

GST on the costs of accommodation supplied to parish ministry staff - 19 January 2006

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Summary

1. As from 1 January 2006 parishes are entitled to claim back all the GST paid on items such as utilities (electricity, gas, water), minor repairs and maintenance, and small improvements and renovations **in relation to properties** (owned by the Property Trust and held in trust for the parish) **which are used to provide accommodation to parish ministry staff.**

2. Parishes are also entitled to include similar claims for GST paid in previous quarters in their next Business Activity Statement (BAS) where that GST had not been claimed at the time.

3. Also from 1 January 2006, subject to satisfying itself as to the value of certain specific criteria explained below, the Property Trust is entitled claim back the GST paid in relation to contracts for the repair, renovation, improvement or construction of rectories and other ministry residences on properties which it owns and which are used to house parish ministry staff. **It is expected that, for the majority of rectories and other parish ministry residences, the values of the relevant criteria will be such that the Property Trust will be entitled claim back the GST.**

4. Again, subject to the same criteria, the Property Trust is also entitled to add similar claims for GST paid in previous quarters to its next BAS, where that GST has not already been claimed.

Background

5. For some time there has been uncertainty about whether GST paid on invoices for work done on the rectory or other accommodation supplied to parish ministry staff can be claimed back. In December 2000 the Diocese had obtained a private ruling from Australian Tax Office (ATO) that parishes could claim GST on the costs associated with providing accommodation to ministers. Since then, however, the ATO has issued a public statement and published some very specific guidelines which created doubt about whether such GST can continue to be claimed back.

6. As a result, in December 2004 a circular was issued to all parishes advising that the Standing Committee recommends that as from 1 January 2005 parishes should not claim back the GST paid in any invoice for the construction, renovation, repair, maintenance or running costs for the rectory or other accommodation for ministry staff. That circular went on to recommend that parishes keep a record of the GST paid so that it could be claimed back later if the matter is resolved in a way which clearly allows us to do so. The Property Trust has also followed this recommendation and has not claimed back the GST in any invoices it payed after 1 January 2005 under contracts for the construction, renovation or repair of the rectory or other accommodation for parish ministry staff.

7. To resolve this situation the Standing Committee authorised the Secretariat to seek a new private ruling from the ATO. That ruling has now been obtained. In summary, the new private ruling upholds each of the principles

the Secretariat sought to establish as a basis on which the supply of accommodation to parish ministry staff can be treated as GST-free (enabling the parish and Property Trust to claim back GST paid on invoices for work done on the rectory or other accommodation supplied to parish ministry staff).

Key points from the new ATO private ruling

8. Parishes are entitled to claim back the GST paid by the parish in connection with the supply of "property management services" to the Property Trust, because the parish and the Property Trust are members of the same GST group. In practice this will entitle the parish to claim back all GST on items such as utilities (electricity, gas, water), minor repairs and maintenance, and small improvements and renovations (where the value of the work done is less than \$20,000 and the contracts are signed by the churchwardens) undertaken by the parish in relation to a property (which is owned by the Property Trust and held in trust for the parish) used to house parish ministry staff.

9. The GST Act (section 38-250) provides that certain supplies are GST-free where they are made for nominal consideration. The supply of accommodation by the Property Trust to parish ministry staff will be GST-free where the value of the services provided by the member of parish ministry staff is less than 75% of the market value of the actual accommodation provided. Where the supply is GST-free the Property Trust will be entitled to claim back any GST it paid in order to make that supply. Typically the Property Trust will have paid GST in relation to contracts for the repair, renovation, improvement or construction of rectories and other parish ministry residences.

10. The ATO's new private ruling has endorsed a particular methodology by which the Property Trust can determine the value of the services provided by a member of the parish ministry staff. Essentially this value will be derived from a benchmark comparison between the minimum stipends paid to parish ministry staff in the Diocese and the salary paid to the appropriate level of Australian Defence Force (ADF) Chaplains. The Property Trust will need to periodically review the validity of the particular benchmark comparison chosen, and update the calculation to reflect the current stipends and salaries.

11. To determine the second part of the comparison (the actual market value of the particular accommodation provided) the Property Trust will need to collect specific information relating to the property in question, and ensure that information is current at the time the GST is claimed back.

Application to GST paid by parishes

12. After 1 January 2006 any GST paid by parishes in relation to the supply of "property management services" to the Property Trust in relation to a residential property used to provide accommodation to a member of the parish ministry staff should be claimed back in the parish's next (quarterly) BAS. This applies to GST on all utilities (electricity, gas, water), minor repairs and maintenance, and contracts for improvements and renovations. In effect this means that the treatment of GST paid in relation to the rectory or other parish ministry residence will be the same as for GST paid in relation to the church, the hall or other ministry building.

13. Parishes that have paid GST in relation to the supply of "property management services" to the Property Trust in the past and not claimed it back at the time in their next BAS can now simply add those claims to their next BAS (provided, of course, that they have retained the relevant GST invoices). If the parish has followed the recommendation in the Standing Committee's December 2004 circular this will probably involve adding such claims for GST paid in the quarters ended March, June, September and December 2005 to the activity statement for the quarter ended December 2005 (due 28 February 2006).

