

# FACT SHEET

## Goods and Services Tax

### This fact sheet applies to general tenancies only

This Fact Sheet states the Residential Tenancies Authority's (RTA) position in relation to the Goods and Services Tax (GST).

Please note that the RTA can provide information on the provisions of the *Residential Tenancies Act 1994* dealing with rent increases and their application in light of the GST; however, the RTA is not qualified to give detailed information about the GST.

This fact sheet only applies to general tenancies. It does not apply to caravans, mobile homes, boarding houses or hostels where residential rent is subject to GST.

#### The GST, residential costs and rent

The issues for the residential rental sector are:

1. Can lessors pass on to tenants any increases in costs incurred as a result of the GST - by way of a rent increase?
2. Does the existing legislation provide guidelines for rent increases that will apply?

The GST legislation states that GST is not payable on rent. However, lessors costs, such as those relating to maintenance and real estate agency or property management fees are not exempt and may rise.

The RTA believes any increases in costs on rental properties is unlikely to be equivalent to the GST and that tenants should query any increase of exactly 10% of the rent. Rent rises will vary between properties depending on whether the property is self managed or agency managed and the age and state of repair of the property.

#### Can lessors increase rents to recoup GST-incurred costs?

The *Residential Tenancies Act 1994* stipulates requirements about rent increases that will influence a lessors' decision to either pay any GST incurred costs themselves or to pass the increased cost on to tenants.

These requirements under the Act will vary depending on whether the agreement is fixed or periodic.

A *fixed term tenancy agreement* means a tenancy agreement that is taken out for a set period, such as six months. Many fixed term agreements change over to a periodic agreement at the end of the set period if a further fixed term has not been set.

A *periodic agreement* means a tenancy agreement which has no set ending date.

If the agreement is fixed, provision can be made in the tenancy agreement allowing for the rent to increase.

Also, the amount of the increase, or a method for calculating the increase should be included.

In the case of a periodic tenancy, the rent can change at the end of the tenancy or on the notice period of two months.

#### Wording of special terms relating to rent increases

There has been discussion about inclusion of a GST clause, in fixed term or periodic agreements, stating that the tenant may be subject to rent increases in relation to the GST.

The RTA would advise lessors and agents against making specific reference in tenancy agreements to the tenant being responsible for the payment of GST.

### **Rent increase by standard rent increase clause**

The RTA believes it is appropriate to simply use a standard rent increase clause, or S53 of the Act which deals with rent increases and is reflected in clause 10 of the tenancy agreement. In the case of fixed term tenancies, it must be ensured that a special term reflects the requirements of clause 10(5) of the standard terms.

### **Tenants' rights about rent increases**

Under S53A(1) of the Act, tenants can make application to the Small Claims Tribunal (SCT) about rent increases they consider to be excessive.

To make a decision, the SCT may take into consideration the market rents in the area, the state of repair of the premises and any other relevant matters.

If the SCT finds the rent increase is excessive, the SCT can make an order either reducing the amount of the increase or setting aside the amount of the proposed increase.

It is important to note that the Australian Competition and Consumer Commission (ACCC) is currently monitoring price increases related to GST, including rent.

### **For more information about GST**

- Tax Reform Infoline on 13 61 40 or phone the Business Tax Reform Hotline on 13 24 78. Information can also be downloaded from the website at [taxreform.ato.gov.au](http://taxreform.ato.gov.au).

- The Australian Competition and Consumer Commission (ACCC) can be reached on 1300 302 502. Information can be downloaded from their website at [www.accc.gov.au](http://www.accc.gov.au).
- This Fact Sheet is available from the RTA's Website at [www.rta.qld.gov.au](http://www.rta.qld.gov.au), and from the RTA's Fax Back Service by calling 1300 366 311. Multiple copies can be obtained by contacting the RTA's Communications Section on (07) 3361 3606.

### **Further information**

The *Residential Tenancies Act 1994* is the primary source material on the law and takes precedence over this Fact Sheet should there be any inconsistency between the Act and this Fact Sheet.

For more information about the *Residential Tenancies Act 1994*, contact the Residential Tenancies Authority. Contact details are at the bottom of this Fact Sheet.

### **Accessing RTA forms**

The RTA's approved forms can be obtained by:

- visiting the RTA's website at [www.rta.qld.gov.au](http://www.rta.qld.gov.au) and following the links to "e-Forms"
- calling the RTA's forms distribution service on **1300 136 939**
- faxing a *Request for Forms* to (07) 3216 2258, or
- posting a *Request for Forms* to PO Box 517, Virginia Qld 4034.

A selection of the most commonly used forms is also available at Australia Post offices around Queensland.

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