

1998

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

A NEW TAX SYSTEM (GOODS AND SERVICES TAX) BILL 1998

EXPLANATORY MEMORANDUM

(Circulated by authority of the
Treasurer, the Hon Peter Costello, MP)

ISBN: 0642 387133

TABLE OF CONTENTS

GUIDE AND OVERVIEW OF THE BILL	1
STRUCTURE	3
EXECUTIVE SUMMARY	6
GST IN A NUTSHELL	6
It's a tax on supplies and importations (unless input taxed or GST-free)	6
made by anyone registered.	6
A thing is taxed each time it's supplied or imported.	6
GST is borne by consumers	6
and remitted by suppliers.	7
<i>GST is paid by importers.</i>	7
Suppliers and importers get input tax credit	7
but consumers don't.	7
<i>An example of how GST works</i>	7
Timber merchant	8
Furniture manufacturer	8
Furniture retailer.....	8
Consumer	9
Commissioner	9
ENTERPRISE.....	9
REGISTRATION	10
ACCOUNTING.....	10
NET AMOUNT.....	10
PAYING GST AND CLAIMING REFUNDS.....	10
ELECTRONIC LODGMENT	11
PRIVATE SALES.....	11
DISPLAYED PRICES	11
NON-TAXABLE SUPPLIES	11
<i>GST-free supplies</i>	11
Exports	11
Tourists	12
Health and medical care	12
Medical services	12
Hospitals and nursing homes	13

Medical appliances and aids	13
Drugs and medicines	13
Education	13
Some related goods and services will be taxable.....	14
Childcare	14
Charitable activities	14
Religious services	14
Other GST-free supplies	14
<i>Input taxed supplies</i>	15
Financial supplies	15
Residential rents	15
Residential premises	15
Precious metal	15
SPECIAL RULES	15
<i>Second hand goods</i>	15
<i>Gambling and lotteries</i>	16
<i>Diesel fuel credits</i>	16
CHAPTER 1	18
ENTITY	18
ENTERPRISE	18
REGISTRATION	19
WHO MUST BE REGISTERED	19
Annual turnover—registration turnover threshold	20
Generally	20
Non-profit bodies	20
WHO MAY BE REGISTERED.....	20
HOW YOU BECOME REGISTERED	20
<i>You apply for registration</i>	21
When you must apply for registration	21
When you may apply for registration	21
Date of effect	21
<i>When you have not applied for registration</i>	21
<i>Notification of decisions</i>	21
BACKDATING REGISTRATION	21
HOW YOUR REGISTRATION IS CANCELLED	22
<i>You apply for cancellation</i>	22

<i>When you must apply for cancellation</i>	22
<i>When you can apply for cancellation</i>	22
<i>When you have not applied for cancellation</i>	22
NOTIFICATION OF DECISIONS	22
BACKDATING CANCELLATION	23
CHAPTER 2	25
CENTRAL CONCEPTS	25
GST ON SUPPLIES	26
TAXABLE SUPPLIES	26
<i>Supplies</i>	26
Money	27
Illegal supplies	27
<i>Consideration</i>	27
<i>In the course or furtherance of your enterprise</i>	27
<i>In connection with Australia</i>	28
<i>Summary</i>	30
AMOUNT OF GST ON TAXABLE SUPPLIES	31
<i>Value of taxable supplies</i>	31
Price	31
<i>Tax fraction</i>	31
<i>Value of partly taxable, partly GST-free or input taxed supplies</i>	32
INPUT TAX CREDITS ON ACQUISITIONS	33
CREDITABLE ACQUISITIONS	33
<i>Acquisitions</i>	33
Money	33
<i>Creditable purpose</i>	33
<i>Taxable supply</i>	34
<i>Summary</i>	35
AMOUNT OF INPUT TAX CREDIT ON CREDITABLE ACQUISITIONS	36
<i>Acquisitions that are partly creditable</i>	37
Input taxed supplies	37
Amount of input tax credit for partly creditable acquisitions	37
Only partly for a creditable purpose	37
Extent of creditable purpose	38
Only part consideration	38
Part consideration and partly creditable purpose	39
<i>Changes in creditable purpose</i>	39
GST ON IMPORTATIONS	39
TAXABLE IMPORTATIONS	40
<i>Importation of goods into Australia</i>	40
Entering goods for home consumption	40

Owner	40
Importations without entry for home consumption.....	40
Importations of money	41
<i>Summary</i>	41
AMOUNT OF GST ON TAXABLE IMPORTATIONS	41
<i>Value of taxable importations of goods</i>	42
<i>Value of partly taxable partly non-taxable importations</i>	42
INPUT TAX CREDITS ON IMPORTATIONS	42
CREDITABLE IMPORTATIONS	42
<i>Creditable purpose</i>	43
<i>Taxable importations</i>	43
<i>Summary</i>	43
AMOUNT OF INPUT TAX CREDIT ON CREDITABLE IMPORTATIONS	44
<i>Importations that are partly creditable</i>	44
Only partly for a creditable purpose	45
INTERACTION OF THE GST CONCEPTS OF SUPPLY AND IMPORTATION.....	45
ADJUSTMENTS	46
ADJUSTMENTS FROM ADJUSTMENT EVENTS.....	47
<i>Adjustment events and supplies</i>	47
<i>Adjustment events and acquisitions</i>	48
ADJUSTMENTS FOR BAD DEBTS.....	50
<i>Adjustments for bad debts and taxable supplies</i>	50
Writing off bad debts	50
Recovering bad debts written off	51
<i>Adjustments for bad debts and creditable acquisitions</i>	51
Bad debts written off	51
Bad debts recovered	52
<i>Comparison of taxable supplies and taxable importations</i>	52
GST.....	52
Input tax credits	53
CHAPTER 3	55
NET AMOUNT.....	55
TAX PERIODS.....	56
<i>What tax period applies to you?</i>	57
General rule-3 months.....	57
Compulsory 1 month tax periods.....	57
Electing 1 month tax periods	57
<i>Changing the end of your tax periods</i>	58
<i>Change in tax periods</i>	58

<i>Concluding tax periods</i>	59
ACCOUNTING RULES —ATTRIBUTING GST AND INPUT TAX CREDITS TO TAX PERIODS	59
<i>Cash basis</i>	59
Who can use the cash basis	59
Attributing GST on the cash basis	60
Taxable supplies	60
Taxable importations	61
Attributing input tax credits on the cash basis	61
Creditable acquisitions	61
Creditable importations	61
Attributing adjustment events on the cash basis	61
Example 1	62
Example 2	63
<i>Other than a cash basis</i>	64
Attributing GST on other than the cash basis	64
Taxable supplies	64
Taxable importations	64
Attributing input tax credits on other than the cash basis	64
Creditable acquisitions	64
Creditable importations	64
Attributing adjustment events on other than the cash basis	65
Supplies	65
Acquisitions	65
Example	65
<i>Calculating your net amount</i>	67
ATTRIBUTION RULES DETERMINED BY THE COMMISSIONER	67
CHAPTER 4	70
NON-TAXABLE SUPPLIES	70
GST-free supplies	70
Input taxed supplies	70
Supplies that are both GST-free and input taxed	70
GST-FREE SUPPLIES	71
HEALTH — SUBDIVISION 38-A	71

<i>Medical services</i>	71
<i>Other health services</i>	71
Hospital treatment.....	72
Residential care.....	72
Community care.....	73
Specialist disability services	73
Aids and appliances	73
Drugs and medicines.....	74
Health insurance	74
EDUCATION — SUBDIVISION 38-B	74
<i>Education courses</i>	74
<i>Professional or trade courses</i>	76
<i>Tertiary residential college course</i>	76
<i>Recognition of prior learning</i>	77
<i>Excursions and field trips</i>	77
<i>Course materials</i>	77
<i>Supplies that are not GST-free</i>	77
<i>Student accommodation</i>	78
CHILD CARE — SUBDIVISION 38-C	78
<i>Childcare Rebate</i>	78
<i>Child Care Assistance</i>	79
EXPORTS AND THINGS CONSUMED OUTSIDE AUSTRALIA — SUBDIVISION 38-D.....	79
<i>Exports of goods</i>	79
Exports of goods	79
Export of aircraft or boats.....	80
Adjustment events	80
Record keeping	80
Export of goods to be consumed on international flights and voyages	81
Export of goods that are imported for repair	81
Supply of goods to relevant travellers for export	81
<i>Supplies of things other than goods or real property for consumption outside Australia</i>	81
Supply connected with property outside Australia.....	82
Recipient of a supply is not an Australian resident.....	82
The supply of rights.....	82
Export of services used to repair imported goods	82
Exclusion from GST free treatment.....	83
RELIGIOUS SERVICES — SUBDIVISION 38-E	83
<i>Religious services</i>	83
<i>Religious institutions</i>	83

CHARITIES — SUBDIVISION 38-F	84
<i>Charitable institutions</i>	84
<i>Non-commercial activities</i>	84
<i>Donations to charities</i>	84
<i>Supplies of second-hand goods</i>	85
<i>Supplies for nominal consideration</i>	85
<i>Reprocessed goods</i>	85
WATER AND SEWERAGE — SUBDIVISION 38-G	85
SUPPLY OF AN ENTERPRISE AS A GOING CONCERN — SUBDIVISION 38-H	86
Criteria	86
Input taxed use and change in use of going concerns	87
SUPPLIES OF TRANSPORT — SUBDIVISION 38-I	87
<i>Transport of passengers and goods to, from or outside Australia</i>	87
<i>Particular supplies connected with passengers</i>	87
Australian domestic travel by non-residents	87
Australian domestic leg of passenger's international flights	87
Australian domestic leg of passenger's international voyage	88
<i>Transport, loading or handling of goods within Australia</i>	88
<i>Insurance</i>	88
PRECIOUS METALS — SUBDIVISION 38-J	88
<i>Input taxing supplies of precious metals</i>	88
<i>GST-free supplies of precious metals</i>	89
<i>Importations of precious metals</i>	89
SUPPLIES THROUGH INWARDS DUTY FREE SHOPS — SUBDIVISION 38-K	89
Inward duty free stores	89
CROWN LAND — SUBDIVISION 38-L	90
Long-term lease	90
SUBDIVIDED FARM LAND - SUBDIVISION 38-M	90
CARS FOR USE BY DISABLED PEOPLE — SUBDIVISION 38-N	90
<i>Disabled veterans</i>	90
Car parts	91
INPUT TAXED SUPPLIES	91
FINANCIAL SUPPLIES — SUBDIVISION 40-A	91
<i>What are financial supplies?</i>	91
Money – item 1	92
5.144 Generally the provision of money in exchange for a supply is not a supply. Subsection 9-10(2).	
93	
Accounts – item 2	93
Dealing with securities for a debt – item 3	93
Equity securities – item 4	94
Unit trusts – item 5	94

Futures contracts – item 6	94
Options and warrants – item 7	94
Underwriting – item 8.....	94
Superannuation funds – item 9.....	94
Life insurance – item 10	95
Hire purchase agreements – item 11	95
Incidental supplies – item 12	95
Arranging financial supplies – item 13	95
<i>Exclusions from the definition of financial supplies</i>	<i>96</i>
SUPPLY OF RESIDENTIAL PREMISES — SUBDIVISIONS 40-B AND 40-C	96
<i>What are residential premises?.....</i>	<i>97</i>
NON-TAXABLE IMPORTATIONS — DIVISION 42.....	97
<i>Importations of GST-free or input taxed goods</i>	<i>98</i>
<i>Non-taxable importations in Part 3-2</i>	<i>98</i>
<i>Non-taxable importations – Schedule 4 to the Customs Tariff Act 1995</i>	<i>98</i>
Repair and warranty-related importations	98
Goods of insubstantial value.....	98
Other.....	99
<i>Ship and aircraft stores.....</i>	<i>99</i>
<i>Passenger and transport crew concessions</i>	<i>99</i>
CHAPTER 5	102
GST GROUPS — DIVISION 48.....	102
Companies generally.....	102
Non-profit bodies.....	103
Effect of forming a GST group.....	103
GST and input tax credits	103
Joint and several liability	103
Adjustments	103
Importations	104
<i>Eligibility criteria.....</i>	<i>104</i>
Companies generally.....	104
Non-profit bodies.....	104
<i>Application.....</i>	<i>105</i>
<i>Thresholds.....</i>	<i>105</i>
<i>Changing membership</i>	<i>105</i>

Changing membership on application	105
Changing membership without application	106
<i>Dissolving a GST group</i>	106
On application	106
Without application	106
<i>Effect of leaving or joining a GST group</i>	106
Joining a GST group	106
Leaving a GST group	106
GST JOINT VENTURES — DIVISION 51	107
GST and input tax credits	107
<i>Eligibility criteria</i>	108
<i>Changing participants</i>	108
Changing participants on application	108
Changing participants without application	108
<i>Dissolving a GST joint venture</i>	109
On application	109
Without application	109
<i>Effect of leaving a GST joint venture</i>	109
Joining a GST joint venture	109
Leaving a GST joint venture	109
GST BRANCHES — DIVISION 54	110
<i>Commercial accounting practice</i>	110
<i>Eligibility</i>	110
<i>Effect of separate registration</i>	110
<i>Net amounts</i>	111
<i>Returns</i>	111
<i>Payments and refunds of GST</i>	111
<i>Application for separate registration</i>	111
Cancelling separate registration of your GST branches	112
RESIDENT AGENTS FOR NON-RESIDENTS — DIVISION 57	112
PRE-ESTABLISHMENT COSTS — DIVISION 60	113
<i>What would happen without this special rule</i>	113
<i>Conditions</i>	114
<i>Creditable purpose</i>	115
<i>Input tax credit</i>	115
Attribution	115
Creditable acquisitions	115

Creditable importations	115
<i>Change in creditable purpose</i>	115
SECOND-HAND GOODS — DIVISION 66.....	116
<i>Eligibility</i>	116
THE AMOUNT OF THE INPUT TAX CREDIT	116
WHICH TAX PERIOD IS THE INPUT TAX CREDIT ATTRIBUTABLE TO?	117
NON-DEDUCTIBLE EXPENSES — DIVISION 69.....	117
<i>Non-deductible expenses</i>	117
<i>Car depreciation limit</i>	118
ASSOCIATES — DIVISION 72	118
SUPPLIES WITHOUT CONSIDERATION	119
SUPPLIES FOR INADEQUATE CONSIDERATION	119
WHEN THE SPECIAL RULE DOES NOT APPLY	120
SALE OF FREEHOLD INTERESTS — DIVISION 75	120
MARGIN SCHEME.....	121
<i>Valuation</i>	122
Generally.....	122
Commonwealth, a State or a Territory	122
Unregistered entity becoming registered	122
Valuations	122
SUBDIVISION OF LAND	123
INSURANCE — DIVISION 78.....	123
PAYMENT OF TAXES — DIVISION 81.....	124
OFFSHORE SUPPLIES OF OTHER THAN GOODS OR REAL PROPERTY — DIVISION 84	125
LONG TERM COMMERCIAL ACCOMMODATION — DIVISION 87	126
WHAT IS COMMERCIAL ACCOMMODATION?	127
WHAT ARE COMMERCIAL RESIDENTIAL PREMISES?	127
WHEN ARE COMMERCIAL RESIDENTIAL PREMISES PREDOMINANTLY FOR LONG TERM ACCOMMODATION?	127
COMPANY AMALGAMATIONS — DIVISION 90.....	128
<i>Registration</i>	129
<i>A and B not registered, C registered</i>	129
<i>A and B registered, C not registered</i>	129
<i>A and B registered, C registered</i>	129
GST and input credits.....	129
Adjustments.....	129
Different accounting basis	130

A or B on cash basis, C not on cash basis	130
RETURNABLE CONTAINERS — DIVISION 93	131
<i>Delayed input tax credit</i>	131
SUPPLIES PARTLY CONNECTED WITH AUSTRALIA — DIVISION 96	132
Incidental supplies	132
SECURITY DEPOSITS — DIVISION 99	133
CANCELLED LAY-BY SALES — DIVISION 102.....	134
SUPPLY IN SATISFACTION OF A DEBT — DIVISION 105.....	134
<i>When supplies in satisfaction of debt are not taxable</i>	135
<i>Liability for GST on taxable supplies in satisfaction of debt</i>	135
Returns.....	135
VALUATION OF SUPPLIES IN BOND — DIVISION 108.....	135
IMPORTATIONS WITHOUT ENTRY FOR HOME CONSUMPTION — DIVISION 114	136
VALUATION OF EXPORTS MADE FOR REPAIR OR RENOVATION — DIVISION 117..	136
DIESEL FUEL CREDITS — DIVISION 123.....	137
<i>Creditable diesel fuel consumption</i>	138
Land transport	138
Other than land transport.....	138
<i>Amount of the credit</i>	138
Land transport	138
Other than land transport.....	139
Mixed use.....	139
<i>Partly creditable diesel fuel consumption</i>	139
GAMBLING — DIVISION 126.....	139
<i>Amount of GST</i>	140
<i>Input tax credits</i>	140
<i>Non-money prizes</i>	140
Donated non-money prizes	142
<i>Net amount if you make gambling supplies</i>	143
<i>Losses</i>	143
<i>Gambling and bad debts</i>	143
Written off	143
Recovered	143
<i>Racing</i>	143

ADJUSTMENTS FOR CHANGES IN CREDITABLE PURPOSE — DIVISION 129.....	144
<i>Adjustment periods.....</i>	<i>145</i>
Acquisitions or importations of \$50,000 or less	145
Acquisitions or importations of \$50,000 to \$500,000	145
Acquisitions or importations of \$500,000 or more.....	145
Tax exclusive value.....	146
<i>Increasing adjustment.....</i>	<i>146</i>
<i>Decreasing adjustment.....</i>	<i>146</i>
<i>No adjustment</i>	<i>146</i>
No change in extent of creditable purpose.....	146
Unconditional gifts to charities.....	147
<i>Actual application.....</i>	<i>147</i>
Creditable purpose	147
Apply	147
<i>Intended or former application.....</i>	<i>147</i>
<i>Interaction with adjustment events.....</i>	<i>148</i>
<i>Amount of increasing adjustment.....</i>	<i>148</i>
<i>Amount of decreasing adjustment.....</i>	<i>149</i>
<i>Thing is lost, stolen, disposed of or expires</i>	<i>150</i>
<i>Adjustment on disposal</i>	<i>150</i>
SUPPLIES OF THINGS ACQUIRED OR IMPORTED TO MAKE SUPPLIES — DIVISION	
132.....	150
Value used in your enterprise	150
Supply consideration less than acquisition consideration	151
Supply consideration more than acquisition consideration.....	151
SUPPLIES OF GOING CONCERNS — DIVISION 135	153
Adjustment for change in creditable purpose	154
CESSATION OF REGISTRATION — DIVISION 138	154
<i>Cessation of registration and supply of a going concern.....</i>	<i>155</i>
TAXI DRIVERS — DIVISION 144.....	155
REPRESENTATIVES FOR INCAPACITATED ENTITIES — DIVISION 147	156
<i>Liability.....</i>	<i>156</i>
<i>Registration.....</i>	<i>156</i>
<i>Tax periods</i>	<i>157</i>
<i>More than one representative</i>	<i>157</i>
AGENTS — DIVISION 153	157
Tax invoice for acquisitions.....	157

Adjustment notes for decreasing adjustment	158
Tax invoices for taxable supplies.....	158
PROGRESSIVE SUPPLIES — DIVISION 156	158
Partly connected with Australia	158
Adjustments for changes in extent of creditable purpose.....	159
CHANGING ACCOUNTING BASIS — DIVISION 159	159
<i>Criteria for changing accounting basis</i>	<i>159</i>
<i>Changing basis.....</i>	<i>159</i>
Change from the cash basis	159
Accounting for input tax credits.....	159
Accounting for GST.....	160
Accounting for adjustments	161
Change to the cash basis.....	161
Importations	161
ANTI-AVOIDANCE — DIVISION 165.....	162
BACKGROUND	162
EXPLANATION OF THE PROVISIONS	163
When will the GAP apply? (Subdivision 165-A)	163
What are the consequences of the GAP applying? (Subdivisions 165-B and 165-C).....	164
<i>Explanation of the specific rules – Subdivision 165-A: Application of the GAP</i>	<i>164</i>
Requirement 1: There must be a scheme	164
Requirement 2: An entity must get a GST benefit from a scheme.....	165
Types of GST benefit	165
What connection does there need to be between the GST benefit and the scheme?	166
An entity can get GST benefits from part of a scheme	166
Requirement 3: The purpose or effect of the scheme was to obtain a GST benefit	166
What is the purpose test?	166
What is the effect test?.....	167
What matters are to be considered in determining purpose or effect?	167
Does it matter where the scheme is entered into or carried out?	169
<i>Explanation of the specific rules – Subdivision 165-B: Commissioner may negate effects of schemes</i>	<i>169</i>
The Commissioner can make declarations making an avoider's GST benefits ineffective	169

The Commissioner can make declarations compensating an entity other than the avoider	170
The Commissioner can disregard any part of the scheme in making declarations	171
Amounts are payable in accordance with the declaration	171
Other administrative matters	172
One declaration can cover several tax periods or importations	172
A copy of a declaration must be given to the entity affected	172
<i>Explanation of the specific rules – Subdivision 165-C: Penalties for the avoider</i>	173
In what circumstances is the penalty imposed?	173
What is the amount of the penalty?	173
The payment of the penalty is in addition to other payments	173
Remission, payment and recovery of the penalty	173
TOURIST REFUNDS	173
GST AND CUSTOMS SECURITY PAYMENTS	174
CHAPTER 6	176
TAX INVOICES	176
<i>What is a tax invoice?</i>	176
<i>When is a tax invoice issued?</i>	176
<i>Contents of a tax invoice</i>	177
<i>Recipient-created tax invoices</i>	178
<i>Agent created tax invoices</i>	178
<i>Sale in satisfaction of debt</i>	179
ADJUSTMENT NOTES	179
<i>Content of Adjustment Notes</i>	179
<i>Low value supplies</i>	179
RETURNS, PAYMENTS, REFUNDS	180
RETURNS	180
Generally	180
Zero net amount or no taxable supplies	180
Electronic lodgement	181
Additional GST returns	181
PAYMENTS OF GST	181
When you pay	181
Extending time for payment	181
Bringing forward time for payment	182
How you pay	182

<i>Importations</i>	182
REFUNDS	182
How refunds are made	182
ANNUAL TURNOVER	183
<i>Meeting a threshold</i>	183
<i>Not meeting a threshold</i>	183
<i>Current and projected annual turnover</i>	183
Current annual turnover	184
Projected annual turnover	184
MISCELLANEOUS – DIVISION 177	184
Commonwealth and Commonwealth entities not liable for GST	184
Cancellation of exemptions from GST	184
Regulation power	184
<i>Schedule 1 – 5.27</i>	202

GUIDE AND OVERVIEW OF THE BILL

This Explanatory Memorandum is set out in the following way.

Overview of the Bill

Chapter 1	provides an Executive Summary of the Goods and Services Tax.
Chapter 2	tells you who is in the goods and services tax system.
Chapter 3	discusses the central concepts of the goods and services tax.
Chapter 4	tells you how to account for the goods and services tax.
Chapter 5	sets out those things that are GST-free and input taxed.
Chapter 6	discusses the special rules that alter the central concepts in particular situations.
Chapter 7	tells you about various matters related to working with the goods and services tax.

Terms

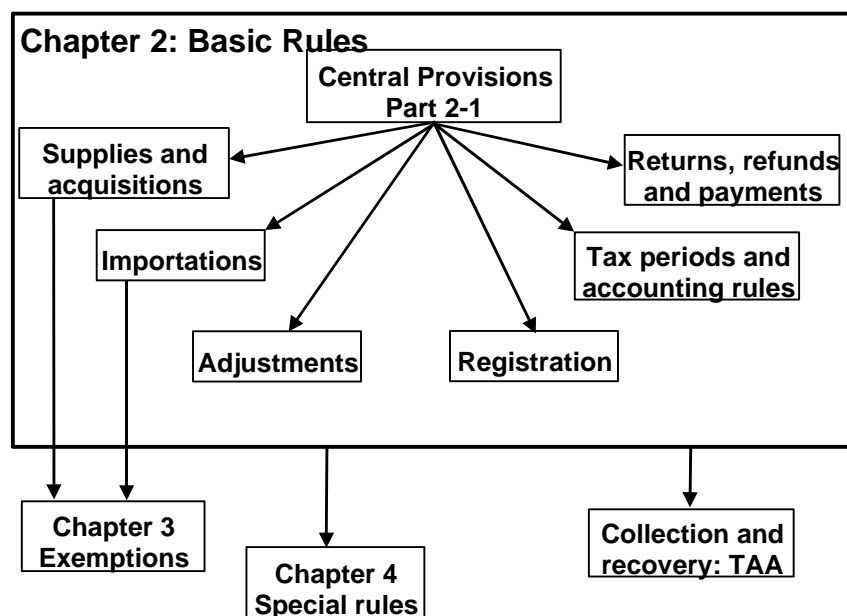
In this Explanatory Memorandum the following terms are used:

The Bill	<i>A New Tax System (Goods and Services Tax) Bill 1998</i>
The Administration Act	<i>A New Tax System (Goods and Services Tax Administration) Act 1998</i>
The Transition Act	<i>A New Tax System (Goods and Services Tax Transition) Act 1998</i>
Commissioner	The Commissioner of Taxation
GST	goods and services tax

OVERVIEW OF THE BILL

Structure

The Bill is structured so that the basic rules and central concepts are at the beginning. The transactions of most entities will be covered by these rules in Chapter 2 of the Bill. If they need to consider other provisions, the Bill provides sign-posting and checklists to guide them. The exceptions set out in Chapters 3 and 4 of the Bill override or modify the general rules in a number of ways to tailor the operation of the GST to particular situations or provide special concessions.



Chapter 2 of the Bill provides the basic rules about situations that are likely to have GST consequences. These cover most transactions most of the time. There are general rules that tell you which supplies and acquisitions give rise to GST liabilities, who is liable to pay GST, how to calculate the amount of GST and how amounts are paid or refunded on a periodic basis.

Chapter 3 of the Bill covers the non-taxable supplies. These are the particular types of supplies, acquisitions and importations that do not attract GST. The non-taxable supplies are the first type of exception to the general rules. For example, most supplies of health, education and childcare are GST-free. For other non-taxable supplies, the supplier does not charge GST on the supply but is not able to get credits. These supplies are input taxed. For example, supplies of residential rents and financial services are input taxed.

Chapter 4 of the Bill contains the special rules. The special rules modify the application of the general rules, but apply only in limited circumstances or to a limited group of entities.

The special rules are the second type of exception to the general rules. For example, the rules in Chapter 2 make a person who makes a supply liable to pay the tax. In some cases covered in Chapter 4 of the Bill someone else is liable to pay the tax. For example, where GST groups of companies are formed, or where an agent is acting on behalf of a non-resident.

Provisions dealing with collection and recovery aspects of GST are not in the Bill. As indicated in the diagram, they will be in the *Taxation Administration Act 1953* as for administrative provisions for other taxes.

CHAPTER 1

EXECUTIVE SUMMARY

This chapter gives you a brief summary of what is the Goods and Services Tax.

EXECUTIVE SUMMARY

The GST is a broad based indirect tax introduced by the Government to replace the wholesales sales tax and a number of State indirect taxes. Broadly speaking, the GST is a tax on private consumption in Australia. The GST taxes the consumption of most goods, services and anything else in Australia, including things that are imported. Generally the GST will not apply to consumption outside Australia, which is why the GST does not apply to exports.

This is generally achieved by:

- imposing tax on supplies made by entities registered for GST; but
- allowing those entities to offset the GST they are liable to pay on supplies they make against *input tax credits* for the GST that was included in the price they paid for their business inputs.

GST in a nutshell

GST is effectively a tax on final private consumption in Australia. These are the general rules on how it works.

It's a tax on supplies and importations (unless input taxed or GST-free) ...

GST is a tax on a supply or importation of anything (goods, services or anything else), except to the extent that the supply or importation is input taxed or GST-free.

made by anyone registered.

However, the supplier or importer (except an importer of goods) must be registered under this Act. Anyone carrying on an enterprise (a term that includes a business) may be registered.

A thing is taxed each time it's supplied or imported.

A thing can attract GST *each* time it is supplied or imported along the commercial chain to its final consumption in Australia.

GST is borne by consumers ...

GST is effectively borne by consumers when they acquire anything to consume.

and remitted by suppliers.

GST is remitted by suppliers who make supplies in carrying on their enterprise. Suppliers do not bear the GST because the tax is included in the price of what they supply.

GST is paid by importers.

Importations of goods are different. The Australian Customs Service collects the GST, from the importers, on imported goods when they are imported. There is no requirement for the importer to be registered or even carrying on an enterprise.

Suppliers and importers get input tax credit ...

To ensure that GST is effectively borne by consumers, anyone who is registered is generally entitled to an input tax credit for the GST on what they acquire or import for the purpose of their enterprise. Generally, the amount of the input tax credit is the same as the amount of GST that was:

- included in the purchase price of the acquisition; or
- paid to Customs on the importation.

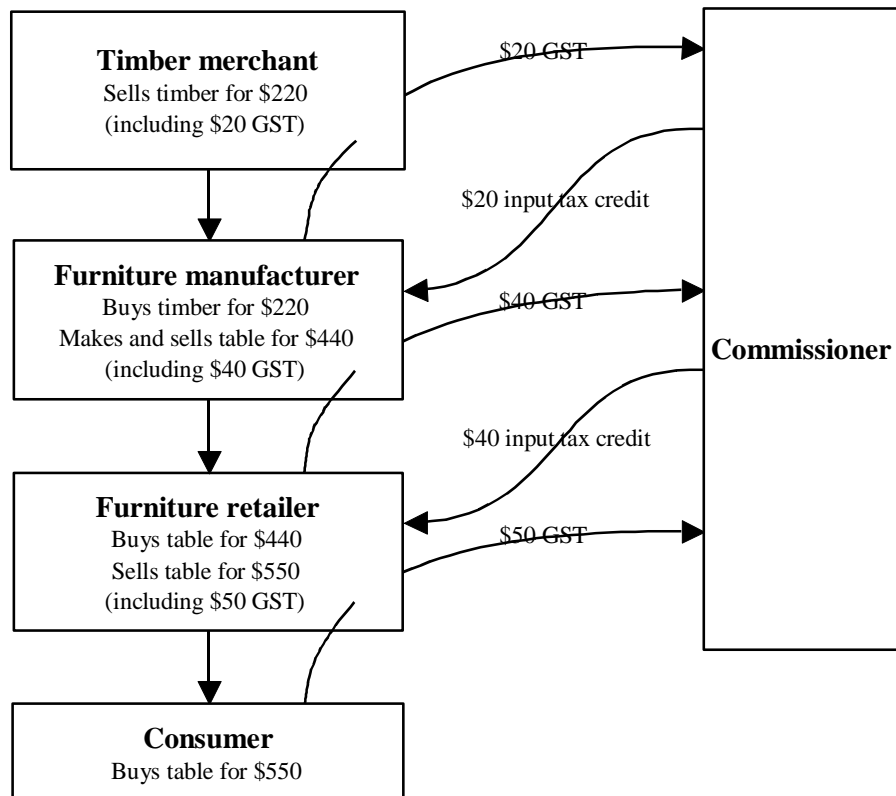
In effect, the input tax credit is a reimbursement of the GST paid on the acquisition or importation.

but consumers don't.

However, there is no input tax credit for anything acquired or imported for private consumption. The effect of this is that consumers are not reimbursed for the GST paid on their acquisitions or importations. Consumers therefore bear the GST.

An example of how GST works

This diagram shows how GST generally works by using a simple example of a chain of supplies leading to a sale to a consumer. The diagram is followed by a discussion of the example.



Timber merchant

The timber merchant sells timber to the furniture manufacturer for \$220. That purchase price includes the \$20 GST payable on the supply. The timber merchant must remit \$20 to the Commissioner. He is not out of pocket for the \$20 because it was included in the price he charged.

Furniture manufacturer

Because the furniture manufacturer acquired the timber for the purpose of her enterprise, she is entitled to an input tax credit from the Commissioner for that acquisition. The amount of the input tax credit is \$20. This is the amount of tax included in the price that she paid for the timber, so she is not out of pocket for the GST included in the purchase price.

The furniture manufacturer makes a table out of the timber and sells it to the furniture retailer for \$440. That purchase price includes the \$40 GST payable on the supply. The furniture manufacturer must remit \$40 to the Commissioner, but she is not out of pocket for it because it was included in the price she charged.

Furniture retailer

Because the furniture retailer acquired the table for the purpose of his enterprise, he is entitled to an input tax credit for that acquisition from the Commissioner. The amount of the input tax credit is \$40. This is the amount of GST included in the price that he paid for the table, so he is not out of pocket for the GST included in the purchase price.

The furniture retailer sells the table to the consumer for \$550. That purchase price includes the \$50 GST payable on the supply. The furniture retailer must remit \$50 to the Commissioner, but he is not out of pocket for it because it was included in the price he charged.

Consumer

The consumer is *not* entitled to an input tax credit for buying the table because she did not buy it for the purpose of an enterprise. Therefore she bears the \$50 GST included in the purchase price she paid for the table.

Commissioner

The Commissioner is paid a total of \$110 GST for the supplies by the timber merchant (\$20), the furniture manufacturer (\$40) and the furniture retailer (\$50).

However, the Commissioner pays in total \$60 in input tax credits to the furniture manufacturer (\$20) and the furniture retailer (\$40).

The difference between the amount the Commissioner is paid and the amount the Commissioner pays equals \$50, which corresponds to the GST that was included in the purchase price paid by the consumer.

Enterprise

Enterprise is defined widely because the GST is intended to have a broad base. Certain things are included as enterprises so that input tax credits are available to them. Enterprise includes:

- a business, trade, or profession;
- a lease, licence or other grant of interest in property;
- certain activities of gift deductible funds, authorities or institutions;
- certain activities of charitable institutions;
- certain activities of religious institutions; and
- certain activities of governments and government corporations.

Certain things are excluded from being an enterprise. For example, hobbies, private recreational pursuits and employee wages are not subject to GST. For individuals and partnerships there must also be a reasonable expectation of profit or gain.

Registration

If you have an enterprise, whether you are an individual, partnership, company, trust or other entity, you are required to register if your annual turnover is \$50,000 or more.

Non-profit bodies are only required to register if their annual turnover (including membership fees, but not donations) is \$100,000 or more.

If your annual turnover is below these thresholds you do not have to register, but you can choose to register. If you do not register, you do not charge GST on your supplies and you are not entitled to input tax credits.

Accounting

Generally, you account for GST when an invoice is issued, or payment received if the payment is received before an invoice is issued. If your annual turnover is less than \$500,000 you can choose to account for GST on a cash basis. That is, when and to the extent that payments are received.

Net amount

Rather than remitting GST or receiving an input tax credit whenever you made a taxable supply or a creditable acquisition, you attribute GST and input tax credits to tax periods and work out a total.

Your net amount for a tax period is a total of your GST, input tax credits and adjustments that are attributable to that tax period.

The accounting rules tell you to which tax period you attribute GST, input tax credits and adjustments.

Paying GST and claiming refunds

If you are registered, you pay GST or claim refunds in relation to either quarterly or monthly tax periods. If your annual turnover is less than \$20 million you may choose to have quarterly or monthly tax periods. If your annual turnover is \$20 million or more you must have monthly tax periods. Generally, the Commissioner will only pay your refunds directly into your bank account.

Electronic lodgment

If you are required to have monthly tax periods you must lodge GST returns and pay GST to the Commissioner electronically.

Private sales

Private sales by registered or unregistered people, such as at a garage sale, are not subject to the GST.

Displayed prices

Displayed prices will include GST.

Non-taxable supplies

Some things will not be taxed, such as most health, education and childcare services.

There are two types of non-taxable supplies under the GST:

- GST-free; and
- input taxed.

If a supply is GST-free, you do not charge GST on the supply, and you are entitled to input tax credits on the things you acquired to make the supply.

If a supply is input taxed, you do not charge GST on the supply, but you are *not* entitled to input tax credits on the things you acquired to make the supply.

Generally supplies are input taxed where it is technically difficult to impose GST on the supply, but it is not appropriate to allow the supply to be GST-free.

GST-free supplies

Exports

Exports will be GST-free. Exported goods must be physically exported from Australia and exported services must be performed outside Australia.

Tourists

Goods and services consumed by tourists in Australia, such as meals and hotel accommodation are subject to GST under the general rules. International air and sea travel is GST-free, as is any domestic air travel purchased overseas by non-residents. Tourists and Australian residents going overseas are able to recover the GST they pay on goods purchased in Australia and taken away with them when they leave. It is proposed that refunds apply to purchases of at least \$300 made from any one business within 28 days of departure.

However, if the goods are subsequently brought back, that is, imported into Australia, GST will be payable at that time as for all imports.

Health and medical care

Generally, medical and hospital care services and health insurance are GST-free.

Medical services

Medical services are GST-free if they are provided by a medical practitioner or an approved pathology practitioner, or are commonly used health services supplied by a recognised professional. Examples of GST-free health services are listed below:

- general practitioner and specialist consultations;
- ambulance services; and
- diagnostic, surgical and therapeutic procedures (for example, ophthalmology, neurology, optometry, radiation oncology, anaesthetics, radiology, ultrasound etc) and pathology.

Other medical services that are GST-free include:

- Aboriginal or Torres Strait Islander health;
- audiology, audiometry;
- chiropody;
- chiropractic;
- dental;
- dietary;
- nursing;
- occupational therapy;
- optical;
- osteopathy;
- paramedical;
- pharmacy;
- psychology;
- physiotherapy;
- podiatry;

- speech pathology;
- speech therapy; and
- social work.

Hospitals and nursing homes

Health care provided at hospitals, nursing homes, hostels and similar establishments is GST-free, as is nursing care services supplied to patients at home. The concession extends to accommodation, drugs, dressings and meals supplied to patients or nursing home residents in the course of their treatment or care. Supplies of items not related to health care, such as food served in hospital cafeterias, or televisions rented to patients, are subject to GST under the general rules.

Medical appliances and aids

The supply of certain medical appliances for use by people with medical conditions or disabilities, such as wheel chairs, crutches, artificial limbs and modifications to motor vehicles for the disabled, is GST-free.

Drugs and medicines

The supply of certain drugs and medicines that can only be provided on prescription or Pharmaceutical Benefits Scheme and Repatriation Pharmaceutical Benefits Scheme medicines provided on prescription will be GST-free. This includes drugs prescribed by medical practitioners, dental practitioners and pharmacists.

Education

Generally, the following educational services are GST-free:

- tuition at or through a pre-school, primary or secondary school;
- tuition provided at a college, TAFE, university or other recognised institution that leads to a degree, diploma, certificate or other similar qualification; and
- the provision of accommodation at boarding schools.

Some related goods and services will be taxable

Supplies that would normally be subject to GST will not become GST-free simply because a school acts as a purchasing agent. Things other than educational services, such as computers and books, supplied to students by an educational institution are subject to GST in the normal way. However, goods loaned to students free of charge will not be taxed.

Examples of supplies that are not GST-free include:

- the food component of boarding fees, and food and beverages sold to students (eg in tuck-shops);
- school bus services and uniforms;
- fees charged for equipment hire (eg musical instruments); and
- supplies for fundraising purposes.

Childcare

Childcare supplied by a registered childcare provider is GST-free.

Charitable activities

Non-commercial supplies by charities and gift-deductible entities are GST-free.

Religious services

Generally, religious services will be GST-free. Churches and other institutions that supply religious services will not charge tax on those services and will be able to claim input tax credits for tax paid on their inputs.

Religious items for use in private devotion are subject to GST under the general rules.

Other GST-free supplies

Other GST-free supplies include:

- supplies of going concerns;
- water and sewerage;
- domestic air travel by non-residents;
- precious metals;
- supplies through inwards duty free shops;
- grants of freehold and similar interests by governments; and
- cars for use by disabled people.

Input taxed supplies

Financial supplies

In general financial supplies are input taxed. Some financial supplies for which there is a readily identifiable fee or charge, such as investment advice, are subject to GST.

Exports of financial services will be GST-free, in line with the treatment of other exports.

Residential rents

Residential rents will be input taxed to ensure comparable treatment for renters with owner-occupiers.

Residential premises

Supplies of residential premises other than the sale of a new house are input taxed.

Precious metal

The first supply of precious metal after refinement is GST-free. Subsequent supplies are input taxed.

Special rules

There are special rules that modify the general rules. The special rules tailor the operation of the GST to particular situations or provide concessions. Three examples of the special rules are discussed below.

Second hand goods

In line with the treatment of new goods, the supply of second hand goods by registered persons is generally subject to GST, but not if the supply is of a private nature. For example, generally you will not charge GST when you sell your family car.

Gambling and lotteries

GST applies to the operator's margin of these activities, not to the prizes paid out. That is, GST applies to the difference between total 'ticket sales' or 'bets taken' and the value of the prizes or winnings paid out. Input tax credits are available to the operator.

