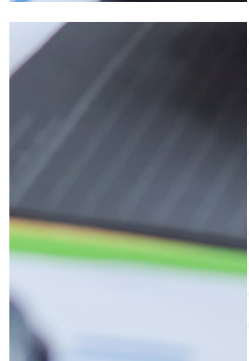


Goods & Services Tax Guide

REAL ESTATE



**JUNE
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DISCLAIMER

These notes are for guidance only. They reflect the law and the tax position at the time of publication. They do not replace the legislation or affect your right to object and appeal.

If in doubt, you should consult the Inland Revenue Department.

You may find the following documents useful for further explanation on specific issues:

GST Act 2021

GST Regulations 2022

GST Guide

Short-term Accommodation Guide

Guide to Keeping Proper Books and Records

REAL ESTATE

1.0 INTRODUCTION

This guide is intended to provide businesses supplying real estate services with pertinent information on the Goods and Services Tax (GST) and should be read in conjunction with the GST Act 2021, GST Regulations 2022, other sector specific guidance and the GST Guide.

2.0 GST IMPLICATIONS ON REAL ESTATE

Most real estate services supplied to persons or businesses in Anguilla are exempt supplies and therefore not subject to GST. Providers of exempt supplies cannot register for GST nor recover any GST paid on purchases.

Some real estate services such as property management are taxable for GST purposes if consumed in Anguilla but are zero-rated if consumed outside Anguilla. Providers of taxable supplies (zero-rated or standard-rated) can register for GST and recover GST paid on business purchases and expenses.

If a business/person provides a mixture of exempt supplies and taxable supplies, the GST paid on purchases is apportioned using the Partial Exemption Method. *Please refer to the GST Guide for more information on this method.*

GST RATES

There are two (2) rates for GST:

- Zero-rated - 0%
- Standard-rated - 13%

SPECIFIC TREATMENTS

EXEMPT SUPPLIES

Vacant Land

Sale of vacant land is exempt from GST.

Agriculture

Lease, licence and rental of land for agricultural purposes is exempt.

Residential and long-term accommodation (183 days or more)

a. Leasehold land by way of lease for the purpose of accommodation in a residential dwelling or for long term accommodation is exempt. Long-term accommodation is defined in the GST Act as the provision of furnished sleeping accommodation in such places including a hotel, resort, villa, guest house, lodging house, apartment, bed and breakfast or room or similar establishment where accommodation is provided for a period of 183 days or more.

b. Sale of a residential dwelling if the following conditions are met is also exempt:

i) Sold by first time owner after 2 years of continuous occupancy by owner or immediate family and;

ii) Resold by the initial purchaser including all subsequent sales.

(GST is chargeable if both or any of the two (2) conditions above are not met).

c. Lease, licence and hire rental of land for long-term accommodation is exempted.

d. Lease and rental of a residential dwelling is exempt from GST

Tourism Accommodation Developments and short-term accommodation (182 days or less)

a. Lease, licence and hire rental of land for tourism accommodation developments and short-term accommodation is exempt.

b. A supply of tourism accommodation development such as condominiums, villas, hotels, resorts and similar establishments and luxury real estate products as defined under the Resort Residence Annual Levy Act is exempt.

SPECIFIC TREATMENTS

TAXABLE SUPPLIES

Short-term Accommodation

A supply of short-term accommodation (stays of 182 days or less) is taxable for GST purposes.

Commercial (other than tourism accommodation developments)

- Lease, licence and hire rental of land for commercial purposes (other than tourism accommodation developments) is taxable.
- Sale of developments for commercial use is taxable.

3.0 APPLICATION OF GST IN REAL ESTATE

3.1 SHOULD I CHARGE GST ON LEASE, RENTAL OR SALE OF RESIDENTIAL DWELLING?

The supply of a lease, licence and hire rental of a residential dwelling is exempt from GST. This means that you will not charge GST on these supplies.

The sale of a residential dwelling is exempt if both conditions outlined below as per Schedule 2 (j) (ii) of the GST Act are met:

- (a) the dwelling is resold by the initial purchaser including all subsequent sales of such property, and;
- (b) the dwelling is sold by the first-time owner after 2 years of continuous occupancy of such premises by the owner or his immediate family.

The sale of a residential dwelling is taxable for GST purposes if one of the conditions above is not met. For example, a newly constructed residential dwelling is subject to GST.

RESIDENTIAL DWELLING

The GST Act defines residential dwelling as a building, premises, structure, or other place, or any part thereof, used or intended for use predominantly as a place of residence or abode of a natural person together with any appurtenances including garages, sheds, outbuildings, pools, etc.

3.2 DO I CHARGE GST ON SHORT-TERM ACCOMMODATION RENTAL?

A supply of short-term accommodation rental is taxable for GST purposes and subject to the tax at the standard rate of 13%. Any person providing short term accommodation rental is required to register for GST regardless of the GST registration threshold.

Please refer to the Short-term Accommodation Guide for further information on the application of GST on this sector.

