

***GSTB 2003/2 - Goods and services tax: Long-term accommodation at marinas***

## Goods and Services Tax Bulletin

### Goods and services tax: Long-term accommodation at marinas

#### *Preamble*

*This document is a public ruling for the purposes of section 37 of the **Taxation Administration Act 1953**. You can rely on the information presented in this document which provides advice on the operation of the GST system.*

#### **About this Bulletin**

1. This Bulletin is about GST and supplies of marina berths as long-term accommodation. Under the GST law, if you make supplies of long-term accommodation, you have the option to either:
  - tax those supplies at a concessional rate<sup>1</sup>; or
  - treat them as input taxed<sup>2</sup>.
2. If you make a taxable supply of a marina berth that is not long-term accommodation, the GST payable is 1/11 of the price charged for the supply.
3. This Bulletin explains the alternative GST treatments of taxable supplies of marina berths as long-term accommodation, a summary of which is provided in the flowchart in the Appendix.

#### **Explanation**

##### **Terms used in this Bulletin**

4. These terms have the following meanings:

##### **Marina**

A marina is a place that provides berths in a basin and other services for ships to dock. While a marina is usually a place that provides multiple berths by means of pontoons, jetties, piers or similar structures, it may include a place that has only a single berth.

<sup>1</sup> Under Division 87 of the *A New Tax System (Goods and Services Tax) Act 1999* ('GST Act').

<sup>2</sup> Under subsection 40-35(1A) of the GST Act.

**Ship**

A ship is any vessel used in navigation, other than air navigation. (This is how 'ship' is defined in the GST law.)

**When is a supply of a marina berth long-term accommodation?**

5. A supply of a marina berth is long-term accommodation if the berth is:
- occupied, or set aside for occupation, by a ship capable of being used as a residence;
  - for residential use together with the ship; and
  - rented or hired for a continuous period of 28 days or more.

***Ship capable for use as a residence***

6. To be capable of being used as a residence, a ship should have a sheltered area with the facilities for activities of daily living, such as sleeping and eating. Vessels like a dinghy or a ski boat would not be considered capable for use as a residence.

***For residential use together with the ship***

7. A marina berth that is provided for residential use with a ship should have some of the following indicators:
- The charging of a live aboard fee (a fee for the right to occupy the berth for overnight stays on board the ship) in addition to the rent for the supply of the berth.
  - A written agreement between the supplier and the recipient that the berth is to be occupied for living aboard a ship.
  - Overnight presence of one or more individuals on board the ship that occupies the berth.
  - Occupants of the ship are provided with access to residential amenities at the marina, such as water, electricity, toilets and showers.
  - The berth is used for living aboard rather than for mere dockage of the ship or for conducting commercial activities on the ship.

8. You may also need to consider the requirements of any government or statutory authority, such as the by-laws of a local council. These factors may be relevant (but not necessarily determinative) in working out whether you supply live aboard accommodation. While no single indicator will determine whether a marina berth is supplied for residential use with a ship, the charging of a live aboard fee in addition to the rent for the berth is a strong indicator.

***Continuous period of 28 days or more***

9. The continuous period of 28 days or more starts on the day the berth is first rented or hired for living aboard. The period does not include the day on which the rental or hire of the berth for living aboard ceases. An individual who is provided with long-term accommodation does not need to keep the ship in the berth for the whole time for the stay to be continuous. For example, taking the ship out occasionally for repairs or for overnight fishing trips will not break the continuity of the stay if the rent and any live aboard fees charged for the berth include days the berth is unoccupied.<sup>3</sup>

10. Where a berth is hired for a certain period, and the hire is extended for one or more further periods, you take into account the combined length of all of the consecutive hire periods, not the length of each individual period, in determining whether the period is continuous for 28 days or more.

***Example 1***

11. Sam books and pays for a 3-week hire of a berth for live aboard accommodation at Fun Time Marina. Near the end of the 3 weeks, Sam decides to stay on at the marina for another 2 weeks and pays for the extended hire of the berth. The berth is supplied to Sam for a continuous period of 28 days or more because Sam will have hired the berth for 5 weeks in total. If Sam is moved to another berth at the marina for the second stay and the period is not broken, this will be for a continuous period of 28 days or more.

**How does the GST concession apply to long-term accommodation?**

12. How the concession applies depends on whether your marina is predominantly for long-term accommodation.

***What is predominantly for long-term accommodation?***

13. Your marina is predominantly for long-term accommodation if at least 70% of the individuals to whom you provide live aboard berths stay long-term (that is, for a continuous period of 28 days or more). To work out whether your marina is predominantly for long-term accommodation, you may use:

- (a) the number of long-term live aboard bookings for the twelve months preceding the month in which a booking is made, as a percentage of the number of all live aboard bookings for those twelve months; or
- (b) a reasonable projection of the number of long-term live aboard bookings for the twelve months following the month in which a booking is made, as a percentage of the projected number of all live aboard bookings for those twelve months.

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<sup>3</sup> See also paragraph 144 of Goods and Services Tax Ruling GSTR 2000/20 which discusses similar circumstances in relation to commercial residential premises.