Diesel fuel credits

Diesel fuel credits are available to offset the excise or customs duty included in the price of diesel and like fuels for certain transport and off-road use.

CHAPTER 2

WHO IS IN THE GST SYSTEM

This chapter explains when you:

- *can choose to be in the GST system;*
 - *are required to be in the GST system;*
 - *can choose to leave the GST system; and*
 - *are required to leave the GST system.*
-

CHAPTER SUMMARY

<i>Entity</i>	In the legislation you are the entity. See 2.1.
<i>Enterprise</i>	You must be carrying on an enterprise to be able to register for GST. See 2.2.
<i>Registration</i>	You must be registered to be part of the GST system. See 2.6.
<i>Required to be registered</i>	If you are required to be registered, the GST system applies to you even if you are not actually registered. See 2.20.
<i>Cancellation</i>	You can cancel your registration in certain circumstances. See 2.24. In certain circumstances your registration must be cancelled. See 2.28.

ENTITY

2.1 When the legislation and explanatory memorandum refers to *you*, it is generally referring to the entity. An *entity* is defined at **section 195-1** to mean:

- an individual;
- a body corporate;
- a corporation sole;
- a body politic;
- a partnership;
- any other unincorporated association or body of persons;
- a trust; and
- a superannuation fund.

ENTERPRISE

2.2 An entity may be registered for GST if it is carrying on an enterprise. **Section 9-20** defines enterprise. An entity (you) can carry on more than one enterprise, and can carry on more than one type of enterprise.

2.3 *Enterprise* has been defined very broadly. Several of the things included as enterprises are included not so that they charge GST on their supplies, but so that they can become registered and obtain input tax credits.

2.4 Hobbies or recreational activities and activities where there is no reasonable expectation of profit or gain are specifically excluded from being enterprises. The wages and salaries of employees are not subject to GST. This is why **paragraph 9-20(2)(a)** specifically takes out of enterprise the activities of employees or other people subject to the Pay As You Earn (PAYE) system. **Subsection 9-20(2)**

2.5 However, if a partner of a law firm accepts a directorship of a company in their capacity as partner of the law firm, a supply is made to the company from the law firm. The partner is not acting as an employee of the company. Therefore, even though the payment of director's fees is subject to PAYE, the payment of the fees should be subject to the GST. This is an example of what the proviso to **paragraph 9-20(2)(a)** covers.

REGISTRATION

2.6 Whether or not you are in the GST system depends upon whether you are registered or required to be registered. A registration system is necessary for the administration of the GST to ensure that GST is only collected by those required to do so. Registration also helps you to know whether someone you deal with is entitled to include GST in the price they charge you.

2.7 **Division 23** provides who must be registered and who may be registered. This is discussed at 2.8 and 2.13. **Division 25** provides how you register and how your registration can be cancelled. This is discussed at 2.15 and 2.23.

Who must be registered

2.8 Whether or not you are required to be registered depends on whether you are carrying on an enterprise—see 2.3 for the meaning of *enterprise*. If you are not carrying on an enterprise you cannot become registered unless you intend to carry on an enterprise—see 2.14. If you are carrying on an enterprise, whether or not you are required to be registered depends on your annual turnover. **Sections 23-5 and 23-10.**

Annual turnover—registration turnover threshold

Generally

2.9 If you are carrying on an enterprise, you are required to be registered for GST if your annual turnover is at or above \$50,000. This \$50,000 amount is the *registration turnover threshold*. The registration turnover threshold can be increased from \$50,000 by regulation. **Section 23-5 and subsection 23-15(1)**. Annual turnover is discussed at 7.33.

2.10 If your current annual turnover is less than \$50,000 and you believe your projected annual turnover will be less than \$50,000, you may not be required to be registered. If your projected annual turnover is \$50,000 or more, or your current annual turnover is \$50,000 or more, you will be required to be registered. You will be required to be registered if the Commissioner is not satisfied that your projected annual turnover will be less than \$50,000. **Section 23-5 and subsection 23-15(1).**

2.11 If you are carrying on an enterprise, you are not required to be registered if your current annual turnover and your projected annual turnover are below \$50,000. However, you will be required to be registered if the Commissioner is satisfied that your projected annual turnover is above \$50,000. **Sections 23-5, 23-15 and 188-20.**

Non-profit bodies

2.12 If you are a non-profit body carrying on an enterprise you are required to be registered for GST if your annual turnover is at or above \$100,000. All of the above rules apply, except that the registration turnover threshold is \$100,000. **Section 23-5, 188-20 and subsection 23-15(2).**

Who may be registered

2.13 Even if you are not required to be registered for GST you can choose to register if you are carrying on an enterprise. **Subsection 23-10(1).**

2.14 You may also choose to register if you are not carrying on an enterprise but intend to do so in the future. **Subsection 23-10(2).**

How you become registered

2.15 **Subdivision 25-A** deals with how you can register and how the Commissioner can register you.

You apply for registration

2.16 Generally, you register by applying to the Commissioner for registration. You must apply in the form approved by the Commissioner—**paragraph 25-5(1)(a) and section 25-10.**

When you must apply for registration

2.17 If you are not already registered, you must apply for registration within 21 days of becoming required to be registered—**section 25-1**. There is a penalty for failing to apply for registration when you are required to do so—**new section 42** of the *Taxation Administration Act 1953*. If you are carrying on an enterprise the Commissioner must register you if you

apply—**subsection 25-5(1)**. If the Commissioner is not satisfied that you are carrying on an enterprise you cannot be registered—**paragraph 25-5(1)(b)**.

When you may apply for registration

2.18 You can apply for registration before you start an enterprise provided that you satisfy the Commissioner that you intend to start an enterprise—**paragraph 25-5(1)(b)**.

Date of effect

2.19 Generally, the date of effect of your registration will be the date you put in your application. However, there are provisions which enable the Commissioner to specify another date. **Section 25-10**

When you have not applied for registration

2.20 The Commissioner can register you if he or she is satisfied that you are required to be registered even if you have not applied— **subsection 25-5(2)**. The Commissioner will decide the date of effect— **paragraph 25-10(a)**.

Notification of decisions

2.21 The Commissioner must notify you of decisions about your registration. **Subsection 25-5(3)**

Backdating registration

2.22 If the date of effect of your registration is backdated by the Commissioner, any supplies, importations and acquisitions made by you between the date of effect and the date of the decision are included in the GST system—**section 25-15**.

How your registration is cancelled

2.23 **Subdivision 25-B** deals with how you can cancel your registration and how the Commissioner can cancel your registration.

You apply for cancellation

2.24 Generally your registration is cancelled by you applying to the Commissioner for cancellation. You must apply in the form approved by the Commissioner—**paragraph 25-55(1)(a)**.

When you must apply for cancellation

2.25 You must apply for cancellation, within 21 days of ceasing to carry on your enterprise. There is a penalty for failing to apply for cancellation when you are required to do so—**new section 42** of the *Taxation Administration Act 1953*.

2.26 Generally, the Commissioner will cancel your registration if you apply but you must have been registered for at least twelve months before you apply for cancellation. **Subsection 25-55(1)**.

When you can apply for cancellation

2.27 You can apply for cancellation of your registration, even if you are still carrying on an enterprise, if you are not required to be registered (for example, your annual turnover drops below \$50,000). If you apply for cancellation in these circumstances the Commissioner must cancel your registration. **Subsection 25-55(1)**.

When you have not applied for cancellation

2.28 If you have ceased to carry on any enterprise and the Commissioner does not believe on reasonable grounds that you are likely to carry on any enterprise within 12 months of the cessation, the Commissioner must cancel your registration. The Commissioner can do this even if you have not applied for your registration to be cancelled. **Subsection 25-55(2)**.

Notification of decisions

2.29 The Commissioner must notify you of a decision about whether or not to cancel your registration. The notice must specify the date of effect of the decision. **Subsection 25-55(3)**

Backdating cancellation

2.30 If the date of effect of cancellation of your registration is backdated by the Commissioner, any supplies and acquisitions made by you between the date of effect and the date of the decision are not included in the GST system—**section 25-65**.

CHAPTER 3

CENTRAL CONCEPTS

This chapter tells you the central concepts of the GST. It explains:

- *what supplies and importations are generally taxable;*
 - *what acquisitions and importations are generally creditable;*
 - *generally how to work out the amount of tax and input tax credit; and*
 - *generally what adjustments are and how they are made.*
-

CHAPTER SUMMARY

<i>Taxable supplies</i>	GST is payable by you on your taxable supplies. See 3.4.
<i>Amount of tax on taxable supplies</i>	The amount of GST on a taxable supply is the value of that supply multiplied by the rate of GST. See 3.13.
<i>Creditable acquisitions</i>	You are entitled to credits for your creditable acquisitions. See 3.19.
<i>Amount of credit on creditable acquisitions</i>	The amount of input tax credit on a creditable acquisition is the amount of GST on the supply to you multiplied by the extent of creditable purpose. See 3.30.
<i>Taxable importations</i>	GST is payable by you on your taxable importations. See 3.42.
<i>Creditable importations</i>	You are entitled to input tax credits for your creditable importations. See 3.55.
<i>Amount of tax on taxable importations</i>	The amount of GST on a taxable importation is the value of that importation multiplied by the rate of GST. See 3.52.
<i>Amount of credit on creditable importations</i>	The amount of input tax credit on a creditable importation is the amount of GST on that importation multiplied by the extent of creditable purpose. See 3.61
<i>Adjustments</i>	Adjustments are necessary if the consideration for a supply or acquisition changes due to an adjustment event, or if you write off a bad debt. See 3.70.

CENTRAL CONCEPTS

3.1 GST is payable in relation to certain supplies and importations. Input tax credits for GST paid are available in relation to certain acquisitions and imports. **Division 7** of the Bill sets out the central provisions for deciding whether you must pay GST and whether you are entitled to input tax credits. **Division 7** provides that GST is payable on taxable supplies. Some of the concepts that are relevant to deciding if a supply you make is a taxable supply are contained in other Divisions such as **Division 9**.

3.2 Likewise, **Division 7** provides that input tax credits for acquisitions arise in relation to creditable acquisitions and **Division 11** contains some of the concepts relevant to deciding if an acquisition is creditable.

3.3 There are some situations that do not fit the central concepts. Such situations are dealt with in the special rules in **Chapter 4** of the Bill. The special rules generally alter some of the central concepts in relation to particular supplies and acquisitions.

GST ON SUPPLIES

3.4 GST is payable on supplies that are taxable supplies—**subsection 7-1(1)**. If you make a taxable supply you must pay GST on the taxable supply—**section 9-40**. How GST is paid is discussed under net amount at 4.1.

Taxable supplies

3.5 You make a taxable supply if:

- you make a supply for consideration (see 3.9);
- you make the supply in the course or furtherance of an enterprise that you carry on (see 2.2 and 3.10);
- the supply is connected with Australia (see 3.11); and
- you are registered or required to be registered (see 2.6).

Section 9-5.

If the supply meets these criteria but is partly *GST-free* or partly *input taxed*, or both, the supply is a taxable supply to the extent that it is not GST-free or input taxed. **Section 9-5.**

Supplies

3.6 A supply is any form of supply whatsoever—**subsection 9-10(1)**. This is defined broadly and is intended to encompass supplies as widely as possible. **Subsection 9-10(2)** of the Bill provides a list of things that are included as supplies. It is not an exhaustive list. It does not limit the possible breadth of the definition of supply in **subsection 9-10(1)**.

Money

3.7 Money that is provided as consideration (payment) for a supply is not in itself a supply—**subsection 9-10(2)**. Otherwise money supplied as payment for a supply could be a taxable supply in itself. Money is defined in the **Dictionary**.

Illegal supplies

3.8 Even if a supply is not lawful it is a supply for GST if it meets all the relevant criteria—**subsection 9-10(3)**.

Consideration

3.9 **Section 9-15** defines *consideration*. Consideration for GST is broader than it is for contractual purposes. Consideration for GST is intended to be very broad and includes any:

- payments, acts, refraining from acting or forbearance that are made for a supply;
- payments, acts, refraining from acting or forbearance that are made in response to a supply;
- payments, acts, refraining from acting or forbearance that are made to induce a supply; and
- payment for a supply even if paid by a person other than the recipient of the supply.

The supply of a right or option will be taxed when it is supplied. The later exercise of that right or option will be another supply. That later supply will not be taxable unless there is further consideration when the right or option is exercised. **Subsection 9-15(3)**.

Example

Brian buys a book voucher for his mum for Christmas. He pays \$55 including GST. When his mum later uses the voucher she buys \$66 worth of books, including GST. GST is included in the extra \$11 she pays, but no extra GST is included in the \$55.

In the course or furtherance of your enterprise

3.10 'In the course or furtherance' is not defined, but is broad enough to cover any supplies made in connection with your enterprise. An act done for the purpose or object of furthering an enterprise, or achieving its goals, is a furtherance of an enterprise although it may not always be in the course of that enterprise. 'In the course or furtherance' does not extend to the supply of private commodities, such as when a car dealer sells his or her own private car. See *Case N43* (1991) 13 NZTC 3361.

In connection with Australia

3.11 **Section 9-25** provides generally for what supplies are made in connection with Australia. Australia excludes any external Territory but includes installations such as oil rigs—**section 195-1**. There are three categories of supplies:

- supplies of goods;

- supplies of real property; and

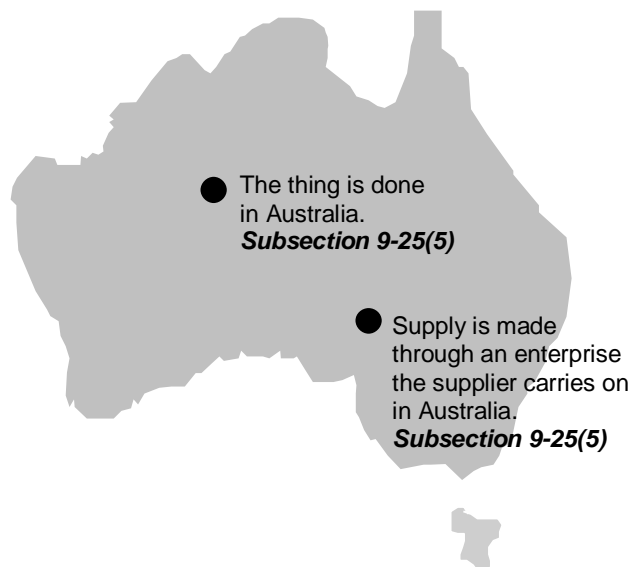


- supplies of things other than goods or real property.

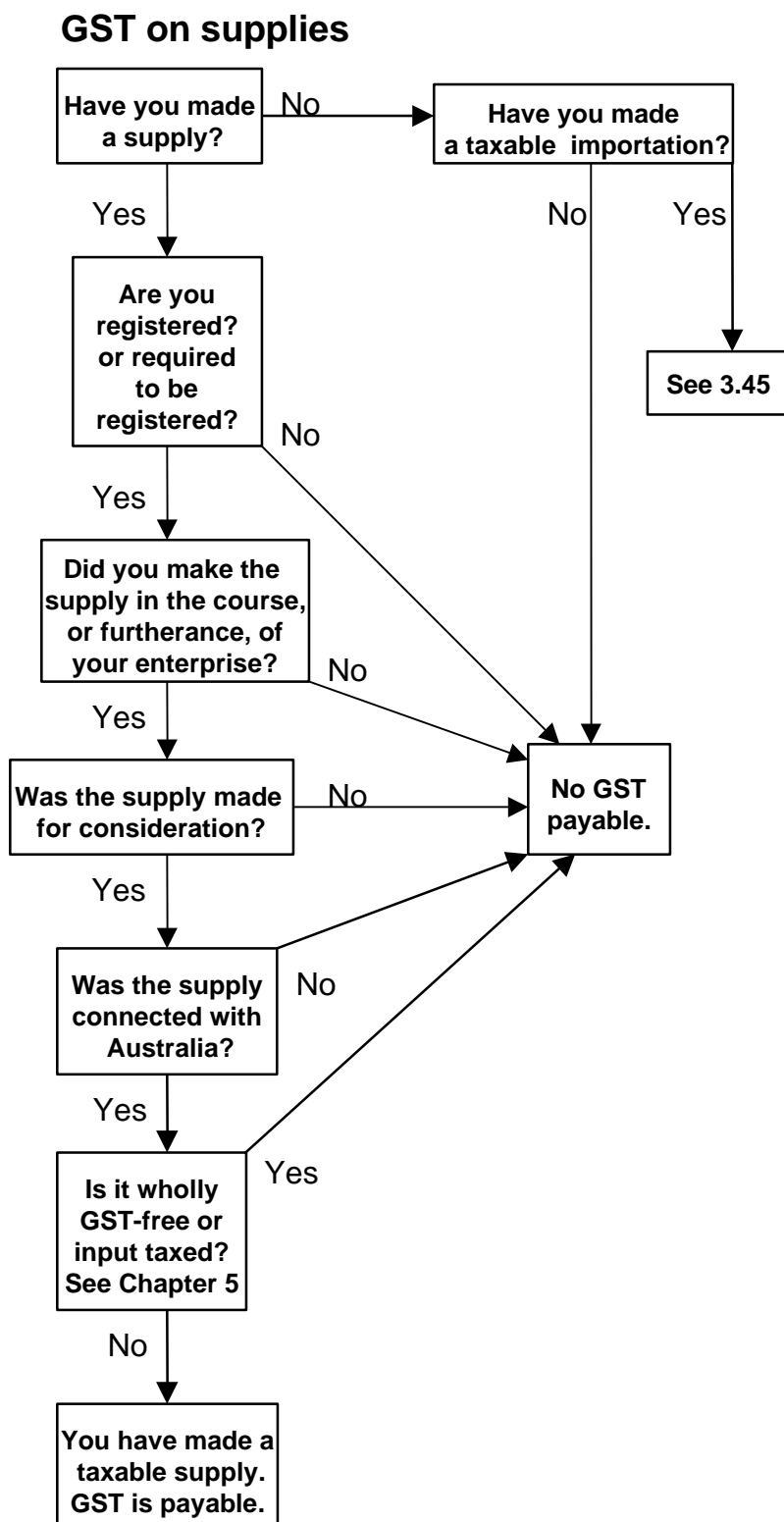
**When supplies of real property
are connected with Australia**



**When supplies of anything
other than goods or real property
are connected with Australia**



Summary



3.12 The following diagram summarises the central concepts of GST on supplies.

Amount of GST on taxable supplies

3.13 **Section 9-70** provides that the amount of GST on a taxable supply is the *value* of the taxable supply multiplied by 10%. 10% is the rate of GST.

Value of taxable supplies

3.14 The value of a taxable supply is determined using the formula in **section 9-75**. With a GST rate of 10% the value of a taxable supply is 10/11 of the *price* paid for the supply.

Price

3.15 The price paid for a taxable supply always includes the GST. The price is the amount of money paid for the supply. If the consideration for the supply is not in money, or not only in money, the price is the sum of the amount of money, if any, and the tax inclusive market value of the non-money part of the consideration—**section 9-75**. Tax inclusive market value is defined in the **Dictionary** to include the amount of GST payable on the supply.

Example

Denis buys a computer for his business. The supply of the computer to him was a taxable supply. He wants to work out how much GST was included in the price of the computer. He paid \$3,300 for the computer. Assume a rate of GST of 10%. The value of the taxable supply of the computer is 10/11 of \$3,300. This is \$3,000. The GST on the taxable supply is 10% of \$3,000. This is \$300.

Tax fraction

3.16 A shortcut to working out how much GST was included in the price paid for a taxable supply is to combine the formula for value with the formula for the amount of GST as

$$GST = value \times rate$$

follows:

$$value = price \times \frac{100\%}{100\% + rate}$$

Putting these two formulae together:

$$\begin{aligned}\therefore GST &= price \times \frac{100\% \times rate}{100\% + rate} \\ GST &= price \times \frac{100\% \times rate}{100\% + rate} \times rate\end{aligned}$$

The rate of GST is 10%. Therefore:

$$GST = price \times \frac{100\% \times 10\%}{100\% + 10\%}$$

$$GST = price \times \frac{1}{11}$$

3.17 So, in the above example Denis could have worked out the amount of GST that was included in the price of his computer by multiplying \$3,300 by 1/11. Doing so produces the same result, that is, \$3,300 x 1/11 equals \$300. This is the tax fraction method of working out the GST on a taxable supply. This method can also be used to work out the input tax credit for a creditable acquisition.

Value of partly taxable, partly GST-free or input taxed supplies

3.18 The value of a supply that is partly taxable and partly GST-free or input taxed is worked out using **section 9-80**. You work out the value of the whole supply as if it were wholly a taxable supply, that is, its value is 10/11 of the price of the whole supply. You then work out the proportion the taxable part of the supply is of the whole supply. Multiply that proportion by the value of the whole supply.

Example

Troy undertakes a six month distance education course offered by the University of Higher Degrees as part of gaining his qualifications as an accountant. Assume that the fees for the course are GST-free under **Subdivision 38-B**. The course includes three residential weekends at one of the University's residential colleges. The University includes the meals and accommodation for the residential weekends in the all-inclusive course fee of \$5,500. The supply of meals is generally a taxable supply. The University must determine the GST liability for the supply of the course by apportioning the all inclusive fee between the meals (taxable) and the tuition (GST-free).

The value of the whole supply is 10/11 of \$5,500, which is \$5,000.

The meals and accommodation represent 10% of this value. The value of the meals and accommodation is 10% of \$5,000, which is \$500. The GST on that value is \$50. The University charges \$50 GST on the whole supply. That is, the all-inclusive course fee is made

up of the following amounts: \$500 for meals and accommodation + \$50 GST + \$4,950 for the GST-free education component.

INPUT TAX CREDITS ON ACQUISITIONS

3.19 Entitlements to input tax credits arise on *creditable acquisitions*—**subsection 7-1(2)**. If you make a creditable acquisition you are entitled to an input tax credit—**section 11-20**. How input tax credits are paid to you is discussed under net amount at 4.1.

Creditable acquisitions

3.20 You make a creditable acquisition if:

- you made the acquisition solely or partly for a *creditable purpose* (see 3.23);
- the supply of the thing to you was a taxable supply (see 3.27);
- you provide or are liable to provide the consideration for the acquisition (see 3.9); and
- you are registered or required to be registered (see 2.6).

Section 11-5

Acquisitions

3.21 An acquisition is any form of acquisition whatsoever—**subsection 11-10(1)**. This is defined broadly and is intended to encompass acquisitions as widely as possible. **Subsection 11-10(2)** provides a list of things that are included as acquisitions. It is not an exhaustive list. It does not limit the possible breadth of the definition of acquisition in **subsection 11-10(1)**.

Money

3.22 Money that is provided as consideration (payment) for an acquisition is not in itself an acquisition—**subsection 11-10(2)**. Otherwise money provided as payment for an acquisition could be a creditable acquisition in itself. Money is defined in the **Dictionary**.

Creditable purpose

3.23 **Section 11-15** provides that if you acquire a thing in carrying on your enterprise you acquire it for a creditable purpose. However, if the acquisition:

- is partly of a private or domestic nature; or
- relates to making input taxed supplies;

you acquire it for a creditable purpose except to the extent the acquisition is of a private or domestic nature or relates to making input taxed supplies.

3.24 Input tax credits are intended to offset the GST included in the price you paid for an acquisition if the acquisition is for use in your enterprise. If you are going to use a thing in your enterprise, for example by selling it on to someone else, GST will be included in that sale. Therefore, to avoid double taxing that thing, you receive a credit for the GST included in the price you paid for the thing. You therefore have a creditable purpose if you acquire a thing for the purpose of your enterprise.

3.25 The creditable purpose test is broader than the test of deductibility for income tax in section 8-1 of the *Income Tax Assessment Act 1997*. For example, input tax credits may be available in relation to the acquisition of capital items whereas your capital purchases are not deductible for income tax. The acquisition of services for preparing your tax returns may satisfy the creditable purpose test, even though these are only deductible under a specific provision for income tax.

3.26 However, you are not entitled to an input tax credit for acquiring a thing if your acquisition of the thing relates to an input taxed supply you are going to make. No tax will be charged on that supply. Therefore, you do not have a creditable purpose if your acquisition of a thing relates, either directly or indirectly, to a supply you make that is input taxed. Input taxed supplies are discussed at 5.4.

Example

Jonathon runs a greengrocers. His sales of fruit and vegetables are taxable supplies. The fruit and vegetables that he acquires to sell to his customers are acquired for the purposes of his enterprise and are therefore creditable acquisitions. Jonathon also buys a new broom for sweeping the floor of his shop. This too is a creditable acquisition because the broom was acquired for the purpose of his enterprise.

However, the bus ticket that Jonathon buys and uses to get to and from his business is not acquired for a purpose of his enterprise. It is acquired for a private or domestic purpose. It is not a creditable acquisition.

Example

MidBank acquires a new computer network. The new computer network is only going to be used in running its financial services. Financial services are input taxed. The acquisition is therefore related to making input taxed supplies. Midbank is not entitled to a credit for the acquisition.

Taxable supply

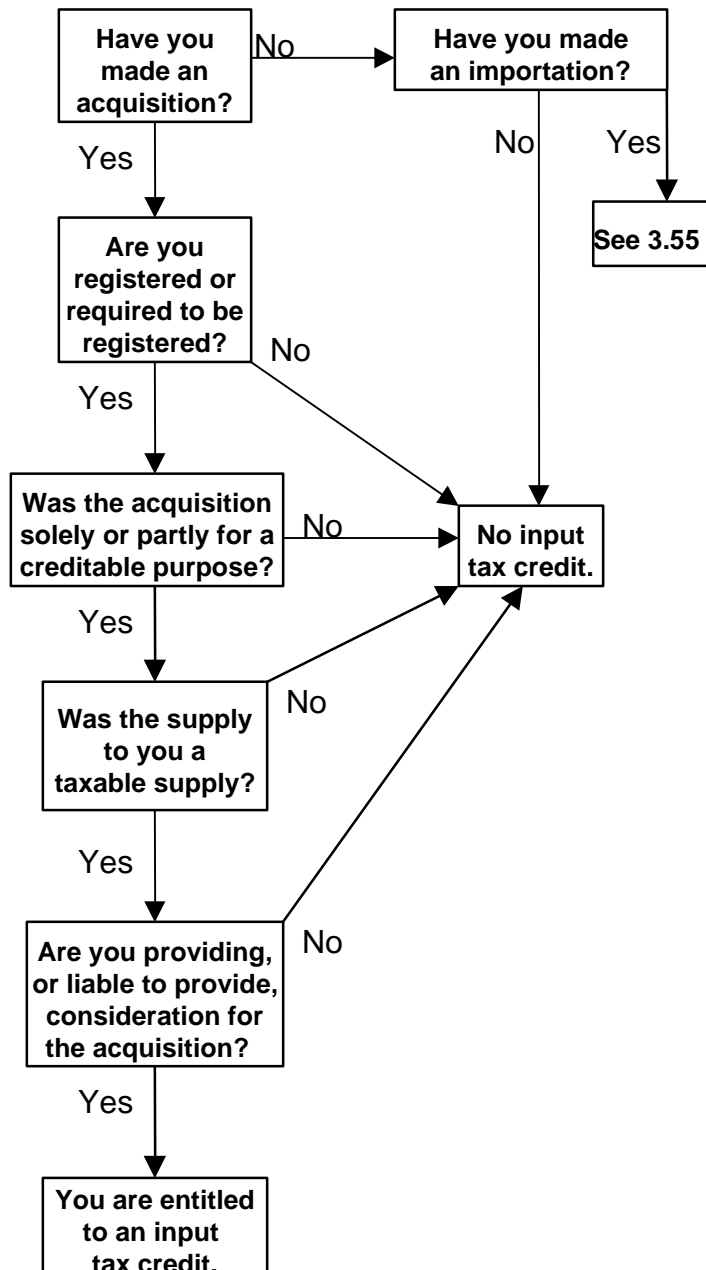
3.27 For an acquisition to be a creditable acquisition the supply to you will have to be a taxable supply. This is because the input tax credit for the acquisition is a credit for the GST that you pay on the thing when you acquire it. GST is a tax on private consumption. Therefore, if you acquire something for the purpose of your enterprise you are entitled to an input tax credit for the GST included in the price you paid for the acquisition.

3.28 There are some exceptions which are dealt with in the special rules, such as for second-hand goods and a limited range of returnable containers. See 6.68 and 6.153.

Summary

3.29 The following diagram summarises the central concepts of input tax credits on acquisitions.

Creditable acquisitions



Amount of input tax credit on creditable acquisitions

3.30 **Section 11-25** provides that the amount of an input tax credit on a creditable acquisition is an amount equal to the GST payable on the taxable supply. The amount of input tax credit is reduced if the acquisition is not solely for a creditable purpose. See 3.23 for creditable purpose.

Acquisitions that are partly creditable

3.31 Acquisitions that are partly creditable are dealt with in **section 11-30**. If an acquisition you make is only partly creditable, you are only entitled to a reduced input tax credit for that acquisition.

3.32 There are two things that can affect whether your acquisition is partly creditable:

- your extent of creditable purpose; and
- your extent of consideration.

3.33 If you make a creditable acquisition only partly for a creditable purpose, the acquisition is only partly creditable—**paragraph 11-30(1)(a)**.

3.34 If you make a creditable acquisition for which you provide, or are liable to provide, only part of the consideration, the acquisition is partly creditable—**paragraph 11-30(1)(b)**.

Input taxed supplies

3.35 However, if your acquisition is partly creditable because it relates to making financial supplies, the acquisition may be taken to be fully creditable. The acquisition will be fully creditable if the value of financial supplies that you made in the year ending at the end of the current month, or that you are likely to make in the year beginning at the start of the current month, is less than or equal to the lessor of:

- \$50,000; and
- 5% of what your annual turnover would be if you included input taxed supplies—see 7.33 for annual turnover.

Subsection 11-30(2).

Amount of input tax credit for partly creditable acquisitions

3.36 If your acquisition is only partly creditable, you work out the amount of input tax credit you are entitled to using the formula in **section 11-30** rather than **section 11-25**.

Only partly for a creditable purpose

3.37 If your acquisition is only partly for a creditable purpose, your reduced input tax credit is the input tax credit you would have been entitled to if it was not reduced (full input tax credit) multiplied by your *extent of creditable purpose*—**subsection 11-30(3)**. See 3.23 for creditable purpose.

Extent of creditable purpose

3.38 Your extent of creditable purpose is a percentage figure based on the proportion that creditable purpose is of the total purpose of the acquisition. That is;

$$\frac{\text{creditable purpose}}{\text{total purpose}} \times 100.$$

Example

Solely for a creditable purpose

Mendelson's Music Museum Pty Ltd is registered and exhibits historical and unusual musical instruments. MMM bought a theramin for \$5,500. MMM acquired the theramin solely for including in its latest touring exhibition and, after the tour is over, putting on display in the Museum. The theramin has been acquired solely for the purpose of the enterprise. It has therefore been acquired solely for a creditable purpose. The input tax credit on the acquisition is equal to the amount of GST on the taxable supply of the theramin to MMM. The amount of GST on the supply is 10% of the tax exclusive value. The tax exclusive value of the supply is 10/11 of the price. Therefore the GST on the supply is the price MMM paid, multiplied by 10/11, multiplied by 10%. This equals \$5,000 x 10%; which equals \$500.

The tax fraction approach discussed at 3.16 could also have been used to calculate the amount of input tax credit. Using the tax fraction approach, the amount of the input tax credit is \$5,500 multiplied by 1/11, which equals \$500.

Example

Partly for a creditable purpose

Kath is a framemaker. She runs a business making and selling frames for pictures, mirrors, etc. She is a sole trader and registered. She acquires 50m of timber from a registered timber supplier for making frames. She paid \$110 for the timber. She intends to use most of the acquisition for making frames for customers. However, she also intends to use 5m of the timber for making a mirror frame as a birthday present for her mother. She therefore acquired 90% of the timber for the purpose of her enterprise and 10% of it for a private purpose. The extent of creditable purpose of the acquisition is 90%. The full input tax credit for the acquisition is \$110 multiplied by 10/11 multiplied by 10%; which equals \$10. Kath's reduced input tax credit is 90% of \$10; which is \$9.

The tax fraction approach discussed at 3.16 could also have been used to calculate the amount of input tax credit. Using the tax fraction approach, the reduced input tax credit is \$110 multiplied by 1/11 multiplied by 90%, which equals \$9.

Only part consideration

3.39 If you provide or are liable to provide only part of the consideration for an acquisition, the amount of input tax credit you are entitled to is the full input tax credit multiplied by the extent of consideration—**subsection 11-30(3)**. The extent of consideration is the proportion that the consideration you provide or are liable to provide is to total consideration. That is,

$$\frac{\text{consideration you provide or are liable to provide}}{\text{total consideration}} \times 100$$

Example

Norman retires from the army and sets up an enterprise giving lectures and other training to businesses about his experiences and how they translate into the corporate world. His usual deal for businesses that want him to travel interstate is that he pays half his airfare and the business pays the other half.

Norman's acquisition of the air-fare is a creditable acquisition as it is for his enterprise and the supply to him was taxable. The business that pays half of the air-fare is also acquiring the fare for a creditable purpose. Norman has only paid part of the consideration for the acquisition. He is entitled to half of the input tax credit for the acquisition. The business is also entitled to half the input tax credit for the acquisition.

Part consideration and partly creditable purpose

3.40 If you make an acquisition only partly for a creditable purpose and you provide or are liable to provide only part of the consideration for the acquisition, your input tax credit is the full input tax credit multiplied by the extent of creditable purpose multiplied by the extent of consideration—**subsection 11-30(3)**.

Changes in creditable purpose

3.41 Note that if your application of a thing in carrying on your enterprise is different from your extent of creditable purpose you may have an adjustment for change in creditable purpose. See 6.216.

GST ON IMPORTATIONS

3.42 GST is payable on importations that are *taxable importations* regardless of whether the person is registered or required to be registered. **Subsection 7-1(1)**. A taxable importation can be made by any person. However, an input tax credit for GST paid on an importation will only be available to a registered or required to be registered person. See 2.6.

3.43 If you make a taxable importation you must pay the GST on the taxable importation—**subsection 13-15**. Generally, GST is payable by the entity importing the goods at the same time and in the same manner as customs duty. For this reason GST on taxable importations is not attributed to tax periods. This is different from taxable supplies. See 7.27.

3.44 GST on importations is different from GST on supplies. GST on supplies is only paid by people who are registered or required to be registered. See 3.5. However, you do not have to be registered or required to be registered to pay GST on importations. This is because GST is a tax on private consumption. Private consumers can import things themselves, they do not have to do it through someone else. Hence, GST has to be payable by anyone who makes a taxable importation.

Taxable importations

3.45 A taxable importation is an importation of goods into Australia that is not a *non-taxable importation*. A taxable importation can also be an importation of goods into Australia that is partly a non-taxable importation. If such is the case, it is a taxable importation to the extent that it is not a non-taxable importation—**subsection 13-5(1)**. Non-taxable importations are discussed at 5.169.

Importation of goods into Australia

3.46 **Subsection 13-5(2)** provides that if you *enter goods for home consumption* and you are the *owner* of the goods when you so enter them, you make an importation of goods into Australia.

Entering goods for home consumption

3.47 Entering goods for home consumption is an act or activity that takes the imported goods out of the customs control. The importation itself is only a pre-condition to the entry of goods through customs into Australia.

Owner

3.48 The owner of the goods is not restricted to the beneficial owner. Under section 4 of the *Customs Act 1901* the owner can be any person (other than a Customs officer) such as the beneficial owner, importer, exporter, consignee, agent, or person in possession or control of the goods.

Importations without entry for home consumption

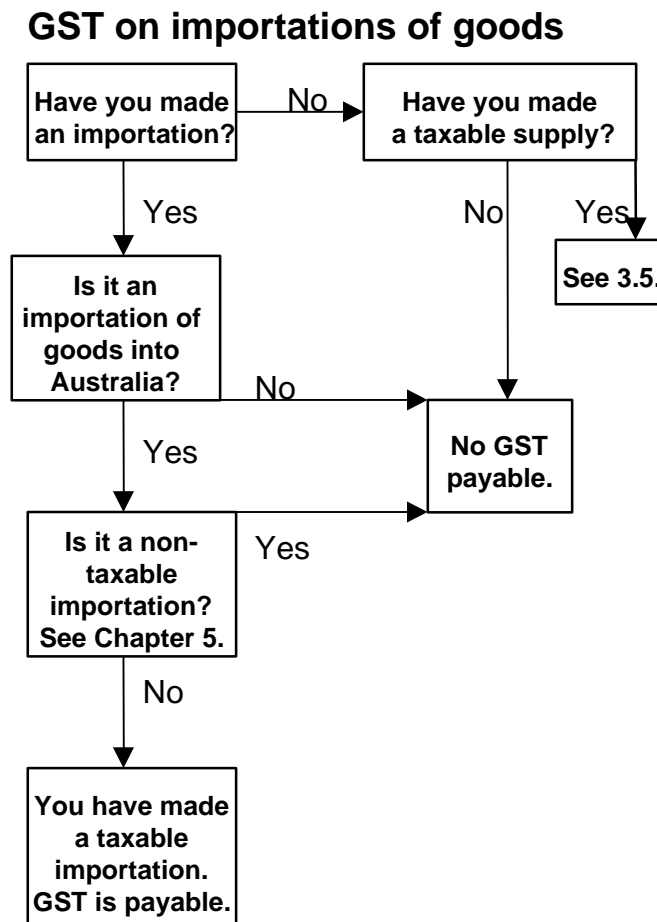
3.49 Certain importations can be made without entry for home consumption. The Bill includes some such importations as *importations of goods into Australia* in the special rules. See 6.187.

Importations of money

3.50 An importation of money is not an importation of goods—**subsection 13-5(3)**. **Section 13-10** would make the importation of currency in its tangible form non-taxable. This is consistent with the treatment of supplies of currency. See 3.7 and 5.140.

Summary

3.51 The following diagram summarises the central concepts of GST on taxable importations.



Amount of GST on taxable importations

3.52 **Subsection 13-20(1)** provides that the amount of GST on a taxable importation is the *value* of the taxable importation multiplied by the rate of GST.

Value of taxable importations of goods

3.53 The value of taxable importations of goods is determined in relation to the value of those imported goods for customs duty. Customs duty is currently related to the Free on Board (FOB) value of those goods. That is, the value of those goods not including the costs related to bringing those goods to Australia. This is the market value of those goods before they reach Australia, not their market value in Australia. As GST on goods generally relates to the value of those goods in Australia, the value of imported goods is not the FOB value. It is

the FOB value plus the cost of bringing those goods into Australia. The costs of bringing goods into Australia are the cost of transport, the cost of the insurance and the cost of the customs duty. FOB value plus the costs of bringing goods into Australia is referred to as the Customs, Insurance, Freight (CIF) value. **Subsection 13-20(2)** provides that the value of taxable importations is the CIF value, that is, the customs value (FOB value) plus the costs of transport, insurance and duty.

Example

Anastasia imports some washing machines. The washing machines cost her \$10,000. She then paid another \$3,000 in freight charges and \$500 insurance. She then pays customs duty to enter the goods for home consumption. The GST is 10% of (\$13,500 + the customs duty).

Value of partly taxable partly non-taxable importations

3.54 The value of an importation that is partly taxable and partly exempt is worked out using **section 13-25**. You work out the value of the whole importation as if it were wholly a taxable importation. You then work out the proportion the taxable part of the importation is of the whole importation. Multiply that proportion by the value of the whole importation.

INPUT TAX CREDITS ON IMPORTATIONS

3.55 Entitlements to input tax credits arise on *creditable importations*—**subsection 7-1(2)**. If you make a creditable importation you are entitled to an input tax credit—**section 15-15**. How input tax credits are paid to you is discussed under net amount at 4.1.

Creditable importations

3.56 **Section 15-5** provides the three factors relevant to deciding whether an importation of goods that you make is a creditable importation:

- you import the goods solely or partly for a creditable purpose;
- the importation is a taxable importation; and
- you are registered or required to be registered.

3.57 The same general criteria apply to a creditable acquisition, except that consideration is not an issue for an importation, because the customs value is the key component of the valuation.

Creditable purpose

3.58 **Section 15-10** provides that if you import a thing in carrying on your enterprise you import it for a creditable purpose. However, if the importation:

- is partly of a private or domestic nature; or
- relates to making input taxed supplies;

you import it for a creditable purpose except to the extent the importation is of a private or domestic nature or relates to making input taxed supplies.