3.3 DO I CHARGE GST ON LONG-TERM ACCOMMODATION?

You will not register for GST nor charge GST on long-term accommodation. You also will not be able to recover any GST paid on purchases in relation this supply.

SHORT-TERM ACCOMMODATION

The GST Act defines short-term accommodation as the provision of furnished sleeping accommodation in such places including a hotel, resort, villa, guest house, lodging house, apartment, bed and breakfast or room or similar establishment where accommodation is provided for stays of 182 days or less.

LONG-TERM ACCOMMODATION

Long-term accommodation is defined as a supply of accommodation for a continuous period of 183 days or more and is exempt under the GST Act.

3.4 WHAT IF I SUPPLY A COMBINATION OF SHORT-TERM AND LONG-TERM ACCOMMODATION?

Since there is no registration threshold for providers of short-term accommodation, you must register for GST and charge GST on the supply of short-term accommodation only. In addition, you can only reclaim GST paid on inputs used directly for supplying short-term accommodation. In the instances where purchases relate to both taxable (short-term accommodation) and exempt (long-term accommodation) supplies, GST paid on those purchases is apportioned by applying the 'Partial Exemption Method'. Please refer to the GST Guide for information on this method.

3.5 WHAT IF I USE MY PROPERTY FOR PERSONAL AND SHORT-TERM RENTAL PURPOSES?

If you use your property for both personal and short-term rental purposes, you must register for GST and charge GST on the supply of short-term accommodation only. You will not account for GST on personal use. Additionally, you can only recover GST paid relating to the time you rent the accommodation on a short-term basis.

3.6 WHAT IF I PROVIDE ACCOMMODATION THROUGH A RENTAL POOL?

If you provide accommodation through a rental pool, the application of GST on your supply is dependent on whether accommodation is provided for a short-term or long-term basis. If you provide long-term accommodation, your supply is exempt from GST. If you provide short-term accommodation, you must register for GST and charge GST on the supply.

RENTAL POOL

An arrangement in which condo owners or other such ownership in a large community agree to make their units available for rental by a common leasing agent or property manager according to the good business judgment of that agent and to share in the overall revenues and expenses according to a predetermined formula.

3.7 WHAT IF I HAVE FRACTIONAL OWNERSHIP?

If you are a fractional owner and rent your unit for short-term accommodation, you must either register for GST and charge GST on the supply or place your unit in a rental pool.

3.8 WHAT IF I JUST MANAGE THE RENTAL PROPERTY BUT THE OWNER RENTS DIRECTLY TO THE TENANT?

Property management fee or charges are subject to GST. If you meet the registration threshold, you must register for GST, and charge GST on your fees. If the accommodation provided is short-term, the owner must register for GST and charge GST on the short-term accommodation rental.

3.9 HOW ARE ANNUAL RESORT FEES TREATED?

Annual resort fees for use of communal areas, maintenance and repairs, administration charges, etc are subject to GST.

3.10 WHAT IS THE GST TREATMENT ON COMMERCIAL PROPERTY?

The sale, rental or other supply of a commercial property is subject to GST. Suppliers or renters of commercial property who meet the registration threshold must register for GST and charge GST on the sale or rental of such property.

COMMERCIAL PROPERTY

Commercial property is real estate that is used for business activities and includes warehouse, factories, retail outlets, restaurants, offices, storage facilities, etc.

3.11 WHAT IF THE PROPERTY IS USED FOR BOTH COMMERCIAL AND RESIDENTIAL PURPOSES?

A property may be used for both commercial and residential purposes, for example a store with an apartment above. The commercial use is subject to GST and the residential use follows the application of GST on short-term or long-term accommodation, whichever the case may be.

3.12 WHAT IF I RENT THE PROPERTY IN ANGUILLA TO SOMEONE WHO RESIDES OUTSIDE ANGUILLA?

The supply is consumed in Anguilla and therefore subject to GST at the standard rate of 13%.

3.13 WHAT IF I RENT OR SELL PROPERTY THAT IS NOT LOCATED IN ANGUILLA?

The rental or sale of property located outside Anguilla is not subject to GST.

4.0 REGISTRATION FOR GST

4.1 WHEN AM I REQUIRED TO REGISTER FOR GST?

You are required to apply for GST registration if:

- within the last 12 months, the value of your taxable supplies equaled or exceeded EC\$300,000; or
- within the next 12 months, you expect the value of your taxable supplies to equal or exceed EC\$300,000.

4.2 HOW DO I REGISTER FOR GST?

You must apply for registration within 15 days of meeting the requirements and the Comptroller will register you within 10 days of your application.

If you are required to register and failed to apply for registration, you will be registered from the date determined by the Comptroller. You will also be required to account for GST and remit tax payable on your supplies even if you have not charged it.

Once you are registered for GST, you will be issued a Certificate of Registration and certified copies of the certificate if you operate from branches and divisions. The certificate must be displayed in a prominent place at each location where you conduct business. This is so that your customers can verify that you are registered and can charge the GST. You will also be provided with a Tax Identification Number (TIN) which must be included on any return, tax invoice, sales receipt or any other document prescribed.

