



**INFORMATION  
EXCHANGE**  
Step Up to Advice

# AUSTRALIAN TAX ADVISER

2207: MARCH 2022

Mark Chapman

Mark Chapman Consulting

## INFORMATION EXCHANGE CORPORATION

L17, 40 Mount Street,  
North Sydney NSW, 2060

E: [admin@ifx.com](mailto:admin@ifx.com)

T: 61 2 9956 7775

W: [www.ifx.com.au](http://www.ifx.com.au)

## ARCHIVE SEARCHING?

Use your username and  
password to log onto  
[www.ifx.com.au](http://www.ifx.com.au) to search our  
archives and retrieve copies.

## NEED TO ASK AN ADVISER?

Go to [www.ifx.com.au](http://www.ifx.com.au)  
to connect.

Please call customer support  
on 1300 360 905 if you have  
any difficulties.

## SUBSCRIBE TO THIS PUBLICATION

[Click here](#)

Can we help?

Call 1300 360 905

Email [admin@aifx.com.au](mailto:admin@aifx.com.au)

## IN THIS ISSUE

### SECTION 1 – PROFESSIONAL DEVELOPMENTS.....1

### GST AND PROPERTY.....1

¶7.1	GST registrations and carrying on an enterprise.....	1
¶7.2	Existing business.....	2
¶7.3	The five-year rule and residential premises .....	3
¶7.4	Leasing premises and GST adjustments.....	4
¶7.5	Substantial renovations .....	5
¶7.6	Commercial residential premises.....	6
¶7.7	Commercial premises .....	6
¶7.8	GST on acquisition of property.....	6
¶7.9	GST on developing property .....	7
¶7.10	GST on selling property .....	7
¶7.11	GST margin scheme .....	7
¶7.12	Going concern exemption .....	9
¶7.13	GST withholding .....	9
¶7.14	GST and farmland .....	10
¶7.15	Disposal of farmland for farming purposes.....	11
¶7.16	GST free – supply of subdivided farmland to an associate .....	11

### SECTION 2 – PROFESSIONAL CURRENCY .....

### LEGISLATION.....

¶7.17	COVID-19 (NSW): details of new business support package.....	12
¶7.18	Work-related COVID-19 tests confirmed deductible.....	13
¶7.19	Enhancing tax integrity and supporting business investment Bill .....	14

### RULINGS AND GUIDELINES.....

¶7.20	Determination issued for debts forgiven for reasons of natural love and affection .....	15
¶7.21	ATO and TPB guidance on client identity verification .....	15
¶7.22	Impact statement on cash flow boost case.....	16

Continued



**INFORMATION  
EXCHANGE**  
Step Up to Advice

# AUSTRALIAN TAX ADVISER

2207: MARCH 2022

Mark Chapman

Mark Chapman Consulting

## INFORMATION EXCHANGE CORPORATION

L17, 40 Mount Street,  
North Sydney NSW, 2060

E: [admin@ifx.com](mailto:admin@ifx.com)

T: 61 2 9956 7775

W: [www.ifx.com.au](http://www.ifx.com.au)

## ARCHIVE SEARCHING?

Use your username and  
password to log onto  
[www.ifx.com.au](http://www.ifx.com.au) to search our  
archives and retrieve copies.

## NEED TO ASK AN ADVISER?

Go to [www.ifx.com.au](http://www.ifx.com.au)  
to connect.

Please call customer support  
on 1300 360 905 if you have  
any difficulties.

## SUBSCRIBE TO THIS PUBLICATION

[Click here](#)

Can we help?

Call 1300 360 905  
Email [admin@aifx.com.au](mailto:admin@aifx.com.au)

## IN THIS ISSUE

<b>CASES</b>	<b>17</b>
¶7.23 Small business gardener denied JobKeeper	17
¶7.24 Individual denied JobKeeper: 'But that's not fair' is not a legal argument	18
¶7.25 Airbnb superhost ineligible for JobKeeper payment as not conducting a business..	19
¶7.26 Taxpayer assessable on unexplained bank deposits	21
¶7.27 Tax Agent application for registration knocked back	23
<b>STATE TAXES</b>	<b>23</b>
¶7.28 Payroll tax (Qld): ruling on determining whether a worker is an employee	23
<b>SECTION 3 – QUESTIONS AND ANSWERS</b>	<b>24</b>
¶7.29 SMSF transferring assets after death of member	24
¶7.30 Non-income distributions by a unit trust to its unit holders	24
¶7.31 Not for profits	25
¶7.32 Simplified depreciation	26
¶7.33 Trust loans	27
¶7.34 Recording the bare trustee as purchaser on the contract of sale under a LRBA	27
¶7.35 Capital works	28
¶7.36 New Zealand income for Australian visa holders	29
¶7.37 CGT event E4	30

## SECTION 1 – PROFESSIONAL DEVELOPMENTS

### GST AND PROPERTY

Few areas generate more queries from advisers than issues with GST and property, particularly around registration and whether GST is actually payable by a given taxpayer in a given situation. As the purchase or sale (or both) of property is one of the most common economic transactions in the real world, in this month's *Australia Tax Adviser* we present a guide to the nuts and bolts of how GST can apply to those transactions.

#### ¶7.1 GST registrations and carrying on an enterprise

GST applies to the sale of all property, if a taxpayer is required to be registered and:

- the sale is for consideration and;
- the sale is made in the course or furtherance of an enterprise that the taxpayer carries on and;
- the sale is connected with Australia and;
- the sale of the property is not GST-free or input taxed

Section 23-5 GST Act sets the requirements for registration as follows:

- The entity is carrying on an enterprise. An enterprise includes an activity, or series of activities, done in the form of a business or in the form of an adventure or concern in the nature of trade and;
- The entity's annual turnover meets the registration threshold (which is currently \$75,000)

Example of an enterprise could include:

- A property developer selling property; or
- A business taxpayer selling their business premises; or
- A builder selling a property that was bought then renovated for sale.

Activities done as a private recreational hobby or pursuit, or which are done by individuals 'without a reasonable expectation of profit or gain' are not an enterprise.

Where subdivision and sale of land is a 'mere realization' of a capital asset for income tax purposes, that would not normally constitute the carrying on of an enterprise but note that an isolated transaction can constitute the carrying on of an enterprise, meaning that a 'one off' development can be caught.

The fact that the asset is sold at a profit or in an enterprising way so as to secure the best price does not, of itself, mean the transaction is commercial in nature. It could still constitute the mere realization. Refer to MT 2006/1 for a list of factors that the ATO takes into account when it is determining if an enterprise exists (e.g. whether the land is developed beyond what is required for subdivision approval).