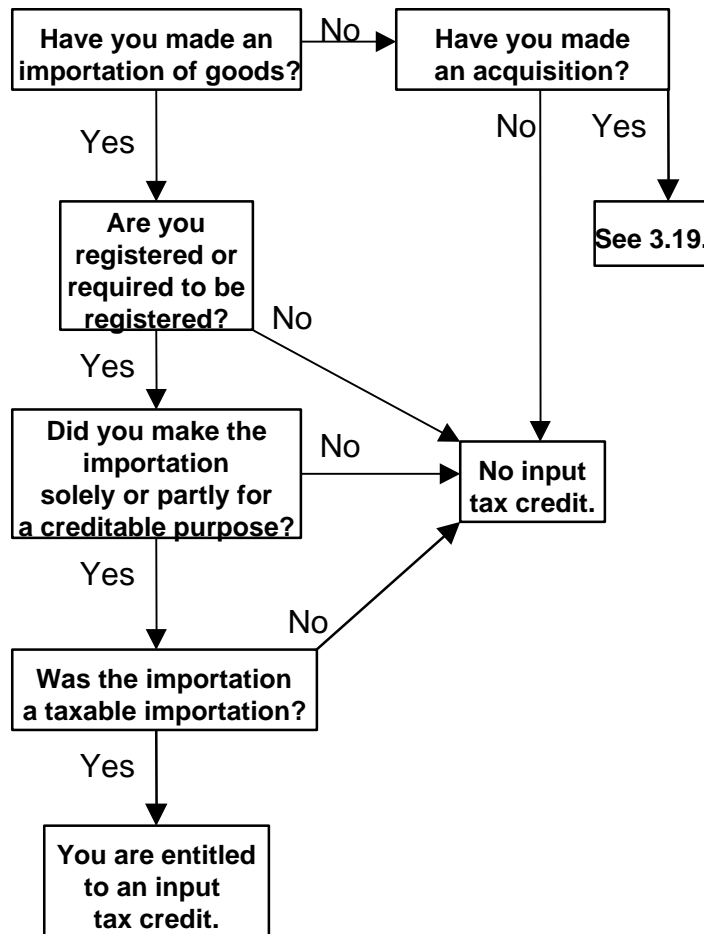
Taxable importations

3.59 See 3.45 above for a discussion of what are taxable importations. For an importation to be a creditable importation the importation will have to have been a taxable importation. This is because the input tax credit for the importation is a credit for the GST that you pay on the thing when you import it. GST is a tax on private consumption. Therefore, if you import something for the purpose of your enterprise you get an input tax credit for the GST you pay on the importation.

Summary

3.60 The following diagram summarises the central concepts of input tax credits on importations.

Creditable importations



Amount of input tax credit on creditable importations

3.61 **Subsection 15-20** provides that the amount of an input tax credit on a creditable importation is the amount of GST on the taxable importation. The amount of the input tax credit is reduced if the importation is not solely for a creditable purpose. See 3.23 for creditable purpose.

Importations that are partly creditable

3.62 Importations that are partly creditable are dealt with in **section 15-25**. If an importation you make is only partly creditable, you are only entitled to a reduced input tax credit for that importation.

3.63 If you make a creditable importation only partly for a creditable purpose, the importation is only partly creditable.

3.64 If your importation is only partly creditable you work out the amount of input tax credit you are entitled to using the formula in **section 15-25** rather than **section 15-20**.

Only partly for a creditable purpose

3.65 If your importation is only partly for a creditable purpose your reduced input tax credit is the input tax credit you would have been entitled to if it was not reduced (full input tax credit) multiplied by your extent of creditable purpose. Creditable purpose is discussed at 3.23.

3.66 The extent of creditable purpose is a percentage figure based on the proportion that creditable purpose is of total purpose of importation. That is,

$$\frac{\text{creditable purpose}}{\text{total purpose}} \times 100.$$

3.67 This is the same calculation as for creditable acquisitions. See 3.31.

Interaction of the GST concepts of supply and importation

3.68 Generally, a taxable importation is distinguishable from a taxable supply. However, some taxable importations may also be taxable supplies. For example, a supply of goods from offshore may be both a taxable supply and a taxable importation. This is one of the effects of the *connected with Australia* rules. See 3.11. **Subsection 9-25(3)** provides that goods being brought to Australia are connected with Australia if the *supplier* either:

- imports the goods into Australia—**paragraph 9-25(3)(a)**, or
- installs or assembles the goods in Australia—**paragraph 9-25(3)(b)**.

3.69 If a supplier both imports the goods and installs the goods in Australia, GST will apply on the importation and will also apply on the supply.

Example

Tracey operates a company in New Zealand. Tracey is registered because she regularly imports things into Australia. Bruce operates a company in Australia. Tracey sells some goods to Bruce which he is going to use in Australia. The sale is done under a supply and install contract, so Tracey imports the goods and also installs them at Bruce's factory.

The importation of the goods by Tracey is a taxable importation. GST is charged on the importation, but she is entitled to an input tax credit for the importation because the importation is also a creditable importation. As Tracey installs the goods in Bruce's factory, the supply of the goods is also a taxable supply. Tracey accounts for 1/11 of the supply price as GST. Bruce is entitled to an input tax credit for the creditable acquisition of the goods.

Bruce pays Tracey a GST inclusive price of \$110,000 under the contract for the supply and installation of the goods. This is the consideration for the supply. GST on a supply is charged in relation to the consideration for the supply. GST on an importation is charged on the customs value of the goods, plus the transport and insurance costs, plus the customs duty.

Here, the customs value plus the transport and insurance costs plus the duty adds up to \$70,000.

Tracey pays \$7,000 GST on the importation (10% of \$70,000) and is entitled to an input tax credit of \$7,000 on the importation, netting out to zero GST.

Tracey also pays \$10,000 GST (1/11 of the price of \$110,000) on the supply. Bruce is entitled to an input tax credit of \$10,000 on the acquisition.

This means that Tracey pays \$7,000 GST on the importation, which she gets back as an input tax credit and remits \$10,000 GST for the supply, which Bruce gets back as an input tax credit.

ADJUSTMENTS

3.70 Adjustments are necessary because in some situations you will have accounted for GST or input tax credits but subsequent events mean that GST or those input tax credits were incorrectly accounted. If the GST or input tax credits were incorrectly accounted for you will have either received too much or too little input tax credit or you will have paid too much or too little GST.

3.71 There are two sorts of adjustment—increasing and decreasing. An increasing adjustment increases your net amount. You will have an increasing adjustment if you received too much input tax credit or paid too little GST. A decreasing adjustment decreases your net amount. You will have a decreasing adjustment if you have received too little input tax credit or paid too much GST. Net amount is discussed at 4.1. **Section 17-10.**

3.72 Adjustments can arise in several ways:

- from *adjustment events*;
- from *bad debts*; and
- from a *change in your extent of creditable purpose*.

Adjustments due to adjustment events are dealt with in **Division 19** and discussed here.

Adjustments arising from bad debts are dealt with in **Division 21** and discussed at 3.84.

Adjustments due to changes in extent of creditable purpose are dealt with in **Division 129** and discussed at 6.216.

Adjustments from adjustment events

3.73 An adjustment of GST paid by a supplier is required when an incorrect amount of GST was paid by the supplier. An adjustment of input tax credits accounted for by a recipient

of a supply is required when an incorrect amount of input tax credits was received by the recipient. An incorrect amount of GST or input tax credit could have resulted if:

- all or part of the supply or acquisition is cancelled or returned; or
- the consideration of the supply or acquisition is altered, such as through a volume discount; or
- a supply becomes, or stops being taxable; or
- an acquisition becomes or stops being creditable.

Such events are adjustment events—**section 19-10**.

Adjustment events and supplies

3.74 You make an adjustment to your net amount for a tax period if:

- GST on a supply was attributable to an earlier tax period;
- you have an adjustment event for a supply; and
- the GST you previously attributed is no longer correct because of that adjustment event.

Section 19-40.

3.75 The amount of GST that was attributable to an earlier tax period is the *previously attributed GST amount*. The correct amount of GST is the *corrected GST amount*. The previously attributed GST amount is the total amount of GST for the supply that was attributed to any earlier tax period. That is, it includes any adjustments that have already been made in relation to the GST for that supply. Therefore, the previously attributed GST amount is:

- any GST for the supply attributable to an earlier tax period; plus
- any increasing adjustments for the supply attributable to an earlier tax period; less
- any decreasing adjustments for the supply attributable to an earlier tax period.

Section 19-45.

3.76 If the corrected GST amount is smaller than the previously attributed GST amount, you will have paid too much GST. You will need to make a decreasing adjustment. The decreasing adjustment will decrease your net amount for the tax period in which the adjustment event occurs by an amount equal to the difference between the corrected GST amount and the previously attributed GST amount. **Section 19-55.**

Example

Mr S. Gonzales is a courier and registered. He undertakes to courier documents for Mr S. Katt who is also registered. Mr Gonzales sends Mr Katt a bill of \$2,200 for the courier services provided in a quarter. Mr Katt pays the bill. Mr Gonzales accounts for \$200 in GST. Later Mr Katt talks about the huge cost of couriers to a friend who assures Mr Katt that he has paid too much. Mr Katt complains to the Master Couriers Association who persuade Mr Gonzales to reduce his bill and refund Mr Katt \$550.

Mr Gonzales has already attributed the GST on his services and therefore needs to make an adjustment. As the corrected GST amount is smaller than the previously attributed GST amount Mr Gonzales has paid too much GST and has a decreasing adjustment, reducing his net amount. The amount of the adjustment will be 1/11 of \$550, which equals \$50.

3.77 If the corrected GST amount is greater than the previously attributed GST amount, you will have paid less GST than you should. You will need to make an increasing adjustment. The increasing adjustment will increase your net amount for the tax period in which the adjustment event occurs by an amount equal to the difference between the corrected GST amount and the previously attributed GST amount. **Section 19-50.**

3.78 If a previously non-taxable supply becomes a taxable supply, you will not have previously attributed any GST on that supply. The previously attributed GST amount was zero. The previously attributed GST amount will always be less than the corrected GST amount. You will always have an increasing adjustment if a previously non-taxable supply becomes taxable.

Adjustment events and acquisitions

3.79 You make an adjustment to your net amount for the tax period if:

- you have an adjustment event for an acquisition;
- an input tax credit for that acquisition was attributable to an earlier tax period; and
- the input tax credit you previously attributed is no longer correct because of that adjustment event.

Section 19-70.

3.80 The amount of input tax credit that was attributable to an earlier tax period is the *previously attributed input tax credit amount*. The correct amount of input tax credit is the *corrected input tax credit amount*. The previously attributed input tax credit amount is the total amount of input tax credit for the acquisition that was attributed to any earlier tax period. That is, it includes any adjustments that have already been made in relation to the input tax credit for that acquisition. Therefore, the previously attributed input tax credit amount is:

- any input tax credits for the acquisition attributable to an earlier tax period; plus
- any increasing adjustments for the acquisition attributable to an earlier tax period; less
- any decreasing adjustments for the acquisition attributable to an earlier tax period.

Section 19-75.

3.81 If the corrected input tax credit amount is smaller than the previously attributed input tax credit amount, you will have received too much input tax credit. You will need to make an increasing adjustment. The increasing adjustment will increase your net amount for the tax period in which the adjustment event occurs by an amount equal to the difference between the corrected input tax credit amount and the previously attributed input tax credit amount. **Section 19-80.**

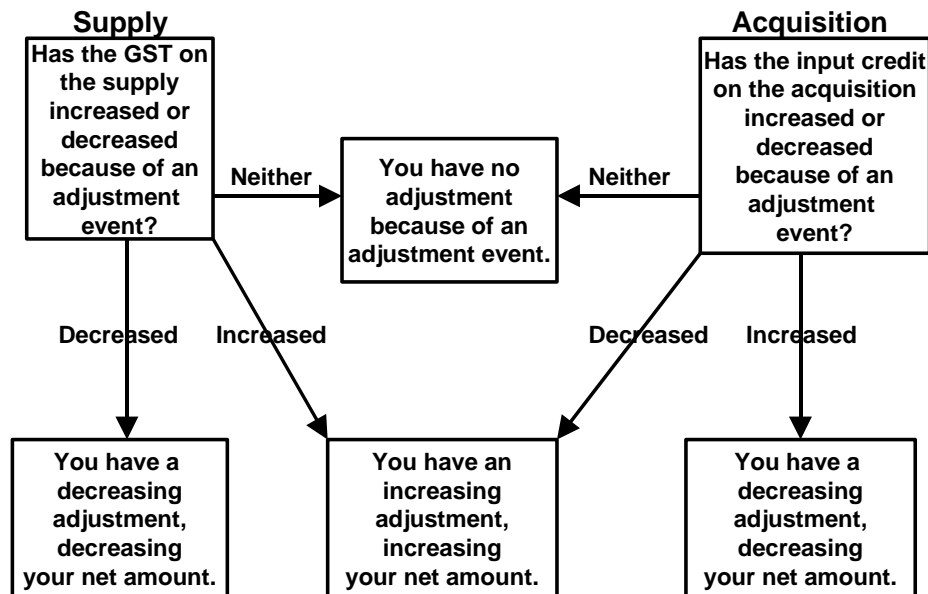
Example

Continuing the example of Mr Gonzales and Mr Katt from 3.76 above, Mr Katt had already attributed the input tax credit for the courier services based on a bill of \$2,200. When he is refunded \$550 he needs to make an adjustment. As the corrected input tax credit amount is smaller than the previously attributed input tax credit amount Mr Katt makes a decreasing adjustment, reducing his net amount. The amount of the adjustment will be 1/11 of \$550, which equals \$50.

3.82 If the corrected input tax credit amount is greater than the previously attributed input tax credit amount, you will have received too little input tax credit. You will need to make a decreasing adjustment. The decreasing adjustment will decrease your net amount for the tax period in which the adjustment event occurs by an amount equal to the difference between the corrected input tax credit amount and the previously attributed input tax credit amount. **Section 19-85.**

3.83 If a previously non-creditable acquisition becomes a creditable acquisition, you will not have previously attributed any input tax credits for that acquisition. The previously attributed input tax credit amount was zero. The previously attributed input tax credit amount will always be less than the corrected input tax credit amount. You will always have a decreasing adjustment if a previously non-creditable acquisition becomes creditable.

Adjustments from adjustment events



Adjustments for bad debts

Adjustments for bad debts and taxable supplies

Writing off bad debts

3.84 If you account for GST other than on a cash basis you may account for the GST on a taxable supply before you receive any or all of the consideration for the supply. See Chapter 4 for the accounting rules. If you have accounted for GST on a supply and you later write off as a bad debt some or all of the consideration you were due to receive for the supply, you will have accounted for GST but not have received an amount for that GST from the recipient of the supply. You will have accounted for too much GST.

3.85 You therefore have a decreasing adjustment to reduce your net amount in the tax period in which you write off the bad debt. **Subsection 21-5(1).**

3.86 You will have accounted for GST of 1/11 of the consideration you were due to receive. Therefore, if you write off the entire consideration as a bad debt, the amount of the decreasing adjustment is 1/11 of the consideration, that is, 1/11 of the amount written off. If you write off part of the consideration as a bad debt, the amount of the decreasing adjustment is 1/11 of the amount written off. Note that 1/11 of the amount written off is the amount of GST on the amount written off. **Subsection 21-5(1).**

3.87 The term 'bad debt' is not defined. To qualify for a decreasing adjustment you must:

- have made a taxable supply for consideration in money;
- lodged a return for the relevant tax period and properly accounted for GST on the supply; and
- written off as a bad debt all or part of the consideration not paid.

Recovering bad debts written off

3.88 If you previously wrote off a bad debt for a taxable supply, had a decreasing adjustment, and later recover some or all of the debt, you will not have paid GST on the amount recovered. You will not have accounted for all of the GST on the supply. You therefore have an increasing adjustment to increase your net amount in the tax period in which you recover some or all of the debt. The previous decreasing adjustment was 1/11 of the amount written off. The increasing adjustment is 1/11 of the amount recovered. This is the amount of GST on the amount recovered. **Section 21-10.**

Adjustments for bad debts and creditable acquisitions

Bad debts written off

3.89 If you account for GST other than on a cash basis you may account for the input tax credit on a creditable acquisition before you pay any or all of the consideration for the acquisition. See Chapter 4 for the accounting rules. If you have accounted for the input tax credit on an acquisition and the supplier later writes off as a bad debt all of the consideration you were liable to pay for the supply, you will have accounted for an input tax credit in relation to an acquisition for which GST has not been paid. You are only entitled to input tax credits for GST included in the consideration for acquisitions you make.

Section 11-25. If the supplier writes off some of the consideration as a bad debt you will have accounted for an amount of input tax credit for an amount of GST that the supplier has been refunded. In either case you will have accounted for too much input tax credit.

Subsection 21-15(1).

3.90 You therefore have an increasing adjustment to increase your net amount in the tax period in which the supplier writes off the bad debt. **Subsection 21-15(1).**

3.91 You will have accounted for 1/11 of the consideration as an input tax credit. Therefore, if the entire consideration is written off as a bad debt, the amount of the increasing adjustment is 1/11 of the consideration, that is, 1/11 of the amount written off. If part of the consideration is written off as a bad debt, the amount of the increasing adjustment is 1/11 of the amount written off. This is equivalent to the GST included in the amount written off. **Subsection 21-15(1).**

Bad debts recovered

3.92 If you previously had a decreasing adjustment because of a bad debt written off, and you later pay some or all of the debt, you will not have received enough input tax credit for

the GST paid on the amount recovered. You will not have accounted for all of the input tax credit on the acquisition. You therefore have a decreasing adjustment to decrease your net amount in the tax period in which you pay some or all of the debt. The decreasing adjustment is 1/11 of the amount you pay. This is equivalent to the GST included in the amount you pay. **Section 21-20.**

Comparison of taxable supplies and taxable importations

GST

	Taxable supplies	Taxable importations
Must there be a supply?	Yes.	No, but it could be both a supply and importation.
Who pays GST?	Registered entities.	Any entity.
Is consideration required?	Yes.	Not necessary.
Must be in carrying on an enterprise?	Yes.	Not necessary.
Must be connected with Australia?	Yes.	It is by its nature.
Must be registered?	Yes.	Not necessary.
What is not taxable?	GST-free and input taxed supplies.	Importations that would have been GST-free or input taxed if they were supplies, and non-taxable importations.
GST equals?	GST = value x 10% Value = price x 10/11	GST = value x 10% Value = sum of customs value, transport, insurance, and customs duty.
Affected by adjustment events?	Yes.	Yes.

Input tax credits

	Creditable acquisition	Creditable importations (of goods)
Must be registered?	Yes.	Yes.
Must be consideration?	Yes.	Not necessary.
Must be acquired for a creditable purpose?	Yes.	Yes.
Must have been taxable?	Yes.	Yes.
Are credits offset against GST?	Yes.	Yes.
Input tax credit equals?	GST on supply x extent of creditable purpose x extent of consideration.	GST on importation x extent of creditable purpose.
Affected by adjustment events?	Yes.	Yes.

CHAPTER 4

ACCOUNTING FOR GST AND INPUT TAX CREDITS

This chapter tells you:

- *how to account for your GST and input tax credits;*
 - *what are your tax periods and to which tax period you attribute GST and input tax credits;*
 - *how to work out your net amount for a tax period; and*
 - *how to attribute adjustments.*
-

CHAPTER SUMMARY

<i>Net amount</i>	Your net amount for a tax period is the total of your GST, input tax credits and adjustments that are attributable to that tax period. See 4.1
<i>Tax periods</i>	Rather than remitting GST or receiving an input tax credit whenever you make a taxable supply or a creditable acquisition, you attribute GST and input tax credits to tax periods and work out a total.
<i>Accounting rules</i>	The accounting rules tell you to which tax period you attribute GST, input tax credits and adjustments.

NET AMOUNT

4.1 Rather than remitting GST or receiving an input tax credit whenever you make a taxable supply or a creditable acquisition, you attribute GST and input tax credits to tax periods and work out a total. This total is the net amount. **Section 7-5.**

4.2 The net amount is worked out using the formula in **subsection 17-5(1)**. The net amount is the sum of GST that is attributable to the tax period, less the input tax credits that are attributable to the tax period. The net amount can be increased or decreased by any adjustments that are attributable to the tax period—**section 17-10**. Tax periods are discussed at 4.7. Attributing to tax periods is discussed at 4.22. GST and input tax credits are discussed at 4.29 to 4.32. Adjustments are discussed at 4.33.

4.3 The accounting rules tell you to which tax period you attribute GST, input tax credits and adjustments.

4.4 If the net amount for a tax period is greater than zero, the net amount is the amount you must pay for that tax period to the Commissioner—**subsection 33-5(1)**. The net amount will be greater than zero if the GST and increasing adjustments for a tax period exceed the input tax credits and decreasing adjustments for the tax period.

Example

Sharon's Scissor Sharpening Service Inc. is registered. Sharon's total GST for a tax period is \$2,300. She has total input tax credits of \$1,900 and \$150 worth of increasing adjustments. Her net amount for the tax period is \$550. She pays this amount to the Commissioner when she lodges her return for the tax period.

4.5 If the net amount for a tax period is less than zero, the net amount (expressed as a positive amount) is the amount the Commissioner must pay to you for that tax period—**subsection 35-5(1)**. The net amount will be less than zero if the input tax credits and decreasing adjustments for the tax period exceed the GST and increasing adjustments for the tax period.

Example

Continuing the example from 4.4 above, in Sharon's next tax period she has total GST of \$1,500 and total input tax credits of \$1,800. She has no adjustments. Her net amount for the tax period is \$300. The Commissioner pays this amount to Sharon after she has lodged her return for the period, assuming she has no other tax debts that this amount could be offset against.

4.6 If the net amount for a tax period is zero, you do not have to pay anything to the Commissioner for that tax period and the Commissioner does not have to pay anything to you for that tax period.

Example

Continuing the example from 4.4 above, in Sharon's next tax period she has total GST of \$1,700 and total input tax credits of \$1,650. She has a decreasing adjustment of \$50. Her net amount for the tax period is zero. She still needs to lodge a return for the tax period.

TAX PERIODS

4.7 Tax periods are the periods for which you work out the amount of input tax credits payable to you or the amount of GST payable by you. You offset your GST and your input tax credits for the tax period to give you a net amount for each tax period. Net amount is explained at 4.1 You are required to lodge a return containing your net amount for each tax period that applies to you. Returns are discussed at 7.14.

4.8 With your return for a tax period you are required to remit to the Commissioner any amount by which your GST payable for the tax period exceeds your input tax credits, taking into account any adjustments, for the tax period. The Commissioner is required to pay to you any amount by which your input tax credits for a tax period exceed your GST payable for that period. However, if you have other tax debts, such an amount may be offset against those other tax debts. The Commissioner will not offset refunds where the debt is a matter of legal dispute.

4.10 If the Commissioner is required to pay you an amount for a tax period and the Commissioner does not pay the amount to you within 14 days, interest is payable on the amount—**subsection 35-5(1)**. Interest does not start being payable until you have provided

the Commissioner with all the information required to determine that the payment should be made.

What tax period applies to you?

General rule-3 months

4.11 Generally, your tax periods will be three months long and end on 31 March, 30 June, 30 September and 31 December—**section 27-5**. In certain circumstances your tax periods may be the months in a year.

Compulsory 1 month tax periods

4.12 One month tax periods are the calendar months in a year. You must use one month tax periods if your annual turnover is \$20 million or more—**paragraph 27-15(1)(a)**. This is the *tax period turnover threshold*. See 7.33 for how to determine your annual turnover. You must use one month tax periods if you will only be carrying on your enterprise in Australia for less than three months—**paragraph 27-15(1)(b)**. You must use one month tax periods if the Commissioner is satisfied that you have a history of not complying with your tax obligations—**paragraph 27-15(1)(c)**. You must use one month tax periods if you have a substituted accounting period for income tax—**paragraph 27-15(1)(d)**.

4.13 The tax period turnover threshold can be changed by regulation. If the regulations do change the amount, the change does not apply to you until the start of your next tax period after the regulations come into effect—**section 27-15**.

4.14 If you are using one month tax periods and your annual turnover falls below \$20 million you can choose to change to three month tax periods—**subsection 27-25(3)**. However, generally you have to use one month tax periods for at least twelve months before you can revert to three month tax periods—**subsection 27-25(2)**.

Electing 1 month tax periods

4.15 You can elect that your tax periods will be calendar months—**subsection 27-10(1)**. If you want to use one month tax periods you must notify the Commissioner of your election. If you elect to use one month tax periods, you can start using one month tax periods on 1 January, 1 April, 1 July or 1 October.

4.16 If you elected to use one month tax periods, you can generally change back to three month tax periods unless your annual turnover exceeds the tax period turnover threshold. If you change back to three month tax periods, you start using three month tax periods on 1 January, 1 April, 1 July or 1 October. **Subsection 27-10(2)**.

Changing the end of your tax periods

4.17 If the end of one of your commercial accounting periods does not fit well with the end of your tax periods, you can end your tax periods seven days earlier or later than when

the relevant tax period would otherwise end. The specified day must be consistent with your commercial accounting periods. This does not change your three month or one month tax periods; it only changes the days on which the tax periods end. Nor does it change your date for lodging returns or making payments—**subsection 27-35(1)**. If the day on which your tax period ends is changed, your next tax period starts on the day after the day on which your tax period now ends—**subsection 27-35(2)**.

Example

Nitsia runs a suburban supermarket. Her normal accounting practice is to balance her accounts every Friday. Nitsia has three month tax periods. 31 March falls on Tuesday. She ends her tax period on Friday 27 March so that she does not have to make a special balance on the Tuesday. Nitsia's next tax period starts on Saturday 28 March rather than on 1 April. Her return for the tax period ending on 27 March is due on 21 April.

Change in tax periods

4.18 In certain circumstances, the Commissioner can determine that any specified period is a tax period. The Commissioner has to give you written notice of the determination. The written notice must specify the period that is to be treated as a tax period—**subsection 27-30(1)**. The period may start before you receive the notice—**subsection 27-30(2)**. These determinations exist to assist in the effective operation of the Act when you change your tax periods—**subsection 27-30(1)**. For example; you attribute GST and input tax credits to tax periods, so if there is a period of time between tax periods that is not otherwise a tax period, you will not know when to attribute some GST and input tax credits. A determination from the Commissioner specifying that the period is to be treated as a tax period enables all the attribution rules to apply in relation to that period. See 4.22 for accounting rules and attributing to tax periods.

4.19 The period specified in the notice must be less than three months long—**paragraph 27-30(3)(a)**. This is because if it is longer than three months a normal tax period can occur in that time and there is no need for a determination to cover a normal tax period.

4.20 The specified period must not overlap with a tax period for which you have already lodged a return—**paragraph 27-30(3)(b)**.

Example

Delicut P/L runs a chain of Hairdressers that specialise in sensitive hair. It has three month tax periods. Business has been good recently and has been expanding. In the first week of August, Delicut realises that its annual turnover exceeds the tax period turnover threshold of \$20 million. It therefore must change to one month tax periods. The Commissioner determines that it will use one month tax periods starting on 1 September. As Delicut's previous tax period ended on 30 June and the next three month tax periods ends on 30 September, it requests the Commissioner to determine that the period from 1 July to 31 August is a tax period.

Concluding tax periods

4.21 In certain circumstances a tax period will be the concluding tax period for an individual or other entity. If an individual dies, becomes bankrupt or has his or her registration cancelled, the last day of his or her concluding tax period is the day of death or bankruptcy, or the day of effect of the cancellation. See 2.23 about cancelling registration. If an entity other than an individual goes into liquidation or receivership, or ceases to exist, or has its registration cancelled, the last day of its concluding tax period is the day it goes into liquidation or receivership, or ceases to exist, or the day of effect of the cancellation. **Section 27-40.** See 6.271 for what happens when an entity goes into liquidation or receivership. See the Administration Act for what happens if an individual dies. See 6.259 for what happens when you cease to be registered.

Accounting Rules**—attributing GST and input tax credits to tax periods**

4.22 There are two ways to account for GST—either the cash basis or the other than cash basis. The general rules apply to most entities. The cash basis applies to certain entities.

4.23 The accounting rules are relevant to determining in which tax period you attribute GST on taxable supplies or input tax credits for creditable acquisitions.

Cash basis**Who can use the cash basis**

4.24 If your annual turnover is under \$500,000 you can use the cash basis of accounting. This is the *cash basis accounting threshold*. This threshold can be changed by regulation. If you choose to use the cash basis you start to use it from the first day of a tax period. **Section 29-40.**

4.25 Even if your annual turnover meets the cash basis accounting threshold you may be able to use the cash basis of accounting. To be able to use the cash basis you have to satisfy the Commissioner that it is the appropriate accounting basis for your enterprise. The Commissioner must have regard to the following:

- the nature of your enterprise;
- the size of your enterprise;
- your accounting system; and
- how you account for income tax.

Section 29-45

Example

Debra is a barrister. She has an annual turnover of \$600,000. Debra's normal accounting system relates to the money she receives, rather than the money she is liable to receive, as a barrister. This is also how she accounts for income tax. It may therefore be appropriate for Debra to account for GST on a cash basis. Debra should apply to the Commissioner to use the cash basis.

However, if Debra also owned and ran a restaurant which accounted on an accruals basis, it would probably be inappropriate for Debra to account for GST on a cash basis.

4.26 If you want to use the cash basis even though your annual turnover meets the cash accounting turnover threshold, you must apply to the Commissioner. **Section 29-45.**

4.27 The Commissioner must notify you of his or her decision, including the date from which the change in basis starts.

4.28 You must notify the Commissioner within 21 days of ceasing to satisfy the conditions for accounting on a cash basis. The Commissioner's approval can be for a single entity or a class of entities. The Commissioner must notify you of a decision to withdraw his or her approval.

Attributing GST on the cash basis

Taxable supplies

4.29 You attribute GST on a taxable supply to the tax period in which you receive a payment in respect of the taxable supply. The amount of GST that you attribute to that tax period is proportional to the amount of the payment that you received in that tax period. That is, if you received half of the total consideration for the supply in that tax period, you attribute half of the total GST on the supply to that tax period. You include the GST in your return for that tax period. **Subsection 29-5(2).**

Taxable importations

4.30 GST on taxable importations is payable when you make the importation. See 3.43. **Paragraph 33-15(b)** provides for payments of GST on taxable importations to be made in such further time and in the manner the Commissioner allows. Deferred payments would allow certain entities to offset their input tax credits on imports against their GST. This is because, unlike supplies, the entity entitled to the input tax credit on an importation is also the entity paying the GST.

Attributing input tax credits on the cash basis

Creditable acquisitions

4.31 You attribute the input tax credit for a creditable acquisition to the tax period in which you pay for it. The proportion of input tax credit that you attribute to that tax period is the same proportion of the payment that you made in that tax period. That is, if you paid half of the total consideration for the supply in that tax period, you attribute half of the total input tax credit to that tax period. You include the input tax credit in your return for that tax period. However, you cannot attribute an input tax credit unless you have a tax invoice for the creditable acquisition when you lodge your return—see 7.1 for what tax invoices are. **Subsections 29-10(2) and (3).**

Creditable importations

4.32 You attribute *all* the input tax credit on a creditable importation to the tax period in which you pay the GST on the importation. **Section 29-15.**

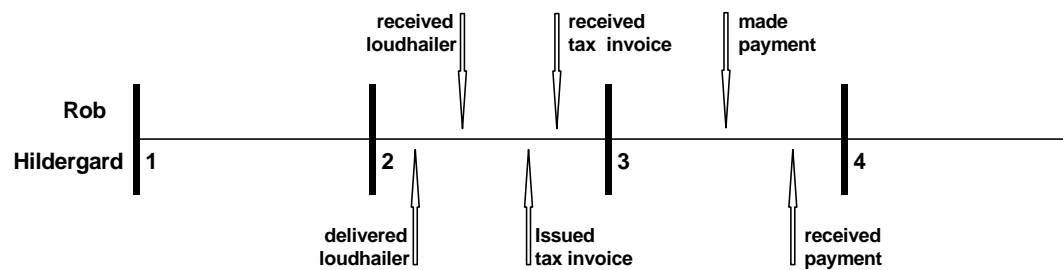
Attributing adjustment events on the cash basis

4.33 You attribute your increasing or decreasing adjustment to the tax period in which an amount that is payable as a result of the adjustment event is paid. You only attribute the adjustment to the extent that the payment is made. For example, if the adjustment event results in you being entitled to receive an additional payment you would have an increasing adjustment. If you only receive half the payment in a tax period, you only attribute half the adjustment to that period. **Paragraph 29-20(2)(b).**

4.34 If you have a decreasing adjustment you cannot attribute the adjustment until you have an adjustment note. That is, you cannot attribute the adjustment until the tax period for which you lodge a return when you have an adjustment note.

Example 1

Hildergard has an enterprise that supplies equipment for dog shows. She is registered. She uses the cash basis of accounting. Rob has an enterprise that runs commercial dog shows all around Australia. He is registered. He uses the cash basis of accounting. Rob obtains his dog show equipment from Hildergard. They have the same tax periods. Rob acquires a new loudhailer from Hildergard for use in his dog shows. The supply of the loudhailer is a taxable supply by Hildergard. The acquisition of the loudhailer by Rob is a creditable acquisition. Hildergard supplies the loudhailer in the second tax period for the year. Hildergard also issues the tax invoice for the supply in the second tax period for the year. Rob pays for the loudhailer in the third tax period for the year. The diagram outlines when the supply and

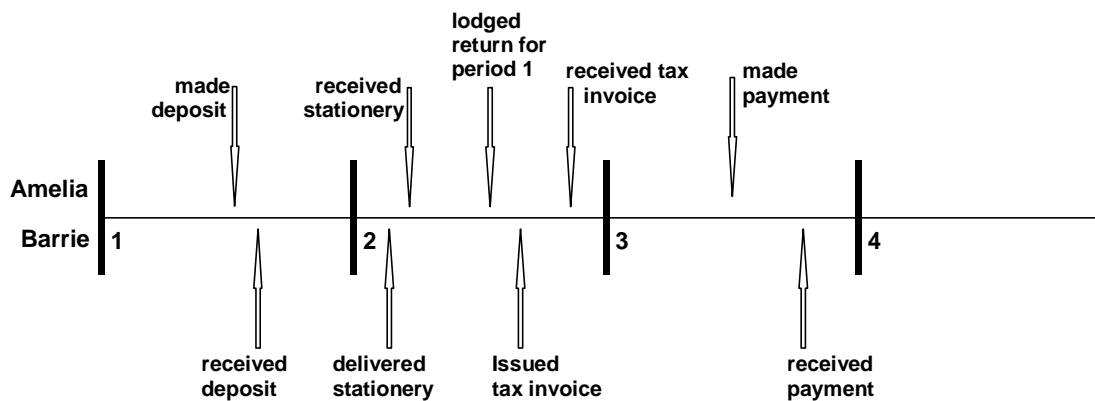


payment occur.

Rob attributes the input tax credit to tax period 3 because he paid for the taxable supply in that tax period and he had a tax invoice. Hildergard attributes the GST on the taxable supply to tax period 3 because she received Rob's payment for the taxable supply in that tax period.

Example 2

Amelia operates a small business. She is registered. She accounts on a cash basis. She buys stationery supplies for her business from Barrie. This is a creditable acquisition by Amelia. Barrie is also registered and accounts on a cash basis. The supply of the stationery is a taxable supply by Barrie. Amelia makes a deposit for the stationery before she receives it. She then makes the rest of the payment for the stationery after she received it. The diagram shows when the stationery was supplied and when the payments were made.



Amelia made a payment, the deposit, for the taxable supply in tax period 1. She would be able to attribute an input tax credit to tax period 1 for the GST included in the deposit if she had a tax invoice for the supply. However, she did not have a tax invoice until tax period 2. She therefore attributes her input tax credit on the deposit to tax period 2. The amount of the input tax credit is the tax fraction of the amount of the deposit— $1/11$ of the deposit (tax fraction is explained at 3.16). She makes the rest of the payment in tax period 3. As she has a tax invoice, she attributes her input tax credit on the rest of the payment to tax period 3. Barrie attributes the GST on the deposit to tax period 1. He attributes the GST on the rest of the payment to tax period 3.

Other than a cash basis

Attributing GST on other than the cash basis

Taxable supplies

4.35 You attribute *all* the GST on a taxable supply to the tax period in which the earliest of the following occurs:

- you receive any consideration in connection with the supply; or
- an invoice is issued in relation to the supply.

You include the GST in your return for that tax period. **Subsection 29-5(1) and section 33-5.**

Taxable importations

4.36 GST on taxable importations is payable when you make the importation. See 3.43. **Paragraph 33-15(b)** provides for payments of GST on taxable importations to be made in such further time and in the manner specified in the regulations. Deferred payments would allow certain entities to offset their input tax credits on imports against their GST. This is because, unlike supplies, the entity entitled to the input tax credit on an importation is also the entity paying the GST.

Attributing input tax credits on other than the cash basis

Creditable acquisitions

4.37 You attribute *all* the input tax credit on a creditable acquisition to the tax period in which the earliest of:

- you providing any consideration; or
- you becoming liable to provide any consideration for the acquisition or importation.

You include the input tax credit in your return for that tax period. However, you cannot attribute an input tax credit to a tax period unless you have a tax invoice when you lodge your return for that tax period—see 7.1 for what tax invoices are. **Subsections 29-10(1) and (3).**

Creditable importations

4.38 You attribute *all* the input tax credit on a creditable importation to the tax period in which you pay the GST on the importation. **Section 29-15.**

Attributing adjustment events on other than the cash basis

Supplies

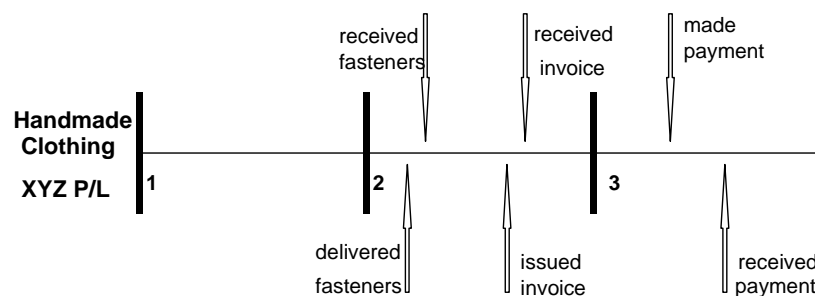
4.39 You attribute all of your increasing or decreasing adjustment for an adjustment event to the tax period in which you know about the adjustment event—**subsection 29-20(1)**. Adjustment events are discussed at 3.73.

Acquisitions

4.40 You attribute all of your increasing or decreasing adjustments for an adjustment event to the tax period in which you know about that adjustment event—**subsection 29-20(1)**. However, you cannot attribute the adjustment unless you have an adjustment note when you lodge your return for the tax period. Adjustment events are discussed at 3.73.

Example

XYZ P/L makes clothing fasteners such as zippers and buttons for the rag trade. XYZ P/L is registered and uses the general rules for attributing GST and input tax credits. Handmade Clothing Co. makes mass produced clothes for several large retailers. Handmade Clothing Co. is registered and does not account on a cash basis. Handmade Clothing Co. regularly acquires clothing fasteners from XYZ P/L. The diagram outlines the supply and payment for

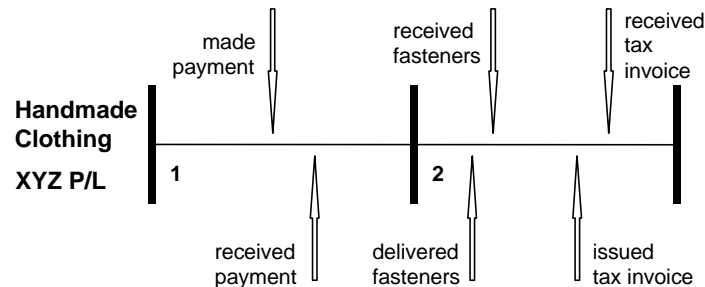


one such supply.

Handmade Clothing Co. received the invoice (not a tax invoice) for the taxable supply in tax period 2. It became liable to provide consideration for the taxable supply when it received the invoice. Handmade Clothing Co. would attribute the input tax credit on the acquisition to tax period 2 if it had a tax invoice. As it does not have a tax invoice it cannot attribute the input tax credit to tax period 2, but will have to wait until it has the tax invoice.

XYZ P/L issued the invoice in tax period 2. It became entitled to receive consideration for the supply once it issued the invoice. It attributes all of the GST on the taxable supply to tax period 2.

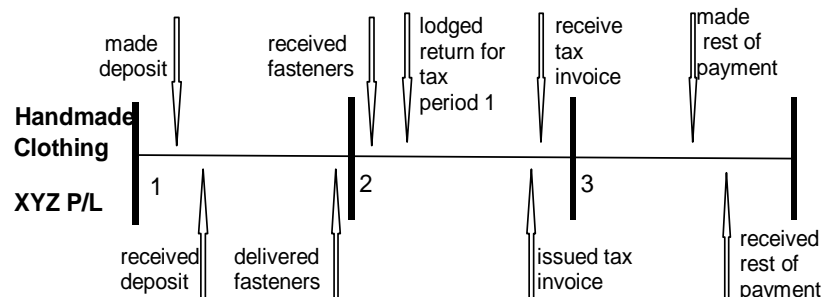
Later, XYZ P/L changes its business practices and requests that payment be made before the goods are delivered. This diagram outlines when a payment and supply occurred.