A taxpayer register will be maintained by the Comptroller containing the relevant details of all GST registered persons. The register will be accessible to the public at all reasonable times and available on the IRD website at www.ird.gov.ai.

Please note that only GST registered persons can charge GST and reclaim GST paid (input tax) on business purchases.

5.0 TIME OF SUPPLY

5.1 WHEN IS THE TIME OF SUPPLY FOR GST?

The time of supply is the earliest of the date when:

- a. payment is received;
- b. an invoice is raised;
- c. goods are delivered or made available to the recipient; or
- d. performance of services is completed.

TIME OF SUPPLY

The time of supply, also referred to as the tax point, is the date a sale or purchase is considered to take place. It is important to establish the time of supply as this will determine when you account for GST on sales and when to claim input tax credits.

5.2 WHEN DO I ISSUE A TAX INVOICE?

You issue a tax invoice when you provide goods and/or services to another GST registered person.

A GST tax invoice must show the following (Item 1 of Schedule 3):

- (a) the words “tax invoice” in a prominent place;
- (b) the name, address, and GST registration number of the registered person making the supply;
- (c) for a supply to a registered recipient, the name, address, and GST registration number of the recipient of the supply;
- (d) the individualized serial number and the date on which the tax invoice is issued;
- (e) a description of the goods or services supplied;
- (f) the quantity or volume of the goods or services supplied; and
- (g) the consideration for the supply in Eastern Caribbean Currency, excluding GST, the rate of GST, the total amount of the GST charged and the consideration including GST.

The following are not tax invoices:

- pro-forma invoices
- credit card statements
- letters, emails or other correspondence

5.3 WHEN DO I NEED TO ISSUE A SALES RECEIPT?

You issue a sales receipt when you provide goods and/or services to an unregistered person.

A sales receipt must contain the following (Item 2 of Schedule 3):

- (a) the words “sales receipt” in a prominent place;
- (b) the name, address, and GST registration number of the taxable person making the supply;
- (c) the individualized serial number and the date on which the sales receipt was issued;
- (d) a description which identifies the goods or services supplied;
- (e) the quantity or volume of the goods and services supplied;
- (f) for each GST rate applicable, the consideration for the supply in Eastern Caribbean Currency, including or excluding the GST amount; and
- (g) the GST rate and amount.

Please note that a contract will suffice if the particulars outlined for a tax invoice or sales receipt are captured.

6.0 INPUT AND OUTPUT TAX

6.1 WHAT CAN I CLAIM AS INPUT TAX?

You can claim input tax on purchases used in providing your taxable supplies or in the course of business. For example, legal services, office supplies, furniture and equipment, repair and maintenance and electricity.

Only GST registered persons can claim input tax.

6.2 WHAT CAN'T I CLAIM AS INPUT TAX?

You cannot claim input tax on goods or services that relate to exempt supplies or are not used in the course of the business.

The GST Act also disallows input tax, in most cases, on passenger type vehicles, entertainment and membership subscription.

INPUT TAX

Input tax is the GST paid on business purchases used in making taxable sales/supplies including:

- goods and services purchased in Anguilla; and
- goods and services imported.

OUTPUT TAX

Output tax is the GST charged on sales, services or supplies.

7.0 GST RETURNS AND REFUNDS

7.1 HOW DO I ACCOUNT FOR GST ON MY MONTHLY RETURN?

i. You declare your total output tax and input tax on your monthly GST return

All sales and purchases must be declared in the tax period in which they occurred.

ii. Your input tax is offset against your output tax

a. If your output tax exceeds your input tax, the difference is what you remit to the Comptroller.

b. If the input tax exceeds the output tax, you will be in an excess credit position which you will offset for three (3) consecutive periods and if remaining excess credit exceeds EC\$1000, you may apply for a refund.

You must file your GST return on or before the 20th of the following month or the next working day if the 20th falls on a weekend or public holiday. See Tax Calendar for due dates.

Please note that you are required to file a nil return if you had no transaction in a given month.

7.2 WHEN CAN I CLAIM A REFUND OF GST?

If your input tax exceeds your output tax in any tax period, the excess credit is carried forward to the next 3 consecutive tax periods. You may claim a refund if after the third tax period, the remaining excess credit exceeds EC\$1000. If you choose not to claim a refund or the amount is less than EC\$1000, the excess credit will continue to be carried forward to future GST returns.

8.0 TRANSITIONAL ARRANGEMENTS

Transitional rules are necessary to move from the repealed taxes to the GST. These rules help to determine whether a supply, acquisition or import is subject to GST.

Transitional arrangements - Service Contracts

- If services are rendered for consideration periodically, GST is only applicable to the supply that is made after the commencement of GST.
- If the contract is entered into after the commencement of GST and it does not specifically provide for GST, the value of taxable supplies in that contract is deemed to include GST and the provider must account for the tax due on those supplies.



CONTACT US

For more information, feel free to contact the Inland Revenue Department at gst@gov.ai or inlandrevenue@gov.ai.

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