

1998-99

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

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

Requests for amendments

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

Requests for amendments

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

Amendments consequential upon requests for amendments

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

Further amendment

A NEW TAX SYSTEM (INDIRECT TAX ADMINISTRATION) BILL 1999

Amendments

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

Further amendments

FURTHER SUPPLEMENTARY EXPLANATORY MEMORANDUM

(Circulated by authority of the

Treasurer, the Hon Peter Costello, MP)

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General outline and financial impact

Food – Subdivision 38-AA

The amendments to the A New Tax System (Goods and Services Tax) Bill 1998 will make food for human consumption GST-free, except for:

- savoury snacks, confectionery, ice-cream goods, biscuits and certain beverages that are currently subject to wholesale sales tax (WST);
- bakery products other than bread; and
- prepared meals, takeaway foods and food supplied by restaurants.

The definition of food excludes live animals (except crustaceans and molluscs), unprocessed grains, cereal or sugar cane and plants under cultivation. This means that most supplies by the primary producer will be subject to GST. However, supplies of fresh fruit and vegetables by a primary producer will be GST-free.

Date of effect: 1 July 2000.

Proposal announced: The proposal was announced by the Government on 28 May 1999.

Financial impact: The financial impact is \$3,090 million in 2000-01; \$3,640 million in 2001-02; and \$3,860 million in 2002-03.

Compliance cost impact: Businesses involved in the supply of food for human consumption will have increased compliance and administrative costs associated with these amendments. Entities will have to classify food as GST-free or taxable, however, this should be a once off exercise (except for new product lines).

In addition, there will be some administrative costs for a business that has to account for GST on only some of its supplies.

Changes to the GST treatment of health

The amendments to the A New Tax System (Goods and Services Tax) Bill 1998 will:

- expand the list of health services that are currently GST-free to include certain complementary health services. The health services to be included are acupuncture, herbal medicine (including traditional Chinese herbal medicine) and naturopathy;
- provide that certain goods are GST-free if they are of a kind determined by the Health Minister;
- extend GST-free treatment to cover Schedule 2 (S2) pharmaceutical drugs and medicinal preparations;
- provide that certain analgesic drugs and medicinal preparations supplied in small quantities are GST-free. These drugs and medicinal preparations must be determined by the Health Minister as being GST-free; and
- extend the GST-free treatment of certain disability services.

Date of effect: 1 July 2000.

Proposal announced: The proposal was announced by the Government on 28 May 1999.

Financial impact: The financial impact of the measure relating to complementary health services is \$40 million in 2000-01; \$40 million in 2001-02; and \$50 million in 2002-03. The financial impact of the measure to extend GST-free treatment to S2 pharmaceuticals is \$43 million in 2000-01; \$46 million in 2001-02; and \$48 million in 2002-03. The remaining measures are unable to be reliably estimated at this stage since they are subject to ministerial determination.

Compliance cost impact: Compliance costs for these measures are expected to be negligible. The businesses that will be affected by these amendments will already face certain compliance costs associated with the introduction of the GST.

Changes to the GST treatment of education

The amendments to the A New Tax System (Goods and Services Tax) Bill 1998 will:

- provide that certain adult and community education courses determined by the Education Minister will be GST-free; and
- provide that first aid and life saving courses run by non-profit bodies will be GST-free.

Date of effect: 1 July 2000.

Proposal announced: The proposal was announced by the Government on 28 May 1999.

Financial impact: The financial impact of the measure to extend GST-free treatment to adult and community education courses is \$10 million in 2000-01; \$10 million in 2001-02; and \$10 million in 2002-03. The remaining measure is unable to be reliably estimated at this stage.

Compliance cost impact: The additional compliance costs for these measures are expected to be negligible. The businesses that will be affected by these amendments will already face certain compliance costs associated with the introduction of the GST.

Input taxing of school tuckshops and canteens

The amendments to the A New Tax System (Goods and Services Tax) Bill 1998 allow tuckshops and canteens run by a non-profit body, such as a 'Parents and Citizens' association or 'Parents and Friends' association, at a primary or secondary school to choose to be input taxed if they satisfy certain conditions.

Date of effect: 1 July 2000.

Proposal announced: The proposal was announced by the Government on 28 May 1999.