Although Handmade Clothing Co. paid for the fasteners in tax period 1, it did not have a tax invoice for the creditable acquisition until tax period 2. It attributes the input tax credit for the creditable acquisition to tax period 2.

XYZ P/L received payment for the taxable supply in tax period 1. It attributes all of the GST on that taxable supply to tax period 1.

XYZ P/L's customers are not happy about making the whole payment before they receive the fasteners, so XYZ P/L decides to accept deposits before delivery and the rest of the payment after delivery. Handmade Clothing Co. decides to make deposits as this will improve its cash flow. This diagram outlines when a deposit, supply and payment occurred.



Despite making a deposit in tax period 1, Handmade Clothing Co. attributes the input tax credit on the creditable acquisition to tax period 3 as it did not have a tax invoice until that tax period.

XYZ P/L attributes all of the GST on the taxable supply to tax period 1 as the deposit was received in that tax period.

Calculating your net amount

4.41 The above discussion of the general rules and the cash basis of accounting could suggest that you have to account for GST and input tax credits on a transaction by transaction basis. You can calculate your net amount from your total sales and total purchases for a tax period, rather than on a transaction by transaction basis. This will give the same result as accounting on a transaction by transaction basis.

Example

Ahlana is a toy wholesaler. She is registered. This table shows the creditable acquisitions and taxable supplies she attributes to one tax period.

Creditable acquisitions		Taxable supplies	
Item	Consideration	Item	Consideration
400 Big Ted	\$30,000.00	550 Jemima	\$20,000.00
500 Little Ted	\$20,000.00	200 Little Red Engine	\$4,000.00
200 Jemima	\$4,000.00	400 Noddy	\$12,000.00
New computer	\$3,000.00	200 Little Ted	\$18,000.00
Accounting software update	\$450.00	200 Jemima	\$10,000.00
600 Little Red Engine	\$5,350.00	100 Fire Truck	\$600.00
Accountant's services	\$500.00	200 Big Ear	\$4,000.00
150 Fire Truck	\$300.00	350 Big Ted	\$50,000.00
Total creditable acquisitions	\$63,600.00	Total taxable supplies	\$118,600.00

Assuming there are no adjustments for that tax period, Ahlana's net amount is 1/11 of the difference between the total creditable acquisitions and the total taxable supplies for the tax period (see 4.1 for net amount). Ahlana's net amount for this tax period is \$5,000. As Ahlana's total GST exceeds her total input tax credits, this net amount is the amount that Ahlana pays to the Commissioner when she lodges her return for that tax period.

Attribution rules determined by the Commissioner

4.42 The Commissioner can determine special attribution rules for certain transactions.
Section 29-25.

Example

If you make supplies through a coin operated vending machine you do not know when each payment is made. You only know what supplies you have made and how much you have been paid when you empty the machine. In this case you may attribute your supplies to the tax period in which you empty the machine. The other attribution rules could require attribution in the tax period when payment is made.

4.43 Such topics have not been covered in special rules in the Bill because they have no broader application. **Section 29-25** allows the Commissioner to determine the tax periods to which specified taxable supplies, creditable acquisitions and creditable importations are attributable in the circumstances described in **subsection 29-25(2)**. The Commissioner cannot make a determination unless the general rules and the special rules that are in the Bill would apply inappropriately.

CHAPTER 5

NON-TAXABLE SUPPLIES

This chapter tells you about things that are exempt from GST. It explains:

- *what are GST-free supplies; and*
 - *what are input taxed supplies.*
-

CHAPTER SUMMARY

<i>Non-taxable supplies</i>	A non-taxable supply is a supply that is GST-free; or input taxed.
<i>GST-free supplies</i>	If a supply is GST-free, no GST is payable on the supply and you are entitled to input tax credits on your creditable acquisitions that relate to the supply.
<i>Input taxed supplies</i>	If a supply is input taxed, no GST is payable on the supply but you are not entitled to input tax credits on your creditable acquisitions that relate to the supply.

NON-TAXABLE SUPPLIES

5.1 You do not charge GST on non-taxable supplies.

GST-free supplies

5.2 You do not charge GST on supplies that are GST-free. However, you are still entitled to input tax credits on acquisitions relating to the supplies. The effect is that there is no GST whatsoever included in the consideration for the supply.

5.3 In other countries, GST-free supplies are often referred to as *zero-rated*.

Input taxed supplies

5.4 You do not charge GST on supplies that are input taxed. However, you are not entitled to input tax credits on acquisitions relating to the supplies. The effect is that you have borne GST on those acquisitions and will pass on that cost in the price of the supply.

5.5 In other countries, input taxed supplies are referred to as *exempt*.

5.6 If you supply something that you have used solely in connection with supplies that are input taxed, that supply is also input taxed. **Subsection 9-30(4).**

Supplies that are both GST-free and input taxed

5.7 If a supply would be both wholly input taxed and wholly GST-free, GST-free overrides input taxed and the supply is GST-free—**subsection 9-30(3).** For example, exports are GST-free and financial supplies are input taxed. Thus, the export of financial supplies are GST-free.

GST-FREE SUPPLIES

Health — Subdivision 38-A

Medical services

5.8 A supply of a medical service is generally GST-free if it is provided by or on behalf of a medical practitioner or an approved pathology practitioner—**subsection 38-5(1)**. Both these terms are defined in the *Dictionary* at **section 195-1**.

5.9 The medical service will be GST-free if it is a service that is generally accepted in the medical profession as being necessary for the treatment of the patient. For example, if a doctor conducted an iridology service, or some other form of complementary therapy, that service would not be GST-free according to the definition of medical service (see the *Dictionary*).

5.10 A supply of a medical service is not GST-free if it is provided in certain circumstances such as the removal of tattoos and injection of prescribed substances in the management of obesity. **Paragraph 38-5(2)(a)**.

5.11 Medical services provided in relation to cosmetic surgery or other cosmetic procedures will not be GST-free unless a Medicare benefit is payable for such a service—**paragraph 38-5(2)(b)**. For example, a nose reconstruction for purely cosmetic reasons would not be GST-free but a nose reconstruction that alleviated a breathing difficulty or was performed following an accident would be GST-free.

5.12 Goods that are supplied in the course of a medical service will also be GST-free. This applies to things such as bandages, dressings and antiseptics. **Subsection 38-5(3)**.

Other health services

5.13 Other health services will be GST-free if they are provided by health practitioners listed in the table at **section 38-10**. The services must be necessary for the treatment of the patient and be of the type normally supplied in that profession. The practitioner must be a member of a relevant professional body subject to State government professional registration or uniform national professional self-regulation. However, for certain hearing related services the practitioner must be an accredited service provider under the *Hearing Services Administration Act 1997*. **Section 38-10**.

5.14 A supply is GST-free if it is provided by an ambulance service in the course of the treatment of a patient. **Subsection 38-10(4)**.

5.15 Other health services will be GST-free where:

- a supplier receives funding from Commonwealth, State or Territory governments;

- the supply is connected with the supply of a health service; and
- the health service is determined by the Health Minister.

For example, co-ordinated care services where a care provider co-ordinates medical and other health services on behalf of a patient. **Section 38-15.**

Hospital treatment

5.16 A supply of hospital treatment is GST-free. This includes public and private hospital treatment and hospital in the home services, hospital outreach services and hospital services which are contracted out. Hospital services related to cosmetic surgery such as facelifts, are not GST-free —**subsections 38-20(1) and (2)**. A supply of goods as part of the hospital treatment is GST-free. This includes goods that are integral to the medical and health services supplied in a hospital, but does not include television hire for patients or food served in hospital cafeterias. **Subsection 38-20(3).**

Residential care

5.17 Residential care is defined in the *Aged Care Act 1997* to include personal care and/or nursing care provided to a person in a facility in which the person is also provided with accommodation, appropriate staffing, meals, cleaning, furniture and equipment.

5.18 Residential care under **section 38-25** refers to care for both aged and disabled people. This includes respite care.

5.19 A supply of residential care is GST-free if it is provided by a residential care facility that qualifies for funding under the *Aged Care Act 1997*. **Subsection 38-25(1).**

5.20 Residential care services that are provided by a facility that receives Commonwealth, State or Territory funding, and are in accordance with a determination by the Minister responsible for Aged Care, will also be GST-free. **Subsection 38-25(2).**

5.21 Residential care services supplied through private residential care facilities will be GST-free if they are provided in accordance with a determination by the Minister responsible for Aged Care—**subsection 38-25(3)**. Determinations under this section will be disallowable instruments. **Section 177-10.**

Community care

5.22 Community care services provide assistance to people so that they can stay in their own homes instead of having to move to a nursing home. A publicly funded program called Health and Community Care provides services, of a similar nature to those provided in nursing homes, to aged and disabled people in their homes. Similar services funded through State and Territory programs and privately funded will also be GST-free.

5.23 A supply of community care or care that is funded by the Commonwealth under the *Aged Care Act 1997* or the *Home and Community Care Act 1985* will be GST-free.

Subsections 38-30(1) and (2). This includes such things as prepared food (for example, meals on wheels), home maintenance, personal care assistance and respite care.

5.24 Privately funded community care services are GST-free if they are of a type specified in item 2.1, Part 2 of Schedule 1 to the Quality of Care Principles made under the *Aged Care Act 1997*. Such services include assistance with bathing, eating, personal hygiene and respite care. **Subsection 38-30(3).** The provision of goods, including food, associated with these services will not be GST-free unless specified elsewhere. For example, certain medical aids and appliances are GST-free. See 5.27

5.25 Flexible care is defined in the *Aged Care Act 1997*. It means care:

- provided in a residential or community setting;
- provided through an aged care service; and
- that addresses the needs of aged care recipients in alternative ways to the care provided by residential care services and community care services.

Where this form of care is funded by the Commonwealth it is GST-free. **Section 38-35.**

Specialist disability services

5.26 Specialist disability services, funded under the *Disability Services Act 1986* or complementary State or Territory law, and of the kind listed in **section 38-40** are GST-free.

Aids and appliances

5.27 Certain aids and appliances designed for people with an illness or disability which are not of a kind ordinarily used in the wider community are GST-free. The list of GST-free aids and appliances is at **Schedule 1. Subsection 38-45(1)**. A supplier and recipient can agree that a supply of medical aids or appliances is treated as a taxable supply. **Subsection 38-45(2)** This option is available to ease administration for entities that make both taxable and GST-free supplies.

Drugs and medicines

5.28 Drugs and medicinal preparations are GST-free if the supply is on prescription and the supply is prohibited except on prescription. **Paragraph 38-50(1)(a).**

5.29 Pharmaceutical Benefits Scheme drugs and medicinal preparations which are sold on prescription will also be GST-free. **Paragraph 38-50(1)(b).**

5.30 Drugs and medicines that can only be sold within a pharmacy under the advice of a pharmacist, or supplied by a medical practitioner or dental practitioner are GST-free. This includes such preparations as 'ventolin'. **Subsection 38-50(2).**

5.31 A supply of a drug, medicine or other pharmaceutical item is GST-free if it is supplied on prescription under the Repatriation Pharmaceutical Benefits Scheme. **Subsection 38-50(3).**

Health insurance

5.32 Health insurance and ambulance subscriptions are to be GST-free. **Section 38-55.**

Education — Subdivision 38-B

Education courses

5.33 The supply of an education course is GST-free. The supply of an education course includes the supply of the school facilities and administration services required for delivery of that course. **Section 38-85.**

5.34 All recognised preschool, primary school, secondary school and tertiary courses are GST-free.

5.35 All courses covered by the determination of education courses by the Education Minister under the *Student Assistance Act 1973* are GST-free. This determination is referred to in Social Security legislation to identify courses that students must be undertaking to be eligible for income support as full-time students.

5.36 The determination covers secondary courses and tertiary courses provided they are accredited with the relevant State or Territory accreditation authority and are not classified as 'hobby' courses. Secondary and tertiary courses include:

- accredited secondary courses;
- school based apprenticeship or traineeship courses;
- special school secondary courses;
- English as a second language;
- pre vocational courses;
- remedial education or courses which aim to achieve basic skills to prepare students for further education;
- vocational education and training programs structured to the attainment of Australian Qualifications Framework qualifications;
- TAFE courses;
- open learning courses;

- New Apprenticeships Access Programme; and
- higher education courses—bachelor degree, postgraduate diploma, graduate degree and masters qualifying courses.

5.37 The Education Minister may determine that any primary, secondary or tertiary course not covered by the determination is a GST-free course. Private for profit schools are not covered by the determination.

5.38 In addition to those courses identified in the determination, there are a number of other GST-free education courses:

- preschool and primary school courses;
- special education centre courses. Special education centres cater to children with disabilities, providing therapeutic assistance and some educational instruction which may be either curriculum based or preparatory to schooling;
- Masters and Doctoral courses;
- English language courses for overseas students (for example those provided by ELICOS centres), or combination English language and other courses for overseas students provided by an accredited provider;
- professional or trade courses; and
- tertiary residential college courses.

Professional or trade courses

5.39 Professional or trade courses are GST-free—paragraph (h) of the definition of *education course* in **section 195-1. Section 38-85.**

5.40 Courses undertaken to gain qualifications are GST-free if the qualifications are an *essential prerequisite* to employment in a trade, profession or occupation. To be an essential prerequisite of a profession or trade, the qualification must be imposed by or under an Australian law or an award, order, determination or industrial agreement in force under an Australian law, or by a professional or trade association that has uniform national requirements for entry into that profession or trade.

5.41 If there is neither an industrial instrument nor an association with uniform national requirements, then requirements that are imposed by a professional or trade association which are not uniform nationally – for example, a professional association whose requirements differ from State to State – are essential prerequisites.

5.42 A qualification need not be from a recognised education provider – for example, the exemption could extend to:

- courses offered by associations regulating who can practice in a particular profession, or
- a course to obtain a certificate required to operate a particular type of equipment.

5.43 A qualification will not be GST-free merely because it is required by a particular employer or group of employers. For example, a motor vehicle driver's licence is a requirement of a number of jobs. The cost of driving lessons is not GST-free.

5.44 A distinction is to be made between courses undertaken to obtain qualifications and courses undertaken to maintain them. Courses to maintain qualifications – such as undertaking continuing professional development to retain membership of a professional body – are not GST-free.

Tertiary residential college course

5.45 Private Tuition provided within a university college in connection with a higher education course is GST-free – paragraph (i) of the definition of *education course* in **section 195-1**.

5.46 The fees paid to a university college can sometimes include an education component. If residential fees include an entitlement to receive tuition or other assistance in connection with the education course undertaken at the institution where the residential premises are located, this component of the college fee is GST-free—**section 195-1**, definition of *tertiary residential college course*.

Recognition of prior learning

5.47 Assessments of prior learning are also GST-free—**section 38-110**. Assessments may be made for the purpose of access to education or employment, professional associations or occupational registration or licensing requirements.

5.48 Assessments may be made by an entity registered with a training recognition authority, by a professional or trade association, an education institution, government authority – for example, the National Office of Overseas Skills Recognition – or local government body.

Excursions and field trips

5.49 Curriculum related school excursions are GST-free except for the food component. **Section 38-90**.

5.50 Curriculum related tertiary or other higher education excursions and field trips are GST-free except for the food and accommodation components.

5.51 An excursion is not GST-free if it is predominantly recreational. For example, an interstate trip made by a school group of staff and students to watch a football match would be a predominantly recreational excursion.

Course materials

5.52 A supply of course materials is GST-free. **Section 38-95.**

5.53 Course materials are things that are provided by the supplier of an education course and are necessarily consumed or transformed by students as part of a course.

5.54 Course materials may include photocopied educational materials, art supplies and ingredients used in a cooking class.

Supplies that are not GST-free

5.55 Goods sold, leased or hired to students are not GST-free. For example, the sale of food in a tuckshop or the hire of a musical instrument will be taxable. **Section 38-100.**

5.56 Goods that are not course materials – such as text books and computers – that become the property of students are not GST-free.

5.57 However, goods or property that are provided for students to use while undertaking a course – such as text books, computers, sports equipment and school buildings are GST-free unless there is a hire charge separate from the course fee.

5.58 Memberships of student organisations are not GST-free. Payments to a student body are not for the supply of an education course.

5.59 An education course does not include private tutoring, which is taxable. However, if an education course supplier engages a private tutor to deliver services, it would pay a GST-inclusive price to the tutor but would not pass on the GST cost to the student.

5.60 Recreation, leisure and personal enrichment courses of the type generally run as evening classes on a non award basis are not GST-free.

Student accommodation

5.61 Boarding school accommodation that is on the school premises is GST-free except for the food component. **Section 38-105.**

5.62 Accommodation provided by a rural student hostel to students is also GST-free.

5.63 Tertiary student accommodation is non-commercial residential accommodation. Tertiary student accommodation is input taxed by **subdivision 40-B**, as is residential rental accommodation which students living off campus might use.

5.64 Accommodation supplied by an education institution to a person who is not undertaking a GST-free education course is taxable commercial accommodation – see

Division 423. This would apply, for example, to accommodation provided to staff, or to accommodation let as short term holiday accommodation.

Child care — Subdivision 38-C

5.65 Child care is GST-free if provided at facilities that receive government funding or if the child care provider is a registered carer for the purposes of the Childcare Rebate.

5.66 Child care includes the provision of all the goods and services that are directly related to the child care. For example, supplies of food, electricity, bed linen and nappy wash services are covered by the exemption. **Section 38-155.**

Childcare Rebate

5.67 Child care supplied by a carer registered under the *Childcare Rebate Act 1993* is GST-free. It does not matter whether the recipient of the supply is eligible for the childcare rebate under that Act. **Section 38-140.**

5.68 The childcare rebate is a payment to families under the *Childcare Rebate Act 1993*. The rebate assists families with their work related child care costs in any type of paid child care—including friends, relatives, preschools or nannies. One of the requirements for the childcare rebate is that the carer is registered with the Health Insurance Commission.

5.69 Child care supplied by a registered carer is GST-free even if the family using the child care service is ineligible for a childcare rebate.

Child Care Assistance

5.70 If a child care provider receives child care assistance for any child supplied with child care, all child care it provides is GST-free. It does not matter that the provider does not receive child care assistance for other children receiving care at the facility. Child care assistance provides assistance to families using Commonwealth approved child care services. Child care assistance is payable under the *Child Care Act 1972* to long day care centres, family day care schemes, outside school hours care services and some occasional care services. **Sections 38-145 and 38-150.**

5.71 Child care assistance is paid on behalf of families direct to child care providers so they can reduce the fees they charge. Families must meet income and assets tests to be eligible for child care assistance.

5.72 There are also other forms of child care services receiving direct funding from the Commonwealth. These are generally services in rural and remote areas. The Minister administering the *Child Care Act 1972* can determine that these types of care are GST-free. **Section 38-150.**

Exports and things consumed outside Australia — Subdivision 38-D

5.73 GST is a tax on consumption in Australia. Generally, things that are not for consumption in Australia, such as exports, are GST-free. **Subdivision 38-D** provides for some such GST-free supplies.

Exports of goods

5.74 The table in **subsection 38-185(1)** lists the supplies of goods that are GST-free. **Subsection 38-185(2)** provides that these supplies are taxable if the same goods are imported after being exported.

Exports of goods

5.75 A supply of goods is GST-free if you export the goods within 60 days after the earlier of:

- the day you receive any of the consideration; or
- the day you provide an invoice.

Item 1 of subsection 38-185(1)

5.76 If the consideration for an export is provided in instalments, you may not meet the requirement that you export the goods within 60 days of receiving any consideration. This would mean that such a supply, even though it is to be exported, would not be GST-free under **Item 1**. **Item 2 of subsection 38-185(1)** provides that such a supply is GST-free if it is made under a contract which requires the goods to be exported and you export the goods within 60 days after the earlier of:

- the final instalment of the consideration; or
- the day you provide an invoice for the final instalment.

Example

Karen is an engineer. She has a contract with an overseas purchaser to build a machine. The machine will take six months to build and will be exported once complete. Karen receives the consideration for the machine in six instalments, the machine is not exported within 60 days of the first payment and so is not GST-free under **Item 1**. The machine is exported 20 days after the last instalment. The supply is GST-free under **Item 2**.

Export of aircraft or boats

5.77 A supply of an aircraft or ship is GST-free if the recipient (usually the owner or an agent of the owner) exports it from Australia under its own power within 60 days of taking

physical possession of it. For example, a yacht sails out of Australian waters using its own engine or sails. **Item 3 of subsection 38-185(1)**.

Adjustment events

5.78 If you do not export the goods within 60 days, you have an adjustment event under **Division 19**. You adjust your net amount for the tax period in which that event happened. See 4.39.

Record keeping

5.79 You must keep appropriate records to verify the export and when it happened. Such records could include:

- airway bills;
- bills of lading;
- evidence from the Australian Customs Service that the goods were exported; or
- evidence from the customs authority of the country to which the goods were exported that the goods arrived in that country from Australia. **New section 67** of the *Taxation Administration Act 1953*.

Export of goods to be consumed on international flights and voyages

5.80 When you supply stores on a ship or aircraft, the supply is GST-free where the use, consumption or sale is on a flight or voyage that has a destination outside Australia. It does not matter if that flight or voyage involves a journey between places in Australia. **Item 4 of subsection 38-185(1)**

5.81 Ship and aircraft stores are defined in section 130C of the *Customs Act 1901* to mean stores for the use of passengers and crew or for the service of the ship or aircraft.

Export of goods that are imported for repair

5.82 Goods which are imported into Australia to be repaired, renovated, modified or treated, and are then exported are GST-free. **Item 5 of subsection 38-185(1)** makes the supply of goods in the course of the repair and renovation work GST-free. **Item 4 of subsection 38-190(1)** makes the service component associated with this supply GST-free. This is consistent with the treatment of other exports.

5.83 Repair, renovation or modification of goods, involving the skills of the repairer and any goods incorporated into the goods, which are then exported as an integrated whole is, in effect, treated as an export.

Example

On the flight into Mascot Airport one of Arnold's Airlines' planes experiences 'engine difficulties'. In reality, two engines and the landing gear needed replacement. These goods were attached to the aircraft. The supply of these goods is GST-free. The supply of the cleaning fluid used to clean the seat covers is also GST-free because the cleaning fluid became unusable after treating the seat covers.

Supply of goods to relevant travellers for export

5.84 **Item 7 of subsection 38-185(1)** provides that a supply of goods is GST-free if they are supplied to Australian and foreign national tourists under the prescribed rules for exporting goods.

Supplies of things other than goods or real property for consumption outside Australia

5.85 The table in **subsection 38-190(1)** lists the supplies of services and things other than goods or real property that are GST-free. **Subsection 38-190(2)** provides that some of these supplies are taxable if the supply is connected with Australia.

Supply connected with property outside Australia

5.86 The supply of anything (other than goods or real property) that is directly connected with goods or real property situated outside Australia is GST-free—**Item 1 of subsection 38-190(1)**. For example, the supply by an architect of plans prepared in Australia for land or buildings situated outside Australia is GST-free.

Recipient of a supply is not an Australian resident

5.87 A supply is GST-free if:

- it is made to a non-resident who is not in Australia when the supply is made; and
- it is not directly connected with goods or real property situated in Australia when the supply is made.

Item 2 of subsection 38-190(1)

Example

Hubert supplies legal advice to a non-resident who is in Tahiti when Hubert provides the advice. The advice relates to Australian trade practices law. The supply is GST-free.

The supply of rights

5.88 A supply that is made in relation to a right is GST-free if:

- the right is for use outside Australia; and

- it is to a non-resident entity who is outside Australia when the supply is made.

Item 4 of subsection 38-190(1)

Example

An Australian copyright owner sells to a non-resident the right to distribute a product in a country other than Australia. The supply of that distribution right is GST-free.

Export of services used to repair imported goods

5.89 The repair, renovation, modification or treatment of goods that come from outside Australia and are then exported is GST-free—**Item 5 of subsection 38-190(1)**. See 5.82 for the supply of goods in these situations.

Exclusion from GST free treatment

5.90 **Subsection 38-190(2)** provides that despite **subsection 38-190(1)** the supply of a right or option to acquire something the supply of which would be connected with Australia is not GST-free.

Example

An Australian based hotel chain supplies rights to accommodation in Australian hotels to a New Zealand travel agency. The travel agency supplies accommodation vouchers to New Zealand tourists who may use the vouchers to obtain accommodation at the Australian hotels. The supply of the accommodation to the tourists is a supply that is connected with Australia. See 3.11. The supply to the travel agency of the rights to the accommodation is therefore not GST-free.

Religious services — Subdivision 38-E

Religious services

5.91 A supply of religious services by a religious institution is GST-free. For the religious services to be GST-free, they must be essential to the practice of the religion. **Section 38-220**.

Example

The supply of a rabbi's services at a bar mitzvah would be GST-free because it is integral to the practice of Judaism.

Car hire and purchase of flowers for use in a church wedding is not an integral part of the wedding service and is not GST-free.

5.92 A supply by a non-religious institution that is similar to a religious service is not GST-free, such as a marriage ceremony conducted by a civil celebrant.

5.93 A supply by a non-religious institution for use in connection with a religious service is not GST-free, even if such a supply would have been GST-free if made by a religious institution. **Subdivision 38-E.**

Religious institutions

5.94 The Courts have determined that, for a body to be regarded as a religious institution:

- its objects and activities must reflect its character as a body instituted for the promotion of some religious object, and
- the beliefs and practices of the members of that body must constitute a religion.

5.95 The two most important factors for determining whether a particular set of beliefs and practices constitute a religion are:

- belief in a supernatural being, thing or principle; and
- acceptance of canons of conduct which give effect to that belief, but which do not offend against the ordinary laws.

5.96 Religious institution is not confined to the major religions.

Charities — Subdivision 38-F

Charitable institutions

5.97 At common law, charities are generally organisations that are established for:

- the advancement of education;
- the relief of poverty;
- the advancement of religion; or
- other purposes beneficial to the community.

Non-commercial activities

5.98 Non-commercial supplies by charities are GST-free. Non-commercial activities are supplies for nominal consideration and supplies of donated second-hand goods.

5.99 To avoid unfair competition with business, the commercial activities of charities will be taxable. **Subdivision 38-F.**

Donations to charities

5.100 Gifts to charities are not subject to GST because gifts are not consideration for a supply. See 3.9 for the definition of consideration.

5.101 If you donate a thing to a charity and you had acquired the thing in a creditable acquisition, you do not have an adjustment for change in creditable purpose under **Division 129**. See 6.216 for change in creditable purpose. **Section 129-45.**

Example

Beryl is a baker. She donates bread that is unsold at the end of the day's trading to a charity. If she were taken to have used that stock for a private purpose she would have an adjustment for change in creditable purpose. The effect of **section 129-45** is that Beryl has no adjustment and remains entitled to the input tax credits for her acquisitions used to make the bread.

Supplies of second-hand goods

5.102 Supplies of donated second-hand goods by a charity are GST-free.

5.103 If goods are purchased to be donated, the acquisition is not for a creditable purpose. The donor does not get an input tax credit. As the donor has incurred the GST, the resale of the goods by a charity does not attract GST. For example, if you buy a bike to donate it to a charity you are not entitled to an input tax credit as the acquisition was not made for the purpose of your enterprise. Its resale by the charity is GST-free. See 3.23 for creditable purpose. **Section 38-255.**

Supplies for nominal consideration

5.104 Supplies for nominal consideration by a charity are GST-free. Nominal consideration means less than 50 percent of the tax inclusive market value. **Section 38-250.**

Example

If the bread donated by Beryl is sold by the charity for 10 cents a loaf and the tax inclusive market value is \$1.10, the sale is GST-free.

Reprocessed goods

5.105 Goods reprocessed by the charity lose their GST-free status.

Example

If donated second-hand clothing is cut up and sold as rags, it has been transformed. The clothes have been dealt with in such a way that the clothes are no longer clothes. The goods sold are not the same as the goods donated; they are new goods manufactured by the charity. The sale of the rags will be subject to GST.

If donated clothing is cleaned or repaired prior to sale, the supply does not attract GST.

Water and sewerage — Subdivision 38-G

5.106 A supply of water will be GST-free unless it is supplied in, or transferred into, a container of less than 100 litres capacity. For example, all reticulated water provided by your local council for residential and commercial purposes is GST-free. Water that is supplied in tankers for rural use is also GST-free, as long as it is transferred into a storage tank with more than 100 litres capacity. **Section 38-285.**

5.107 A supply of sewerage services is GST-free. **Section 38-290.** A service that consists of the emptying of a septic tank is GST-free. **Section 38-295.** The supply and installation of septic tanks will be taxable.

Supply of an enterprise as a going concern — Subdivision 38-H

5.108 **Subdivision 38-H** provides that the supply of enterprises as going concerns is GST-free. This exemption means that the purchaser does not have to obtain additional funds to cover the GST included in the price of a going concern.

Criteria

5.109 For a supply of a going concern to be GST-free:

- the recipient of the supply must be registered or required to be registered;
- the supply must be for consideration;
- both parties must have agreed in writing that the supply is of a going concern;

- all of the things for the continued operation of the enterprise must be supplied; and
- the supplier must carry on the enterprise until it is sold.

Subsections 38-325(1) and (2).

5.110 You can supply part of an enterprise as a going concern. For example, a large farm that is subdivided into a number of smaller farms and sold would qualify for GST-free treatment provided the smaller farms were capable of separate operation. However, if you separately supply parts of an enterprise that are not of themselves a going concern, those supplies will not be GST-free.

Example

You run a farm and you sell your haymaker. The haymaker is not of itself a going concern. That supply is not GST-free.

However, if you run a haymaking enterprise using four haymakers and you sell two of the haymakers and half of your customer list and some of the other things necessary to carry on the enterprise of haymaking, that supply could be GST-free.

Input taxed use and change in use of going concerns

5.111 If you acquire a going concern and the supply of it to you was GST-free, you may have an adjustment in relation to that acquisition if you intend or you later make input taxed supplies through the going concern. See 6.256

Supplies of transport — Subdivision 38-I

5.112 Supplies of transport specified in **section 38-355** are GST-free, including supplies of transport into and out of Australia for passengers and goods. Any transport that is wholly outside Australia is also GST-free. Such supplies are consumed outside Australia.

5.113 Certain transport supplies made within Australia that are connected with overseas travel are also GST-free.

5.114 The table in **section 38-355** sets out the transport supplies that are GST-free.

5.115 Australia does not include Australia's external territories—**section 195-1**.

Transport of passengers and goods to, from or outside Australia

5.116 Supplies of transport of passengers and goods, such as mail, plants and animals, to, from or between destinations outside Australia are GST free. **Item 1 of section 38-355**.

5.117 Transport to Australia means to the first place of arrival in Australia. Transport from Australia means from the last place in Australia. **Item 1 of section 38-355.**

Particular supplies connected with passengers

Australian domestic travel by non-residents

5.118 **Section 38-355 Item 3** makes the supply of domestic air travel to non-residents of Australia GST-free, if it is purchased while the non-resident was physically outside Australia.

Australian domestic leg of passenger's international flights

5.119 The supply of domestic flights within Australia that are directly associated with an international air journey is GST-free if the domestic flights are supplied as part of the international ticket. **Item 2 of section 38-355.**

5.120 This provision only applies to domestic air travel connected with an international flight. It does not apply to air travel connected to international journeys by sea, or other means.

Australian domestic leg of passenger's international voyage

5.121 The supply of the journey between Australian ports as part of an international voyage is GST-free if that supply is part of the international ticket. **Item 4 of section 38-355.**

Transport, loading or handling of goods within Australia

5.122 The supply of transport, loading and handling goods within Australia as an integral part of the transport of goods to or from Australia is GST-free. However, the supply must be made by the same supplier providing the international transport of the goods to or from Australia. **Section 38-355 Item 5.**

5.123 The supply of a transport service by a supplier who is not the actual provider of the transport would be subject to GST, but a registered recipient is likely to be eligible for the input tax credits on the acquisition.

Insurance

5.124 **Section 38-355 Items 6 and 7** provide for the insuring, arranging of insurance and arranging of this transport to also be GST-free.

Precious metals — Subdivision 38-J

Input taxing supplies of precious metals

5.125 Gold prices are internationally fixed. Gold dealers cannot pass on the GST charged on supplies of gold they make. Under the general rules there would be GST on the GST paid on the last supply. To avoid this, the first supply after the precious metals is refined is GST-free under the rules discussed below. This means that the refiner is entitled to input tax credits on the acquisitions that are used in refining the precious metal and does not charge GST on the supply of the precious metal. The result of this is that there is no GST embedded in the price of that supply. Subsequent supplies are input taxed—**section 40-100**. This means that there is no entitlement to input tax credits on those acquisitions and no GST charged on the supply. There is no entitlement to input tax credits because there is no GST in the price of the acquisition. There is no GST on the supply so that the fixed price is not affected.

GST-free supplies of precious metals

5.126 The first supply of precious metals by a refiner after refining will be GST-free if the recipient of the supply is a dealer in precious metals. The dealer has to acquire the precious metal for investment purposes. **Section 38-385**. A ‘refiner’ is an entity that regularly converts or refines precious metals in carrying on its enterprise. A ‘dealer’ is an entity that regularly supplies and acquires precious metal for investment purposes as a principal part of carrying on its enterprise.

5.127 Precious metal is defined in **section 195-1** as:

- gold of at least 99.5% fineness;
- silver of at least 99.9% fineness; and
- platinum of at least 99% fineness.

The regulations may also prescribe any other substance of specified fineness to be precious metal.

Importations of precious metals

5.128 The importation of precious metal is a non-taxable importation—**section 13-10**. This means that there is no GST charged on the importation of precious metals.

Supplies through inwards duty free shops — Subdivision 38-K

Inward duty free stores

5.129 International travellers arriving in Australia have access to inward duty free shopping facilities at Australian international airport terminals. The airport shops are in customs control under the *Customs Act 1901*, and are located in the international terminals between the point of disembarkation and the customs barrier. The shops are only permitted to sell tobacco products, spirits and perfume.

5.130 The supply of goods through an inward duty free shop to a *relevant traveller* is GST-free, as long as the goods are imported or are excisable goods. This eliminates GST from the sale by the store to the relevant traveller. A supply to a person who is not a relevant traveller will not be GST-free. **Section 38-415.**

5.131 This is the supply from the shop to the passenger or member of the transport crew. For the actual importation see 3.42

Crown land — Subdivision 38-L

5.132 The first supply of land held by the Commonwealth, a State, or a Territory will be GST-free if it is unimproved. A subsequent supply of that land will be taxable under the general rules. The supply of unimproved land means the supply of freehold interest in the land, or the supply of a long-term lease of the land, where the land has not been improved. **Subdivision 38-L.**

Long-term lease

5.133 A lease hire or license is a long-term lease if it is for at least 50 years and, when the lease was entered, it is reasonable to expect that it will continue for 50 years or more. **Section 195-1.**

Subdivided farm land - Subdivision 38-M

5.134 **Subdivision 38-M** provides that the supply of potential residential land is GST-free if:

- the land is subdivided from land on which the supplier has carried on a farming business for at least 5 years; and
- the supply is made to an associate for nil or inadequate consideration.

5.135 Where the supply is made at market value, the general rules will apply and GST will be payable.

5.136 Farming business is defined in **subsection 38-475(2)**. Potential residential land is defined in **section 195-1**. See 6.98 for how GST is calculated on the supply of land and premises.

Cars for use by disabled people — Subdivision 38-N

Disabled veterans

5.137 If you are a disabled veteran as outlined in **paragraphs 38-505(1)(a) or (b)** or another disabled person as outlined in **paragraph 38-510(1)(a)**, the supply of a car to you is GST-free if:

- you acquire the car for your personal transportation; and
- you intend to use the car for that purpose during all of the period from when you acquired the car to the earliest of:
 - two years after acquisition; or
 - the time the car becomes incapable of use for the purpose you acquired it for; or
 - a time the Commissioner considers appropriate.

Subsections 38-505(1), 38-510(1) and section 195-1.

5.138 This entitlement is subject to the car depreciation limit. The car depreciation limit is in section 42-345 of the *Income Tax Assessment Act 1997*. Only that value of the car that does not exceed the depreciation limit is GST-free. The value of the car for these purposes does not include the value of modifications made to the car to enable it to be used by you. For example, modifying the car to be operated by hand controls. **Subsections 38-505(2) and (3) and 38-510(2) and (3).**

Car parts

5.139 If you acquire car parts for a car you acquired GST-free under this subdivision, the supply of the parts to you is GST-free. **Subsections 38-505 (4) and 38-510(4).**

INPUT TAXED SUPPLIES

Financial Supplies — Subdivision 40-A

5.140 Most countries that have a GST system exempt financial services as there is no readily agreed identifiable value for supplies consumed by customers of financial services. The approach adopted in the Bill is consistent with the international model.

5.141 What are *financial supplies*? The principle adopted in the Bill relies on describing categories of activities. This is consistent with the methodology used in other countries. The phrase financial supply encompasses the concept of supplying a variety of financial facilities. The supply may be direct or indirect, such as by loaning money directly to a customer or by providing services as a mortgage broker. The need to include indirect services arises to ensure neutrality in decision making by those consuming financial services and to reduce the bias that may otherwise exist for financial institutions to internalise certain services.

What are financial supplies?

5.142 The categories of financial supplies that are to be input taxed are set out in the table in **subsection 40-5(2)** as follows: money, accounts, securities for debt, shares, unit trusts, superannuation funds, life insurance, futures, hire purchase, options, underwriting and arranging supplies.

Money – item 1

5.143 This Item covers a broad range of financial transactions. It encompasses the following kinds of activities:

(a) Money

- transfers between accounts;
- issue of bankers drafts and payments;
- charges for bills and cheques deposited for collection and payment at maturity;
- credits opened at other branches and other banks;
- cash remitted by post to customers or third parties;
- direct debits;
- exchange commission;
- special clearance of cheques;
- transfer or receipt of funds by telephone and automated means;

- distribution of salary or commercial credits, either directly or through clearing systems;
- issue of travellers cheques;
- provision of cheque reconciliation services;
- provision of credit cards, charge cards and similar payment cards including:
 - membership fees and annual subscriptions;
 - credit charges (interest); and
- direct debits.

(b) Lending

- the provision of, or making arrangements for, advances, loans, (including currency loans, overdrafts and mortgage loans);
- commitment fees, facility fees and supplemental facility fees in the course of making lending arrangements (including currency loans);
- completion and perfection of direct security, collateral security or other items given as security in the course of lending or granting credit (see also *item 3*);
- discounting bills;
- interest charged on advances, loans, including currency loans, overdrafts and mortgage loans;
- loans made;
- unauthorised borrowing, interest and charges, including charges for overdrawn accounts and demands for repayment.

(c) Mortgages

- issue of mortgage statements;
- deed production fees;
- redemption fees;
- fees for further loans;
- transfer of mortgage title;
- conversion of payment method.

5.144 Generally the provision of money in exchange for a supply is not a supply. ***Subsection 9-10(2).***

Accounts – item 2

5.145 Services of the following kind will be input taxed: account service fees or charges, clearance fees, the issue of bank cheques, early withdrawal charges, dishonoured cheque charges, stopped cheque charges, duplicate statements to account holders, provision of statements, cash and clearing services, provision of cash cards, cash transmission and cash handling, counter services, provision of foreign exchange and credits opened at other branches and at other banks. This list is not exhaustive.

Dealing with securities for a debt – item 3

5.146 The creation, issue, transfer, assignment or receipt of a security for a debt is a financial supply. It includes a guarantee or indemnity but not if the security is a lease, licence, or other similar arrangement in respect of real property.

5.147 This exclusion is included to ensure that the rental of property is treated as a supply of that property for GST and not as a financial supply.

Equity securities – item 4

5.148 The allotment, issue, transfer, assignment or receipt or any other dealing with a security within the meaning of subsection 92(1) of the *Corporations Law* (other than paragraph (ca) of that subsection) is a financial supply.

5.149 The definition of ‘securities’ in subsection 92(1) includes:

- debentures, stocks or bonds issued by a government;
- shares in, or debentures of, a body;
- interests in a managed investment scheme; and
- option contracts.

It includes futures contracts and excluded securities.

Unit trusts – item 5

5.150 This item is treated similarly to share dealings, however it also includes the management of a unit trust.

Futures contracts – item 6

5.151 Short term interest rate futures and other cash settled futures constitute a dealing in money or security for money within item 1. However, to confirm that all futures contracts (not just securities for money) are input taxed, item 6 is included.

5.152 Options based on financial futures contracts will be input taxed. Note some options which are cash settled or otherwise relate to money may also fall within item 1 and be input taxed under item 1.

5.153 Equity options will be input taxed under item 7.

Options and warrants – item 7

5.154 Dealings with options are input taxed.

Underwriting – item 8

5.155 Item 8 applies where an underwriter in the securities sector agrees, for a fee, to buy part of a securities issue that is not subscribed for or purchased. The underwriter may wish to spread the risk of having to buy part of the issue among sub-underwriters, who agree to underwrite a certain portion of the issue or sale.

