

## CANADIAN FAQ FOR THE TAX SAVVY

Canadian FAQ Issue # 339

Revised September 1, 2020

GST ON COMMERCIAL REAL ESTATE

### Tax Question:

How is the Goods and Services Tax (GST) applied to commercial real estate?

### Facts:

In real estate, the beneficial owner of the property has the responsibility to collect GST and remit it to the Canada Revenue Agency (CRA). If the property is held "in trust" by another corporation or entity, the beneficial owner is still required to register and file GST returns. Generally, all sales of commercial property and leases are taxable.

### Discussion:

When a corporation purchases a property for commercial activities such as business, rental or development, they can defer the GST paid on the purchase price. However, the corporation must be registered for GST on or before the completion date. Section 221 of the Excise Tax Act allows the seller to not have to collect the GST on the sale. However, the purchaser still needs to self assess and report it on their GST return although it is an in and out (see FAQ #298 for more details).

A developer building a commercial property for sale or lease is eligible to claim input tax credits paid on services and purchases. A developer may wait until the property is ready for use or sold to claim the GST input tax credits in order to match the period with GST collected.

Commercial leases are subject to GST and the landlord is required to collect GST from the tenant. Triple net lease expenses charged to the tenant are subject to GST just like rent even for non-taxable supplies such as property taxes and insurance. Tenant inducements are taxable supplies and tenants are required to remit the GST on tenant inducements received by the landlord.

Partnerships are required to register for GST under normal rules and must remit GST. However, joint ventures are not allowed to register for GST unless they make an election (GST Form 21) as a "Joint Venture Operator." Without this election, each joint venture reports their proportion of GST on sales and GST on input tax credits for expenses and capital purchases.

### Recommendation:

If you would like more information on GST related to commercial real estate, please reach out to us at [www.gilmour.ca](http://www.gilmour.ca).



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