Financial impact: The financial impact of the amendment is negligible.

Compliance cost impact: The amendments will lessen the compliance costs and make accounting for GST easier for the bodies running school tuckshops and canteens. The amendments will relieve these bodies from the paperwork of having to charge GST or claim input tax credits.

Partial input tax credits

The amendments to the A New Tax System (Goods and Services Tax) Bill 1998 allow a partial input tax credit for acquisitions that relate to making financial supplies. The acquisitions must be directly necessary for making financial supplies. The amount of the partial input tax credit will ensure neutrality between out-sourced and in-sourced activities used for making financial supplies.

Date of effect: 1 July 2000.

Proposal announced: The proposal was announced by the Government on 28 May 1999.

Financial impact: The financial impact of this measure is expected to be \$50 million in 2000-01, \$60 million in 2001-02 and \$70 million in 2002-03.

Compliance cost impact: Minimal.

Diesel fuel credit scheme

The amendments to the A New Tax System (Goods and Services Tax) Bill 1998 repeal the Diesel Fuel Credit Scheme.

Date of effect: 1 July 2000.

Proposal announced: The proposal was announced by the Government on 28 May 1999.

Financial impact and compliance cost impact: None.

Date of effect of the A New Tax System (Goods and Services Tax) Bill 1998

Further Amendment 1 to the Bill provides that the Bill shall not take effect until Parliament makes the appropriations as listed in the further amendment.

Chapter 1

Food – Subdivision 38-AA

Overview

1.1 The amendments to the A New Tax System (Goods and Services Tax) Bill 1998 (the Bill) will make food for human consumption GST-free, except for:

- savoury snacks, confectionery, ice-cream food, biscuits and certain beverages that are currently subject to wholesale sales tax (WST);
- bakery products other than bread; and
- prepared food, takeaway foods and food supplied by restaurants.

1.2 The definition of food excludes live animals (except crustaceans and molluscs), unprocessed grains, cereal or sugar cane and plants under cultivation. This means that most supplies by a primary producer will be subject to GST. However, supplies of fresh fruit and vegetables by a primary producer will be GST-free.

Summary of the legislation

Purpose of the amendments

1.3 The amendments will ensure that 'basic' food for human consumption is GST-free. In addition, they will ensure that the current WST exemptions for food are, in general, maintained.

Date of effect

1.4 The amendments will apply from 1 July 2000.

Background to the legislation

1.5 The WST currently exempts food marketed for human consumption with the exception of confectionery, biscuits, savoury snacks, ice-cream goods, flavoured milk, fruit and vegetable juice, cordials and certain beverages.

1.6 On 1 July 2000 the GST will replace the WST and in the absence of these amendments all food would be subject to GST.

Explanation of the legislation

GST-free food

1.7 A supply of food is GST-free unless it is covered by one of the exclusions. *[New section 38-2]*

What is food?

1.8 **Food** is defined to mean:

- food for human consumption (whether or not requiring processing or treatment);
- ingredients for food for human consumption;
- beverages (including water);
- ingredients for beverages;
- goods to be mixed with or added to food for human consumption (including condiments, spices, seasonings, sweetening agents or flavourings);
- fats and oils marketed for culinary purposes; or
- any combination of any of the above.

[New section 38-4]

What is not food?

1.9 There are 3 exclusions from the food definition to make it clear that certain animals and plants are not food until they have been subject to further processing or treatment.

1.10 The exclusion for live animals ensures that live cows, sheep, pigs and poultry are not food. However, live crustaceans and molluscs (eg. lobsters, oysters and crabs) will be GST-free where they are sold as food for human consumption. *[New paragraph 38-4(1)(g)]*

1.11 The exclusion for unprocessed grains, cereals or sugar cane is intended to cover sales of these products by primary producers where the grain, cereal or sugar cane has not been subject to any process or treatment resulting in an alteration of its form, nature or condition. This will ensure

that grains sold as seed or sold for further processing or treatment will be subject to GST. Grains, cereals or sugar cane that have been processed or treated resulting in an alteration of its form, nature or condition will be GST-free if they are sold as food for human consumption. Grains, cereals or sugar cane subject to a cleansing treatment, have been treated resulting in a change to their condition. For example, wild rice that has had impurities removed and is then packaged for sale has been treated and will be supplied GST-free. *[New paragraph 38-4(1)(h)]*