Superannuation funds – item 9

5.156 The creation, transfer, assignment or receipt of, or any other dealing with a interest in or a right under, a superannuation fund is a financial supply. It also includes the management of a superannuation fund.

Life insurance – item 10

5.157 The provision, transfer or assignment of:

- a life insurance policy; or
- reinsurance relating to a life insurance policy;

is a financial supply. However, the supply of general insurance is subject to GST in **Division 78**.

Hire purchase agreements – item 11

5.158 Certain credit transactions which are akin to a loan are financial supplies. Before a hire purchase agreement will be input taxed, it is a requirement that a separate credit charge must be identified and charged and disclosed to the recipient.

Incidental supplies – item 12

5.159 Supplies that are incidental to other financial supplies are input taxed. For example, the valuation of a house by the bank when you apply for a home loan.

Arranging financial supplies – item 13

5.160 This item covers arranging for transactions. It picks up activities such as:

- brokerage commission. Statutory levies such as stamp duty which the broker passes on to the client are not part of the broker's consideration;
- the service of introducing clients to a person effecting transactions;
- bringing together sellers/issuers and purchasers/investors;
- carrying out/co-ordinating the necessary negotiations essential to the conclusion of the deal;
- instructing/organising and co-ordinating the work of other parties eg lawyers and accountants;
- carrying out the necessary consultations with appropriate regulatory authorities; and
- acting as the central point of contact and execution between the party intending to effect a transaction in securities and their advisors.

5.161 Each contract for a capital raising operation, share placement, merger or acquisition deal which involves a transaction in securities will have its own features, each of which must be taken into account in determining the GST treatment of the transaction.

5.162 Advisory services will also generally be supplied as part of, or as a pre-requisite to, making arrangements for such transactions. Advisory services are taxable.

Exclusions from the definition of financial supplies

5.163 A range of services which are sometimes associated with financial transactions are excluded from the definition of financial supplies and are therefore taxable. These services include the provision of advice in relation to a supply covered by any of items 1 to 13 in the table in **subsection 40-5(2)**, insurance, legal services, accounting services or the services of tax agents. The following supplies are taxable:

- advisory services (even if of a financial or investment nature) are taxable;
- general insurance, which is insurance other than life insurance or health insurance;
- legal services;
- accounting services;
- tax agents services;
- safe custody service for cash, documents or other things; and

- payroll services.

Subsection 40-5(3)

Supply of residential premises — Subdivisions 40-B and 40-C

5.164 When you supply residential premises such as houses and flats, the supply will be input taxed to ensure comparable treatment with owner occupiers. No GST will be payable on the supply of residential premises and you are not entitled to input tax credits for your acquisitions that relate to the supply. However, the residential premises will only be input taxed to the extent that the premises are to be used predominantly for residential accommodation. For example, if you have a flat on top of a shop, the supply of the shop will be taxable. **Paragraphs 40-35(1)(a) and 40-70(1)(a) and subsection 40-65(1)**

5.165 The supply of residential premises will be input taxed whether:

- you receive residential rent because the residential premises are supplied by lease, hire or licence—**section 40-35**; or
- you supply the residential premises by the sale of real property—**section 40-65**.

5.166 The supply of a long term lease (that is, a lease of 50 years or more) is not a supply of residential rent. The supply of a long term lease is to be treated as a sale of residential premises and input taxed under **Subdivision 40-C. Subsection 40-35(2) and section 40-70**.

5.167 The supply of real property as residential premises and the supply of residential premises by way of a long term lease is input taxed to the extent that the residential premises are not:

- ‘commercial residential premises’ such as hotels, motels, etc (‘commercial residential premises’ is discussed at 6.140); or
- newly constructed residential premises. **Subsections 40-65(2) and 40-70(2)**

Therefore, the sale of new residential houses by registered businesses (such as builders and developers) and the sale of commercial residential premises will be taxed.

What are residential premises?

5.168 Residential premises is defined in the **Dictionary** in **section 195-1** to mean land or a building occupied or intended to be occupied as a residence, and includes a floating home. Floating home is further defined in the same section to mean a floating platform with a building attached to be occupied as a residence and does not have means of, or is not capable of being readily adapted for, self-propulsion.

NON-TAXABLE IMPORTATIONS — DIVISION 42

5.169 Some importations are non-taxable for GST because they are duty free under the customs law or would have been GST-free or input taxed if they were supplies.

Importations of GST-free or input taxed goods

5.170 An importation of anything that would have been GST-free or input taxed, if it were a supply, is a non-taxable importation. For example, the supply of a wheelchair is GST-free (see 5.27). An importation of a wheelchair will also be GST-free under **section 13-10**. This means that an unregistered importer is treated the same as a registered importer.

Non-taxable importations in Part 3-2

5.171 The importations made non-taxable by the operation of **Part 3-2** complement several of the existing exemptions from customs duty under the *Customs Tariff Act 1995*.

Non-taxable importations – Schedule 4 to the *Customs Tariff Act 1995*

Repair and warranty-related importations

5.172 Certain repair-related importations are non-taxable importations. Most items are described by reference to items in schedule 4 of the *Customs Tariff Act 1995*. The following repair and warranty related importations are non-taxable:

- goods (covered by item 17 in schedule 4 of the *Customs Tariff Act 1995*) that are exported then imported without being subjected to treatment, industrial processing, repair, renovation, alteration or any other process, and on which all duties, taxes and charges of the Commonwealth have been paid;
- goods (covered by item 18A in schedule 4 of the *Customs Tariff Act 1995*) previously imported into Australia and returned after repair overseas in accordance with the provisions of the warranty on the previously imported goods;
- goods (covered by item 18B in schedule 4 of the *Customs Tariff Act 1995*) supplied free of charge and imported to replace goods previously imported into Australia; and
- goods, as described in item 21 in schedule 4 of the *Customs Tariff Act 1995*, which are imported for repair, alteration or industrial processing, and are to be exported.

Section 42-5

Goods of insubstantial value

5.173 Importations of certain goods of insubstantial value are non-taxable under **section 42-5**. This item refers to the following items in schedule 4 of the *Customs Tariff Act 1995*:

- Item 32A: those below the value which the Chief Executive Officer of Customs determines to be insubstantial and on which no duty is payable;
- Item 32B: those where the duty payable and the value are considered to be insubstantial;
- Item 33A: calendars, catalogues, overseas travel literature, overseas price lists and other overseas printed matter, as prescribed by by-law; and
- Item 33B: samples, as described by by-law, of negligible value.

Other

5.174 Other importations which are non-taxable under **section 42-5** are:

- goods imported as part of a global product safety recall, and covered by item 18C in schedule 4 of the *Customs Tariff Act 1995*;
- goods covered by item 23A, 23B or 24 in schedule 4 of the *Customs Tariff Act 1995* that have been donated or bequeathed by non-residents;
- trophies, medallions etc won outside Australia or donated by non-residents, covered by item 25A, 25B or 25C in schedule 4 of the *Customs Tariff Act 1995*; and
- containers imported then exported, covered by item 34 in schedule 4 of the *Customs Tariff Act 1995*.

Ship and aircraft stores

5.175 An importation of ship and aircraft stores is non-taxable under **section 42-10**. See 5.80 for exports of ship and aircraft stores.

Passenger and transport crew concessions

5.176 Subject to the concession limits described in the by-laws to item 15 of schedule 4 in the *Customs Tariff Act 1995*, an importation of goods by a passenger or crew member of a ship or aircraft is non-taxable, if covered by this item. **Subsection 42-15(1)**. The concession limits restrict the duty free imports of cigarettes, alcohol and other goods. This includes certain personal effects, furniture and household goods of the passenger or crew member.

5.177 Purchases by a relevant traveller from an inward duty free shop are non-taxable importations, if they are covered by item 15 in schedule 4 to the *Customs Tariff Act 1995* and its associated by-laws. The by-laws provide the concessions to passengers which allow them to bring in certain goods to a certain value and/or volume duty free. **Subsection 42-15(1).** See 5.129.

5.178 A relevant traveller is a person who has arrived in Australia on an international flight as a passenger or a member of the crew of an aircraft, and who has not been questioned by a Customs officer about the goods carried on that flight. **Subsection 42-15(2).**

CHAPTER 6

SPECIAL RULES

This chapter tells you about the special rules that modify the central concepts in particular cases.

CHAPTER SUMMARY

6.1 The special rules modify the general rules in **Chapter 2** of the Bill. The special rules tailor the operation of the GST to particular situations or provide concessions.

6.2 The special rules are dealt with in **Chapter 4** of the Bill. Each special rule is discussed below.

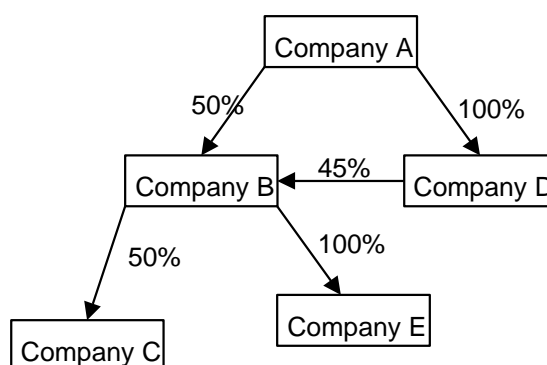
GST GROUPS — DIVISION 48

6.3 Companies with common ownership or common membership of a non-profit association often operate as a group. They often supply things to, or acquire things from, other members of the group. The company making a taxable supply to another company will generally pay GST on that supply. The other company will generally have an input tax credit for the acquisition. If both companies are owned by the same entity all of these transactions could be viewed as being internal with the entity charging itself GST and claiming input tax credits on the same internal transaction. The cost of accounting for intra-group transactions could be reduced by ignoring these transactions for GST. This is what the GST grouping provisions provide.

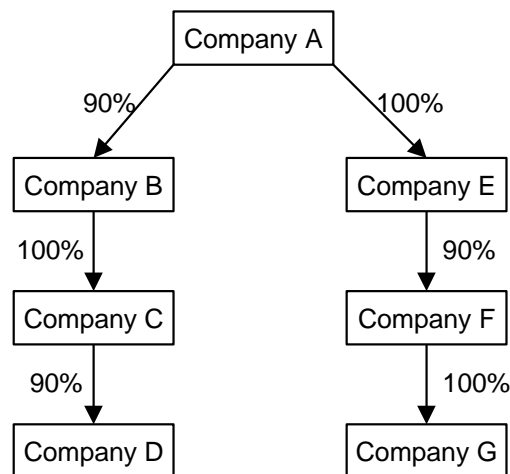
Companies generally

6.4 Companies are allowed to form a GST group if they are a member of the same 90% owned group. **Paragraph 48-10(1)(b)**.

6.5 **Division 190** defines '90% owned group'. The following diagrams are an example of the application of the definition.



Companies A, B, D and E are part of a 90% owned group. Company C is not.



Companies A, B, C, E, F and G are part of a 90% owned group. Company D is not.

Non-profit bodies

6.6 A GST group can also be formed by some or all of the non-profit bodies that are members of the same non-profit association. The 90% beneficial ownership requirement does not apply to GST groups formed by non-profit bodies. **Subsection 48-10(2)**.

Effect of forming a GST group

GST and input tax credits

6.7 GST groups are effectively treated as a single entity. Supplies and acquisitions made wholly within a GST group are taken out of the GST system. Supplies and acquisitions that are made outside the GST group fall within the central concepts.

6.8 One company (*the representative member*) of the GST group becomes responsible for paying all the GST and is entitled to all the input tax credits that the members of the GST group have that relate to supplies and acquisitions made outside the GST group. The representative member makes the GST return on behalf of the members of the group. **Subdivision 48-B**. The representative member does not have to be the holding company of a group.

Joint and several liability

6.9 All the members of a GST group are jointly and severally liable for the GST payable by the GST group. **New section 50** of the *Taxation Administration Act 1953*.

Adjustments

6.10 As the GST group is effectively a single entity the adjustment provisions apply to the group as a whole. The representative member is responsible for any

adjustments—**section 48-50**. The change in creditable purpose provisions of **Division 129** apply to the GST group as a whole. For example, one company acquires something from outside the GST group and uses it to make taxable supplies to entities outside of the group. It was acquired solely for a creditable purpose. The representative member is entitled to and receives a full input tax credit in relation to the acquisition. However, later the thing is supplied to another company within the GST group, and that second company uses the thing to make input taxed supplies. The change in creditable purpose provisions apply. The representative member makes an adjustment under **Division 129**. See 6.216 for change in creditable purpose adjustment.

Importations

6.11 The representative member is entitled to any input tax credits that relate to creditable importations made by a member of the group. If the GST on the importation is payable at the time customs duty is paid, the GST is payable by the member of the GST group making the importation. Otherwise, a member would make the importation, pay the customs duty, but the representative member would have to pay the GST on the importation. **Paragraph 48-40(2)(b)**. See 7.27.

Eligibility criteria

Companies generally

6.12 To be able to be or become a member of a GST group, a company must:

- be registered for GST;
- be an Australian resident for income tax purposes;
- be the holding company or a company of which the holding company has 90% or more beneficial ownership;
- have the same tax periods as the members or other proposed members of the GST group—see 4.7 for tax periods; and
- account for GST on the same basis as the members or other proposed members of the GST group—see 4.22 for GST accounting bases.

Subsection 48-10(1).

Non-profit bodies

6.13 The same eligibility criteria apply except that 90% beneficial ownership is not required. Instead, for non-profit bodies to form a GST group they must be a company and be a member of the same non-profit association as the other members or proposed members of the GST group. **Subsection 48-10(1)**.

Application

6.14 To set up a GST group at least two companies must apply jointly to the Commissioner. The companies have to satisfy the eligibility criteria and nominate one of them to be the representative member of the GST group. **Subsection 48-5(1)**.

Thresholds

6.15 All the thresholds for GST purposes that are linked to annual turnover apply to the GST group as a whole. See 7.33 for annual turnover. In calculating the current and projected annual turnover for the GST group, the value of the supplies of all the members of the GST group are taken into account. As for the usual method of calculating the amount of current or projected annual turnover the following supplies are excluded from the amount:

- supplies that are input taxed;
- supplies that are not for consideration and are not taxable supplies under **Division 72**; and
- supplies that are not connected with an enterprise carried on by a member of the GST group.

6.16 In addition to excluding the value of such supplies from the amount of annual turnover, the value of supplies that are made to another member of the GST group are not included. **Sections 188-15 and 188-20**.

6.17 One of the effects of this is that even if all the members of a GST group immediately before the GST group was formed were accounting on a cash basis because they were below the cash accounting turnover threshold, the representative member for the GST group will not be able to account on the cash basis for the GST group if the annual turnover of the GST group exceeds the cash accounting turnover threshold. However, the representative member may still be able to account on a cash basis if it has the Commissioner's permission to do so under **section 29-45**. See 4.24 for when you can account on a cash basis.

Changing membership

Changing membership on application

6.18 The representative member of a GST group can apply to the Commissioner to approve another company to join the GST group, remove members from the GST group, or approve another member of the GST group as the representative member. The Commissioner must approve another company joining the GST group if the company satisfies the eligibility criteria discussed above. The Commissioner must approve the removal of a member from the GST group or a change in representative members. **Subsection 48-70(1)**.

Changing membership without application

6.19 The Commissioner can remove a member from a GST group even without an application if the member does not satisfy any of the eligibility criteria discussed above.

Subsection 48-70(2).

Dissolving a GST group

On application

6.20 The representative member can apply to the Commissioner to revoke the approval of the GST group as a whole. If the representative makes such an application, the Commissioner must revoke the approval of the GST group as a whole. **Subsection 48-75(1).**

Without application

6.21 The Commissioner can revoke the approval of a GST group as a whole even if the representative member has not applied for revocation of the GST group. The Commissioner can do so if he or she is satisfied that no member or only one member of the GST group satisfies the eligibility criteria. **Subsection 48-75(2).**

Effect of leaving or joining a GST group

Joining a GST group

6.22 If you join a GST group you cease to be responsible for accounting for your own taxable supplies, certain taxable importations, creditable acquisitions and creditable importations and adjustments unless you are the representative member. For example, if you made an acquisition before you were a member of the GST group and an adjustment arises after you joined, the representative member of the GST group is responsible for the adjustment. If you made a taxable supply before you were a member of a GST group, and only part of the GST on a taxable supply was attributed to a tax period before you joined, the representative member accounts for the rest of the GST.

Leaving a GST group

6.23 If you leave a GST group, you again become responsible for accounting for your own taxable supplies, taxable importations, creditable acquisitions, creditable importations and adjustments. For example, if you made an acquisition whilst you were a member of the GST group and an adjustment arises after you leave, you are responsible for the adjustment. If you made a taxable supply while you were a member of a GST group, and only part of the GST on a taxable supply was attributed to a tax period before you left, you account for the rest of the GST.

Example

The TTT group of companies forms a GST group. WWW Co. is the representative member. WWW can account on a cash basis for the GST group. Another member of the GST group, HHH Co., makes a taxable supply to someone outside of the GST group. The payments for

that taxable supply are to be made once a month for six months. Two and a half months after the first payment is received HHH leaves the GST group. WWW has already accounted for the GST on the first three payments for the supply. HHH must account for the GST on the last three payments under the accounting rules applying to it.

Example

Another company, RRR Inc, joins the TTT GST group. After joining the GST group, an adjustment arises in relation to an acquisition RRR had made before joining the GST group. WWW accounts for that adjustment.

GST JOINT VENTURES — DIVISION 51

6.24 Companies may operate together in mining activities in a joint venture with the aim to achieve certain things. For example, several mining companies may jointly survey for mineral deposits. The companies that are members of the joint venture may supply things to each other within the joint venture. Under the general rules, one company would pay GST on the supply of the thing and another participant of the joint venture would be entitled to the input tax credit for the acquisition of the thing. Such supplies and acquisitions are therefore akin to transactions made within an entity. For this reason **Division 51** gives you the opportunity to separately register a joint venture for GST purposes. Separately registered joint ventures are *GST joint ventures*.

GST and input tax credits

6.25 One participant (the *joint venture operator*) of the joint venture pays the GST and is entitled to the input tax credits that relate to supplies, acquisitions and importations it makes for the purposes of the joint venture on behalf of the other participants of the GST joint venture. Supplies made by the joint venture operator to another participant of the GST joint venture are not treated as being subject to GST. The joint venture operator also has the adjustments that relate to those supplies, acquisitions and importations. The joint venture operator makes the GST return of the GST joint venture on behalf of the participants of the joint venture. The joint venture operator makes payments or receives refunds of the GST joint venture's net amount for each tax period. **Subdivision 51-B**.

Eligibility criteria

6.26 To be able to be or become a participant of a GST joint venture, each company must:

- participate, or intend to participate, in a joint venture for the exploration of exploitation of mineral deposits. This includes petroleum, natural gas and related hydrocarbons, sands and gravels;
- be part to a joint venture agreement with the other participants, or

intended participants, of the joint venture;

- be registered;
- be an Australian resident for income tax;
- be, or intend to be, engaged in a joint venture;
- not be a member of a GST group;
- not be in partnership with the other participants, or intended participants;
- use the same accounting basis for GST; and
- have the same tax periods.

Section 51-5 and 51-10

6.27 Joint ventures for other purposes may be eligible to form GST joint ventures if the regulations allow. **Paragraph 51-5(1)(a).**

Changing participants

Changing participants on application

6.28 The joint venture operator of a GST joint venture can apply to the Commissioner to approve another company to join the GST joint venture, remove participants from the GST joint venture, or approve another participant of the GST joint venture as the joint venture operator. The Commissioner must approve another company joining the GST joint venture if the company satisfies the eligibility criteria discussed above. The Commissioner must approve the removal of a participant from the GST joint venture or a change in joint venture operators. **Subsection 51-70(1).**

Changing participants without application

6.29 The Commissioner can remove a participant from a GST joint venture even without an application if the participant does not satisfy any of the eligibility criteria discussed above. **Subsection 51-70(2).**

Dissolving a GST joint venture

On application

6.30 The joint venture operator can apply to the Commissioner to revoke the approval of the GST joint venture as a whole. If the representative makes such an application, the Commissioner must revoke the approval of the GST joint venture as a whole. **Subsection 51-75(1).**

Without application

6.31 The Commissioner can revoke the approval of a GST joint venture as a whole even if the joint venture operator has not applied for revocation of the GST joint venture. The Commissioner can do so if he or she is satisfied that no participant or only one participant of the GST joint venture satisfies the eligibility criteria. **Subsection 51-75(2)**.

Effect of leaving a GST joint venture

Joining a GST joint venture

6.32 If you join a GST joint venture you cease to be responsible for accounting for your own taxable supplies, taxable importations, creditable acquisitions, creditable importations that you make for a purpose of the joint venture. You also cease to be responsible for the adjustments that relate to such supplies, acquisitions and importations. For example, if you made an acquisition before you were a participant of the GST joint venture and an adjustment arises after you joined, the joint venture operator of the GST joint venture is responsible for the adjustment. If you made a taxable supply before you were a participant of a GST joint venture, and only part of the GST on a taxable supply was attributed to a tax period before you joined, the joint venture operator accounts for the rest of the GST.

Leaving a GST joint venture

6.33 If you leave a GST joint venture you again become responsible for accounting for your own taxable supplies, taxable importations, creditable acquisitions and creditable importations that are for the purpose of the joint venture. You also become responsible for the adjustments relating to such supplies, importations and acquisitions. For example, if you made an acquisition whilst you were a participant of the GST joint venture and an adjustment arises after you leave, you are responsible for the adjustment. If you made a taxable supply while you were a participant of a GST joint venture, and only part of the GST on a taxable supply was attributed to a tax period before you left, you account for the rest of the GST.

GST BRANCHES — DIVISION 54

Commercial accounting practice

6.34 Some entities operate through a divisional or branch structure. Their normal commercial accounting practice may be to account on a divisional or branch basis. They may only amalgamate their accounts once a year. Rather than requiring them to amalgamate their accounting for GST across their divisions or branches every tax period they are allowed to register their branches separately for GST purposes. **Division 54** provides for the separate registration of GST branches.

6.35 GST branches account for GST separately from their parent entity. They make separate GST returns and payments of GST. They also receive refunds of GST separately.

6.36 You do not have to register all of your branches separately as GST branches. You can choose to register one, some or none of your branches separately as GST branches.

Subsection 54-5(2)

Eligibility

6.37 Generally, you will be able to register one of your branches separately as a GST branch if the Commissioner is satisfied that:

- the branch has an independent system of accounting;
- the branch can be separately identified either because the activities of the branch are distinct from the other activities of the entity, or because the branch is in a distinct location from the other parts of the entity; and
- you are or intend to carry on an enterprise through the branch.

Paragraphs 54-5(1)(b) and (c)

6.38 You cannot register one of your branches separately if you are a member of a GST group. See 6.3 for GST groups. This is because, generally, if you are a member of a GST group, you do not account for GST. The representative member of the GST group accounts for the GST and is entitled to the input tax credits for all group members. ***Subsection 54-5(3)***.

Effect of separate registration

6.39 If you register one of your branches separately, the GST branch will account for the GST on the taxable supplies and taxable importations it makes. The GST branch will account for the input tax credits on the creditable acquisitions and creditable importations that it makes. The GST branch will account for the adjustments that relate to the supplies, importations and acquisitions that it makes. ***Sections 54-40 and 54-45***.

6.40 Effectively the GST branch operates as a distinct entity for GST. However, you, *the parent entity*, still bears legal responsibility.

6.41 As a consequence of separately registering one of your branches, if it transfers anything to you as parent entity, that transfer is treated as a taxable supply. The GST branch accounts for GST on the transfer and you are entitled to an input tax credit in relation to the transfer. If you transfer anything to one of your GST branches, that transfer is treated as a taxable supply. You account for GST on the transfer and the GST branch is entitled to an input tax credit in relation to the transfer. ***Sections 54-40 and 54-45***.

6.42 If a GST branch transfers anything to another of your GST branches, that transfer is

also treated as if it were a taxable supply or creditable acquisition. **Sections 54-40 and 54-45.**

6.43 All the general rules relating to taxable supplies and creditable acquisitions apply to your GST branches as if those transfers were taxable supplies and creditable acquisitions. **Sections 54-40 and 54-45.**

Net amounts

6.44 If you have one or more GST branches, you have a separate net amount for each of them. You also have a separate net amount for your enterprise as parent entity for those things that are not included in the net amount of your GST branches. **Sections 54-40 and 54-45.**

Returns

6.45 If you have GST branches, you have to make separate GST returns for each them. You also have to make a separate GST return for your enterprise as parent entity for those things that are not included in the returns of your GST branches. **Section 54-55.**

Payments and refunds of GST

6.46 If you have GST branches you pay, or the Commissioner pays to you, the net amounts of those GST branches. **Sections 54-60 and 54-65.**

Application for separate registration

6.47 If you want one of your branches to be separately registered you apply to the Commissioner for registration of that branch as a GST branch. The Commissioner will register the branch as a GST branch if you meet the eligibility criteria discussed above. **Section 54-5.**

Cancelling separate registration of your GST branches

6.48 The general rule for cancellation of registration in **Subdivision 25-B** does not apply. Instead the rules in **Division 54** apply. **Section 54-85.**

6.49 You can apply to have the separate registration of one of your GST branches cancelled. The Commissioner must cancel the separate registration unless the GST branch has been separately registered for less than twelve months. Even if the GST branch has not been separately registered for at least twelve months the Commissioner must cancel the separate registration if he or she is satisfied that:

- you are not carrying on an enterprise through the branch; and
- you will not carry on an enterprise through the branch in the next twelve months.

Subsections 54-75(1) and (2)

6.50 The Commissioner can still cancel the separate registration of one of your branches even if you do not apply for cancellation of separate registration of a branch if he or she is satisfied that:

- you are not carrying on an enterprise through the branch; and
- you will not carry on an enterprise through the branch in the next twelve months.

Subsection 54-75(2)**RESIDENT AGENTS FOR NON-RESIDENTS — DIVISION 57**

6.51 Non-residents can register for GST if they are carrying on an enterprise or intend to carry on an enterprise from a particular date. The enterprise the non-resident carries on does not have to be located in Australia. **Section 23-10.**

6.52 If a non-resident entity is registered for GST and has a resident agent, the resident agent is required to be registered from when he or she starts acting as agent—**sections 57-20**. The agent must notify the Commissioner within 14 days of ceasing to act as agent for a non-resident—**section 57-30**. The Commissioner must cancel the agent's registration if satisfied that the agent is not acting as agent for a non-resident and is not otherwise required to be registered under the general registration rules in **Division 23**.

6.53 The agent is required to be registered because the agent is liable for the GST on taxable supplies and taxable importations made by the non-resident through the agent. The agent is entitled to input tax credits on creditable acquisitions and creditable importations that the non-resident makes through the agent. The agent also has any adjustments that relate to those supplies, acquisitions or importations. The non-resident is not liable for the GST or entitled to the input tax credits. The non-resident does not have the adjustments that relate to those supplies, acquisitions or importations. **Sections 57-5, 57-10 and 57-15.**

6.54 The reason for this is that if a non-resident is acting through an agent there is someone in the Australian jurisdiction on whom liability can be placed. Placing the liability on someone who is in jurisdiction decreases the compliance risk.

6.55 If a non-resident only makes taxable supplies or taxable importations through an agent the non-resident does not have to lodge a GST return. **Section 57-40.**

6.56 If you are an agent for a non-resident and your net amount for a tax period is zero you must lodge a return if the non-resident made taxable, GST-free or input tax supplies through you. You must lodge a return in the way you would if your net amount had not been zero even though **subsection 31-15(2)** would otherwise allow you to lodge your return in another way, such as by telephone, that the Commissioner allows. See 7.14 for lodging

returns.

PRE-ESTABLISHMENT COSTS — DIVISION 60

What would happen without this special rule

6.57 Under the general rules for creditable acquisitions in **Division 11** if you are not registered and you set up a company, you personally will not be entitled to input tax credits for the GST included in the costs of setting up the company. This is because you are not entitled to input tax credits if you are not registered or required to be registered. Without a special rule, the company would not be entitled to input tax credits in relation to those set up costs because the company did not provide and was not liable to provide the consideration for those cost.

6.58 If you are registered and you set up a company, but setting up the company is not done for a creditable purpose of your enterprise, you will not be entitled to an input tax credit for the costs of setting up the company. This is because you are only entitled to input tax credits that you make for a creditable purpose. The company did not make the acquisitions so without a special rule it would not be entitled to the input tax credit.

6.59 **Division 60** modifies the general rule to allow the company to be entitled to input tax credits for acquisitions and importations that are made before incorporation in certain circumstances. Such input tax credits are only allowed in relation to *pre-establishment acquisitions* and *pre-establishment importations*.

Conditions

6.60 An acquisition or importation you make for a creditable purpose—see 3.23—that only relates to a company that does not yet exist will be a pre-establishment acquisition or importation if:

- the company comes into existence and becomes registered within 6 months after the acquisition or importation would have been first attributable if it had been creditable; and
- you become a member, officer, or employee of the company; and
- you have been fully reimbursed by the company for the consideration you provided for the acquisition, or you have been fully reimbursed by the company for the GST on the taxable importation and the cost of acquiring or producing the thing.

Subsection 60-15(1).

6.61 However, an acquisition or importation cannot be a pre-establishment acquisition or

importation if you are entitled to an input tax credit for the acquisition or importation—**paragraph 60-15(2)(a)**. If you are entitled to an input tax credit, the general rules apply to allow you the input tax credit and there is no need for the special rule in **Division 60**.

Example

Lee is an accountant. Lee incorporates companies to hold as trading stock for the purpose of his enterprise. Lee would be entitled to the input tax credits for the incorporation costs. Therefore the acquisitions relating to incorporation of the companies are not pre-establishment acquisitions. The companies are not entitled to an input tax credit.

6.62 If the company acquires the things you acquired before it existed, the general rules apply and there is no need for this special rule—**paragraph 60-15(2)(b)**.

Example

Shirley, is registered and carries on an enterprise as a garden tool wholesaler. She decides to expand her field of operation and sets up a company to operate a nursery making retail sales of garden tools, plants, and other garden items. Before she sets up the company she acquires garden tools as stock for the company. After the company is set up she supplies it with the garden tools. That supply is a taxable supply. The company is entitled to an input tax credit for the acquisition of the garden tools. Therefore the acquisition of the garden tools by Shirley is not a pre-establishment acquisition.

Creditable purpose

6.63 Creditable purpose for **Division 60** is different from the usual creditable purpose rules. For **Division 60** you have a creditable purpose to the extent that you acquire or import a thing before a company exists for the purpose of establishing the company or for the purpose of the company carrying on an enterprise after it exists. **Subsection 60-20(1)**. You do not have a creditable purpose in relation to an acquisition or importation to the extent that it is of a private or domestic nature or relates to the company making input taxed supplies. **Subsection 60-20(2)**.

Input tax credit

6.64 If you make a pre-establishment acquisition or an importation that is a pre-establishment importation, you are not entitled to the input tax credit for it. The company is entitled to the input tax credit after it comes into existence. **Section 60-5**.

Attribution**Creditable acquisitions**

6.65 An input tax credit for a pre-establishment acquisition is attributable to the tax

period applying to the company in which you were fully reimbursed for it—**subsection 60-30(1)**. However, the company must hold a copy of a tax invoice that you or your agent has for the acquisition before it can attribute the input tax credit, unless there is no need for the company to hold a tax invoice—**subsection 60-25(2)**.

Creditable importations

6.66 Input tax credits for pre-establishment importations are attributable to the tax period applying to the company in which you were fully reimbursed for the GST on the importation and the costs of acquiring or producing the things.

Change in creditable purpose

6.67 The adjustment for change in creditable purpose provided for in **Division 129** applies in respect of input tax credits that a company is entitled to in relation to pre-establishment acquisitions or importations. **Section 60-35**. See 6.216 for change in creditable purpose adjustment.

SECOND-HAND GOODS — DIVISION 66

6.68 If you acquire second-hand goods from an unregistered entity the supply to you will not be a taxable supply. Even if you acquire the goods for a creditable purpose you would not be entitled to an input tax credit under the general rules because the supply to you was not taxable. This also applies if you acquire second-hand goods from someone who is registered but the supply is not taxable, such as the supply of a car that has only been used privately.

6.69 If you acquire second hand goods from an unregistered entity, that entity has paid GST on the supply of the goods to them. They were not entitled to an input tax credit. There is therefore some GST included in the price you pay for those second hand goods. If you subsequently supply those goods in a taxable supply, GST is payable on the supply. This would mean that there is GST charged on GST.

6.70 **Division 66** allows you an input tax credit in such situations to offset the GST included in the price paid for acquisitions.

Eligibility

6.71 Generally, if you are registered and:

- you acquire second-hand goods; and
- you subsequently supply those goods in a taxable supply;

you are entitled to an input tax credit on the acquisition—**section 66-5**. However, you are not entitled to an input tax credit on the acquisition in the circumstances outlined in **subsection 66-5(2)**.

The amount of the input tax credit

6.72 The amount of the input tax credit for the second-hand goods is the lesser of:

- 1/11 of the consideration for the acquisition; or
- the amount of the GST payable on your subsequent taxable supply of second-hand goods.

Subsection 66-10(1)

Which tax period is the input tax credit attributable to?

6.73 The credit is attributable to:

- the tax period in which you receive any part of the payment for the supply; or
- the tax period when you issue an invoice for the supply.

Subsection 66-15(1)

6.74 However, if the value of your acquisition of the second-hand goods is less than \$300, you attribute the input tax credit to the tax period in which you provide the consideration or receive an invoice for the acquisition.

6.75 If you account on a cash basis you attribute your input tax credit for the supply according to the rules in ***subsection 66-15(2)***.

6.76 The general rule for claiming input tax credits is that you must have a tax invoice at the time you claim the credit. This rule does not apply to input tax credits for second-hand goods where your acquisition was not a taxable supply. ***Subsections 66-15(3) and (4)***.

NON-DEDUCTIBLE EXPENSES — DIVISION 69

6.77 Some provisions of the Income Tax Assessment Acts prevent you from deducting certain amounts, or limit the amount you can deduct. Generally this is because they have a private element. This category includes certain relative's travel, club and leisure facilities or boats, entertainment and non-compulsory uniform expenses. It also includes certain business benefits and car parking expenses that the *Income Tax Assessment Act 1936* prevents you from deducting.

Non-deductible expenses

6.78 In most cases, an input tax credit is not allowed for acquisitions to the extent that you cannot deduct the expense for income tax because of these provisions. ***Section 69-5***.

6.79 If you are exempt from income tax, an acquisition that you make that would be a ***non-deductible expense*** if the provisions of the Income Tax Assessment Acts that deny deductions applied to you, is not a creditable acquisition.

6.80 A further rule in some of the deduction provisions is that you are not stopped from deducting an expense you incur in providing a fringe benefit. ***Division 69*** does not stop an acquisition being a creditable acquisition where you provide it as a fringe benefit.

Car depreciation limit

6.81 The *Income Tax Assessment Act 1997* limits the cost of a car for working out the amount you can deduct for depreciation.

6.82 The car depreciation limit also applies for working out the amount of your input tax credit for a creditable acquisition of a car—**section 69-10**. For the 1998 income year the car depreciation limit is \$55,134. If the GST applied in 1998, the input tax credit on a car which cost this amount or more would be \$5,012.

6.83 If your acquisition of a car is partly creditable, you work out your input tax credit under this Division before you work out your input tax credit under Chapter 2. **Subsection 69-10(2)**.

6.84 The car depreciation limit also applies to cars for the personal use of disabled veterans and other disabled people. See 5.138.

Example

You purchase a car for \$88,000 including \$8,000 GST. You acquire the car 50% for use in your enterprise, and 50% for private use. Your input tax credit under division 432 would be \$5,012 (if the 1998 car depreciation limit still applied). Because the acquisition is partly creditable, your input tax credit worked out using the formula in subsection 9-50(3), is 50% of \$5,012, which is \$2,506.

6.85 The car depreciation limit applies to your creditable acquisition of a car even if you cannot claim depreciation – for example because you are exempt from paying income tax.

ASSOCIATES — DIVISION 72

6.86 Special rules apply to supplies between associates. Essentially, these rules ensure that supplies to your associates without consideration are brought within the GST system and that supplies to your associates for inadequate consideration are properly valued for GST purposes.

6.87 ‘Associates’ is defined widely for these purposes and will include people and entities closely associated with you such as relatives, or closely connected companies or trusts. The definition of associate is the same definition adopted in the *Income Tax Assessment Act 1997*. **Section 195-1**.

Supplies without consideration

6.88 Supplies between associates are brought into the GST system if the recipient of the supply is not entitled to a full input tax credit. The recipient will not be entitled to a full input

tax credit if he or she is not registered or required to be registered or if her or his acquisition was not solely for a creditable purpose. **Section 72-5.**

6.89 If you make such a supply without consideration, the value of the supply is the tax exclusive market value of the supply—**section 72-10**. The tax exclusive market value is the market value of the consideration or thing, reduced by the amount of GST (if any) payable on the supply.

6.90 If you are the recipient of the above supply and you did not acquire the supply solely for a creditable purpose, your input tax credit is the input tax credit you would have been entitled to if the consideration for the supply had been the tax inclusive market value. See 3.31. **Sections 72-40 and 72-45.**

6.91 The GST and input tax credit for these transactions are attributed to the tax period in which the supply first becomes a supply that is connected with Australia—**sections 72-15 and 72-50**. This will generally be the time of delivery of the supply. See 3.11 for connected with Australia.

Example

Karen is a carpenter and is registered for GST. Karen supplies a dining suite to her sister Sarah. Sarah is also registered. The market value of the suite is \$1,650.

Sarah paid Karen no consideration for the supply and intends to use the suite for a 50% creditable purpose.

Karen accounts for \$150 (\$1,650 divided by 11) GST. Sarah is entitled to an input tax credit of \$75 (\$150 × 50%).

The GST and the input tax credit are attributable to the tax period in which the table is delivered.

Supplies for inadequate consideration

6.92 If the consideration for the supply is less than the tax inclusive market value, GST is payable on the tax exclusive market value of the supply. **Section 72-70.**

Example

If in the example at 6.91, Sarah had not been registered for GST and had paid \$1,100 for the supply, Karen attributes \$150 (\$1,650 divided by 11) GST. The GST is attributed to a tax period under the general rules. Sarah is not entitled to an input tax credit.

When the special rule does not apply

6.93 You do not need the special rule, even though there is no consideration or inadequate consideration, if the acquirer is entitled to a full input tax credit for the acquisition. This is because the recipient of the supply would get a full input tax credit entirely offsetting the GST included in the price of the supply.

Example

If in the example at 6.91, Sarah paid \$1,100 for the table and acquired it solely for a creditable purpose, she would be entitled to an input tax credit of \$100 (\$1,100 divided by 11). This entirely offsets the \$100 (\$1,100 divided by 11) of GST that Karen accounts for.

SALE OF FREEHOLD INTERESTS — DIVISION 75

6.94 There is no GST payable when land is sold by private individuals, or on the sale of an existing family home—**subdivision 40-C**.

6.95 If you are registered, the construction, sale and leasing of all real property and buildings, whether new or used, will be subject to GST. GST will generally be calculated on the full value of the real property and input tax credits can be claimed for real property purchased by a registered entity from another registered entity.

6.96 Real property includes:

- any interest in or right over land; or
- a personal right to call for or be granted an interest in or right over land; or
- a licence to occupy land or other contractual right exercisable over or in relation to land. **Section 195-1**.

6.97 If you are registered you may choose to calculate GST on the supply of real property and premises on the margin of that supply or under the usual rules. The margin is the value added by your business. For example, the supply of new residential premises by a property

developer. **Division 75, subsection 75-5(1)**

Margin scheme

6.98 The margin scheme applies to supplies of real property and premises that are held at 1 July 2000 and subsequent supplies of real property. Under the margin scheme, you calculate GST on the supply as 1/11 of your margin on the sale of the real property and premises. **Subsection 75-10(1).**

6.99 Generally, your margin is your tax inclusive sale price less your original purchase price. **Subsection 75-10(2).** However, if you held the real property and premises at 1 July 2000, your margin is the sale price less the value of the real property and premises at 1 July 2000 if:

- you are holding real property and premises when the GST commences (1 July 2000);
- you obtain a valuation of the real property and premises at 1 July 2000; and
- it is the first supply of the real property and premises

Subsection 75-10(3).

6.100 This will ensure that GST is only payable on the value added after the commencement of the GST system. See 6.110 for a discussion of the requirements for valuation of real property and premises at 1 July 2000.

6.101 If your original purchase price is less than your sale price, or if the value of the real property and premises held on 1 July 2000 has decreased, there is no GST payable because there is no positive margin —**subsections 75-10(2) and (3).**

6.102 You should not include the cost of any improvements made since 1 July 2000 to the real property and premises when calculating the original purchase price. You will have already received an input tax credit for GST paid on the improvements. If the value of the improvements was added to the original price or the value of the real property or premises at 1 July 2000, the amount of GST payable would be reduced by an amount equal to the input tax credit available on the improvements. In other words, you would receive a double benefit.

