

When GST **Rears its Head** in Property Transactions a live lunchtime online conference



Date: Monday 27th February 2023
 Vic, NSW, ACT, Tas: 12 noon to 3.15pm
 QLD: 11am to 2.15pm
 SA/NT: 11.30am to 2.55pm
 WA: 9.00am to 12.15pm

ABOUT ONLINE LUNCHTIME CONFERENCES

Hear from the experts at this online lunchtime conference. You can watch it on your computer or on your portable electronic device from anywhere.

The conference will be based on our highly successful video conference technology: there'll be a chairperson, presentations and you'll have an opportunity to ask questions.

<p>12noon to 12.05 pm</p>	<p>Introduction and welcome</p> <p><i>Chair: Ken Fehily, Director, Fehily Advisory, Melbourne, Vic</i></p>
<p>12.05 - 12.55 pm</p>	<p>Session 1: Am I Conducting an Enterprise? A Property Perspective</p> <p>One of the elements required for GST to apply is that a supply is made in the "course or furtherance of an enterprise" that the entity carries on. This definition is not always straightforward in the property sphere. This session explores when property transactions may or may not satisfy the enterprise criteria, including:</p> <ul style="list-style-type: none"> • What are the factors that can tip a property sale from being the mere realization of a capital asset to an enterprise? • How are one off property sales treated? • How is a sale of vacant land rezoned for residential usage treated? • Property acquired for a planned development sold prior to development proceeding – is this an enterprise? • When is the sale of farmland subdivided by the owner considered to be an enterprise? • When is the leasing of a property considered to be an enterprise? • Practical examples <p><i>Speaker: Matthew Cridland, Partner, K&L Gates, Sydney, NSW</i></p>

1.05 – 1.55 pm

Session 2: GST Free Going Concern: Getting it Right and What to do if it Goes Wrong

The GST free going concern provisions are generally associated with business sales, however the option is also available for some property sales. This session covers the requirements to use the GST free going concern treatment for property, as well as the implications of getting it wrong, including:

- How the GST free supply of a going concern provisions can apply to property transactions
- Should the business and the business premises be sold under two separate contracts or under a single contract?
- Can a tenanted commercial building be sold as a going concern?
- The conditions to supply “all of the things necessary for the continued operation of the enterprise” where property involved:
 - What conditions are required if the vendor terminates the lease?
 - What if a tenancy at will is in place?
 - What if a periodic tenancy is in place?
 - What a government license is involved?
- What to do if the GST free going concern requirements are subsequently found not to have been met:
 - When advising the vendor
 - When advising the purchaser
- Case studies

Speaker: Patrick Hunt, Founding Partner, Nuwaru, NSW,

1.55 – 2.05 pm

Questions and Discussion

2.05 – 2.15 pm

Short break

2.15 – 3.05 pm

Session 3: GST Contract Clauses for Property: It Pays to Cover Yourself

The treatment of GST on property sales can involve complexities that include the margin scheme and GST free provisions. Disputes can arise in the event of underpaid GST, including who is liable, after the transaction has undergone a closer look from the ATO. This session looks at the contract clauses that affect GST to assist in ensuring the transacting parties are fully informed of and protected from the potential GST outcomes, including:

- GST treatment of property transactions and key contractual risks
- Elements of an effective GST clause in a property contract
- Specialist GST clauses: supply of farmland
- Obtaining certainty: ATO guidance and private ruling requests
- Case studies

Speaker: Rhys Guild, Partner, Minter Ellison, Sydney, NSW

3.05 – 3.15 pm

Questions and Discussion

CPD CERTIFICATE

Delegates registered to attend the LIVE event will receive a CPD certificate for attendance. Lawyers can claim up to 3 CPD units/points (substantive law). Accountants can claim up to 3 CPD/training hours.