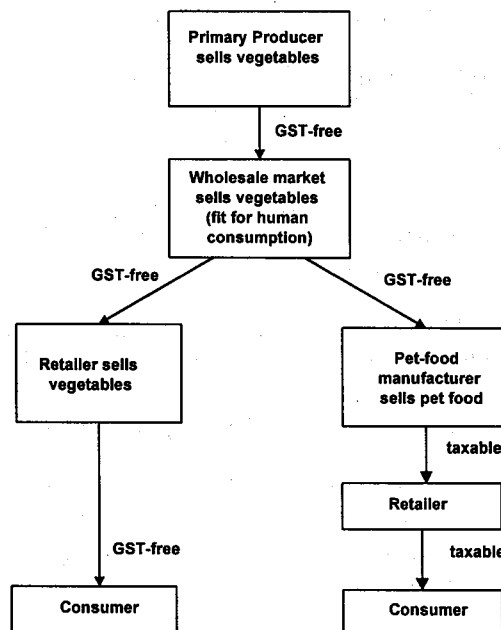
1.12 The exclusion for plants under cultivation will ensure that plants are not sold GST-free where they are still in a growing medium. For example, leaves of a herb plant can be picked and used as an ingredient for food even though the plant is growing in a container. Herbs when sold in bunches and not as part of a living plant will be GST-free. A lettuce that is being grown hydroponically will be GST-free when picked and sold to a customer. *[New paragraph 38-4(1)(i)]*

1.13 Food does not include food that is marketed for animals (eg. pet food, bird seed and food for livestock) as it is not food for human consumption.

1.14 Food that is unfit for human consumption is not considered food for human consumption under this definition. For example, rotten meat or vegetables.

1.15 Food that is GST-free will be GST-free throughout the supply chain.

Example



As the sales to the wholesale market, pet food manufacturer and retailer are GST-free there is no input tax credit that can be claimed in respect of those purchases. In the case of the vegetables purchased by the final consumer they have remained GST-free throughout the chain. The vegetables used in the manufacture of pet food only remain GST-free while they are still food for human consumption. When the vegetables are used to manufacture pet food they cease to be food for human consumption and the sale of pet food is subject to GST.

Food that is not GST-free

1.16 Food that falls into any of the following categories is not GST-free:

- restaurant, take-away and prepared food;
- bakery products;
- confectionery;
- savoury snacks;
- ice-cream food;
- biscuit goods; or
- taxable beverages.

1.17 Food that is a combination of one or more foods, at least one of which is food of a kind specified in the table in **new Schedule 1A** of the Bill (prepared food, confectionery, savoury snacks, bakery products, ice-cream food and biscuit goods) is not GST-free. For example, a snack pack containing cheese and biscuits is not GST-free because it contains at least one type of food specified in **new Schedule 1A** (biscuits). Similarly, a package containing a mix of biscuits and chocolates would also not be GST-free as both items of food are included in **new Schedule 1A**.

[New paragraph 38-3(1)(c)]

1.18 The exclusion in the above paragraph would not apply where a mix of packaged goods is packed and sold together (eg. a hamper containing a packet of biscuits, box of chocolates and a jar of coffee). These items would be taxed individually (ie. biscuits and chocolates subject to tax and the coffee GST-free). If there is a need to apportion the value of the hamper to each of the items to determine the GST payable the rule in section 9-80 of the Bill will be relevant.

Restaurant, take-away and prepared meals

1.19 The types of food covered by this exclusion will be:

- all food and drink supplied for consumption on the premises where it is supplied (eg. restaurant, 'eat-in' facilities at a take-away establishment);
- all hot food and drink supplied for consumption away from premises; and
- food that is included in the category of prepared food listed in **new Schedule 1A**. This includes some types of food that would be sold by take-away outlets (eg. sandwiches) as well as food that is essentially the same as that sold by take-away outlets (eg. frozen pizzas). It also includes frozen meals which are sold in a form that just requires heating for consumption (eg. a TV dinner or a low fat dietary meal).