Application to GST paid by the Property Trust

14. Using the appropriate benchmark comparison endorsed in the ATO's private ruling the Secretariat has determined the Property Trust is entitled to claim back any GST it has paid in relation to contracts for the repair, renovation, improvement or construction of rectories and other parish ministry residences where the actual market rental value of the property in question is more than a certain minimum threshold figure. This actual figure will vary over time depending on movements in the minimum stipends paid to parish ministry staff in the Diocese and the salary paid to the appropriate level of ADF Chaplains.

15. The Secretariat has also undertaken a review of the average rental values of 4 bedroom homes in different locations throughout the Diocese. As expected, the resulting figures vary enormously, but the majority are substantially higher than the minimum threshold figure derived from the methodology endorsed in the new ATO private ruling.

16. Accordingly, the Property Trust has adopted a policy that, where it is satisfied that the actual market rental value of a particular property used to provide accommodation for parish ministry staff is greater than the relevant minimum threshold figure derived from the methodology endorsed in the new ATO private ruling, the Property

Trust will proceed to claim back any GST paid in relation to contracts for the repair, renovation, improvement or construction of that property.

17. Before deciding whether it is appropriate to apply that policy to claim back the GST included in a particular payment, the Property Trust has established procedures so that in each case it will obtain –

(a) A declaration by the church or parish wardens that the property is used to provide accommodation for parish ministry staff. Where relevant that declaration will also need to confirm that there has been no 'change of use' since 1 July 2003, or provide the details of any change and the date it occurred.

(b) Evidence of market rental value. Where there is any doubt that the rental value of the particular property may be near or below the relevant minimum threshold figure the Property Trust will require the church or parish wardens to provide appropriate independent evidence of the market rental value of the property.

18. The Secretariat proposes to review the continuing appropriateness of the methodology, the relevant benchmark comparisons, and to update the minimum stipends and ADF chaplain remuneration levels at least annually. The Property Trust will be advised of these findings to enable the Property Trust to determine if it is appropriate for it to claim input tax credits in respect of particular ministry residences.

19. Where the Property Trust has paid GST in relation to a contract for the repair, renovation, improvement or construction of a rectory and other parish ministry residence at some time since 1 July 2003 and not claimed the GST back at that time, the Property Trust will now make an assessment as to whether it is appropriate to claim that GST back. In making this assessment the Property Trust may require evidence of the use of the property and the market rental value, both at the time the GST was paid and since. If the Property Trust is satisfied that the GST paid previously should now be claimed back it will simply add this amount to its next BAS, and any resulting refund from the ATO will be credited to the relevant parish's client fund in the usual way.

20. If the Property Trust considers that it has lodged a BAS for a period since 1 July 2003 in which it claimed back the GST in relation to a contract for the repair, renovation, improvement or construction of a rectory and other parish ministry residence where the evidence for the use of the property or the actual market rental value does not now support that claim it will revise the relevant BAS. In this case the revised activity statement will need to be accompanied by a payment reimbursing the GST previously claimed in error, and the Property Trust will seek to recover this amount from the parish concerned.

Change of use

21. Parishes are reminded that the Property Trust's entitlement to claim back the full amount of GST it has paid in relation to contracts for the repair, renovation, improvement or construction of rectories and other parish ministry residences is dependent on there being no change of use of the property for up to 6 years after the GST is claimed back. Accordingly, parishes should immediately advise the Property Trust if a property previously used to provide accommodation to parish ministry staff ceases to be used for that purpose.

Ministry residences not owned by the Property Trust

22. The new ATO private ruling relates specifically to properties owned by the Property Trust and held in trust for the parish. If a member of the parish ministry staff is living in a property that is not owned by the Property Trust it is unlikely there will be any significant amount of GST paid by the parish in relation to that property, although where the parish has paid GST it may be entitled to claim it back in the usual way through its BAS.

23. If a parish has leased a property in order to provide accommodation to a member of the ministry staff it may have paid some outgoings such as utilities (electricity, gas, water) that do include GST, and if the lease is in the name of the parish it would be appropriate for the parish to claim any such GST paid through its BAS (assuming of course that it has the GST invoice to support the claim).

24. However, if a parish provides an exempt benefit to a member of the ministry staff by making direct rent payments in relation to a property leased by the member of staff, or loan repayments to a lending authority or reimbursements of such loan repayments in relation to a property owned by the member of staff, there will normally be no GST to be claimed back because the parish would not have a GST invoice to support such a claim.

Finally

25. Questions relating to the application of this new private ruling or the resulting accounting treatment or procedures for revising earlier BAS may be referred to me by phoning 9265 1682 or by email to mrt@sydney.anglican.asn.au.

MARTIN THEARLE

Deputy General Manager, Secretarial

19 January 2006