

# AUSTRALIAN GST JOURNAL

Volume 12, Number 4

December 2012

EDITORIAL .....	151
CASE NOTE	
<b>Qantas: A landmark case or deja vu?</b> .....	152
ARTICLES	
<b>GST and compulsory acquisitions of land: Can you have an “involuntary supply”?</b> – <i>Christopher Sievers</i>	
Since the introduction of the GST in 2000, the interaction between GST and real property transactions has raised numerous difficult issues for taxpayers, practitioners and the Revenue. Some of the issues have been resolved by the courts and some by amendment to the legislation. Many issues remain at large, including the GST treatment of compulsory acquisitions of land under the various State statutory regimes. A review of the cases and the Commissioner’s public ruling show there is no simple solution and that each case needs to be considered in light of its own facts. Further, these difficulties will remain while the scope of “supply” within the meaning of s 9-10 of A New Tax System (Goods and Services Tax) Act 1999 (Cth) remains uncertain. ....	165
<b>Eliminating the impossible – Australian GST, residential premises, and the improbable solution</b> – <i>Naomi Kewley</i>	
Australia’s GST treatment of residential premises has fostered uncertainty for more than a decade. The natural interpretations of several key legislative expressions in this area support outcomes that are either impractical or commercially unacceptable, leaving the judiciary little choice but to seek an alternative construction. While a consensus in the treatment of residential property is emerging, certain “solutions” provide no excuse for poor legislative drafting and leave many questions unanswered. Without legislative clarification, uncertainty will inevitably persist. Doubts also remain as to the policy effectiveness in aspects of the Australian approach. This article evaluates both the clarity of certain legislative provisions and the policy effectiveness of current interpretation. Analysis of ambiguity involves three specific areas of legislation. These relate to the use of the word “residential”, the GST treatment of vacant land, and identification of the relevant intention in predicting the future use of residential property. In view of this analysis, recommendations are made for rewording problematic phrases to improve clarity. From a policy perspective, the article also evaluates Australia’s exclusive focus on the physical characteristics of a residence in establishing a prediction of its future use. It is advised that the consideration of physical attributes be expanded to include other objective criteria which provide insight into recipient intention and will thereby create a more complete indication of future use. ....	174
BOOK REVIEW	
<i>The Future of Indirect Taxation: Recent Trends in VAT and GST Systems Around the World</i> by T Ecker, M Lang and I Lejeune .....	186