Food supplied for consumption on the premises

1.20 If you run a restaurant, café, snack bar or similar business you must account for GST on **all** food or drink you sell for consumption on the premises where you sell it [**new paragraph 38-3(1)(a)**]. This applies not only to complete meals but also to snacks, sandwiches, hotdogs, hamburgers, tea, coffee, etc.

What are the premises?

1.21 The term 'premises' is defined in **new section 38-4A** to ensure that it has a wide meaning. **Premises** means more than just the place where you sell the food or drink. It includes:

- the grounds surrounding a café, public house or other outlet where food is supplied (eg. a club or restaurant); and
- the whole of any enclosed space such as a football ground, garden, show-ground, amusement park or similar area.

1.22 Racecourses, other sport grounds and zoos are examples of places that would be premises under the category of 'similar area where there is a clear boundary or limit'.

1.23 However, premises does not include any part of a public thoroughfare unless it is designated for use in connection with supplies of food from an outlet where food is supplied. Therefore, tables and chairs set up on the side walk as part of a café would fall within the definition of premises. However, seats at a bus stop outside a take-away outlet would not be premises. [**New section 38-4A**]

1.24 Food supplied for consumption on any part of the premises will be subject to GST. For example, any food supplied at a football ground will be taxable.

Hot food supplied for consumption away from the premises

1.25 Hot food and drink supplied for consumption away from the premises (as identified above) will be taxable [*new paragraph 38-3(1)(b)*]. This will include food such as soup, tea, coffee, hot chips, hamburgers, chicken pieces, pies, sausage rolls and pizzas sold from take-away outlets. It will also include complete meals which are heated and ready for immediate consumption (eg. meat, vegetable and rice dishes supplied in containers by a restaurant or take-away outlet).

1.26 Certain cold food and drinks, such as confectionery, savoury snacks and most soft drinks, are taxable even if consumed away from the premises. Other cold food purchased for consumption away from the premises, such as sandwiches, may be taxable as a 'prepared food' (see paragraph 1.31 for a discussion of prepared food).

1.27 Where other food (eg. a carton of plain milk, or a loaf of bread) is purchased with takeaway food the other food will continue to be GST-free.

What is 'hot' food?

1.28 'Hot' food means food that has been heated above the room temperature or above the generally surrounding air temperature for consumption. You do not need to check the precise temperature because food or drink which has been heated so that it can be consumed while still hot will be at a higher temperature than the surrounding air temperature.

1.29 Food that you sell while it is still warm because it happens to be freshly baked and is not intended to be eaten while still hot is GST-free. For example, freshly baked bread. However, food listed in the category of 'bakery products' in *new Schedule 1A* will be taxable regardless of whether it is supplied cold, hot as freshly baked or hot for immediate consumption. Any other freshly baked food that is supplied for consumption while still hot is taxable.

1.30 Hot and cold food supplied as a single item for consumption away from the premises will be subject to GST. For example, kebab rolls or sausage and onions supplied on a slice of bread or in a bread roll will be taxable.

Prepared food

1.31 The category of 'prepared food' as listed in *new Schedule 1A* is intended to cover a range of food products that directly compete against

take-aways and restaurants. These products will always be taxable. It does not matter whether they:

- are sold hot, cold or frozen; or
- require any cooking, heating, thawing or chilling before consumption.

[Clause 2 of Schedule 1A]

1.32 'Prepared food' specifically includes quiches, sandwiches, pizzas, hamburgers and hotdogs. Hamburgers are complete burgers including the bun. Hamburger patties sold separately will be GST-free (eg. packets of frozen hamburger patties sold at supermarkets).

1.33 ***New item 4 of new Schedule 1A*** includes in the category of prepared food, food marketed as a prepared meal but not including soup. This item will cover things such as:

- prepared meals, such as curry and rice dishes, mornays and similar dishes sold cold by a takeaway or supermarket that only need reheating to be ready for consumption;
- fresh or frozen prepared lasagne;
- sushi;
- cooked pasta dishes sold complete with sauce;
- frozen TV dinners; and
- fresh or frozen complete meals (eg. single serves of a roast dinner including vegetables and low fat dietary meals).

