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# Ask an expert GST & property

GST is a fantastic tax. In most situations, it is easy to comply with, it raises a lot of revenue, and is generally easy to understand.

However, in a small number of cases, GST gets very complicated. Property transactions are one such area. In this issue of *Numbers*, we take a slightly different approach, answering four commonly asked questions on GST and property.



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**I have purchased a lifestyle block of bare land from a developer. The contract was inclusive of GST. I now want to build a dwelling for myself on the bare land. Because I am living in my own house, does that mean I am outside the GST net?**

The answer depends. If you are GST registered, and you acquired the property for making taxable supplies; for example, you are going to plant a Kiwifruit orchard on the land, then you will need to pay GST to the IRD on the portion of the land to be used for the dwelling. This is because you are taking part of the property out of the GST net, and that means you must pay the GST back. If you were not registered, nor required to be, then there should be no GST consequences. You would have paid GST at 15% on the purchase, so the property is entirely out of the GST net, and there is no need to pay GST when a part is used for private purposes.

**The IRD has recently audited my accounts, and they are disallowing GST input claims for any tax invoices that do not have the exact name of my company on them. Can they do that? In many cases my name, or one of my other company's names are on the invoice, but the costs were incurred for the company being audited.**

The IRD will often try to deny GST claims where no valid tax invoice is held. A tax invoice is very specifically defined in the GST Act and must have the name of the purchaser on it. However, the GST Act also allows one party to act as the agent of another and, if they do so, then the tax invoice is able to be made out in the name of the agent, but the principal is able to claim the GST back. So, in the case of disallowing claims, the IRD are both technically correct and incorrect. IRD have accepted that claims can be validly made in the agency type of situation. It pays to challenge them if they get too fussy about this.



**I am GST registered, and I am purchasing land from someone who is also GST registered. The contract is expressed as "inclusive of GST". I am going to use the property as part of my business, and the vendor has used the property entirely for their business, i.e. there is no dwelling. Can I claim 15% GST on the purchase?**

The maximum GST you can claim is \$0. Many clients assume that because the contract says that the price is GST inclusive, the price includes GST at 15%. Where a transaction including land is between two registered parties and the land is to be used in a GST registered business, the rate is reduced to 0%. Therefore, yes, you can claim GST, but at 0%, which is \$0.

**My bed and breakfast business turnover is more than \$60,000. However, as this is the provision of accommodation, and GST does not apply to that, I don't have to register for GST. Is that right?**

Wrong. It is the supply of accommodation in a dwelling that is an exempt supply for GST purposes. For it to qualify as an exempt supply, the person living in the house must have quiet enjoyment (a legal term of art) of the property, among other things. Bed and breakfast guests do not generally have quiet enjoyment, and the supply, therefore, does not qualify as an exempt supply.

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The above general advice only should not be relied upon as specific circumstances can vary. Please contact your usual Baker Tilly Staples Rodway advisor for assistance.