



Anglican Church Diocese of Sydney

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GST on the supply of accommodation to religious practitioners - 26 September 2003

- [Background](#)
- [Current Position](#)
- [Recommendation](#)

Background

Earlier this year the Australian Taxation Office (ATO) issued a Fact Sheet which indicated that they considered that the supply of accommodation to religious practitioners such as ministers would normally be input taxed. If the supply is input taxed the parish would not be entitled to claim input tax credits for the GST included in expenses incurred in providing the accommodation (eg. maintenance, repairs, improvements or the construction of a new residence).

This view is contrary to the advice that had previously been obtained from the ATO by the Sydney Diocese and others in this matter and was also at odds with the practice in churches of most major denominations. We had understood the supply of accommodation to religious practitioners was GST-free, with the result that the parish is entitled to claim input tax credits for the GST included in these expenses. The basis for this view is that the consideration for the supply of the accommodation was less than 75% of the market value or cost of the accommodation, and accordingly it meets the 'nominal consideration' test in section 38-250 of the GST Act.

In the Fact Sheet the ATO based their conclusion on an assumption that the supply of accommodation by the parish was a fringe benefit, the consideration for which was the services provided by the religious practitioner, and the value of these services was the market value of the accommodation provided. The consequence of this view is that the supply would not meet the 'nominal consideration' test in section 38-250 of the GST Act. The Fact Sheet indicated that the ATO considered that no input tax credits should be claimed in respect of supplies of accommodation to religious practitioners made after 1 July 2003.

Since this Fact Sheet was issued, and as a result of a number of submissions made by churches through the ATO's Charities Consultative Committee, the ATO has issued a clarification in the form of question and answer with an example as a Resolved Issues Document on their website. The clarification makes it clear that there are circumstances where the supply of accommodation to religious practitioner should remain GST-free. The example they cite is where the supply is dependent on the recipient's status as a religious practitioner and not dependent on their undertaking of any activities as a religious practitioner.

The ATO has acknowledged that they are still in discussion with representatives from a number of denominations (including Anglicans) with a view to identifying those circumstances in which accommodation provided to religious practitioners will continue to be GST-free.

Current Position

In contributing to the representations made by the Anglican Church, we argued that the circumstances in this Diocese are such that a parish's supply of accommodation to its religious practitioners should continue to be regarded as GST-free. However, unless and until the ATO accepts this position there must remain some doubt as to whether the parish is entitled to claim input tax credits for the GST included in expenses incurred in order to make the supply of accommodation after 1 July 2003.

The worst case scenario would be that, in respect of the supply of accommodation to religious practitioners –

- (a) a proportion of certain input tax credits claimed since 1 July 2000 may need to be repaid, and
- (b) from 1 July 2003 no further input tax credits claimed.

While we do not think this worst case scenario is a likely outcome, at this stage it remains a possibility. The question of whether the supply of accommodation to religious practitioners remains GST-free will be of greatest importance to parishes that have claimed, or are planning to claim, input tax credits in respect of large individual expenses incurred in relation to the supply of such accommodation. Typically this would be the case where the parish undertakes substantial repair work (which may be covered by insurance) or extensive renovations of an existing residence or undertakes the construction of a new residence. If this situation applies to your parish you are invited to contact the writer to discuss your particular circumstances in detail.

Recommendation

Until this matter is resolved, churchwardens should decide whether they wish to continue claiming input tax credits for expenses incurred in making the supply of accommodation to religious practitioners on or after 1 July 2003. Any such decision will affect the preparation of the parish's next quarterly BAS (due October 2003).

We will advise all parishes further when this matter has been resolved.

MARTIN THEARLE
Deputy General Manager, Secretarial

26 September 2003