1.34 Examples of food that are not considered to be a 'prepared meal' and will be GST-free include:

- frozen vegetables;
- uncooked pasta products;
- fish fingers; and
- baby food, baked beans, spaghetti and Irish stews that do not require refrigeration or freezing.

1.35 ***Item 4 of new Schedule 1A*** only applies to foods that require refrigeration or freezing for its storage. This test relates to the food in its unopened state. Therefore, even though a tin of baked beans would require refrigeration after it has been opened it would not be taxed as a 'prepared meal' because in its unopened state it does not require refrigeration.

1.36 *New item 5 of new Schedule 1A* refers to platters or arrangements of food. Therefore, fruit and cheese and cheese and cabanossi platters will be subject to GST [*new clause 3 of Schedule 1A*].

1.37 A product that is not a prepared meal, or otherwise listed in *new Schedule 1A* will be GST-free.

Bakery products

1.38 Bakery products that are listed in *new Schedule 1A* will be taxable. The goods included in the list of bakery products will be taxable when sold by bakeries as well as by other businesses. It will not matter whether a bakery product is sold fresh or frozen.

1.39 Bread, bread rolls and buns that have a sweet filling or coating will be taxable [*new item 27 of Schedule 1A*]. This item will cover things such as:

- tea buns;
- finger buns; and
- cream buns.

1.40 Examples of food that are not taxable under this item and will be GST-free include:

- plain bread and rolls (white, wholemeal, multi-grain, etc);
- sesame seed or poppy seed rolls;
- cheesed topped bread;
- pumpkin bread;
- plain focaccia;
- hamburger buns;
- damper;
- sour dough bread;
- rye bread;
- tortillas;
- unleavened bread, gluten free or yeast free bread; and
- pita, Lebanese and lavash bread.

1.41 Bread that has ingredients mixed with the dough before baking will be GST-free. This includes fruit loaves without a coating or filling (a glaze is not considered to be a coating).

1.42 Other types of bakery products that are not listed in *new Schedule 1A* are GST-free.

Confectionery, savoury snacks, ice-cream food and biscuit goods

1.43 Most goods that are currently subject to WST will also be subject to GST.

Confectionery

1.44 *New Schedule 1A* lists certain products that will be taxed as confectionery. This list is essentially the same as the definition of confectionery used in the WST legislation.

1.45 Confectionery includes food that is marketed as confectionery, such as chocolate, boiled sweets, lollipops, sherbet, marshmallow and fruit lollies, as well as the specific types of goods included in *new Schedule 1A*.

1.46 However, candied peel is not confectionery. [*Clause 4 to new Schedule 1A*]

Savoury snacks

1.47 *New Schedule 1A* lists products that will be taxed as savoury snacks. This list is also based on the WST definition with some minor changes. Caviar and other fish roe products are specifically included as savoury snacks.

1.48 The treatment of seeds and nuts has been simplified [*item 16 of new Schedule 1A*]. Seeds and nuts which have been processed or treated by salting, spicing, smoking or roasting, or in any other similar way will be taxable. Similar to the effective WST treatment, unshelled nuts and raw nuts will be GST-free.

1.49 *Item 18 of new Schedule 1A* would include products such as vegetable chips and dried beef snack food.

Ice-cream food

1.50 *New Schedule 1A* lists products that will be taxed as ice-cream food. Ice-cream food will include all goods covered by the WST definition of ice-cream goods as well as frozen yoghurt and frozen fruit products. However, it will not include frozen whole fruit.

1.51 Soft-serve ice-cream sold in cones by cafés, milk bars and take-away food outlets will be taxable as ice-cream (or ice-cream substitutes) and a cone (taxable biscuit goods).

Biscuit goods

1.52 *New Schedule 1A* also lists products that will be taxed as biscuit goods. The category of biscuit goods follows the WST definition except that the exclusion for crispbread has been removed. This category would tax, amongst other things, dry biscuits, savoury biscuits and chocolate biscuits.

1.53 Breakfast cereals (which may consist of biscuit type compressed, rolled or flattened cereal that is not individually wrapped) will be GST-free under the first exclusion. Rusks for infants or invalids will also be GST-free. ***[Clause 5 of new Schedule 1A]***

Taxable beverages

1.54 The definition of food includes beverages and ingredients for beverages ***[new paragraphs 38-4(1)(c) and (d)]***. However, the only beverages and ingredients for beverages that will be GST-free are those beverages and ingredients specifically listed in ***new Schedule 1B [new paragraph 38-3(1)(d)]***.