14. You do not include berth bookings that are not for live aboard accommodation.
15. If it is not appropriate to use either of these methods, you may use a reasonable alternative method.

***What is the concession for predominantly long-term accommodation?***

16. The concession is that GST is calculated on a value equal to half of what would be the GST-inclusive price for the entire period of the long-term accommodation (if the concession did not apply). That is, the GST is 10% of half the price for the supply.

*Example 2*

17. *Muddy Waters Marina provides predominantly long-term accommodation to its guests. If the concession did not apply, the long-term accommodation rate at the Marina (including the live aboard fee) for a stay of 10 weeks would be \$1,100, inclusive of GST.*
18. *To calculate the GST payable at the concessional rate, halve the GST-inclusive rate of \$1,100 to \$550 and multiply by 10%. The GST payable is \$55 (that is,  $\$550 \times 10\%$ ). Therefore, the actual rate charged for the stay of 10 weeks is \$1,055 (the GST-exclusive rate of \$1,000 plus GST of \$55). A simple method for calculating the GST payable is to multiply the GST-exclusive rate by 5.5%. For example,  $\$1,000 \times 5.5\%$  gives a GST of \$55.*
19. *If the concession did not apply, the normal GST payable would have been \$100.*

***If you do not provide predominantly long-term accommodation, how does the concession work?***

20. The concession works as follows:
- For the first 27 days, the GST payable is worked out the normal way ( $1/11 \times$  the price you charge).
  - From day 28 onwards, the GST payable is 10% of half the GST-inclusive price.

*Example 3*

21. *At Fun Time Marina, less than 70% of the live aboard bookings are provided for long-term accommodation. The long-term accommodation rate (including the live aboard fee) for a stay of 10 weeks is \$1,540. This equates to a GST-inclusive rate of \$22 per day.*
22. *For the first 27 days, the GST is  $1/11 \times \$22$ , or \$2 per day, which means that the GST-exclusive rate per day is \$20. For day 28 onwards, the GST is  $10\% \times \frac{1}{2} \times \$22$ , or \$1.10 per day. Therefore, the actual rate charged for the stay of 10 weeks will be \$22 per day for the first 27 days, and \$21.10 (\$20 plus \$1.10 GST) per day for the rest of the stay.*

***What things are included in the concession?***

23. The concession applies to the supply of a marina berth for long-term accommodation, as well as things that you provide as part of that supply. If the rent (plus any live aboard fee) you charge includes things like electricity services or access to a telephone line, the entire rental may be taxed concessionally.<sup>4</sup> But if you charge extra for these things, the GST payable is 1/11 of their price.

24. If you supply live aboard amenities to someone who is not renting or hiring a marina berth from you, the GST payable is 1/11 of the fee charged. The GST concession does not apply because the supply of live aboard amenities, on its own, is not a supply of long-term accommodation.

***Does the concession reduce your claim for input tax credits?***

25. No. You can still claim 100% of your input tax credits that relate to your supplies of long-term accommodation even though GST is payable at a concessional rate.

***How does the input tax option work?***

26. Instead of applying the concession to your supplies of long-term accommodation, you may choose to input tax the supplies. Under the input tax option, no GST is payable. But you cannot claim input tax credits for the GST included in things you acquire for use in supplying that long-term accommodation. If the things you acquire relate to making both taxable supplies (for example, fuel sales) and input taxed supplies, you will need to apportion your input tax credit claims on a reasonable basis.

27. If you choose this option, you must apply it to all of your supplies of long-term accommodation for at least 12 months. After 12 months, you may change your choice to tax these supplies concessionally, but if you do this, you must apply the concessions to all of these supplies for at least the next 12 months before making another choice.

28. You must document your choice and keep a copy of that document in your business records, but you do not need to advise the Tax Office of your choice.

***Date of effect***

29. This Bulletin explains our view of the law as it applied from 1 July 2000. You can rely upon this Bulletin on and from its date of issue for the purposes of section 37 of the *Taxation Administration Act 1953*. Goods and Services Tax Ruling GSTR 1999/1 explains the GST rulings system and our view of when you can rely on our interpretation of the law in GST public and private rulings.

30. If this Bulletin conflicts with a previous private ruling that you have obtained, this public ruling prevails. However, if you have relied on a private ruling, you are protected in

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<sup>4</sup> See section 87-15 of the GST Act.

respect of what you have done up to the date of issue of this public ruling. This means that, if you have underpaid an amount of GST, you are not liable for the shortfall prior to the later public ruling. Similarly, you are not liable to repay an amount overpaid by the Commissioner as a refund.

### **Do you need more information?**

31. If you have any questions or need more information on GST, you can:

- phone the Business Infoline on **13 28 66**;
- download information from our website at **www.ato.gov.au**;
- obtain *A Fax From Tax* on **13 28 60**; or
- write to us at PO Box 9935 in your capital city.

32. If you do not speak English and need help from the Australian Taxation Office, phone the Translating and Interpreting Service (TIS) on **13 14 50**.

### **Detailed contents list**

33. Below is a detailed contents list for this Goods and Services Tax Bulletin:

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**Commissioner of Taxation**

18 June 2003

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**Appendix:**

## **GST and the supply of long term accommodation at marinas**