6.103 If you acquired real property that was purchased as a taxable supply on which GST was calculated on the full value of the supply, it cannot be resold under the margin scheme—**subsection 75-5(2).**

6.104 However, if you purchase real property GST-free you will be able to resell it under the margin scheme. If the real property you acquired GST-free was to be excluded from the margin scheme, the effect would be that tax would be payable on the value added to the

land before 1 July 2000.

6.105 If you purchase real property and premises where GST on the supply to you was calculated on the margin, you cannot claim input tax credits on the supply—**section 75-20**.

Valuation

6.106 In certain circumstances, your margin is the sale price less the value of the real property and premises at a specified date—**subsection 75-10(3)**. This will ensure that GST is only payable on the value added after the commencement of the GST or after you become registered for GST.

Generally

6.107 If you hold real property and premises at 1 July 2000 you will need to get a valuation of the real property and premises to be able to supply the real property and premises using the margin scheme. **Item 1 of subsection 75-10(3)**.

Commonwealth, a State or a Territory

6.108 Where the *Commonwealth, a State or a Territory* holds unimproved land at 1 July 2000 that is subsequently improved, it is able to be sold under the margin scheme. In this case, GST will be charged on the difference between the sale price and the value of the unimproved land at the date of sale—**Item 4 of subsection 75-10(3)**. The effect is that the value of the land is not subject to GST (that is, it is consistent with **subdivision 38-L** which provides that the sale of unimproved land held by an Australian government agency will be GST-free).

Unregistered entity becoming registered

6.109 If you were an unregistered entity holding real property and premises at 1 July 2000 and you subsequently become registered or required to be registered, you need to obtain a valuation of the real property and premises at that time—**Item 2 of subsection 75-10(3)**. In these circumstances, you will need to charge GST only on the value added by you after you became registered for GST.

Valuations

6.110 If you require a valuation of your land, you may obtain a professional valuation. You will need to have other land and buildings professionally valued as at 1 July 2000, if you wish to supply the land under the margin scheme. The Commissioner can determine the requirements for a valuation of land. **Paragraph 75-10(3)(b)**

Subdivision of land

6.111 When you subdivide land and subsequently supply it, you will be able to calculate

GST on the supply under the margin scheme or on the full value of the supply. When you supply subdivided land, the price for acquisition will be apportioned appropriately.

Section 75-15. See 5.134 for the subdivision of agricultural land by farmers.

INSURANCE — DIVISION 78

6.112 If you take out an insurance policy, GST is charged on the insurance premium. If the insurance policy is a creditable acquisition, you are entitled to an input tax credit.

6.113 When an insurance company makes a payment under an insurance contract, the insured entity gives up the right to recover amounts from the insurance company. If the insured entity is registered, giving up the right to recover would be a taxable supply by accepting the insurance payout. The insured entity would have to remit GST on the supply of that right. The insurance company would be entitled to an input tax credit on the payout because the acquisition of that right would be a creditable acquisition.

6.114 **Subsection 78-5(1)** ensures that the insurance company is able to claim input tax credits on payouts under insurance policies regardless of whether the insured entity is registered or unregistered.

6.115 The result is the same as for any other entity that charges GST on its taxable supplies and is entitled to an input tax credit for its creditable acquisitions.

6.116 The credit under **subsection 78-5(1)** only applies where the supply of the contract of insurance is a taxable supply, or would have been a taxable supply, if the contract had been made after 1 July 2000. That is, the premium was taxable—**subsection 78-5(2)**. For example, health insurance is GST-free and so the premium is not taxable. See 5.32.

6.117 An insurance policy is defined in **subsection 78-5(3)**. An insurance policy is a policy of insurance or a guarantee to the extent that it is a policy or guarantee against loss, damage, injury or risk of any kind. It does not include a life insurance policy.

6.118 Certain insurance transactions are not taxable supplies or creditable acquisitions. Such transactions are excluded insurance transactions.

6.119 Excluded insurance transactions in relation to goods are defined in **paragraph 78-10(3)(a)**. Excluded insurance transactions in relation to rights are defined in **paragraph 78-10(3)(b)**.

Example

Goods

Florence runs a flower shop and is registered. Her delivery van was involved in an accident and was written off. Florence receives an insurance payout in exchange for giving up her right to recover amounts from the insurance company. The insurance company claims an

input tax credit in relation to the payment. Florence accounts for GST of 1/11 of the insurance payment.

The insurance company takes possession of the wrecked van. This is an excluded insurance transaction. **Paragraph 78-10(3)(a)** provides that this supply is not taxable supply or a creditable acquisition. Otherwise, Florence would have to account for GST and the insurance company would be entitled to an input tax credit on the value of the wreck.

Rights

Arto is registered and carries on an enterprise of renting out residential properties. Residential rent is input taxed under **subdivision 40-B**. This means that acquisitions made that relate to the renting of the residential premises are not for a creditable purpose and hence Arto is not entitled to an input tax credit.

When Arto acquires an insurance policy for the residential premises, he was not entitled to an input tax credit. Under the insurance policy the premises are insured against events such as storm damage and fire.

One of Arto's rental houses is gutted by fire and becomes untenanted for six months. Arto receives an insurance payout in exchange for giving up his right to recover amounts from the insurance company in relation to the house. However, the payout is in relation to Arto making input taxed supplies. The surrender of the right to be indemnified by the insured is an excluded insurance transaction—**paragraph 78-10(3)(b)**. While, the insurance company is not entitled to an input tax credit for the payment, Arto does not account for GST on the insurance payment.

6.120 **Section 78-15** provides for the situation where payouts are partly excluded insurance transactions.

PAYMENT OF TAXES — DIVISION 81

6.121 Paying or discharging a liability to pay taxes imposed under a law of a State, a Territory or the Commonwealth is consideration for a taxable supply—**subsection 81-5(1) and section 195-1**. This means that GST is included in such a tax. An example would be where a government fee to enter a park is framed as a tax. The payment of the fee, a tax, is consideration for a supply from the government of the right for you to enter the park.

6.122 Some of these taxes may not be within the meaning of 'in connection with Australia', which is one of the requirements for a supply to be a taxable supply. **Section 81-10** therefore provides that it does not matter whether the supply to which the payment of tax relates is connected with Australia.

6.123 For example, visas supplied in Australian embassies may not be supplied strictly

within the meaning of in connection with Australia.

6.124 Not all taxes are paid in return for the supply of something from the government concerned. For this reason, **subsection 81-5(2)** allows such taxes to be excluded from GST by specifying them in a determination by the Treasurer.

6.125 If a tax is not excluded by the Treasurer's determination, the supply to which it relates is a taxable supply.

OFFSHORE SUPPLIES OF OTHER THAN GOODS OR REAL PROPERTY — DIVISION 84

6.126 One of the requirements for a supply to be a taxable supply, and hence subject to GST, is that the supply is connected with Australia—**paragraph 9-5(c)**. Under **subsection 9-25(5)** supplies of things other than goods or real property are connected with Australia if the thing is done in Australia or the supplier makes the supply through an enterprise the supplier carries on in Australia. Under these rules a supply of a thing that is not goods or real property, such as an intellectual property right, could be made from outside of Australia when the thing is for consumption in Australia, such as an intellectual property right that is to be exercised in Australia, and the supply would not be connected with Australia. The supply would not be taxable. The supply would not be taxable even if the other requirements of **section 9-5** are met.

6.127 There would be no GST on the thing under the GST on importation provisions because GST is charged on the importation of goods. See 3.45.

6.128 There should be GST on the supply if the thing is going to be used in Australia other than solely for a creditable purpose. That is, if the thing is going to be used solely or partly for a private or domestic purpose, or partly or solely for making input taxed supplies. See 3.23 for creditable purpose.

6.129 **Division 84** ensures that there will be GST on such supplies.

6.130 You will pay GST if you are registered or required to be registered and you acquire, in a supply that is not connected with Australia, things other than goods or real property for a purpose of an enterprise you carry on in Australia. GST is not payable if you acquire the things solely for a creditable purpose. This is because, if you acquire the things solely for a creditable purpose and the supply was taxable, you would be entitled to an input tax credit equal to the GST. **Paragraphs 84-5(1)(a) and 84-5(1)(c)**.

6.131 The supply has to have been for consideration. **Paragraph 84-5(1)(b)**. Note however that the associates provisions in **Division 72** may apply. See 6.86.

6.132 The supplier may not be in the Australian GST system so the GST is payable by the recipient of the supply rather than the supplier. See 2.6 for who is in the GST system. This is

a reverse charge. **Section 84-10.**

6.133 If you acquired the thing solely for a creditable purpose the supply is not a taxable supply—**section 84-5**. However, if you later use the thing other than solely for a creditable purpose, the adjustment for change in creditable purpose provisions in **Division 129** apply. See 6.216.

LONG TERM COMMERCIAL ACCOMMODATION — DIVISION 87

6.134 If long term accommodation was input taxed like the supply of residential rent (see 5.164), the supplier of the accommodation would have to apportion input tax credits between that part that relates to the residential accommodation and that part that relates to services.

6.135 To avoid this and make the calculations easier, a concessionary treatment of long-term commercial accommodation is given under **Division 87**.

6.136 If you supply accommodation to an individual for more than 27 days and your premises are predominantly for long term accommodation (see 6.141), the value of the supply of commercial accommodation is 50% of the price if this Division did not apply, from the start of the stay. **Section 87-5**.

6.137 If you supply accommodation to an individual and your premises are *not* predominantly for long term accommodation, GST is payable on the full value of the supply for the first 27 days. During the remainder of the stay (if any), the value of the supply of commercial accommodation is 50% of the price if this Division did not apply. **Section 87-10**.

What is commercial accommodation?

6.138 The reduced value of the supply applies only to supplies of ‘commercial accommodation’. Commercial accommodation is:

- the right to occupy the premises; and
- any of the following if they are provided as part of that right:
 - cleaning and maintenance;
 - electricity, gas, air-conditioning or heating; and
 - telephone, television, radio or any other similar thing.

Section 87-20.

6.139 You must charge GST on the full value of supplies of incidental goods and services such as meals, drinks, laundry and service charges.

What are commercial residential premises?

6.140 **Section 195-1** defines commercial residential premises as, amongst other things, hotels, motels, inns, hostels, boarding houses or camping grounds. Premises used to provide accommodation in connection with primary or secondary schools only are also included in the definition.

When are commercial residential premises predominantly for long term accommodation?

6.141 **Subsection 87-15(3)** sets out when commercial residential premises are predominantly for long term accommodation. You provide commercial residential premises predominantly for long term accommodation where at least 70% of the individuals who you provide with commercial accommodation in the premises are provided with commercial accommodation for a period of 28 days or more.

Example

Mary McCallum stays for 40 days at the Commercial Hotel. The accommodation charge is \$77 per night. Mary consumes a small amount of food from the mini-bar and uses the dry cleaning services supplied by the hotel. These are not part of the accommodation charge.

The GST charged on Mary's stay is calculated as follows:

- GST on the first 27 days of Mary's stay is calculated on the full value of the supply.
- The next 13 days of Mary's stay GST is calculated on the long-term accommodation basis, which is 10% of the reduced value of the supply.
 - The reduced value is 50% of the tax exclusive 27 day rate, which is $\$77 \times 50\% = \38.50 .
 - GST is 10% of the reduced value, that is, $\$38.50 \times 10\% = \3.85 .
 - The rate that Mary pays for the 13 days is the tax exclusive value plus the GST of \$3.85.
 - If the tax exclusive value is the same as for the first 27 days (\$70) the charge to Mary is \$73.85 per night.

Mary's account at the end of her stay is:

Accommodation:

27 days @ \$77 (incl. GST)	\$2,079.00
13 days @ \$73.85 (incl. GST)	\$960.05
Food (incl. GST)	\$330.00
Laundry (incl. GST)	\$165.00
Total	<hr/> \$3,534.05

COMPANY AMALGAMATIONS — DIVISION 90

6.142 **Division 90** refers to amalgamating companies and amalgamated companies. Amalgamating companies are the companies that exist before they amalgamate to become the new amalgamated company. In the discussion below, companies A and B are the amalgamating companies. Company C is the amalgamated company.

6.143 If companies amalgamate they become one entity. This is not the same as when one entity acquires something. A and B become a new entity, C. A and B cease to exist. Rather than have A and B charge GST on the supply of all of their assets to C, and then have C entitled to an input tax credit for the acquisition of those assets, the supplies from A and B are not to be subject to the GST. The reason for this is that it would be like making a supply to yourself taxable and creditable at the same time. By removing such supplies and acquisitions from the GST system, the chance to manipulate the timing of the attribution of the GST and the input tax credits is removed and unnecessary accounting costs are avoided. For this reason such supplies are not taxable supplies. **Section 90-5**.

Registration

6.144 C is required to be registered immediately after amalgamation if, immediately before amalgamation, the combined turnovers of A and B meet the registration turnover threshold.

A and B not registered, C registered

6.145 If A and B are not registered or required to be registered immediately before amalgamation, the supplies of their assets to C at amalgamation are not taxable supplies. It does not matter if C is registered or required to be registered immediately after the amalgamation. Even if C is registered or required to be registered immediately after amalgamation, C's acquisitions of the assets of A and B are not creditable acquisitions. **Sections 90-5 and 90-15**.

A and B registered, C not registered

6.146 If C is not registered or required to be registered, C is not entitled to an input tax credit under the general rules. The need for the special rule therefore does not arise.

6.147 If A and B are registered or required to be registered immediately before amalgamation, but C is not registered or required to be registered immediately after amalgamation, the supplies by A and B of their assets to C are taxable supplies. A and B account for the GST in their concluding tax periods. The value of this supply is the tax exclusive market value of the supply. **Section 90-10.**

A and B registered, C registered

6.148 The supplies by A and B of all their assets to C are not taxable supplies if:

- A and B are registered, or required to be registered before the amalgamation; and
- C is also registered or required to be registered after the amalgamation. **Section 90-5.**

GST and input credits

6.149 C is treated as liable to GST and entitled to input tax credits that A and B were liable for, or entitled to, but have not yet accounted for. **Sections 90-20 and 90-25.**

Adjustments

6.150 If C uses the things acquired from A and B for a different purpose from that for which A and B acquired the things, the change in creditable purpose provisions apply—see 6.216. C also makes adjustments arising from adjustment events in relation to the things it acquired from A and B—see 3.73. C makes adjustments for bad debts of A and B written of or recovered after amalgamation as if it were A or B—see 3.84. **Section 90-30.**

Different accounting basis

6.151 If A and B used a different accounting basis from C, GST and input tax credits arising from supplies, acquisitions and importations from before the amalgamation will be treated differently in C's first tax period after amalgamation.

A or B on cash basis, C not on cash basis

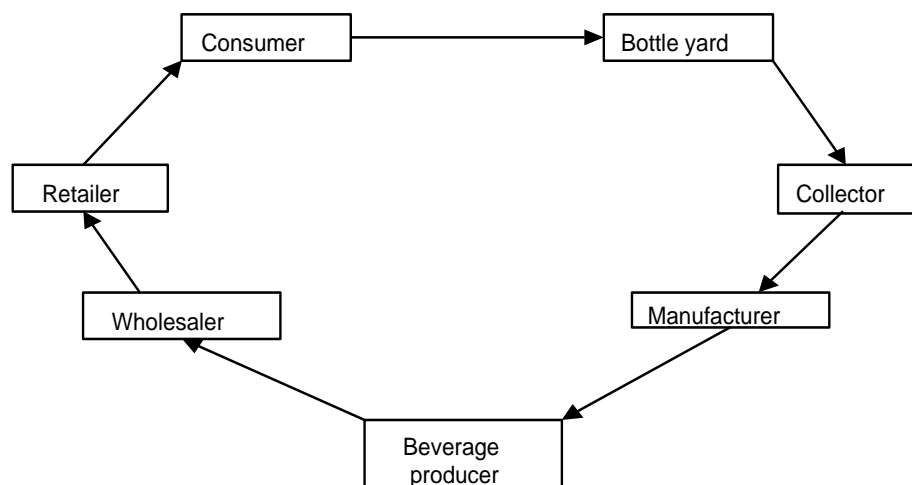
6.152 A (or B or both) accounted on a cash basis before the amalgamation and C does not account on a cash basis after the amalgamation, the following attribution takes place. C attributes any GST, input tax credit or adjustment that has not been accounted for, or fully accounted for before the amalgamation, but would have been had A accounted on a cash basis, to the first tax period that ends after the amalgamation. C attributes the GST, input tax credit or adjustment to the extent it was not accounted for before. **Section 90-35.**

Example

A accounts on a cash basis and uses monthly tax periods. Before the amalgamation A makes a creditable acquisition of some goods solely for a creditable purpose. A is to pay for the goods in six monthly payments. As A accounts on a cash basis, the input tax credit for the acquisition is attributable to each tax period in which a payment is made to the extent that the payment is made. That is, 1/11 of each payment is attributable as an input tax credit to the tax period in which the payment is made. After the third payment, A and B amalgamate to form C. C does not account on a cash basis. C attributes the input tax credit that relates to the remaining three payments to its first tax period that ends after amalgamation. That is, C attributes 1/11 of the amount of the remaining three payments to that tax period as an input tax credit.

RETURNABLE CONTAINERS — DIVISION 93

6.153 A special rule is required to prevent the cascade of GST (GST on GST) that would otherwise occur under the general rules for certain statutory refund schemes in relation to returnable containers such as bottles. Under such schemes something like the following transactions occur:



6.154 The manufacturer pays the collector \$X per number/weight of bottles plus a handling fee. The collector goes to the bottle yards and pays them the \$X per number/weight of bottles plus some of the handling fee. The bottle yard pays the consumer the \$X for the number/weight of bottles. The consumer had paid \$X to the retailer as a deposit on the bottle. The \$X is GST inclusive. The \$X is the amount that the bottle yard is obliged under the terms of the scheme to pay the consumer for the return of the container.

6.155 To remove the cascade of GST, the tax embedded in the \$X has to be removed at some point in each cycle.

Delayed input tax credit

6.156 The embedded GST is removed from the \$X that the bottle yard pays the consumer when the registered bottle yard supplies the bottle to the collector by allowing a special input tax credit. The input tax credit is equal to the embedded GST, that is, 1/11 of the price paid to the consumer. As a compliance measure, the input tax credit is delayed until the bottle yard has supplied the bottle to the collector.

6.157 Therefore, if you acquire a returnable container and the supply of the container to you was not a taxable supply, you may be entitled to an input tax credit for the acquisition. You will be entitled to an input tax credit if that acquisition meets all the other requirements for being entitled to input tax credits—see 3.19—**subsection 93-5(1)**. You attribute the input

tax credit to the tax period in which you receive any consideration, or an invoice is issued, for the supply of the container in a taxable supply—**subsection 93-15(1)**.

6.158 The input tax credit for GST embedded in a supply from a non-registered person is limited to returnable containers under a statutory scheme. **Subsection 93-5(2)** tells you what is a returnable container.

SUPPLIES PARTLY CONNECTED WITH AUSTRALIA — DIVISION 96

6.159 **Section 9-25** provides for when supplies are connected with Australia. See 3.11. Whether or not a supply is taxable can depend on whether or not the supply is connected with Australia—**paragraph 9-5(c)**. See 3.5. For the purposes of deciding whether a supply is connected with Australia a distinction is made between supplies of goods, supplies of real property, and supplies of things other than goods or real property. However, a supply may be a mixture of any of these three things, such as a mixture of goods and services. This can mean that part of a supply is connected with Australia under **section 9-25** and another part of the supply is not connected with Australia. The result of this is that part of a supply will be taxable and part will not be. **Division 96** provides for what to do in such circumstances.

6.160 If a supply is a mixture of goods or real property, or anything other than goods or real property, and only part of the supply is connected with Australia, the supply will be treated as separate supplies. **Subsection 96-5(1)**.

6.161 The amount of GST or input tax credits in respect of a supply are calculated under the general rules in relation to the value of the supply —**subdivision 9-C and section 11-25**. See 3.13 and 3.30. In the circumstances to which **Division 96** applies, the GST or input tax credit should not be calculated in relation to the whole value of the supply, only to the value of the supply that is connected with Australia.

6.162 **Section 96-10** provides how to work out the value of the part of the supply that is connected with Australia. The value of the part of the supply that is connected with Australia is the proportion of the whole supply that is connected with Australia, multiplied by the value of the whole supply.

Incidental supplies

6.163 If a supply is partly connected with Australia and partly not connected with Australia, part of the supply may be merely incidental to another part of the supply. A part is merely incidental if it is minor relative to the other part of the supply. If it is incidental, it is treated in the same way as that other part rather than treating the two or three parts of the supply as separate supplies. **Subsection 96-5(4)**.

SECURITY DEPOSITS — DIVISION 99

6.164 If you make a security deposit, the intention is usually that it will be refunded to you when you meet the obligations to which the deposit relates. The deposit may be consideration for a taxable supply. However, it would be pointless for the supplier to charge GST on the deposit if the deposit is to be refunded, in which case the GST would have to be refunded to the supplier.

6.165 However, some security deposits later become incorporated in the consideration for a taxable supply. At some point the deposit ceases to be held as a security deposit and is offset against the remaining consideration that is payable. GST should be charged on such deposits if they become part of the consideration for the taxable supply.

6.166 Also, if a security deposit made in relation to a taxable supply is forfeited, GST should be payable on the deposit.

6.167 For these reasons, **Division 99** provides special rules in relation to security deposits.

6.168 If a security deposit is made it is treated as not being consideration for a supply (and hence not subject to GST) unless the deposit is forfeited or is applied towards the consideration for the supply. **Section 99-5.**

6.169 If the deposit is forfeited or is applied towards the consideration for the supply, GST is paid on the amount of the deposit. The GST is attributed to the tax period in which the deposit is forfeited or is applied towards the consideration. **Section 99-10.**

Example

Rex the home handyman hires a floor sander on Saturday morning. He pays \$88 for hiring the sander. This is consideration for the taxable supply of the sander to him. GST of \$8 is included in the hire fee. He also pays a security deposit of \$50. The deposit will be returned to him when he returns the sander. He returns the sander Saturday afternoon and his security deposit is returned to him.

Example

Jo-anne runs a small business and is registered. She orders \$10,000 worth of widgets for the business. The supplier requires a \$990 deposit from Jo-anne before filling the order. That deposit will be refunded to Jo-anne if the supplier is unable to fulfill the order. Jo-anne will forfeit the deposit if she later decides to cancel the order. Jo-anne cancels the order and forfeits the \$990 deposit. The supplier accounts for \$90 GST on the deposit for the tax period in which Jo-anne cancels the order. Jo-anne is entitled to an input tax credit of \$90.

CANCELLED LAY-BY SALES — DIVISION 102

6.170 If you are registered and you make lay-by sales, they will generally be taxable supplies and you charge GST on them. If a lay-by sale is cancelled you will generally keep lay-by payments that you have already received. You may recover further payments after the sale was cancelled. **Division 102** ensures that when a lay-by sale is cancelled GST is charged on the lay-by. **Section 102-5**.

6.171 If you make a taxable supply by lay-by sale which is cancelled and you keep part or all of the payments, or you receive payments later, you account for GST on the full amount kept, or received later. You attribute the GST to the tax period in which the amount is retained or recovered. **Section 102-10**.

6.172 If you make a creditable acquisition by lay-by sale which is cancelled and an amount is retained or recovered, you have an input tax credit in relation to the amount retained or recovered by the supplier. The amount of the input tax credit you are entitled to is the tax fraction, that is, 1/11 of the amount of the payments kept by the supplier. The input tax credit is attributable to the tax period in which the amount was retained or recovered. If the supplier later recovers further payments from you, you attribute the input tax credit for those payments to the tax period in which you make those payments. **Section 102-10**.

SUPPLY IN SATISFACTION OF A DEBT — DIVISION 105

6.173 If you supply another registered or required to be registered entity's (the debtor) things to satisfy a debt you may be liable for GST on the supply even if you are not registered or required to be registered. The supply may be a taxable supply even if you are not registered or required to be registered. For example, you supply goods that you repossessed under a hire purchase agreement. **Division 105**.

6.174 You will be liable for GST on such a supply if the supply would have been a taxable supply if the debtor had made it.

6.175 This is because when you make a supply in satisfaction of a debt, you are in effect making the supply for the debtor. Therefore, a supply is a taxable supply when made by you if it would have been taxable if it had been made by the debtor.

6.176 Not all supplies in satisfaction of debt are taxable, only those that would have been taxable if made by the debtor.

6.177 It does not matter if the things you supply in satisfaction of a debt are things that the debtor did not originally acquire from you.

When supplies in satisfaction of debt are not taxable

6.178 The supply is not a taxable supply (and a special return is not required) if:

- the debtor advises you in writing, with reasons, that the supply would

not be taxable if the debtor made the supply; or

- if you are unable to obtain such a statement, you conclude on the basis of reasonable information that the supply would not have been taxable if it had been made by the debtor.

Liability for GST on taxable supplies in satisfaction of debt

6.179 You, whether you are registered or not, are liable for the GST on the supply. You are liable even if you have relied on a statement from the debtor that the supply would not have been taxable if she or he had made it.

Returns

6.180 Even if you are not registered or required to be registered, the Commissioner can require you to furnish a return if you supply things in satisfaction of a debt. If you are registered, the Commissioner is able to require you to lodge a return for the supply in satisfaction of debt in addition to the return you would otherwise be lodging.

6.181 The debtor can object to such returns.

VALUATION OF SUPPLIES IN BOND — DIVISION 108

6.182 Things that are held in bond under the Customs law have not been subject to excise or customs duties. Such things can be supplied while they are in bond. For example; alcohol manufactured in a bonded warehouse may be sold while it is still inside the warehouse and in bond.

6.183 This special valuation rule is aimed at ensuring the correct amount of GST is collected when supplies in bond are made and the recipient of the supply has a private or domestic purpose for making the acquisition or the acquisition is solely or partly for the purpose of making input taxed supplies. The special rule will generally not apply if you are registered.

6.184 GST on a taxable supply of things that have been subject to excise or customs duty, is generally calculated on the value of the things including any duty charged. This is because the GST is a tax on consumption, and the value to the consumer includes any excise and customs duty paid. See 3.14 and 3.53. To ensure that GST applies in the same way to things that are supplied while still in bond **Division 108** provides a special valuation rule.

6.185 The effect of the special valuation in **subsection 108-5(1)** is that GST is calculated on the value of the supply plus the amount of any customs or excise duty that the goods would have been subject to if they had been entered for home consumption.

6.186 However, if the person acquiring such things is registered or required to be registered and acquires them solely for a creditable purpose, the person would be entitled

to an input tax credit equal to the GST on the supply so they are not required to use this valuation rule. See 3.23 for creditable purpose. At some point before the things are supplied other than solely for a creditable purpose they will generally be entered for home consumption and subject to excise or customs duty. The general rules will then apply.

IMPORTATIONS WITHOUT ENTRY FOR HOME CONSUMPTION — DIVISION 114

6.187 Under the general rules, importations of goods are taxable if they are *entered for home consumption* within the meaning of the *Customs Act 1901*—**section 13-5**. Certain goods that come into Australia are not *entered for home consumption*. Because such goods are effectively imported, they are subject to the GST. The table in **section 114-5** provides what goods that are not entered for home consumption are taxable and for who pays the GST.

VALUATION OF EXPORTS MADE FOR REPAIR OR RENOVATION — DIVISION 117

6.188 If you import goods that were sent overseas for repair or renovation, those goods would have been subject to GST already. If the general rule for importations applied, GST would be calculated on the whole value of the goods, including the previously paid GST. This would be GST on GST. **Division 117** ensures that GST only applies to the value of the repair or renovation by providing for a lower value than the general rule.

6.189 This special rule applies to repair or renovation of goods generally and also to repair or renovation that is part of a batch repair process. What is a batch repair process is defined in **subsection 117-5(2)**.

6.190 The value of the goods is:

- the value of the repair or renovation, calculated in accordance with **section 117-10**; plus
- the amount paid to transport and insure the goods (not apportioned to the value of the repair); plus

any customs duty, other than GST, payable on the importation,.

6.191 This does not apply to goods exported for repair where the importation is a non-taxable importation. See 5.169.

DIESEL FUEL CREDITS — DIVISION 123

6.192 The Diesel Fuel Rebate administered by the Australian Customs Service allowed a rebate of some of the customs or excise duty included in the price of diesel fuel for certain uses of the fuel. A similar concession replacing and expanding this rebate has been incorporated in the GST. This has been achieved by allowing a *diesel fuel credit*, which can be offset against your GST liabilities in the same way as input tax credits.

6.193 Diesel fuel credits arise in relation to certain acquisitions and importations of diesel and like fuels. There are two rates of diesel fuel credit. The full credit entirely offsets the excise or customs duty included in the price of the fuel. The reduced credit reduces the excise or customs duty you pay to 18 cents per litre. **Section 123-40.**

6.194 You may be entitled to such credits if:

- you are registered or required to be registered;
- you acquire or import diesel or like fuel for *creditable diesel fuel consumption*; and

if, you acquired diesel or like fuel, you provide or a liable to provide the consideration.

Section 123-10

Creditable diesel fuel consumption

Land transport

6.195 Consumption of diesel fuel in carrying on your enterprise for *land transport* is creditable diesel fuel consumption. You are entitled to the reduced credit for such consumption. Land transport is one of two uses:

- use on a public road by a vehicle designed for transporting goods (including livestock) or passengers. The vehicle must have a gross vehicle weight exceeding 3.5 tonnes; and
- transport by rail.

Sections 123-15, 123-40 and 123-55.

6.196 However, transport by rail for the beneficiation of ores or minerals is not land transport. Such use entitles you to the full rate of the diesel fuel credit. This means you are entitled to the full credit for the transport and mining operations for minerals and ores.

Section 123-55.

Other than land transport

6.197 Consumption of diesel or like fuel in carrying on your enterprise for other than land transport is creditable diesel fuel consumption. You are entitled to the full credit for such consumption. This includes off-road uses such as remote area power generation and farm machinery. ***Section 123-15.***

Amount of the credit

Land transport

6.198 Your diesel fuel credit for land transport is calculated under ***section 123-40 item 2.*** The amount of your diesel fuel credit is the number of litres of diesel fuel used in land transport, multiplied by the difference between the rate of customs or excise duty you paid and 18 cents. This results in you paying 18 cents per litre excise or customs duty on that fuel.

Example

Rick runs a livestock transport business in outback Queensland and the Northern Territory using a semi-trailer. In one tax period, Rick uses 20,000 litres of diesel. The diesel is used only for creditable diesel fuel consumption. Rick is entitled to the reduced credit because the consumption was on public roads and the semi-trailer has a gross vehicle mass over 3.5 tonnes.

Rick calculates his amount of diesel fuel credit for the tax period by multiplying the amount

of fuel he has used by the reduced rate. Assuming that the rate of excise on the fuel was 43 cents per litre, the reduced rate is 43 – 18, which equals 25 cents diesel fuel credit per litre. The effect of this is that Rick pays 18 cents per litre excise.

Rick's diesel fuel credit is 20,000 x 25 cents, which equals \$5,000. Rick includes this amount in calculating his net amount, just like an input tax credit.

Other than land transport

6.199 Your diesel fuel credit for other than land transport is calculated under **section 123-40 item 1**. The amount of your diesel fuel credit is the number of litres of diesel or like fuel used in other than land transport multiplied by the rate of excise or customs duty you paid on the fuel.

Mixed use

6.200 You may consume diesel fuel in land transport and other than in land transport. You are entitled to the full credit for that part of the consumption that is for other than land transport use and you are entitled to the reduced credit for that part of the consumption that is for land transport use. **Item 3 of section 123-40** provides for how you work out your diesel fuel credit for mixed use.

Partly creditable diesel fuel consumption

6.201 You may consume diesel or like fuel partly in carrying on your enterprise and partly for other uses. In this situation you are only entitled to diesel fuel credits in relation to the use that is in carrying on your enterprise. **Sections 123-45 and 123-50** provide for how to calculate your diesel fuel credit in these circumstances.

Example

Matt uses a five tonne truck for his building enterprise. His use of the truck for his enterprise is creditable diesel fuel consumption. In one tax period he uses it two weekends to help friends move house. This is private consumption, not creditable diesel fuel consumption. Matt is not entitled to a diesel fuel credit for this use. Matt is only entitled to the reduced diesel fuel credit for the fuel used in his enterprise.

GAMBLING — DIVISION 126

6.202 GST applies to gambling conducted by registered or required to be registered entities. This includes gambling in casinos, gaming machines in clubs and hotels, lotteries, raffles, betting on racing and other events—**subsection 126-35**.

6.203 However, determining individual bets or ticket sales (wagers) and prizes and then

applying GST and input tax credits would be difficult. For example, a casino operator would have to apply GST on every spin of the roulette wheel for every player for every square on the table. For this reason, the GST on gambling is applied to the margin of the person providing the gambling opportunity (for example, the casino operator). Applying the margin to gambling activities achieves the same result as applying GST to individual wagers and allowing input tax credits in relation to prizes paid out.

Amount of GST

6.204 GST on gambling is 1/11 of the GST inclusive margin. The GST inclusive margin is the total wagers less the total amount paid or payable in money (including casino chips) as prizes. This is your *global gambling GST amount*. **Division 126**. Effectively this adds all the wagers together and all of the prizes together and applies GST to the difference between these totals. **Section 126-10**.

Input tax credits

6.205 Gambling operators are entitled to input tax credits on things that they acquire to make *gambling supplies*. Gambling operators are not entitled to input tax credits in respect of prizes payable in money. Such prizes are included in the calculation of the margin.

6.206 If you acquire a gambling supply you are not entitled to an input tax credit on it. This is because GST on the supply to you was charged on the margin of the supply. Input tax credits are not available for acquisitions where the GST on the supply was charged on the margin. **Section 126-30**.

Non-money prizes

6.207 The value of non-money prizes, such as a car, are not included in the calculation of the margin. As stated above at 6.204, only prizes paid or payable in money are to be deducted from the total wagers placed. The reason for this is that if the value of the non-money prize is included, the input tax credit for the acquisition of the non-money prize would have to be disallowed. This is because including the value of the non-money prize in the calculation of the margin reduces the amount of GST on the margin by an amount equivalent to the input tax credit for the acquisition of the prize. The input tax credit would therefore have to be disallowed because otherwise the amount of the input tax credit would be double counted. This is shown in the following example:

Example

A casino acquires a car to give away as a prize. Three scenarios are discussed below.

The first two scenarios are **not** what **Division 126** provides. The third scenario is how **Division 126** applies.

The first is the situation where there is no input tax credit for the non-money prize. The second is where there is an input tax credit for the non-money prize. The third is where the non-money prize is not included in the margin and there is an input tax credit for the acquisition of the non-money prize. This third scenario is the effect of **Division 126**.

Non-money prize included in margin and input tax credit denied:

Acquire car for consideration \$22,000

Total wagers = \$44,000

Margin = \$22,000

GST = \$2,000

Net amount = \$2,000

Non-money prize included in margin and input tax credit allowed:

Acquire car for consideration \$22,000

Total wagers = \$44,000

Margin = \$22,000

GST = \$2,000

Input tax credit = \$2,000

Net amount = 0

Non-money prize not included in the margin and entitled to input tax credit

Acquire car for consideration \$22,000

Total wagers = \$44,000

Total cash prizes = \$0

Margin = \$44,000

GST = \$4,000

Input tax credit = \$2,000

Net amount = \$2,000

6.208 As can be seen from the example, not including the non-money prize in the margin has the same effect as including it but disallowing the input tax credit to prevent double counting.

Donated non-money prizes

6.209 If the non-money prize is donated, no input tax credit will be available. A valuation rule is also not required. The result is the same as it would be if the value of the prize was included in the margin and input tax credit was denied.

Example

A profit making sporting organisation, Good Sports Inc, organises a raffle. A car dealer donates as the prize a car that would sell for \$22,000 including GST. Assume the donation is not a taxable supply. The car dealer is entitled to an input tax credit in relation to the acquisition of the car (assuming the donation is for a creditable purpose). No GST is charged on the supply of the car to Good Sports Inc because it is not a taxable supply. As it is not a taxable supply Good Sports Inc is not entitled to an input tax credit for the acquisition. GST for the raffle is on the margin, which is total ticket sales less money paid in prizes. Here the margin equals total ticket sales because the prize is not in money.

Accounting by the car dealer:

Dealer acquires the car for consideration of \$15,000.

Dealer is entitled to an input tax credit of \$1,364.

Accounting by Good Sports Inc:

Total ticket sales = \$44,000

Total money prizes = 0

Margin = \$44,000

GST = \$4,000

Net amount = \$4,000

This means that the revenue has received \$2636 (\$4,000 less \$1,364).

This achieves the same result as if Good Sports Inc had bought the car. If Good Sports Inc had bought the car for \$22,000 and the supply of the car to it was a taxable supply, Good Sports Inc would remit \$2,000 (\$4,000 less its input tax credit of \$2,000 for the acquisition of the car) and the car dealer would remit \$636 (\$2,000 GST on the supply to the Good Sports Inc less \$1,364 input credit). The revenue would receive \$2,636.

If the car dealer sold the car to Good Sports Inc at cost, Good Sports Inc would remit \$2,636 (\$4,000 less its input tax credit of \$1,364 for the acquisition of the car). The car dealer would have a net amount of zero in relation to the car (\$1,364 GST on the taxable supply to

Good Sports Inc less \$1,364 input tax credit on its acquisition of the car).

The result for the revenue is the same.

Net amount if you make gambling supplies

6.210 The GST on gambling is calculated on your margin for those gambling activities. This means that your net amount for a tax period is the sum of:

- your global gambling GST amount. (See 6.204)
- other GST; and
- input tax credits;

that are attributable to the tax period. **Subsection 126-5(1)**.

Losses

6.211 Your global gambling GST amount for a tax period is zero if your total monetary prizes exceeds your total amount wagered for the tax period. **Subsection 126-15**. You have no GST on your gambling activities to add to your net amount for that tax period.

6.212 If your total monetary prizes exceeds your total amount wagered for the tax period you carry forward the difference to your next tax period. You add the difference to your total monetary prizes for that tax period. That is, you offset gambling 'losses' against your next gambling 'profit'. This ensures that overall you are only taxed on your net profit.

Gambling and bad debts

Written off

6.213 Bad debts are similar to losses. If you write off as a bad debt all or some of the consideration for a gambling supply, you add the amount to your total monetary prizes for the next tax period—**subsection 126-20(2)**. This achieves the same result as the usual bad debt adjustment under **section 21-5** does in relation to supplies subject to GST under the general rules. See 3.84.

Recovered

6.214 If you recover all or some of a bad debt that you had previously written off and carried forward as discussed at 3.88, you add the amount recovered to the total amounts wagered with you for the next tax period—**subsection 126-20(3)**. This achieves the same result as the usual bad debt adjustment under **section 21-10** does in relation to supplies subject to GST under the general rules.

Racing

6.215 GST is included in prizes paid by racing clubs. This means that if you are a registered owner of a horse that wins a prize, and the horse was raced in carrying on your enterprise, you pay GST of 1/11 of the prize. Racing is not limited to horse racing.

ADJUSTMENTS FOR CHANGES IN CREDITABLE PURPOSE — DIVISION 129

6.216 If you make a creditable acquisition you are entitled to an input tax credit for it. The amount of input tax credit you are entitled to depends on your extent of creditable purpose. See 3.23. When you attribute the input tax credit, the amount you attribute depends on your intended extent of creditable purpose.

Example

Noel buys a van in June for making deliveries for his enterprise. Noel intends that 25% of the van's use will be private. Noel's intended extent of creditable purpose is therefore 75%. Noel attributes 75% of the full input tax credit.

6.217 Your actual use of what you acquire may be different from your intended extent of creditable purpose. If your actual use of something you acquire is different from your intended extent of creditable purpose you will not have received the input tax credit you should have.

Example

During the twelve months after acquiring the van, Noel has used the van 35% privately. The input tax credit Noel should have received is 65% of the full input tax credit rather than 75%. Noel therefore has an increasing adjustment to his net amount.

6.218 **Division 129** provides for an adjustment if your actual use of a thing is different from your intended extent of creditable purpose. This is an adjustment for change in creditable purpose. Note that for income tax you must determine the extent to which your assets are used in carrying on a business or earning assessable income, such as working out business use of a motor vehicle. You do this every year for your income tax return. The adjustment in **Division 129** is similar.

6.219 You may have to make more than one adjustment depending on the value of the thing that you acquired. You make adjustments in *adjustment periods*. The adjustment is an adjustment to the input tax credit that you were entitled to on the acquisition. This means that your actual use of the thing is calculated on your use **since acquisition**.