1.55 The following types of beverages (and ingredients for beverages) will be GST-free:

- milk products, lactose, soy milk and rice milk ***[items 1 to 4 of new Schedule 1B]***;
- tea, coffee, etc. ***[items 5 to 8 of new Schedule 1B]***. However, this does not include beverages marketed in a ready-to-drink form (eg. packaged iced coffee or tea and takeaway coffee or tea) ***[clause 2 of new Schedule 1B]***;
- dry preparations marketed for the purposes of flavouring milk; ***[item 9 of new Schedule 1B]***
- fruit and vegetable juices if they consist of at least 90% by volume of juices of fruits or vegetables ***[items 10 to 12 of new Schedule 1B]***;
- non-carbonated bottled natural water without any other additives ***[item 14 of new Schedule 1B]***; and
- beverages and ingredients for beverages marketed principally as food for infants or invalids ***[item 13 of new Schedule 1B]***.

1.56 Section 38-285 is amended to remove any inconsistencies between Subdivision 38-G and the treatment of bottled water under this Subdivision. *[Amendment 9 to the Bill]*

Packaging for GST-free food

1.57 The general rule is that packaging is treated in the same manner as the contents. Therefore, packaging for GST-free food will also be GST-free. *[New section 38-4B]*

1.58 Packaging that is more than is usual and necessary will be taxable. For example, if breakfast cereal is supplied in a plastic container intended for re-use, the container will be taxable. The supply will be partly taxable and partly GST-free and will be covered by the mixed supply rule in section 9-80 of the Bill. Where GST-free food is sold with other goods (eg. a coffee mug sold with a jar of coffee) there will also be a mixed supply.

Food supplied as part of GST-free education

1.59 Paragraph 38-90(2)(b) and section 38-105 of the Bill are both amended to make sure that only food that would be GST-free under Subdivision 38-AA will be GST-free when provided as part of a supply of GST-free education. For example, food supplied at a boarding school is not GST-free under either subsection 38-105(4) or Subdivision 38-AA (paragraph 38-3(1)(a)). *[Amendments 7 and 8 to the Bill]*

Chapter 2

Changes to the GST treatment of health

Introduction

2.1 This Chapter explains the amendments and requests for amendments to Division 38-A of the A New Tax System (Goods and Services Tax) Bill 1998 (the Bill) that relate to health. In particular, the amendments will:

- extend the list of ‘other health services’ that are currently GST-free to include the following health services:
 - acupuncture;
 - herbal medicine (including traditional Chinese herbal medicine); and
 - naturopathy;
- provide that certain goods are GST-free if they are of a kind determined by the Minister for Health;
- extend the GST-free treatment to cover Schedule 2 (S2) pharmaceutical drugs and medicinal preparations;
- provide that certain analgesic drugs and medicinal preparations supplied in small quantities are GST-free where they are also determined by the Minister for Health as being GST-free; and
- extend the GST-free treatment of certain disability services.

2.2 The remainder of this Chapter will explain these amendments and requests for amendments in more detail.

Acupuncture, herbal medicine and naturopathy

Background

2.3 Generally speaking, a supply of medical services is GST-free if it is provided by, or on behalf of, a medical practitioner or an approved pathology practitioner, and it is a service that is generally accepted in the medical profession as being necessary for the treatment of a patient.

Section 38-5 of the Bill and paragraphs 5.8 to 5.12 of the Explanatory Memorandum to the Bill provide more information on this.

2.4 Generally, 'other health services' will also be GST-free if they are listed in the table at subsection 38-10(1). The table includes health services such as dental, nursing, chiropractic and physiotherapy.

2.5 Briefly, the supply of a health service by a health practitioner covered under the table at subsection 38-10(1) will only be GST-free where:

- the services are necessary for the treatment of the patient;
- the services are of the type normally supplied in that profession; and
- the practitioner is a member of a relevant professional body subject to State government professional registration or uniform national professional self-regulation (ie. the practitioner is a 'recognised professional' in relation to the supply of services).

