



Shanahans

family and property law

INFORMATION ABOUT GST

1. If you are purchasing a commercial property then you need to carefully consider the GST position before making an offer. Once an agreement has been signed you won't be able to cancel the agreement simply because you (or the agent) got the GST wrong.
2. Prior to April 2011 the sale of a commercial property would attract GST. There was an exception; the transaction could be "zero-rated" if the vendor and purchaser were both registered for GST and agreed that the sale was that of a going concern.
3. Since April 2011 the sale of a commercial property is automatically be zero rated if:
 - Both the vendor and the purchaser are registered for GST; and
 - The land is to be used for making taxable supplies; and
 - The land is not intended to be used as the principal residence of the purchaser.These provisions are built into the standard form agreement for sale and purchase and by signing the agreement, and completing the GST schedule you are giving warranties to the other party in relation to your GST status. It is no longer necessary for the sale of the land to be a going concern which means that you do not necessarily have to have a lease in place at the time of the sale.
4. Under the old regime if the contract was expressed as "inclusive of GST" the purchaser would have paid 15% GST and recovered that 15% from the IRD. Now that the GST is 0% the purchaser will still have to pay the same amount but won't be able to claim any GST back because the GST component will be 0% (provided that the agreement is zero rated).
5. If you are purchasing a business or a commercial property you should always take advice from your accountant and your solicitor before making an offer. Any offer you do make should always be expressed as "plus GST (if any)". If you are unsure whether GST is applicable then again, you should ensure that the price is "plus GST (if any)".

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