Acquire goods	Adjustment period 1	Adjustment period 2	Adjustment period 3
Acquire for \$110,000 Full input tax credit = \$10,000 Creditable purpose (<i>intended application</i>) = 60% Input tax credit = 60% x \$10,000 = \$6,000	Actual use since acquisition = 70% Input tax credit should have received = 70% x \$10,000 = \$7,000 Input tax credit have received = \$6,000 Decreasing adjustment = \$1,000	Actual use since acquisition = 75% Input tax credit should have received = 75% x \$10,000 = \$7,500 Input tax credit have received = \$7,000 (\$6,000 + \$1000) Decreasing adjustment = \$500	Actual use since acquisition = 65% Input tax credit should have received = 65% x \$10,000 = \$6,500 Input tax credit have received = \$7,500 (\$6,000 + \$1000 + \$500) Increasing adjustment = \$1,000

Adjustment periods

6.220 You usually make the adjustments once a year. The tax period in which you make the adjustment is your *adjustment period*—**subdivision 129-B**. An adjustment period is usually your tax period that ends on 30 June or the closest to 30 June, to align with your income tax year. If one of your tax periods in a year is your concluding tax period—see 4.21—that tax period is also an adjustment period—**sections 129-20**.

Acquisitions or importations of \$50,000 or less

6.221 If you make an acquisition or importation with a tax exclusive value of \$50,000 or less, you only make one adjustment for change in creditable purpose. That adjustment is required in the first adjustment period that occurs at least twelve months after you made the acquisition. **Paragraph 129-20(2)(a)**. This first adjustment period is also your last adjustment period for the thing acquired or imported.

Acquisitions or importations of \$50,000 to \$500,000

6.222 If you make an acquisition or importation with a tax exclusive value over \$50,000 and less than \$500,000, you may have to make five adjustments for change in creditable purpose. Your first adjustment period is the adjustment period that occurs at least twelve months after you make the acquisition and you make adjustments in the next four adjustment periods after that. **Paragraph 129-20(2)(b)**. The fifth adjustment period is usually your last adjustment period for the thing acquired or imported. In some circumstances your last adjustment period will be earlier. See 6.238.

Acquisitions or importations of \$500,000 or more

6.223 If you make an acquisition or importation with a tax exclusive value of \$500,000 or more, you may have to make ten adjustments for change in creditable purpose. Your first adjustment period is the adjustment period that occurs at least twelve months after you make the acquisition and you make adjustments in the next nine adjustment periods after that. **Paragraph 129-20(2)(c)**. The tenth adjustment period is also your last adjustment period for the thing acquired or imported. In some circumstances your last adjustment

period will be earlier. See 6.238.

6.224 Note that if there has been no change in creditable purpose in relation to a particular adjustment period you will not have to make an adjustment in that adjustment period. See 6.228.

Tax exclusive value

6.225 Tax exclusive value is defined in the *Dictionary*. For acquisitions it is 10/11 of the price of the supply of the thing to you. For importations with entry for home consumption it is the value of the importation. For importations without entry for home consumption it is what would have been the value if there had been entry for home consumption.

Increasing adjustment

6.226 If, for an adjustment period, the extent you actually apply the thing for the purpose of your enterprise (actual application) is *less* than the extent to which you acquired, imported, or previously applied the thing for the purpose of your enterprise (intended or former application), you have previously received too much input tax credit for the thing. You have an increasing adjustment to your net amount for that adjustment period. This adjustment will increase your net amount by an amount equivalent to the extra input tax credit you received. Effectively, this is like repaying the extra input tax credit. Net amount is discussed at 4.1.

Decreasing adjustment

6.227 If, for an adjustment period, the extent you actually apply the thing for the purpose of your enterprise (actual application) is *more* than the extent to which you acquired, imported, or previously applied the thing for the purpose of your enterprise (intended or former application), you have previously received too little input tax credit for the thing. You make a decreasing adjustment to your net amount for that adjustment period. This adjustment will reduce your net amount by an amount equivalent to the extra input tax credit you are entitled to. Effectively, this is like being paid the extra input tax credit. Net amount is discussed at 4.1.

No adjustment

No change in extent of creditable purpose

6.228 If, for an adjustment period, the extent you actually apply the thing for the purpose of your enterprise (actual application) is the same as the extent to which you acquired, imported, or previously applied the thing for the purpose of your enterprise (intended or former application), you have no adjustment for that adjustment period.

Unconditional gifts to charities

6.229 The extent to which you apply a thing is taken not to have changed just because you

supply it to a charity as a gift. You do not have an adjustment for change in creditable purpose in such circumstances. **Section 129-45**. Gifts are unconditional. If you give it to a charity in exchange for something else it will be consideration rather than a gift.

Actual application

6.230 Your actual application of a thing you acquired or imported is the extent—expressed as a percentage—you have applied the thing for a creditable purpose between when you acquired or imported it and the end of the adjustment period—**subsection 129-40(1), step 1 and subsection 129-5(2)**.

Creditable purpose

6.231 Creditable purpose is defined in **section 129-50** and discussed at 3.23.

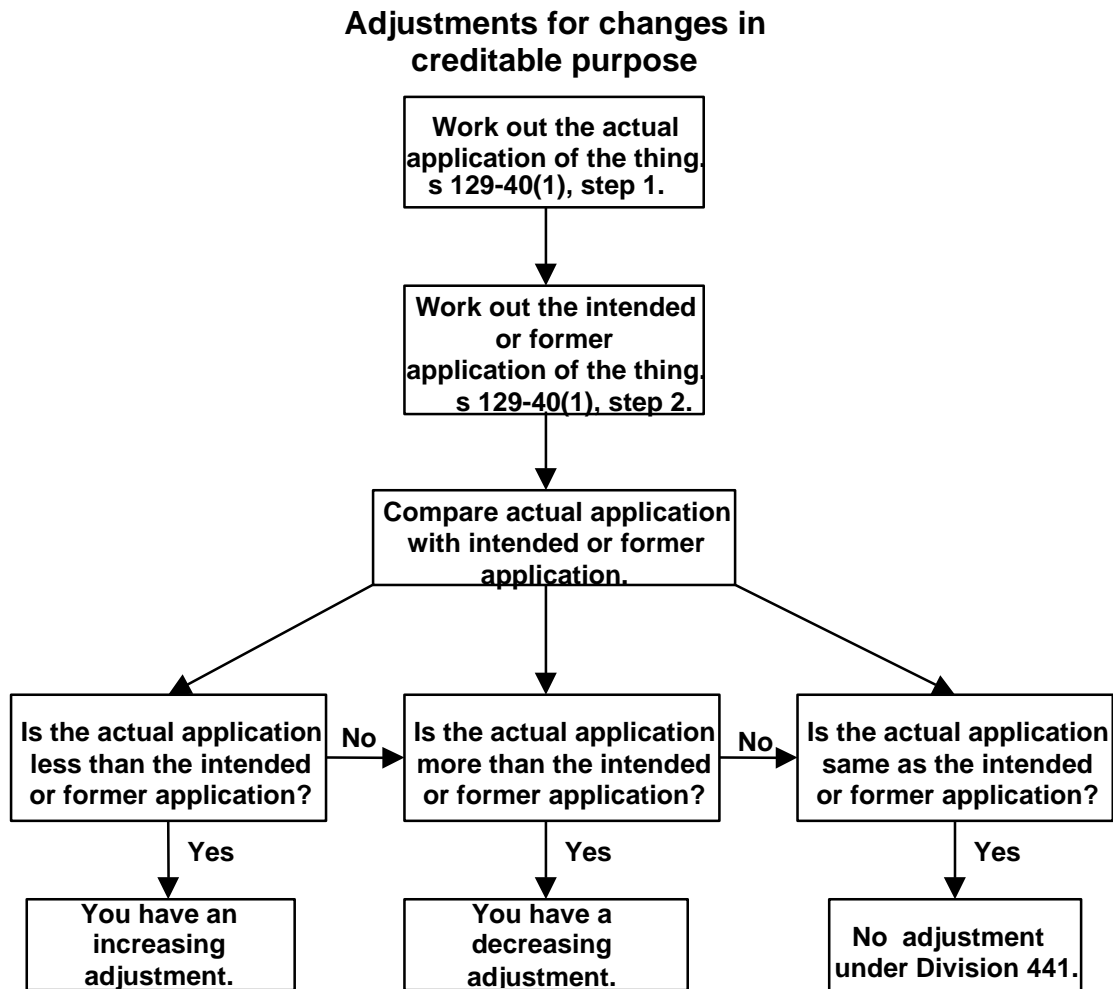
Apply

6.232 Apply is defined in **section 129-55**.

Intended or former application

6.233 Your intended or former application of a thing you acquired or imported depends upon whether you have previously had an adjustment in relation to the thing because of a change in creditable purpose. If you have not previously had an adjustment, your intended or former application is the extent—expressed as a percentage—you acquired or imported the thing for a creditable purpose—**subsection 129-40(1), step 2 (a) and subsection 129-40(2)**. That is, it is the extent you *intended* to apply the thing for a creditable purpose.

6.234 If you have previously had an adjustment, your intended or former application for the current adjustment is your actual application of the thing the last time you made an adjustment in relation to it—**subsection 129-40(1), step 2 (a)**. That is, it is the extent you *formerly* (or previously) applied the thing for a creditable purpose.



Interaction with adjustment events

6.235 If you have an adjustment event and an adjustment for change in creditable purpose in relation to the same acquisition, you adjust the amounts of GST and input tax credits to take account of adjustment events and then you adjust for change in creditable purpose. This means that your intended or former application includes your adjustment for adjustment events. **Section 129-80.**

Amount of increasing adjustment

6.236 **Section 129-70** provides a formula for working out the amount of your increasing adjustment. The formula results in an amount of adjustment that is equivalent to the difference between:

- the input tax credit you already received for the thing based on your intended or former application of it; and
- the smaller input tax credit you would have been entitled to if the input tax credit had been based on your actual application.

As your actual application is less than your intended or former application you

would have received too much input tax credit for the thing. Therefore your net amount is increased.

Amount of decreasing adjustment

6.237 **Section 129-45** provides a formula for working out the amount of your decreasing adjustment. The formula results in an amount of adjustment that is equivalent to the difference between:

- the input tax credit you already received for the thing based on your intended or former application of it; and
- the bigger input tax credit you would have been entitled to if the input tax credit had been based on your actual application.

As your actual application is greater than your intended or former application you would have received too little input tax credit for the thing. Therefore your net amount is decreased.

Example

Louise buys a truck for her enterprise for \$220,000 for the truck (\$200,000 + \$20,000 GST). Louise has five adjustment periods in relation to the acquisition. The full input tax credit for the acquisition is \$20,000. Louise acquires the truck for 60% creditable purpose. In her return for the tax period to which the acquisition is attributable, Louise is entitled to an input tax credit of \$12,000.

At her first adjustment period her actual application since acquisition is 70%. Her intended application is 60%. She has a decreasing adjustment of:
 $\$20,000 \times 10\% = \$2,000$.

At her second adjustment period her actual application since acquisition is 75%. Her former application is 70%. She has a decreasing adjustment of: $\$20,000 \times 5\% = \$1,000$.

At her third adjustment period her actual application since acquisition is 60%. Her former application is 75%. She has an increasing adjustment of: $\$20,000 \times 15\% = \$3,000$.

At her fourth adjustment period her actual application since application is 55%. Her former application is 60%. She has an increasing adjustment of: $\$20,000 \times 5\% = \$1,000$.

At her fifth and last adjustment period her actual application since application is 65%. Her former application is 55%. She has a decreasing adjustment of: $\$20,000 \times 10\% = \$2,000$.

Louise's use of the truck since acquisition has been 65% for a creditable purpose (her actual application at her fifth adjustment period) for a creditable purpose over the whole of those five years. The total input tax credit Louise should be entitled to in relation to the acquisition of the truck is 65% of \$20,000, which is \$13,000. The total input tax credit Louise actually received over the five years can be determined by adding Louise's

adjustments to her original input tax credit:

$$\$12,000 + \$2,000 + \$1,000 - \$3,000 - \$1,000 + \$2,000 = \$13,000.$$

Thing is lost, stolen, disposed of or expires

6.238 If the thing that is subject to adjustments for change in creditable purpose is lost, stolen, disposed of, or expires (such as a lease) before what would otherwise be your last adjustment period for the thing—see 6.220—the adjustment period immediately after the thing is lost, stolen, etc is your last adjustment period for the thing. **Section 129-25.**

Adjustment on disposal

6.239 If, before what would otherwise be your last adjustment period for a thing, you dispose of it in a taxable supply, the amount of the adjustment in the adjustment period immediately after the supply is not worked out as usual. Rather, the amount of the adjustment is worked out as for other things disposed of after you have used them in your enterprise.

SUPPLIES OF THINGS ACQUIRED OR IMPORTED TO MAKE SUPPLIES — DIVISION 132

Value used in your enterprise

6.240 Input tax credits are generally available so that you do not pay GST on things that you use for a creditable purpose. Some of the assets that you have used in your enterprise may have lost value. This is value used in your enterprise. Your input tax credit for things you use in your enterprise should relate to value used in your enterprise for a creditable purpose. This is the input tax credit you should have received.

6.241 If you supply something that you have used in your enterprise, the input tax credit you have received, taking into account adjustments, at the time you supply it may not accurately reflect the input tax credit you should have received. **Division 132** provides for an adjustment to ensure you receive the input tax credit you should have.

6.242 You will have a decreasing adjustment if the amount of input tax credit you have previously received in relation to the thing (taking into account previous adjustments in relation to the thing) is less than the amount you should have received. You will have an increasing adjustment if you have previously received too much input tax credit.

6.243 You do not have to make this adjustment if the consideration for your taxable supply of the thing is less than \$50,000.

6.244 You make this adjustment in the tax period in which you make the taxable supply of the thing or the tax period to which the supply would have been attributable if it had been a

taxable supply.

6.245 You work out your adjustment as follows.

Supply consideration less than acquisition consideration

6.246 If the consideration for your supply of the thing is less than the consideration for your acquisition of the thing, you do this:

1. work out the total input tax credit you have had so far:
= $1/11 \times$ consideration for acquisition \times your actual application at your most recent adjustment period;
2. work out the total input tax credit that you should have received:
= $1/11 \times$ (consideration for acquisition less consideration for supply) \times your actual application at the time immediately before you supply it.

6.247 The $1/11$ of (consideration for acquisition less consideration for supply) in 1. is the amount of input tax credit that relates to the amount of value used in your enterprise.

6.248 If 2. is greater than 1., you have not received all the input tax credit that you should have. You have a decreasing adjustment to reduce your net amount. The amount of the decreasing adjustment is the difference between 1. and 2.

6.249 If 1. is greater than 2., you have received too much input tax credit. You have an increasing adjustment to increase your net amount. The amount of the increasing adjustment is the difference between 1. and 2.

Supply consideration more than acquisition consideration

6.250 If the consideration for your acquisition of the thing is equal to or less than your consideration for the supply of the thing, you do this:

1. work out the total input tax credit you have had so far:
= $1/11 \times$ consideration for acquisition \times your actual application at your most recent adjustment period;
2. work out the total input tax credit that you should have received:
= $1/11 \times$ consideration for acquisition \times your actual application at the time immediately before you supply it.

6.251 If 1. is greater than 2., you have received too much input tax credit. You have an increasing adjustment to increase your net amount. The amount of the increasing adjustment is the difference between 1. and 2.

6.252 If 2. is greater than 1., you have not received enough input tax credit. You have a decreasing adjustment to decrease your net amount. The amount of the decreasing adjustment is the difference between 1. and 2.

6.253 The adjustment when the consideration for the supply is equal to or more than the consideration of the acquisition is limited by the consideration for the acquisition. See step 2 in 6.252. above. The reason for this is that the adjustment on disposal is made to take account of the value of the thing that you have used in your enterprise. If the thing has not lost value, that is, the consideration for supply is the same or more than the consideration for acquisition, no value has been used in the enterprise. If the consideration for the supply is more than the consideration for the acquisition, value has been added by the enterprise. This additional value is taken into account through the GST that is charged on the supply.

6.254 This adjustment does the following:

- works out the total amount of input tax credit that you have received since you acquired a thing (taking into account all the change in creditable purpose adjustments that have applied to it);
- works out the total input tax credit that you should have received in relation to the thing (taking into account its value at disposal);
- works out the difference;
- adjusts your net amount in the tax period of your supply so that you have received what you should have received.

Example

Continuing the example from 6.237, Louise buys a truck for her enterprise. She pays \$220,000 for the truck (\$200,000 + \$20,000 GST). Louise has five adjustment periods applying to that acquisition. Her actual application of the thing at her last adjustment period was 65%. The full input tax credit for the acquisition is \$20,000. Louise sells the truck 8 years after she bought it. The sale is a taxable supply. She sells it for \$110,000. Her actual application since acquisition is 80%.

The consideration for the supply is less than the consideration for the acquisition.

Louise works out:

1. the total input tax credit she has had so far
 $= 1/11 \text{ of consideration for acquisition} \times \text{actual application at most recent adjustment period}$
 $= 1/11 \times \$220,000 \times 65\%$
 $= \$13,000.$
2. the total input tax credit she should have had
 $= 1/11 \text{ of (consideration for acquisition less consideration for supply)} \times \text{actual application since acquisition.}$
 $= 1/11 \times (\$220,000 - \$110,000) \times 80\%$

= \$8,000.

As 1. is greater than 2., Louise has an increasing adjustment. The increasing adjustment is the difference between 1. and 2., which is \$5,000.

Louise has used \$110,000 worth of value of the truck in her enterprise. She has used it 80% for a creditable purpose. She should have received an input tax credit of \$8,000. She has in the past received a total input tax credit in respect of the thing of \$13,000. She has received too much input tax credit. She therefore has an increasing adjustment of the difference between what she has received and what she should have received.

Example

Big Bank acquires a building to use in carrying on its banking and its travel agency enterprises. BB acquires the building for \$55 million. The full input tax credit on the acquisition is \$5 million. BB's extent of creditable purpose at the acquisition was 60%. At BB's tenth adjustment period its actual application was 54%. 15 years after acquiring the building, BB sells it in a taxable supply. BB sells it for \$66 million. Its actual application since acquisition is 62%. BB works out its adjustment for disposal as follows.

Consideration for the supply exceeds the consideration for acquisition.

BB works out:

1. the total input tax credit it has had so far
= 1/11 of consideration for acquisition x actual application at most recent adjustment period
= 1/11 x \$55 million x 54%
= \$2.7 million.
2. the total input tax credit it should have received
= 1/11 of consideration for acquisition x actual application since acquisition
= 1/11 x \$55 million x 62%
= \$3.1 million.

As 2. is greater than 1., BB has a decreasing adjustment. The amount of the decreasing adjustment is the difference between 1. and 2., which is \$0.4 million.

SUPPLIES OF GOING CONCERNS — DIVISION 135

6.255 Under the general rules for supplies there will be GST included in the price for an

acquisition. If the acquisition is not entirely for a creditable purpose you are not entitled to a full input tax credit for it. This means that you bear some of the cost of the GST on the acquisition in proportion to your private or input taxed use. However, if the thing you acquire is GST-free and you use it only partly for a creditable purpose there is no GST for you to bear. This applies to acquisitions of going concerns that are supplied GST-free.

6.256 **Division 135** provides for an adjustment to ensure that you account for GST in proportion to the private or input taxed use of a going concern that you acquire. The adjustment increases your net amount by an amount equal to the GST you would bear on the acquisition if it had been a taxable supply to you. The adjustment is equivalent to the difference between what would have been the GST on the supply and the input tax credit you would have been entitled to for the acquisition if the supply had been a taxable supply. This is the effect of **section 135-5**.

6.257 This means that you only get a going concern GST-free to the extent that you intend to make taxable supplies with it.

Adjustment for change in creditable purpose

6.258 If what you actually use the going concern for is different from what you intended to use it for when you acquired it, you will have an adjustment for change in creditable purpose under **Division 129**. See 6.216.

CESSATION OF REGISTRATION — DIVISION 138

6.259 The tax period in which you cease to be registered is your concluding tax period. You attribute any amounts of GST, input tax credits or adjustments that you have not yet accounted for but would account for later if you were not ceasing to be registered to your concluding tax period. **Section 138-15**.

6.260 You also have an increasing adjustment to your net amount in relation to any input tax credits you have or are entitled to in respect of assets you have immediately before you cease to be registered. The adjustment is attributed to the tax period in which cessation occurs. **Subsection 138-5(1) and section 138-10**.

6.261 The reason for the adjustment is that the assets are being taken out of the GST system, which is like going into final consumption. No input tax credits are available in respect of things outside of, or taken out of, the GST system. As the assets are not being used in the GST system, you should not have an input tax credit in respect of those assets. The adjustment operates to take back any input tax credits you have.

6.262 Some of the assets that you have used in your enterprise may have lost value. This is value used in your enterprise while the thing was in the GST system. You should be entitled to an input tax credit in relation to value used in your enterprise for a creditable purpose. The adjustment takes account of this value and so only relates to value you have not used

while in the GST system.

6.263 The amount of the adjustment is:

- 1/11 of the *applicable value* (lessor of consideration for your acquisition of the asset and market value); multiplied by
- your actual application of the thing since you acquired it (see 6.230 for actual application).

Subsection 138-5(2).

6.264 This leaves you with an amount equal to the amount of input tax credit on the value used in your enterprise that was used for a creditable purpose.

Example

Bill and Ben run a terracotta garden pot supply business. They wind up the business and cancel their registration. The only asset left when they cease to be registered is the truck they have used to deliver the pots. They acquired the truck for \$55,000. The truck was used solely for a creditable purpose. They had no adjustments in relation to the truck. The total input tax credit in respect of the truck is \$5,000. The GST inclusive market value of the truck at cessation is \$33,000. They have used \$22,000 value of the truck for a creditable purpose while in the GST system. They should be left with \$2,000 worth of input tax credit. The amount of the adjustment is 1/11 of actual application (here 100%) multiplied by the applicable value (here \$33,000), which equal \$3,000. They had previously received \$5,000 input tax credit. The adjustment takes back \$3,000 of this, leaving them with \$2,000.

Cessation of registration and supply of a going concern

6.265 If you supply a going concern and doing so means that you are no longer required to be registered and you cancel your registration, you will supply the assets of the going concern before you cease to be registered.

6.266 You have an increasing adjustment under ***Division 138*** in relation to the assets you do not supply as part of the going concern but keep. See 6.255 for supplies of going concerns.

TAXI DRIVERS — DIVISION 144

6.267 In other countries that introduced a GST there were problems with taxis. The problems arose because many taxi drivers only drove taxis some of the time and hence were below the registration threshold. This led to the situation where there were taxis that charged a GST inclusive price and taxis that were able to charge a lower fare because they did not have to charge GST. Unregistered taxi drivers could also charge a fare as if it included

GST, but without the obligation to remit it.

6.268 One of the consequences of this was that if you acquired taxi travel from an unregistered driver in the course of your enterprise you would not be entitled to an input tax credit even though you may have paid a GST equivalent fare.

6.269 Other countries have addressed these problems by requiring all taxi drivers to register for GST.

6.270 This is the approach adopted in **Division 144**. Taxi travel is defined in the **Dictionary** to include transporting passengers, by train or limousine, for fares.

REPRESENTATIVES FOR INCAPACITATED ENTITIES — DIVISION 147

6.271 If you are registered and you become bankrupt, or go into receivership or liquidation, the person who conducts your enterprise on your behalf is, generally, personally carrying on the enterprise. This person (the representative) could be a trustee in bankruptcy, receiver, receiver and manager or a liquidator—**section 195-1**. The Administration Act provides for what happens to your GST liabilities if you die.

Liability

6.272 The representative is personally liable for the GST payable and for the other requirements of the Bill. The representative is liable from the date on which he or she becomes entitled to act for you (the principal) until he or she ceases to be so entitled. The representative is liable for GST, entitled to input tax credits and has any adjustments attributable to that period.

6.273 During that period the effect of **Division 147** is that the representative rather than the principal is carrying on the enterprise. The representative is not personally liable for GST attributable before he or she becomes entitled to act for the principal.

Registration

6.274 The representative must become registered in relation to the relevant enterprise from the date on which he or she becomes entitled to act for the principal—**section 147-5**. When the representative ceases to be entitled to act for the principal, she or he ceases to be required to be registered in relation to the enterprise. The representative must notify the Commissioner within 21 days of ceasing to be entitled to act for the principal—**section 147-15**.

Tax periods

6.275 The general rules for tax period apply to the representative. The representative's first tax period as representative commences on the day he or she becomes entitled to act for the principal. The end of the day before the representative becomes entitled to act for the principal is the end of the concluding tax period for the principal—**section 27-40**. See 4.7 for a discussion of tax periods. The representative's concluding tax period ends at the end of the day on which the representative ceases to be entitled to act for the principal.

More than one representative

6.276 Another representative may become entitled to act for the principal, either taking the place of the previous representative, or joining the existing representative. The new representative is jointly and severally liable for GST payable and other requirements of the Bill from the time that the original representative became entitled to act for the principal. **New section 50C of the Taxation Administration Act 1953.**

AGENTS — DIVISION 153

6.277 If you make supplies through agents the general law of agency applies. That is, a thing done by your agent as agent for you is a thing done by you. You are liable for the GST on taxable supplies and importations made through your agent. You are entitled to the input tax credits on creditable acquisitions and importations you make through your agent. Your agent is not liable for the GST and is not entitled to the input tax credits.

6.278 If you make a supply, or acquisition through someone else who is not acting as your agent there are two transactions. One between you and the other person, and one between the other persons and the person they supply it to or acquire it from.

Tax invoice for acquisitions

6.279 If your agent makes supplies, importation or acquisitions on your behalf, you have made those supplies acquisitions and importations. You attribute any GST or input tax credits to when they become attributable under the general attribution rules. See 4.22. However, under those general rules you have to have a tax invoice to be able to claim input tax credits. Therefore, **section 153-5** provides that you can claim input tax credits when either you or your agent holds a tax invoice in relation to the acquisition when you lodge your return.

Adjustment notes for decreasing adjustment

6.280 The general attribution rules also require you to hold an adjustment note at the time you lodge your return for a tax period for you to be able to make a decreasing adjustment for that tax period. **Section 153-10** provides that you can make a decreasing adjustment if you or your agent holds an adjustment note in relation to the adjustment when you lodge your return.

6.281 You are obliged to issue adjustment notes in relation to decreasing adjustments under the general adjustment note rules. See 4.39. This obligation is met if either you or your agent issues the adjustment note. However, you and your agent cannot both issue an adjustment note in relation to the same adjustment. **Section 153-20**.

Tax invoices for taxable supplies

6.282 The general rules for tax invoices require you to issue a tax invoice if you make a taxable supply and the recipient of the supply requests it. See 7.2. If you make a supply through an agent, the tax invoice can be issued by either you or your agent. However, only one tax invoice can be issued for the supply. You and your agent cannot both issue a tax invoice for the one taxable supply. **Section 153-15**. There is a penalty if both of you issue a tax invoice for one supply—**new section 45** of the *Taxation Administration Act 1953*.

PROGRESSIVE SUPPLIES — DIVISION 156

6.283 Under the other than cash accounting basis you would be required to attribute all the GST on a supply to the tax period when you received the first payment, or an invoice for the supply. The same applies to input tax credits for acquisitions. Without a special rule you would be required to do this even if the acquisition and the consideration occur periodically or progressively. For example, a supply of maintenance services that spans two years and is paid for one month at a time.

6.284 **Division 156** provides a special rule to enable you to attribute GST or input tax credits in the same way that you would attribute them if you use the cash basis of accounting. See 4.29 for how you attribute GST and input tax credits under the cash basis of accounting.

Partly connected with Australia

6.285 If a supply is being made periodically or progressively, not all of it may be connected with Australia. **Section 156-15** provides that the part that is not connected with Australia is treated as a separate supply. The effect of this is that GST is not paid, and input tax credits are not available, in relation to that part of the supply that is not connected with Australia.

Adjustments for changes in extent of creditable purpose

6.286 Adjustments for change in creditable purpose relate to your input tax credit for the acquisition of a thing. If you acquire something periodically or progressively, such as a building lease, you have a separate input tax credit for each part of the progressive supply under **Division 156**. Therefore, your adjustment for change in creditable purpose has to separately relate to each input tax credit. This is the effect of **section 156-20**.

CHANGING ACCOUNTING BASIS — DIVISION 159

Criteria for changing accounting basis

6.287 If your annual turnover is under \$500,000 you can choose to use the cash basis of accounting. The Commissioner can also approve your use of the cash basis in certain circumstances. See 4.25. Otherwise you use the other than cash basis of accounting. To change to the cash basis you have to meet the requirements for accounting on the cash basis. See 4.24.

Changing basis

6.288 If you change accounting basis:

- there will be some supplies or acquisitions that you have already attributed under your former basis that you would be required to attribute under the new basis as well;
- there will be some supplies or acquisitions that you have partly attributed under the old basis but cannot attribute under the new basis.

6.289 To ensure that you can attribute all your GST and input tax credits, **Division 159** provides special attribution rules for the tax period at the start of which you change basis. This is your *transition tax period*.

Change from the cash basis

Accounting for input tax credits

6.290 If you are changing from the cash basis:

- you will not have attributed an input tax credit for a creditable acquisition that you have not paid for but are liable to pay for; and
- you will have attributed input tax credits for that part of a creditable acquisition that you have paid for.

6.291 Under the other basis, input tax credits for the whole value of an acquisition are attributed when you are liable to provide the consideration rather than when you actually provide the consideration. This means that, without a special rule, once you have changed from the cash basis it will be too late to attribute the input tax credits or remaining part of input tax credits.

6.292 If an input tax credit on a creditable acquisition:

- was not attributable to any extent in a previous tax period; but
- it would have been attributable to an earlier tax period if you had not been using the cash basis;

that input tax credit is attributable to the *transition tax period*. **Subsection 159-5(1)**.

6.293 If an input tax credit was attributable to some extent to a previous tax period, the remaining amount of it is attributable to the transition tax period. **Section 159-10**.

Accounting for GST

6.294 If you are changing from the cash basis:

- you will not have attributed the GST on a taxable supply for which you have not yet been paid but are already entitled to receive consideration;
- you will not have attributed all the GST on a taxable supply if you have not received all of the payment for the supply.

6.295 Under the other basis GST is attributable once you become entitled to receive consideration for a supply rather than when you actually receive the consideration. Without a special rule, once you have changed to the general rules it will be too late to attribute that GST, because your entitlement to the consideration will have arisen in an earlier tax period.

6.296 If the GST for a taxable supply:

- was not attributable to any extent in a previous tax period; but
- it would have been attributable to an earlier tax period if you had not been using the cash basis;

that GST is attributable to the transition tax period. **Subsection 159-5(1)**.

6.297 If the GST for a taxable supply was attributable to some extent to a previous tax period, the remaining amount of it is attributable to the transition tax period. **Section 159-10.**

Accounting for adjustments

6.298 If an adjustment for a taxable supply or a creditable acquisition:

- was not attributable to any extent in a previous tax period; but
- it would have been attributable to an earlier tax period if you had been using the general rules;

that adjustment is attributable to the transition tax period. **Subsection 159-5(1).**

6.299 If an adjustment for a taxable supply or creditable acquisition was attributable to some extent to a previous tax period, the remaining amount of the adjustment is attributable to the transition tax period. **Section 159-10.**

Change to the cash basis

6.300 If you are changing to the cash basis:

- you will already have attributed to a tax period GST on taxable supplies for which you have not yet been paid;
- you will already have attributed to a tax period input tax credits on creditable acquisitions for which you have not yet paid.

Without a special rule, when you have changed to the cash basis, you would attribute that GST to the tax period in which you are paid for those taxable supplies, and you would attribute those input tax credits to the tax period in which you pay for the creditable acquisitions.

6.301 To avoid attributing the GST and input tax credits twice, **section 159-20** provides that GST and input tax credits that have already been attributed to a tax period are not attributable to any tax period after you change to the cash basis.

Importations

6.302 There is no need for special attribution rules for creditable importations because under both accounting bases the input tax credit for the importation is attributable to the tax period in which you paid the GST on the importations. GST on importations is paid at the same time as customs duty. See 3.43.

ANTI-AVOIDANCE — DIVISION 165

6.303 **Division 165** operates to deter avoidance schemes that are designed to obtain GST benefits by taking advantage of the GST law in circumstances other than that intended by the GST law.

6.304 This Division applies to schemes which seek to reduce or delay paying GST, or increase or bring forward a refund of GST.

6.305 The Division allows the Commissioner to make any such scheme ineffective where it is concluded that the scheme was entered into, or carried out, for the dominant purpose of an entity obtaining a GST benefit, or the scheme had the principal effect of an entity obtaining a GST benefit.

6.306 Where the Division applies, the Commissioner can negate the entity's GST benefit, and the entity obtaining the GST benefit may also be liable to a penalty.

6.307 The general anti-avoidance provision ('GAP') is a key component in maintaining the integrity of the GST base.

Background

6.308 The best way to reduce tax avoidance is to design the rules in a way that prevents avoidance possibilities. However, it is not always possible to cover the field using this approach, as many tax avoidance schemes are difficult to foresee at the time of drafting a law.

6.309 Aside from this, tax avoidance can either be dealt with using a general anti-avoidance provision ('GAP') or by inserting specific anti-avoidance measures to counteract particular schemes.

6.310 GAPs are common in other countries that have adopted a GST or a Value Added Tax (VAT). Examples include New Zealand, Canada and South Africa.

6.311 The United Kingdom VAT law does not have a GAP. Instead, there are a range of specific anti-avoidance measures. Nevertheless, an increase in the range of specific anti-avoidance provisions has now prompted the United Kingdom to consider a more general anti-avoidance provision.

6.312 Using an effective GAP to deal with avoidance is preferred to using specific anti-avoidance provisions. Specific provisions are reactive and do not provide a timely response to deal with avoidance. They can also be complex.

6.313 **Division 165** reflects the policy underlying the income tax general anti-avoidance provisions found in Part IVA of the *Income Tax Assessment Act 1936*. However, **Division 165** has been designed to meet the needs of a transaction based tax, such as a GST, and accordingly it has its own peculiar features. These features are discussed in greater detail in

the specific explanation of the provisions below.

Explanation of the provisions

6.314 **Division 165** can be divided into two parts. They are:

- the criteria for the application of the GAP—**subdivision 165-A**; and
- the provisions dealing with the consequences of the GAP applying—subdivisions 165-B and 165-C.

When will the GAP apply? (Subdivision 165-A)

6.315 **Division 165** applies where an entity (referred to in this Chapter as the ‘avoider’) has obtained a *GST benefit* from a *scheme*, and it is concluded that the dominant purpose of the scheme (or part of a scheme) is to give any entity a GST benefit, or a principal effect of a scheme (or part of a scheme) is to give the avoider the GST benefit—**subsection 165-5(1)**.

6.316 By considering the dominant purposes of principal effect of a scheme, **Division 165** will cover what is commonly considered to be tax avoidance. Bona fide supplies, acquisitions and importations do not come within the ambit of the test.

6.317 For example, a financial institution which has economic reasons for bringing its legal and accounting services ‘in-house’ will not be caught by **Division 165**, even though the financial institution will get a GST benefit from that scheme in the form of additional input tax credits.

6.318 Another example of a scheme that will not be caught by **Division 165** is where an exporter elects to have monthly tax periods in order to bring forward the entitlement to input tax credits.

6.319 Three requirements must therefore be satisfied before **Division 165** applies:

- there must be a *scheme*;
- an entity must obtain a *GST benefit* from the scheme;
 - the concept of a GST benefit will cover reducing GST payable, increasing a refund, delaying payment of GST and bringing forward a refund of GST; and
- it is reasonable to conclude, taking into account a list of relevant factors, that:
 - the sole or dominant purpose of an entity that entered into or carried out the scheme (or part of the scheme)

- was to obtain a GST benefit for any entity; or
- a principal effect of the scheme (or part of the scheme) was to obtain a GST benefit for the avoider.

What are the consequences of the GAP applying? (Subdivisions 165-B and 165-C)

6.320 If **Division 165** applies, the Commissioner can make the scheme ineffective for GST purposes. The Commissioner can do this by making a declaration that has the effect of negating the GST benefit obtained by the avoider under the scheme – see generally **subdivision 165-B**.

6.321 The Commissioner can also make a declaration that has the effect of compensating an entity that is disadvantaged by the scheme or part of the scheme, if:

- a declaration has been made against the avoider in relation to the scheme or part of a scheme; and
- the Commissioner considers it fair and reasonable that the disadvantage be negated or reduced.

6.322 In making any declaration in this Division, the Commissioner can disregard the scheme and reconstruct the events that took place.

6.323 An avoider may also be subject to penalties – see **subdivision 165-C**.

6.324 Decisions made under **Division 165** will be *reviewable GST decisions*, and will be subject to rights of objection under the *Taxation Administration Act 1953*.

Explanation of the specific rules – Subdivision 165-A: Application of the GAP

6.325 There are three requirements that must be satisfied before **Division 165** will apply (see 6.319).

Requirement 1: There must be a scheme

6.326 *Scheme* is defined by **subsection 165-10(2)** to mean:

- any express or implied arrangement, agreement, understanding, promise or undertaking—**paragraph 165-10(2)(a)**. (An arrangement, agreement, understanding, promise or undertaking will still come within the definition of *scheme* even if it is not, or is not intended to be, enforceable by legal proceedings); or
- any scheme, plan, proposal, action, course of action or course of

conduct, whether unilateral or otherwise—**paragraph 165-10(2)(b)**.

Requirement 2: An entity must get a GST benefit from a scheme

6.327 The concept of an entity getting a *GST benefit* from a scheme is defined in **subsection 165-10(1)**.

Types of GST benefit

6.328 An entity gets a *GST benefit* when it:

- does not pay GST or pays less GST—**paragraph 165-10(1)(a)**;
- obtains payment or increased payment of a refund—**paragraph 165-10(1)(b)**;
- pays GST later—**paragraph 165-10(1)(c)**; or
- gets a refund earlier—**paragraph 165-10(1)(d)**.

6.329 A key aspect of the GST benefit concept is that it covers timing benefits—**paragraphs 165-10(1)(c) and 165-10(1)(d)**.

6.330 An *amount* includes a nil amount – see the definition of *amount* in **section 195-1**. As a consequence:

- **paragraph 165-10(1)(a)** covers cases where an amount payable by an entity is reduced to zero or nil because of a scheme;
- **paragraph 165-10(1)(b)** covers cases where an amount payable to the entity is increased from zero or nil because of a scheme.

6.331 Together, **paragraphs 165-10(1)(a) and 165-10(1)(b)** cover the cases where, because of a scheme, a net amount payable by the entity to the Commissioner turns into a refund payable by the Commissioner to the entity:

- **paragraph 165-10(1)(a)** deals with that part of the GST benefit involving the actual amount payable by the entity to the Commissioner (that is, zero or nil) being reduced from the amount that should have been paid.
- **paragraph 165-10(1)(b)** deals with that part of the GST benefit involving the actual amount payable by the Commissioner to the entity being increased from the amount that should have been paid (that is, zero or nil).

6.332 A reduction in consideration on a transaction under a scheme which leads to paying less GST is covered by **paragraph 165-10(1)(a)**.

What connection does there need to be between the GST benefit and the scheme?

6.333 **Subsection 165-10(1)** provides that an entity will get a GST benefit *from a scheme* if a GST benefit would not have arisen, or could not reasonably be expected to have arisen, apart from the scheme or part of the scheme.

6.334 This involves an enquiry into what would have occurred if the scheme or part of the scheme had not been entered into or carried out. That enquiry will be in relation to the most economically equivalent transaction to the scheme or part of the scheme actually entered into or carried out.

6.335 An entity that gets a GST benefit from a scheme, even if the entity claims it would not have entered into any type of transaction had the actual scheme not been entered into can still have that GST benefit negated under **subdivision 165-B—subsection 165-10(3)**.

An entity can get GST benefits from part of a scheme

6.336 GST is a transaction based tax. GST benefits may arise from a single transaction. To ensure **Division 165** applies appropriately and effectively to a GST benefit arising from a single transaction, **subsection 165-10(1)** provides that a GST benefit can arise from ‘part of a scheme’.

6.337 The fact that a GST benefit can arise from ‘part of a scheme’ is reflected throughout **Division 165**.

Requirement 3: The purpose or effect of the scheme was to obtain a GST benefit

6.338 The final requirement for the application of **Division 165** is that either the purpose or the effect of the scheme or part of the scheme was to obtain a GST benefit—**paragraph 165-5(1)(b)**.

6.339 This requires only one of the two tests to be satisfied – either the *purpose test* or the *effect test*.

What is the purpose test?

6.340 This third requirement is satisfied if it is reasonable to conclude an entity entered into or carried out the scheme or part of the scheme with the sole or dominant purpose of that entity or another entity getting a GST benefit from the scheme—**subparagraph 165-5(1)(b)(i)**.

6.341 For the purposes of this test, the entity whose purpose is determined:

- is the entity which entered into or carried out the scheme or part of the scheme, alone or with others; but

- need not be the avoider.

6.342 The dominant purpose is the ruling, prevailing or most influential purpose.

What is the effect test?