2.6 Generally, goods that are supplied in the course of a health service will also be GST-free if supplied to a person in the course of supplying a service listed in the table and the supply is made at the premises at which the service is supplied (subsection 38-10(3)). However, there are exceptions to this general rule. For example, a supply of a health service by an optician to a patient is generally GST-free, however, a supply of contact lenses and solution by the same health practitioner is not (paragraph 38-10(3)(a)).

2.7 Further information on the GST treatment of these other health services can be found in section 38-10 of the Bill and paragraphs 5.8 to 5.15 of the Explanatory Memorandum to the Bill.

Explanation of the amendments

2.8 The Government will amend the Bill to expand the list of 'other health services' under subsection 38-10(1). ***Requests 2 and 3 to the Bill*** insert the following health services into the table at subsection 38-10(1):

- acupuncture [***Request 2 to the Bill***];
- herbal medicine (including traditional Chinese herbal medicine) [***Request 3 to the Bill***]; and
- naturopathy [***Request 3 to the Bill***].

2.9 Subject to the transitional arrangements outlined below, a supply of a health service will only be GST-free if the supply meets all of the conditions imposed under subsection 38-10(1) (refer to paragraph 2.5

above). For example, a supply of a health service by an acupuncturist will only be GST-free if it is necessary for the treatment of the patient and is of a type normally supplied in that profession.

Transitional arrangements

2.10 The Government has introduced new transitional arrangements that will apply to a supply of the health services outlined above. The transitional arrangements are set out in ***new section 19A. [Request 8 to the Transition Bill]***

2.11 Under these transitional arrangements, the Government has deferred the requirement that a supplier of these health services be a 'recognised professional' before the supply of the health service is GST-free ***[new subsection 19A(1)]***. This requirement has been deferred for 3 years which will allow the providers of these health services to meet the requirements set out under paragraph 38-10(1)(b).

2.12 During this 3 year period, a supply will only be GST-free if the person making the supply of these health services is appropriately qualified ***[new subsection 19A(2)]***. The definition of appropriate qualifications will be outlined in the regulations ***[new subsection 19A(3)]***. Under the regulations, the requirements may relate to one or more of the following:

- educational qualifications;
- membership of a professional body; and/or
- any other qualifications.

Goods supplied during a naturopathy or herbal medicine health service

2.13 ***Request 4 to the Bill*** inserts ***new subsection 38-10(3A)*** into the Bill. Under this subsection, a supply of goods that relate to the supply of naturopathy or herbal medicine health services is GST-free if:

- it is made to a person in the course of supplying the health service; and
- it is supplied, and used or consumed, at the premises at which the service is supplied.

[Request 4 to the Bill and Amendment 6 to the Bill]

Other GST-free health goods

2.14 ***Request 6 to the Bill*** inserts ***new section 38-47*** into the Bill to allow certain supplies of health goods to be GST-free. A supply of a good

will be GST-free under **new subsection 38-47(1)** if it is of a kind determined by the Health Minister.

2.15 A supply is not GST-free under **new subsection 38-47(2)** if the supplier and the recipient have agreed that the supply is not to be treated as GST-free supply. This would occur where a business purchases these goods and may prefer to claim an input tax credit. **[Request 6 to the Bill and Amendment 11 to the Bill]**

Schedule 2 drugs and medicinal preparations

Background

2.16 The main rules that deal with drugs and medical preparations are found in section 38-50 to the Bill. Briefly, the following drugs and medicinal preparations are GST-free:

- Pharmaceutical Benefits Scheme (PBS) drugs and medicinal preparations which are sold on prescription;
- drugs and medicinal preparations supplied on prescription where the supply is prohibited except on prescription (medications covered under Schedule 4 and 8 of the Standard for the Uniform Scheduling of Drugs and Poisons (SUSDP));
- drugs or medicinal preparations that can only be sold within a pharmacy under the advice of a pharmacist, or supplied by a medical practitioner or dental practitioner (medications covered under Schedule 3 of the SUSDP); and
- drugs or medicinal preparations under the Repatriation Pharmaceutical Benefits Scheme (RPBS).

