

An electronic bulletin from the Real Estate & Business Agents Supervisory Board

9 October 2008

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## Welcome to the first e-bulletin

Welcome to the first edition of the Real Estate and Business Agents Supervisory Board's new e-bulletin.

It has been created and designed to provide you with industry related news and assist in keeping you updated with the latest Board issues and policy developments – all in a format that can be delivered to your inbox.

As you can see, there are links throughout the e-bulletin to further information via the Board's website. This e-bulletin and all other upcoming issues, in addition to being sent to your email address, will be stored on the Board website [here](#), so at any time will be available for you to refer to.

It is expected that the e-bulletin will evolve over time to keep pace with technological changes and to suit industry needs.

If you have any ideas or feedback regarding the structure, navigation or even the information that appears in the REBA News e-bulletin please contact the Board by [clicking here](#).

To be added to or removed from the mailing list [please click here](#), type the word 'add' or 'remove' in the subject line, and click send.



## Latest News

- [Real Estate representatives registration rescinded](#)
- [Nominee Clauses—New Revenue Ruling](#)

## Board announces salary increase requirement for licensees

As Real Estate Agents and Sales Representatives may be aware, REBA currently requires all employed licensees in bona fide control of a business, who do not have a majority shareholding in the company, be paid a minimum salary of \$40,000.

REBA sees this as a way of ensuring that the person in bona fide control devotes a substantial amount of time and attention to the running of the business.

A recent review has been conducted by REBA into this minimum salary requirement and from this review it has been concluded that the current minimum salary amount of \$40,000 is inadequate in ensuring this.

Subsequently, the Board has resolved to raise the minimum salary requirement to \$50,000 per annum, excluding superannuation.

REBA last made changes to the minimum salary requirement in December of 2005. The new salary requirement will become effective from 1 November 2008 and will apply as follows:

- All new licence applications, from firms and companies who wish to employ a licensee, who is not a majority shareholder in the firm or company,

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- - as person in *bona fide* control, will need to be accompanied by evidence of a signed service agreement\* between the firm or company and person in bona fide control. The service agreement must state that the person in bona fide control receives a guaranteed salary of at least \$50,000 per annum.
- All companies and firms subject to condition RA6, whose triennial certificates expire after 1 November 2008, will, upon renewal of their certificate, be required to provide evidence to REBA that the service agreement between themselves and the person in bona fide control has been amended to reflect the revised requirement.

It is intended that the minimum salary requirement will be reviewed regularly by REBA to ensure that it is set at a level that is appropriate.

\*For an information bulletin regarding the terms and conditions that need to be contained in a service agreement [please click here](#).

## Goods and Services Tax Rundown

Goods and Services Tax ("GST") is one area where real estate agents need to exercise caution. Agents need to know that they have certain responsibilities when selling a property where GST needs to be considered and they should ensure that any GST issues are immediately drawn to the attention of the client who should be directed to seek independent legal and/or accounting advice.

Agents should NOT under any circumstances offer to seek this advice for their client, nor should they proffer any advice. Agents have an obligation to raise these issues with their client and ensure that any GST issues are addressed prior to the contract being executed and failing this prior to settlement.

In order to charge GST on the supply of a property the registered proprietor must have an Australian Business Number ("ABN") AND must be registered for GST. It is possible for an owner to have an ABN without being registered for GST however if they have an ABN but are not registered for GST they cannot charge GST on the supply of the property. In order for you to establish whether or not the seller is registered for GST, you must undertake searches and information on how this can be done is contained in this article.

If you are selling a property and the seller purports to be registered for GST but you discover from your searches

that the seller is not registered for GST you should immediately bring this to their attention and direct the seller to seek legal and/or accounting advice about whether they are required to be registered for GST. You should also make it clear that it is their responsibility to resolve this and resolve it quickly. It is also their responsibility to keep you informed of any advice they receive.

At the time of listing you should also direct the seller to seek advice from their accountant as to the correct application of GST with regards to the property they are selling i.e. will the property be sold + GST at the rate of 10%, or sold subject to the Going Concern Provisions, or sold pursuant to the Margin Scheme.

You should inform the seller that failure by them to resolve any GST issues prior to the property being sold could result in GST not being collected and should GST apply at any stage in the future then the seller would be responsible for payment. Depending on the terms and conditions of the contract the seller may have the right to recover the GST from the buyer.

For the complete article on GST [please click here](#).