6.343 Alternatively, this third requirement is satisfied if a principal effect of the scheme or part of the scheme is that the avoider got the relevant GST benefit—**subparagraph 165-5(1)(b)(ii)**.

6.344 This test is different from the purpose test in that it applies specifically to the avoider and the GST benefit obtained by the avoider.

6.345 For this test, a principal effect is an important effect, as opposed to merely an incidental effect.

What matters are to be considered in determining purpose or effect?

6.346 The matters below are taken into account in coming to a 'reasonable' conclusion about the purpose or effect of the scheme or part of the scheme—**subsection 165-15(1)**.

6.347 The matters apply to parts of a scheme in the same way as they apply to a scheme—**subsection 165-15(2)**.

6.348 The matters to be considered are:

- the manner in which the scheme or part of the scheme was entered into or carried out—**paragraph 165-15(1)(a)**. The terms *manner*, *entered into* and *carried out* are terms that allow various matters to be taken into account. The terms are not given any restricted meaning. Manner would include consideration of the way in which, and method or procedure by which, the particular scheme or part of the scheme in question was established. The scheme or part of the scheme for these purposes would be the particular means adopted by an entity to obtain the GST benefit;
- the form and substance of the scheme or part of the scheme—**paragraph 165-15(1)(b)**. This matter will specifically include considering the legal rights and obligations involved in the scheme or part of the scheme—**subparagraph 165-15(1)(b)(i)** and the economic and commercial substance of the scheme or part of the scheme—**subparagraph 165-15(1)(b)(ii)**. Both of these issues will be important in considering the 'purpose' or 'effect' of the scheme or part of the scheme;
- the purpose or object of this Act, the *Customs Act 1901* (to the extent it is relevant) and any relevant provision in either of those

Acts—**paragraph 165-15(1)(c)**. Benefits are derived under avoidance schemes contrary to the purpose or object of the law. The purpose or object of the law is therefore a relevant consideration.

- Whether or not the purpose or object of the Act or any relevant provision is expressly stated will not affect the relevance of this matter.
 - The *Customs Act 1901* is mentioned in **paragraph 165-15(1)(c)** because many GST issues involved with importations are dealt with under that Act.
- the timing of the scheme or part of the scheme—**paragraph 165-15(1)(d)**. This matter may be particularly relevant in cases where the GST benefit involves timing benefits;
- the period over which the scheme or part of the scheme is entered into or carried out—**paragraph 165-15(1)(e)**;
- the effect that the Bill has in relation to the scheme or part of the scheme—**paragraph 165-15(1)(f)**;
- any change in the avoider's financial position that results, or may reasonably be expected to result, from the scheme or part of the scheme—**paragraph 165-15(1)(g)**;
- any change in the financial position of an entity connected to the avoider that results, or may reasonably be expected to result, from the scheme or part of the scheme—**paragraph 165-15(1)(h)**. A connected entity is an entity that has or had a connection or dealing with the avoider, whether or not that connection or dealing is or was of a family, business or other nature;
- any other consequence for the avoider or a connected entity of the scheme or part of the scheme having been entered into or carried out—**paragraph 165-15(1)(i)**;
- the nature of the connection or dealing between the avoider and a connected entity—**paragraph 165-15(1)(j)**. This matter will include considering whether any dealing between the avoider and the connected entity was at arm's length;
- the circumstances surrounding the scheme or part of the scheme—**paragraph 165-15(1)(k)**. This allows an enquiry into matters and events prior to an entity entering into or commencing a

scheme or part of a scheme; and

- any other relevant circumstances—**paragraph 165-15(1)(l)**. This ensures any relevant circumstance not otherwise covered is taken into account.

Does it matter where the scheme is entered into or carried out?

6.349 The fact that any part of a scheme is entered into or carried out outside of Australia does not affect the application of **Division 165**—**subsection 165-5(2)**.

Explanation of the specific rules – Subdivision 165-B: Commissioner may negate effects of schemes

6.350 **Subdivision 165-B** makes the outcome of scheme to which this Division applies ineffective.

The Commissioner can make declarations making an avoider's GST benefits ineffective

6.351 If **Division 165** applies to a scheme, the Commissioner can make a declaration negating the avoider's GST benefit—**section 165-40**.

6.352 There are two ways a Commissioner's declaration can negate a GST benefit:

- the declaration can state that the avoider's net amount (see generally **Part 2-4** of the Bill) for a specified tax period is, and at all times has been, a particular amount—**paragraph 165-40(a)**;
- the declaration can state that the amount of GST on a taxable importation (see generally **Division 13** of the Bill) made by the avoider is, and at all times has been, a particular amount—**paragraph 165-40(b)**.

6.353 These two approaches are required because GST on taxable importations is not taken into account in calculating an entity's net amount for a tax period.

6.354 The Commissioner makes a declaration under **section 165-40** to increase an avoider's net amount for a tax period or tax periods (which may involve reducing a refund), or increase GST on a taxable importation or taxable importations made by the avoider, so as to negate the GST benefit.

6.355 Where the GST benefit involves timing benefits (that is, GST benefits covered by **paragraphs 165-10(1)(c) and 165-10(1)(d)**), the Commissioner can also adjust an avoider's net amount for another tax period, or GST for an importation made by the avoider, in a way that reduces the GST liability or increases the refund of an avoider for that particular period or reduces GST on that importation. This ensures the appropriate treatment of the GST benefit.

6.356 Declarations made by the Commissioner under this section will be reviewable GST decisions. Objections can be lodged against the declaration as set out in Division 3 of Part IVC of the *Taxation Administration Act 1953*.

The Commissioner can make declarations compensating an entity other than the avoider

6.357 The Commissioner can also make a declaration compensating an entity other than the avoider for a *GST disadvantage* that entity has got from the scheme—**section 165-45**.

6.358 Three conditions must be satisfied before the Commissioner can make such a declaration for a particular entity (referred to in this Chapter as ‘the loser’):

- the Commissioner must have made a declaration in relation to the avoider’s GST benefit—**paragraph 165-45(1)(a)**;
- the Commissioner considers the loser gets a *GST disadvantage* from the scheme—**paragraph 165-45(1)(b)** (A *GST disadvantage* from a scheme is defined in **subsection 165-45(2)**); and
- the Commissioner considers it fair and reasonable to adjust the loser’s net amount for a tax period or tax periods, or GST on a taxable importation or taxable importations, so as to compensate for the GST disadvantage—**paragraph 165-45(1)(c)**.

6.359 There are two ways a Commissioner’s declaration can compensate for the GST disadvantage:

- the declaration can state that the loser’s net amount for a specified tax period is, and at all times has been, a particular amount—**paragraph 165-45(3)(a)**;
- the declaration can state that the amount of GST on a taxable importation made by the loser is, and at all times has been, a particular amount—**paragraph 165-45(3)(b)**.

6.360 The declaration cannot have the effect of placing the loser in a more favourable position for GST than it would have been in apart from the scheme or part of the scheme—**subsection 165-45(4)**. A reference to a net amount under the declaration not being less than the net amount would have been apart from the scheme or part of the scheme covers the case of a refund not being greater than it would have been apart from the scheme or part of a scheme.

6.361 An entity can request in writing that the Commissioner make a compensating declaration for that entity. The Commissioner must decide whether to grant the request, and give the entity written notice of the decision. **Paragraph 165-45(5)**.

6.362 Any declaration made, as well as any decision not to make a declaration by the Commissioner, is a reviewable GST decision. Objections can be lodged against the declaration as set out in Division 3 of Part IVC of the *Taxation Administration Act 1953*.

The Commissioner can disregard any part of the scheme in making declarations

6.363 The Commissioner can disregard the scheme or any part of the scheme in making a declaration to negate an avoider's GST benefit, or to negate or reduce a loser's GST disadvantage, arising from that scheme or part of that scheme—**section 165-55**.

6.364 The Commissioner may do all or any of the following:

- treat an event that actually happened as not having happened at all—**paragraph 165-55(a)**, as having happened at a particular time or as having involved particular action by a particular entity—**paragraph 165-55(c)**;
- treat an event that did not actually happen as having happened, and if appropriate, as having happened at a particular time or as having involved particular action by a particular entity—**paragraph 165-55(b)**.

6.365 This allows the Commissioner to disregard the scheme or part of the scheme and reconstruct the events that took place. The reconstruction is linked to finding the most economically equivalent transaction to the scheme or part of the scheme, discussed at 6.352.

Amounts are payable in accordance with the declaration

6.366 A declaration negating a GST benefit, or negating or reducing a GST disadvantage has effect according to its terms—**section 165-50**.

6.367 Declarations either adjust an entity's net amount for a tax period or tax periods, or adjust GST payable by an entity on a taxable importation or taxable importations—**section 165-40 and subsection 165-45(3)** – see explanations in 6.351 and 6.357. The amount stated by the declaration to be the net amount or the GST is taken to have always been the case for the particular tax period or taxable importation in question.

6.368 Under either **section 165-40** or **subsection 165-45(3)**, a declaration can adjust GST payable on a taxable importation that the Commissioner has treated as having happened under **section 165-55**.

6.369 **Section 165-50** operates in conjunction with **section 165-40** and **subsection 165-45(3)** to ensure that adjustments made under **Division 165** are given the appropriate administrative treatment. It also ensures that collection and recovery provisions can apply to adjustments involving amounts payable to the Commissioner.

6.370 Adjustments to amounts payable by the entity to the Commissioner because of a declaration are payable under **Division 33** of the Bill, which deals with payments by an entity of net amounts for a tax period and GST on taxable importations to the Commissioner.

6.371 Adjustments to amounts payable by the Commissioner to the entity because of a declaration are payable under **Division 35** of the Bill, which deals with refunds by the Commissioner of net amounts to an entity.

6.372 More specifically, interest is payable on under-payments or over-payments of GST as a result of a declaration under this Division. **Section 165-40, subsection 165-45(3)** and **section 165-50** ensure that **new Part VI** of the *Taxation Administration Act 1953* (in the case of under-payments) and the *Taxation (Interest on Overpayments and Early Payments) Act 1983* (in the case of over-payments) applies in determining the amount of interest payable.

Other administrative matters

One declaration can cover several tax periods or importations

6.373 Statements relating to various tax periods and taxable importations can be included in a single declaration—**section 165-60**. The Commissioner does not have to make a separate declaration for every adjustment to a net amount or GST made for a scheme to which **Division 165** applies.

A copy of a declaration must be given to the entity affected

6.374 The Commissioner must provide a copy of a declaration to the entity whose net amount for a tax period or GST liability on a taxable importation is stated in the declaration—**subsection 165-65(1)**.

6.375 Failure to satisfy this requirement does not affect the validity of the declaration—**subsection 165-65(2)**. The requirement is formal in nature and does not nullify the operation of the Division to any scheme or part of a scheme.

Explanation of the specific rules – Subdivision 165-C: Penalties for the avoider

6.376 Imposing a penalty on the avoider is a key component in ensuring that a GAP is an effective deterrent.

In what circumstances is the penalty imposed?

6.377 A penalty is payable when this Division applies to a scheme or part of a scheme, and is imposed on the avoider identified in **section 165-5—subsection 165-80(1)**.

What is the amount of the penalty?

6.378 The amount of penalty payable by an avoider is calculated under the Method Statement in **subsection 165-80(2)**.

6.379 The penalty is double the sum of:

- all of the increases a declaration makes to the avoider's net amounts. (This includes both increasing an amount payable by the entity to the Commissioner for a tax period and reducing an amount payable by the Commissioner to the entity for a tax period); and
- all of the increases a declaration makes to the GST the avoider is liable for on taxable importations.

The payment of the penalty is in addition to other payments

6.380 The payment of the penalty under **subsection 165-80(1)** is in addition to any other payments an avoider makes under the Bill, the *Taxation Administration Act 1953* and the *Taxation (Interest on Overpayments and Early Payments) Act 1983*—**subsection 165-80(3)**.

Remission, payment and recovery of the penalty

6.381 The remission, payment and recovery of the penalty is dealt with in Part VI of the *Taxation Administration Act 1953*—**subsection 165-80(4)**.

TOURIST REFUNDS

6.382 Tourists may buy goods in Australia that they will take home with them when they leave for use outside Australia. This is like exporting the goods. If you leave Australia with accompanied goods you may be entitled to a refund of all or some of the GST included in the price of the goods—**section 168-5**. The regulations can specify for what acquisitions a refund can be made and how the refund will be paid.

GST AND CUSTOMS SECURITY PAYMENTS

6.383 GST on taxable importations is payable at the same time as customs duty on the importation—**section 33-15**. In some situations, an import may only be made temporarily, that is, the goods are brought into Australia with the intention to take them out of Australia again. In these situations, customs duty may be able to be delayed if the importer gives a security or undertaking to the Australian Customs Service for payment of the duty. GST on such importations is delayed until the customs duty becomes payable. This means that there will be no GST unless customs duty becomes payable. **Section 171-5**.

CHAPTER 7

WORKING WITH THE GST

This chapter tells you about:

- *tax invoices;*
 - *adjustment notes;*
 - *GST returns;*
 - *payments and refunds;*
 - *annual turnover; and*
 - *miscellaneous provisions of the Bill.*
-

CHAPTER SUMMARY

<i>Tax invoices</i>	Tax invoices are documents that substantiate creditable acquisitions. See 7.1.
<i>Adjustment notes</i>	Adjustment notes are documents that substantiate adjustments arising from adjustment events. See 7.9.
<i>Returns</i>	You must give GST returns to the Commissioner for each of your tax periods. See 7.14.
<i>Payments</i>	You pay net amounts that are more than zero to the Commissioner. See 7.22.
<i>Refunds</i>	The Commissioner pays you net amounts that are less than zero. See 7.28.
<i>Annual turnover</i>	You have a current annual turnover and a projected annual turnover in relation to a number of thresholds. See 7.33.
<i>Miscellaneous</i>	References to the administration and collection provisions in the <i>Taxation Administration Act 1953</i> ; Commonwealth entities; and regulatory power. See 7.40.

TAX INVOICES

What is a tax invoice?

7.1 An invoice is a notice of an obligation to pay. A tax invoice is a document that substantiates a creditable acquisition. A tax invoice must contain certain information that may not otherwise appear on an ordinary invoice. You can issue a tax invoice in addition to an ordinary invoice, or you may choose to forego issuing ordinary invoices, and only issue tax invoices. In most cases a normal receipt for a supply can easily be adapted to become a tax invoice.

When is a tax invoice issued?

7.2 Tax invoices are generally issued by the supplier. Tax invoices do not have to be issued unless requested by the recipient of a supply (the recipient). Suppliers must, if requested by the recipient, issue a tax invoice for all taxable supplies with a GST exclusive value of \$50 or more within 28 days of the request. **Subsections 29-70(1) and (2) and 29-80(1).**

Contents of a tax invoice

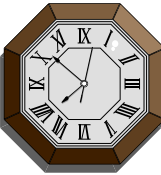
7.3 Tax invoices must:

- show the Australian Business Number of the entity issuing it;
- show the price for the supply;
- contain such information as the regulations require; and
- be in the form approved by the Commissioner.

Subsection 29-70(1)

7.4 For example; the regulations could require that tax invoices must show;

- the words 'TAX INVOICE' in a prominent place on the first page of the tax invoice; and
 - name or trading name of the supplier; and
 - name and address of the recipient; and
 - date of issue of the tax invoice; and
 - brief description of what was supplied; and
 - quantity or volume of what was supplied—for example, hours of labour, number of items; and
 - either the:
 - if the whole supply is taxable, the total amount payable for the supply (including GST) and a statement that the amount includes GST.
- or
- the amount charged for the supply; and
 - amount of GST; and
 - total amount payable for the supply

TAX INVOICE			
Ben's Big Clock's Pty Ltd			
ABN: 123 456 789		12 Grandfathers' Rd Cuckooville	
Date: 1 April 2002			
To: Cuckooville Town Council Town Square Cuckooville			
Qty	Description of supply	price	total
1	2m hourglass	\$1200	\$1200
TOTAL including GST			\$1200

An illustrative example of a tax invoice.

Recipient-created tax invoices

7.5 There are some supplies for which the recipient of the supply (the recipient) determines the value of the supply rather than the supplier. The supplier does not know the value of the supply until the recipient has determined the value. In such situations it would not be practicable to require the supplier to issue the tax invoice for that supply.

7.6 If a recipient must issue tax invoices, the requirements for issuing tax invoices discussed above apply as if they were the supplier.

Example

Abattoirs weigh, slaughter, grade and price the animals supplied to them. The abattoir also determines other costs such as levies. The abattoir will generally be in the best position to provide the information that a tax invoice is required to contain. In this situation it is probably more practicable for the abattoir to issue the tax invoice rather than the supplier of the animals.

Agent created tax invoices

7.7 There are special rules about agents issuing tax invoices on behalf of the principal. See 6.277.

Sale in satisfaction of debt

7.8 If you make a taxable supply in satisfaction of a debt and you are not registered or required to be registered, the tax invoice requirements still apply to you. See 6.173.

ADJUSTMENT NOTES

7.9 Adjustments arising from adjustment events must be supported by adjustment notes. An adjustment note must contain information similar to a tax invoice. **Subsection 29-75(1)**. Hence adjustment notes are like an amended tax invoice.

7.10 To attribute a decreasing adjustment arising from an adjustment event, a supplier must have issued an adjustment note to the recipient. To attribute a decreasing adjustment arising from an adjustment event, a recipient is required to have an adjustment note from the supplier—**subsection 29-20(3)**. See 3.73 for a discussion of adjustment events.

7.11 Adjustment notes must be issued by suppliers within 28 days of the recipient requesting an adjustment note. Suppliers must issue adjustment notes, even if the recipient has not requested one, within 28 days of becoming aware that the recipient has a decreasing adjustment arising from an adjustment event. A recipient must issue an adjustment note if the recipient issued the tax invoice. See 7.5 for recipient issued tax invoices. **Subsection 29-75(1)**.

Content of Adjustment Notes

7.12 Adjustment notes must:

- show the Australian Business Number of the entity issuing it;
- contain such information as the Commissioner determines; and
- be in the form approved by the Commissioner.

Subsection 29-75(1)

Low value supplies

7.13 Suppliers are not required to issue tax invoices or adjustment notes if the GST exclusive value of the supply is less than \$50, but may do so. However, to claim an input tax credit or make a decreasing adjustment where the supplier has not issued a tax invoice or adjustment note, the recipient must have sufficient records to substantiate them. For example, the recipient should have a record of:

- what was purchased; and
- from whom it was purchased; and

- when it was purchased; and
- the tax inclusive value of the supply, that is, the consideration for the supply; and
- in respect of adjustments, details and outcome of the adjustment event.

RETURNS, PAYMENTS, REFUNDS

Returns

Generally

7.14 You must give a GST return to the Commissioner for each of your tax periods if you are registered or required to be registered—**subsection 31-5(1)**. You must give your return to the Commissioner on or before the 21st day of the month following the end of the tax period to which the return relates—**paragraph 31-10(a)**. The Commissioner may allow further time for returns—**paragraph 31-10(b)**.

7.15 The return must be in the approved form, state your net amount and any other information required by the approved form, and must be signed unless it is lodged electronically. **Subsections 31-15(1) and 31-30(1)**.

Zero net amount or no taxable supplies

7.16 You must give a return for a tax period even if you have not made any taxable supplies that are attributable to the tax period—**paragraph 31-5(2)(b)**. You must give a return for a tax period even if your net amount for the tax period is zero—**paragraph 31-5(2)(b)**.

7.17 However, where your net amount is zero because you have not made any supplies, acquisitions, or importations you may lodge your return in the manner the Commissioner requires rather than the usual form—**subsection 31-15(2)**. For example, the Commissioner could provide for you to lodge your return by telephone.

Electronic lodgement

7.18 Electronic lodgement of GST returns is where you give your return to the Commissioner by transmitting it in an electronic format approved by the Commissioner. **Subsection 31-25(3)**.

7.19 Electronic lodgement of returns is an option unless your annual turnover meets the *electronic lodgement turnover threshold*. You must give your return to the Commissioner

electronically if your annual turnover is over \$20 million. This amount can be increased by regulation. **Subsections 31-25(1), (2) and (3).**

7.20 If you give your return to the Commissioner electronically, you must include your electronic signature in the return. Your electronic signature is a unique identification of you in electronic form that the Commissioner has approved—**section 195-1**. If your registered tax agent gives your return to the Commissioner electronically on your behalf, the return must contain your registered tax agent's electronic signature. **Section 31-30.**

Additional GST returns

7.21 The Commissioner can require additional returns at any time. The Commissioner can require such returns from you in your capacity as agent or trustee. **Section 31-20.**

Payments of GST

7.22 You are obliged to pay to the Commonwealth any amounts of GST that remain after your input tax credits have been netted off against your GST. Such net amounts are a debt due to the Commonwealth—**section 33-30.**

When you pay

7.23 If your net amount for a tax period is greater than zero you pay the net amount to the Commissioner. Generally, you must pay it on or before the 21st day of the month following the end of your tax period to which the payment relates. However, under **section 27-35**, your tax period can end 7 days either side of the end of a month. If your tax period ended in the first 7 days of a month, you must pay your net amount to the Commissioner by the 21st day of that month. **Section 33-5.**

Extending time for payment

7.24 The Commissioner may extend the time for payment of certain amounts. These amounts are specified in **section 33-20.**

Bringing forward time for payment

7.25 If the Commissioner has reason to believe that you are about to leave Australia, he or she may bring forward the time for payment of certain amounts. These amounts are specified in **section 33-25.**

How you pay

7.26 If you are required to give your returns to the Commissioner electronically (see 7.18), you must pay electronically—**subsection 33-10(2)**. Even if you are not required to give your returns to the Commissioner electronically, you may pay electronically—**subsection 33-10(1)**. If you pay electronically you pay by way of electronic transmission approved by the Commissioner. If you do not pay electronically, you must pay in a manner the Commissioner

has determined in writing. Generally, this will mean sending in a cheque with your return or providing a direct debit authority.

Importations

7.27 GST on taxable importations is generally payable at the same time and place, and in the same manner as customs duty is, or would be, payable on the goods. The Commissioner can allow further time for payment, and if he or she does so, can specify the place and manner of payment. **Section 33-15.**

Refunds

7.28 The Commonwealth is obliged to pay to you any amounts of input tax credits that remain after you have netted off your GST and input tax credits for a tax period.

7.29 The Commonwealth is not obliged to pay your refund if you have a liability arising under another Act administered by the Commissioner. The Commissioner may apply your refund to the liability and pay you any remaining refund. **Subsection 35-5(2).**

7.30 If you do not have a liability under another Act administered by the Commissioner, the Commissioner must pay you any amount by which your net amount for a tax period is less than zero. The Commissioner must generally pay such amounts to you within 14 days after you give your return for that tax period to the Commissioner. **Subsection 35-5(1).**

How refunds are made

7.31 If your net amount for a tax period is payable to you, the Commissioner must pay the amount into your bank, building society, or credit union account nominated by you. If you have not nominated such an account, the Commissioner is not obliged to refund your net amount until you nominate such an account. **Subsections 35-10(1) and (3).**

7.32 However, some people do not use bank, credit union or building society accounts. For example, some do not use such accounts for religious reasons. The Commissioner may, in unusual circumstances, pay refunds other than into such an account. **Subsection 35-10(2).**

Annual turnover

7.33 Your annual turnover is relevant for the following thresholds:

- the registration turnover threshold—see 2.9;
- the tax period turnover threshold—see 4.12;
- the cash accounting turnover threshold—see 4.24; and
- the electronic lodgement turnover threshold—see 7.19.

7.34 Your annual turnover is an aggregate of the turnovers for all the enterprises that you carry on.

Meeting a threshold

7.35 Generally, your annual turnover meets a threshold if your *current annual turnover* is at or above the amount specified. If your current annual turnover is below the amount specified you may still meet the threshold if your *projected annual turnover* is at or above the specified amount. If your current annual turnover is below the specified amount and you believe that your projected annual turnover is also below the amount, you may still meet the threshold if the Commissioner is not satisfied that your projected annual turnover is below the amount. ***Subsection 188-10(1).***

Not meeting a threshold

7.36 Generally your annual turnover does not meet a threshold if your current annual turnover is below the specified amount. If your current annual turnover is above the amount specified you may not meet the threshold if your projected annual turnover is below the specified amount. If your current annual turnover is below the specified amount and you believe that your projected annual turnover is above the amount, you do not meet the threshold if the Commissioner is not satisfied that your projected annual turnover is above the amount. ***Subsection 188-10(2).***

Current and projected annual turnover

7.37 Your current and your projected annual turnover both calculate an amount based on the value of supplies that you make. Your current and your projected annual turnover are both the sum of the GST exclusive value of the supplies you make in a twelve month period. Your supplies that are input taxed are not included in the amount because you do not include GST in the price for such supplies. Your supplies to your associates for no consideration are also not included because, under ***Division 72***, GST may not be charged on such supplies. Your supplies that are not made in connection with an enterprise that you carry on are not included because you do not include GST in the price for such supplies. ***Subsections 188-15(1) and 188-20(1).***

Current annual turnover

7.38 The twelve month period ends at the end of the current month. ***Subsection 188-20(1).***

Projected annual turnover

7.39 The twelve month period starts at the beginning of the current month. ***Subsection 188-15(1).***

Miscellaneous – Division 177

7.40 **Division 177** contains those administrative provisions unique to the functioning of the Bill. Most of the provisions that support the collection and administration of GST, such as penalty provisions and information sharing, will be contained in new Part VI of the *Taxation Administration Act 1953*.

Commonwealth and Commonwealth entities not liable for GST

7.41 Liability to GST cannot extend to the Commonwealth or to a defined category of Commonwealth entity. To ensure that Commonwealth entities are also effectively covered by GST, a notional liability to GST and a notional entitlement to input tax credits will instead apply to them. **Section 177-1.**

Cancellation of exemptions from GST

7.42 This provision expressly overrides an existing Commonwealth law which otherwise would provide an exemption from liability to GST. **Section 177-5.**

Regulation power

7.43 The Governor-General will be authorised to make regulations prescribing matters that are either required or permitted by the Act to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to the Act. **Section 177-15.**

INDEX

CHAPTER 1-INTRODUCTION

Division -Preliminary

Section	Paragraph reference
1-1*
1-2*
1-3*

Division 4-Status of Guides and other non-operative material

Section	Paragraph reference
4-1*
4-5*
4-10*

Division 2-Overview of the GST legislation

2-1*
2-5*
2-10*
2-15*
2-20*
2-25*
2-30*

Division 3-Defined terms

3-1*
3-5*
3-10*

CHAPTER 2-THE BASIC RULES

Division 5-Introduction

5-1*
5-5*

Division 7-The central provisions

7-1	.....3.4, 3.19, 3.42, 3.55
7-5	.....4.1
7-10*
7-15*

Division 9-Taxable supplies		Section	Paragraph reference
Section	Paragraph reference	11-15	.....3.23
9-1	.....*	11-20	.....3.19
9-5	.....3.5, 6.126, 6.159	11-25	.....3.30, 3.36, 6.161
9-10	.....3.6, 3.7, 3.8, 5.144	11-30	.....3.31, 3.33, 3.34, 3.35, 3.36, 3.37, 3.39, 3.40
9-15	.....3.9	11-99*
9-20	.....2.2, 2.4, 2.5		
9-25	.....3.11, 3.68, 6.126, 6.159		
9-30	.....5.6, 5.7	Division 13-Taxable importations	
9-39	.....*	13-1*
9-40	.....3.4	13-5	.....3.45, 3.46, 3.50, 6.187
9-69	.....*	13-10	.....5.128, 5.170
9-70	.....3.13	13-15	.....3.43
9-75	.....3.14, 3.15	13-20	.....3.52, 3.53
9-80	.....3.18	13-25	.....3.54, 3.89
9-99	.....*	13-99*
Division 11-Creditable acquisitions		Division 15-Creditable importations	
11-1	.....*	15-1*
11-5	.....3.20	15-5	.....3.56
11-10	.....3.21, 3.22	15-10	.....3.58

Section	Paragraph reference	Section	Paragraph reference
15-15	.....3.55	19-70*
15-20	.....3.61, 3.64	19-75	.....3.80
15-25	.....3.62, 3.64	19-80	.....3.81
15-99	.....*	19-85	.....3.82
Division 17-Net amounts and adjustments		Division 21-Bad debts	
17-1	.....*	21-1*
17-5	.....4.2	21-5	.....3.85, 3.86, 6.213
17-10	.....3.71, 4.2	21-10	.....3.88, 6.214
17-99	.....*	21-15	.....3.89, 3.90, 3.91
Division 19-Adjustment events		21-20	.....3.92
19-1	.....*	21-99*
19-5	.....	Division 23-Who is required to be registered and who may be registered	
19-10	.....3.73, 5.78	23-1*
19-40	.....3.74	23-5	... 2.8, 2.9, 2.10, 2.11, 2.12
19-45	.....3.75	23-10	.....2.8, 2.13, 2.14, 6.51
19-50	.....3.77	23-15	.....2.9, 2.10, 2.11, 2.12
19-55	.....3.76	23-99*

Division 25-How you become registered, and how your registration can be cancelled		Section	Paragraph reference
Section	Paragraph reference	27-30	.....4.18, 4.19, 4.20
25-1	.....*	27-35	.....4.17
25-5	.....2.16, 2.17, 2.20, 2.21	27-40	.....4.21, 6.275
25-10	.....2.16, 2.17, 2.19, 2.20	27-99*
25-15*		
25-49	.....*	Division 29-What is attributable to tax periods	
25-50	.....*	29-1*
25-55	.....2.24, 2.26, 2.27, 2.28, 2.29	29-5	.....4.29, 4.35
25-60	.....*	29-10	.....4.31, 4.37
25-65	.....2.30	29-15	.....4.32, 4.38
25-99	.....*	29-20	.....4.33, 4.39, 4.40
		29-25	.....4.42, 4.43
Division 27-How to work out the tax periods that apply to you		29-39*
27-1	.....*	29-40	.....4.24
27-5	.....4.11	29-45	.....4.25, 4.26, 6.17
27-10	.....4.15, 4.16	29-50*
27-15	.....4.12, 4.13	29-70*
27-20	.....*	29-75*
27-25	.....4.14	29-80*
Section	Paragraph reference	Division 35-Refunds	
29-99	.....*	Section	Paragraph reference
		35-1*
Division 31-GST returns		35-5	.....4.5, 4.10

31-1	.....*	35-10*
31-5	.....*	35-99*
31-10*		
31-15	.....6.56	Division 37-Checklist of special rules	
31-20	.....*	37-1*
31-25*		
31-30*		
31-99*		

Division 33-GST returns

33-1*
33-5	.....4.4, 4.35
33-10*
33-15	.....4.30, 4.36, 6.383
33-20*
33-25*
33-30*
33-99*

CHAPTER 3-THE EXEMPTIONS
Division 37-Checklist of special rules

		Section	Paragraph reference
Section	Paragraph reference	38-190	.....5.82, 5.85 - 5.90
38-1	.....*	38-220	.....5.91, 5.93
38-5	.....5.8, 5.10, 5.11, 5.12	38-250	.....5.99, 5.104
38-10	.....5.13, 5.14	38-255	.....5.103
38-15	.....5.15	38-285	.....5.106
38-20	.....5.16	38-290	.....5.107
38-25	.....5.18, 5.19, 5.20, 5.21	38-295	.....5.107
38-30	.....5.23, 5.24	38-325	.....5.108, 5.109
38-35	.....5.35	38-355	.....5.112, 5.114, 5.116 - 5.119, 5.121, 5.122, 5.124
38-40	.....5.26	38-385	.....5.126
38-45	.....5.27	38-415	.....5.130
38-50	.....5.28, 5.29, 5.30, 5.31	38-445	.....5.132, 6.108
38-55	.....5.32	38-475	.....5.134, 5.136
38-85	.....5.33, 5.39	38-505	.....5.137, 5.138, 5.139
38-90	.....5.49	38-510	.....5.137, 5.138, 5.139
38-95	.....5.52		
38-100	.....5.55	Division 40-Input taxed supplies	
38-105	.....5.61	40-1*
38-110	.....5.47	40-5	.....5.142 - 5.162, 5.163
38-140	.....5.67	40-35	.. 5.63, 5.164, 4.165, 5.166

38-145	.....5.70	40-65	..5.164, 5.165, 5.167, 6.94
38-150	.....5.70, 5.72	40-70	.....5.164, 5.166, 5.167
38-155	.....5.66	40-100	.....5.125
38-185	.....5.73, 5.74 - 5.77, 5.80, 5.82, 5.84		

Division 42-Non-taxable importations		Section	Paragraph reference
Section	Paragraph reference		
		48-70	.....6.18, 6.19
42-1	.....*	48-75	.....6.20, 6.21
42-5	.....5.172, 5.173, 5.174	48-80*
42-10	.....5.175	48-85*
42-15	.....5.176, 5.177, 5.178	48-90*

CHAPTER 4-THE SPECIAL RULES

Division 45-Introduction

45-1*
45-5*

Division 51-GST joint ventures

51-1*
51-5	.....6.26, 6.27
51-10	.....6.26
51-30	.....6.25
51-35*
51-40*
51-45*
51-50*
51-55*
51-60*
51-70	.....6.28, 51.29
51-75	.....6.30, 6.31
51-80*

Division 48-GST groups

48-1*
48-5	.....6.14
48-10	.....6.4, 6.6, 6.12, 6.13
48-40	.....6.11
48-45*
48-50	.....6.10
48-55*
48-60*

Section	Paragraph reference	Section	Paragraph reference
51-90	.....*	57-5	.....6.53
Division 54-GST branches		57-10	.....6.53
54-1	.....*	57-15	.....6.53
54-5	.....6.36, 6.37, 6.38, 6.47	57-20	.....6.52
54-10	.....*	57-25*
54-15	.....*	57-30	.....6.52
54-40	.....6.39, 6.41, 6.42, 6.43, 6.44	57-35*
54-45	.....6.39, 6.41, 6.42, 6.43, 6.44	57-40	.....6.55
54-50	.....*	57-45*
54-55	.....6.45	Division 60-Pre-establishment costs	
54-60	.....6.46	60-1*
54-65	.....6.46	60-5	.....6.64
54-70	.....*	60-10*
54-75	.....6.49, 6.50	60-15	.....6.60, 6.61, 6.62
54-80	.....*	60-20	.....6.63
54-85	.....6.48	60-25	.....6.65
54-90	.....*	60-30	.....6.65
Division 57-Resident agents acting for non-residents		60-35	.....6.67
57-1*		

Division 66-Second-hand goods		Section	Paragraph reference
Section	Paragraph reference	72-50	.....6.91
66-1	.....*	72-50*
66-5	.....6.71	72-70	.....6.92
66-10	.....6.72		
66-15	.....6.73, 6.75, 6.76	Division 75-Sale of freehold interests etc.	
66-20	.....*	75-1*
		72-5	.....6.97
Division 69-Non-deductible expenses		75-10	... 6.98, 6.99, 6.106, 6.107, 6.108, 6.109, 6.110
69-1	.....*	75-15	.....6.111
69-5	.....6.78	75-20	.....6.105
69-10	.....6.82, 6.83	75-25*
Division 72-Associates		Division 78-Insurance	
72-1	.....*	78-1*
72-5	.....6.88	78-5	.....6.114, 6.116, 6.117
72-10	.....6.89	78-10	.....6.119
72-15	.....6.91	78-15	.....6.120
72-40	.....6.90		
72-45	.....6.90		

Division 81-Payment of taxes

Section	Paragraph reference
81-1*
81-5	.....6.121, 6.124
81-10	.....6.122

Division 84-Offshore supplies other than goods or real property

84-1*
84-5	.....6.130, 6.131, 6.133
84-10	.....6.132
84-15*

Division 87-Long-term accommodation in commercial residential premises

87-1*
87-5	.....6.136
87-10	.....6.137
87-15	.....6.141
87-20	.....6.138

Division 96-Supplies partly connected with Australia

Section	Paragraph reference
96-1*
96-5	.....6.160, 6.163
96-10	.....6.162

Division 90-Company amalgamations

Section	Paragraph reference
90-1*
90-5	.....6.143, 6.145, 6.148
90-10*
90-15	.....6.145
90-20	.....6.149
90-25	.....6.149
90-30	.....6.150*
90-35	.....6.152

Division 93-Returnable containers

93-1*
93-5	.....6.157, 6.158
93-10*
93-15	.....6.157
93-20*

Division 105-Valuation of taxable supplies of goods in bond

Section	Paragraph reference
105-15*
105-20*

Division 108-Valuation of taxable supplies of goods in bond

108-1*
-------	--------

108-5**6.185**

Division 99-Deposits as security

99-1*

99-5**6.168**

99-10**6.169**

Division 114-Importations without entry
for home consumption

114-1*

114-5**6.187**

Division 102-Cancelled lay-by sales

102-1*

102-5**6.170**

102-10**6.171, 6.172**

Division 117-Importations of goods that
were exported for repair or renovation

117-1*

117-5**6.189**

117-10**6.190**

Division 105-Supplies in satisfaction of
debts

105-1*

105-5*

105-10*

Division 123-Diesel fuel credits

123-1*

123-5*

123-10**6.194**

Section	Paragraph reference	Division 129-Changes in the extent of creditable purpose	
123-15	.....6.195, 6.197	Section	Paragraph reference
123-20	.....*	129-1*
123-40	.....6.193, 6.195, 6.198, 6.199, 6.200	129-5	.....6.230
123-45	.....6.201	129-20	.....6.220 - 6.223
123-50	.....6.201	129-25	.....6.238
123-55	.....6.195, 6.196	129-40	.....6.230, 6.233, 6.234
123-70	.....*	129-45	.....5.101, 6.229, 6.237
123-75	.....*	129-50	.....6.231
123-80	.....*	129-55	.....6.232
Division 126-Gambling		129-70	.....6.236
126-1	.....*	129-75*
126-5	.....6.201	129-80	.....6.235
126-10	.....6.204	129-90*
126-15	.....6.211	Division 132-Supplies of things acquired or imported to make supplies	
126-20	.....6.213, 6.214	132-1*
126-25	.....*	132-5*
126-30	.....6.206	132-10*
126-35	.....6.202	132-15*

Section	Paragraph reference	Division 147-Representatives of incapacitated entities
132-20	.....*	147-1*
		147-5 6.274
Division 135-Supplies of going concerns		147-10*
135-1	.....*	147-15 6.274
135-5	.....6.256	147-20*
135-10*	
		Division 153-Agents
Division 138-Cessation of registration		153-1*
138-1	.....*	153-5 6.279
138-5	.....6.260, 6.263	153-10 6.280
138-10	.....6.260	153-15 6.282
138-15	.....6.259	153-20 6.281
138-20*	
		Division 156-Supplies and acquisitions made on a progressive or periodic basis
Division 144-Taxis		156-1*
144-1	.....*	156-5*
144-5	.....*	156-10*
		156-15 6.205

Section	Paragraph reference	Section	Paragraph reference
156-20	.....6.286	165-50	.....6.366, 6.369, 6.372
156-25	.....*	165-55	.....6.363, 6.364, 6.368
		165-60	.....6.373
Division 159-Changing your accounting basis		165-65	.....6.374, 6.375
159-1	.....*	165-80	.....6.377, 6.378, 6.380, 6.381
159-5	.....6.292, 6.296, 6.298	Division 168-Tourist refund scheme	
159-10	.....6.293, 6.297, 6.299	168-1*
159-15	.....*	168-5	.....6.382
159-20	.....6.301		
159-25	.....*	Division 171-Customs security etc. given on taxable importations	
Division 165-Anti-avoidance		171-1*
165-1	.....*	171-5	.....6.383
165-5	.....6.315, 6.338, 6.340, 6.343, 6.349, 6.377		
165-10	.....6.326 - 6.333, 6.335, 6.336, 6.355	Division 177-Miscellaneous	
165-15	.....6.346, 6.347, 6.348	177-1*
165-40	.....6.351, 6.352, 6.354, 6.367, 6.372	177-5*
165-45	.....6.357 - 6.361, 6.367 - 6.369, 6.372	177-10	.....5.21
165-15	.....*	177-15*
165-40	.....6.368, 6.369		

Division 182-Miscellaneous

Section	Paragraph reference
182-1*
182-5*
182-10*

Division 190-90% owned groups of companies

Section	Paragraph reference
190-1	.....6.5
190-5*

Division 195-Dictionary

195-1 3.11, 5.8, 5.9, 5.39, 5.45, 5.46, 5.115, 5.127, 5.133, 5.136, 5.137, 5.168, 6.87, 6.96, 6.121, 6.140, 6.271
-------	--

Division 184-Meaning of entity

184-1*
-------	--------

SCHEDULE 1-MEDICAL AIDS AND APPLIANCES

Division 186-Meaning of approved form

.....5.27

186-1*
-------	--------

Division 188-Meaning of annual turnover

188-1*
188-5*
188-10*
188-15	.....6.16
188-20	.....2.11, 2.126.16
188-25*
188-30*

Schedule 1 – 5.27