22

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Subjects | Kaupapa

This item summarises a private ruling that considered the GST treatment of the provision of accommodation in a building.

Taxation laws | Ture tāke

All legislative references are to the Goods and Services Tax Act 1985 unless otherwise stated.

Summary of facts | Whakarāpopoto o Meka

1. The Applicant in the ruling is registered for GST and is carrying on a taxable activity.
2. The Applicant plans to build a new building to be used to provide residential accommodation and associated services.
3. The building will provide accommodation in over 100 rooms. Each room will be fully furnished and self-contained. The building will provide shared facilities such as a laundry (for a cost), communal kitchens and lounges, a staffed reception area, meeting rooms, a games room and large dining rooms. Residents will pay a single fee that includes rent and utilities. The building will have staff onsite at all times responsible for concierge services, maintenance, cleaning, and organising events and functions.
4. It is expected that most residents will occupy rooms for short to medium-length stays. Some residents may choose to stay longer. Guests of residents cannot stay in residents' rooms and must book separate rooms.
5. The residence agreement will be similar to a boarding house tenancy agreement under the Residential Tenancies Act 1986. Residents will have quiet enjoyment of their room but there will be strict rules around noise levels. The agreement will outline the process for dealing with breaches of agreements and the eviction process.

Issues | Take

6. The main issues considered in this ruling were whether:
 - the building is a "commercial dwelling" as defined in s 2, so the supply of accommodation in the building is not an exempt supply under s 14(1)(c); and
 - the Applicant is entitled to input tax deductions for all GST charged in respect of the building's construction and subsequent operation.

Decisions | Whakataau

7. The Tax Counsel Office (TCO) decided:
 - the building is a “commercial dwelling”, so the supply of accommodation in the building is not an exempt supply; and
 - the Applicant is entitled to input tax deductions in relation to the building’s construction and subsequent operation.

Reasons for decisions | Pūnga o ngā whakataau

Issue 1 | Take tuatahi: Commercial dwelling and exempt supply

8. Section 8(1) states that GST shall be charged on the supply (but not an exempt supply) in New Zealand of goods and services by a registered person in the course or furtherance of a taxable activity.
9. Under s 14(1)(c), the supply of accommodation in any dwelling is exempt from tax for GST purposes.
10. “Dwelling” is defined in s 2. A commercial dwelling is explicitly excluded from the definition of dwelling. This means the supply of accommodation in the building will not be exempt if the building is a commercial dwelling.
11. Relevantly, “commercial dwelling” is defined in s 2 to mean a hotel, motel, homestay, farmstay, bed and breakfast establishment, inn, hostel, or boarding house or premises of a similar kind to the types of premises listed.
12. TCO considered the types of premises listed and concluded that the building shares many facilities in common with boarding houses and shares some facilities in common with other categories of commercial dwelling.
13. From case law, TCO determined that a boarding house has the following features:¹
 - It provides shared accommodation on a large scale for multiple separate occupants.

¹ *Case L75* (1989) 11 NZTC 1,435 (TRA); *Case Q46* (1993) 15 NZTC 5,227 (TRA); *Karmel & Co Pty Ltd (as trustee for Urbanski Property Trust) v FCT* [2004] AATA 418; [2004] ATC 2,075; *South Steyne Hotel Pty Ltd & Ors v FCT* [2009] FCAFC 155; [2009] ATC 20,145.

- Occupants usually stay on a short-term basis (weeks or months), although some occupants may stay longer.
- It provides lodging (rather than tenancy) and may also provide board (that is, meals). The provision of board is not an essential requirement.
- It has common areas such as shared kitchens, bathrooms and living areas.
- The owners have a high level of control or management, and often they or their representatives live on site.
- It provides maintenance services and may provide other services such as cleaning.

14. Comparing different listed categories of commercial dwelling, TCO concluded that the building will be closer to a boarding house than to other categories for the following reasons:

- The building will be of a very large scale, providing accommodation in over 100 rooms.
- Residents will stay for a short period, although some occupants may stay longer.
- The building will have many common areas, including large communal kitchens and multiple communal living areas.
- There will be a moderate level of control or management with staff on site at all times managing the property and strict noise limitations. Residents will also not be able to have guests stay in their rooms; guests must book separate rooms.
- Utilities and communal services will be included in the price of the accommodation, and all communal spaces will be regularly cleaned and maintained.

15. The building will also have some elements in common with other specified types of accommodation:

- The provision of reception and concierge services will be similar to that provided in a hotel, motel or inn.²
- The size of the rooms will be similar to the size of hotel or motel rooms and inconsistent with the type of accommodation designed for permanent living.

² *ECC Southbank Pty Ltd as Trustee for Nest Southbank Unit Trust & Anor v FCT* (2012) ATC 20-336 (FCA).

- The short-term duration of expected stays will be in line with the duration of stays in a hotel, motel or inn. People staying short term will be likely to have a principal place of residence elsewhere.
 - Residents will not be able to alter their rooms or have pets, and utilities will be included in the price of the accommodation. This is similar to the situation with a hostel or other specified categories of commercial dwelling.³
 - The communal facilities will share similarities with hostels but the building will not be a low-cost establishment or aimed at people on a budget. This factor suggests the building will not necessarily be similar to a hostel specifically but will still be consistent with commercial dwellings in general.
16. It was noted that the building could be a commercial dwelling even if it does not meet all the requirements for a boarding house, provided it is similar to one or similar to the types of accommodation in the definition of “commercial dwelling” generally.
17. Accordingly, TCO concluded that the building will share enough features in common with the listed categories in the definition of “commercial dwelling” to either meet the requirements of a boarding house or to be a premises of a similar kind to those listed categories.
18. As the definition of “dwelling” excludes a commercial dwelling, the provision of accommodation in the building will, therefore, not be an exempt supply under s 14(1)(c) and GST will be charged on the supply.

Issue 2 | Take tuarua: Input tax deductions

19. This issue concerns whether the Applicant is entitled to claim input tax for the costs incurred in the construction of the building and the subsequent provision of accommodation and other services.
20. A GST-registered person is entitled to deduct input tax on goods and services they acquire to the extent that they are used for making taxable supplies (ss 3A(1)(a) and 20(3C)).
21. The Applicant is a GST-registered person carrying on a taxable activity. The provision of accommodation and related services in the building will be taxable supplies made in the course or furtherance of the Applicant’s taxable activity.
22. The building will be used for making taxable supplies, and the construction of the building is necessary for making those supplies. It follows that the Applicant is entitled

³ *Wynnum Holdings No 1 Ltd & Anor v FCT* 2012 ATC 10-274 (AAT).

to an input tax deduction for GST paid on goods and services acquired for the building's construction and subsequent operation as these goods and services will be used for, or are intended to be used in, the making of taxable supplies.