Explanation of the amendments

2.17 The Bill will be amended to insert **new subsection 38-50(2A)**. This will include into the list of GST-free drugs and medicinal preparations, those drugs and medicinal preparations that are generally only supplied at a pharmacy (medications covered under Schedule 2 of the SUSDP). **[Request 7 to the Bill]**

2.18 The Bill will also be amended to insert **new subsection 38-50(4)**. This will include into the list of GST-free drugs and medicinal preparations, analgesics with a single active ingredient which would be supplied under Schedule 2 of the SUSDP if the same analgesic were supplied in a larger quantity. An example is paracetamol tablets in a packet size of not more than 25 tablets. For an analgesic to be GST-free under this provision, it must also be of a kind determined by the Health

Minister to be GST-free. *[Request 8 to the Bill and Amendment 10 to the Bill]*

Disability services

2.19 *Request 5 to the Bill* removes paragraph (b) from section 38-40 that deals with specialist disability services. This amendment broadens the scope of disability services to ensure all services funded under the *Disability Services Act 1986*, or under a complementary State or Territory law, will be GST-free.

Chapter 3

Changes to the GST treatment of education

Introduction

3.1 This Chapter explains the amendments and requests for amendments to Division 38-B of the A New Tax System (Goods and Services Tax) Bill 1998 (the Bill) that relate to education. In particular, the amendments will provide that:

- certain adult and community education courses will be GST-free. For an adult and community education course to be GST-free, it must be likely to add to the employment related skills of the people who undertake the course; and
- certain first aid, resuscitation and other similar life saving courses run by non profit bodies will be GST-free.

3.2 The remainder of this Chapter will explain these amendments and requests for amendments in more detail.

Background

3.3 Under section 38-85 of the Bill, an 'education course', and administrative services provided by the supplier of the education course and directly related to the supply of such a course, is GST-free.

3.4 Section 195-1 (the *Dictionary*) of the Bill provides the definition of an education course as being:

- a pre-school, primary, secondary or tertiary course;
- a Masters or Doctoral course;
- a special education course;
- an English language course for overseas students;
- a professional or trade course; or
- a tertiary residential college course.

3.5 Apart from the supply of education courses being GST-free, Division 38-B of the Bill contains other rules that apply to education courses. The main rules are:

- an excursion or field trip that is directly related to the curriculum of an education course and is not predominantly recreational is generally GST-free (section 38-90);
- a supply of course materials for a subject undertaken in an education course is generally GST-free (section 38-95); and
- a supply by way of sale, lease or hire of goods that relate to an education course, and membership of student organisations, are not GST-free (section 38-100).

3.6 Further information about the treatment of education courses can be found in paragraphs 5.33 to 5.64 of the Explanatory Memorandum to the Bill.

Explanation of the amendments

3.7 The amendments will amend the definition of 'education course' to include the following courses:

- an adult and community education course [*Request 12 to the Bill and Amendment 10 to the Bill*]; and
- a first aid or life-saving course [*Request 13 to the Bill and Amendment 21 to the Bill*].

3.8 An adult and community education course or a first aid or life saving course will be an education course for the purpose of the GST if it satisfies all of the requirements set out in the Bill. If it does, the supply of such a course will be GST-free under section 38-85 and will also be subject to the other concessions as described in paragraph 3.5 above.

Adult and community education courses

3.9 *Request 12 to the Bill* inserts 'paragraph (fa) adult and community education course' into the definition of 'education course' in the *Dictionary*. *Amendment 10 to the Bill* inserts into the *Dictionary*, the definition of adult and community education course.

3.10 An adult and community education course must be a course of study or instruction and must satisfy all of the following conditions:

1. The course must be of a kind determined by the Education Minister to be an adult and community education course.
2. The course must be provided by a body that is either:
 - (a) a higher education institution (eg. a university);

- (b) recognised by a State or Territory authority, as a provider of courses of a kind described in the Education Minister's determination; or
 - (c) funded by a State or Territory authority on the basis that it is a provider of courses of a kind described in the Education Minister's determination.
3. The course must be likely to add to the employment related skills of people undertaking the course.

[Amendments 11 and 13 to the Bill]

3.11 It is important to note that the Education Minister is not responsible for determining whether an adult and community education course is likely to add to the employment related skills of people undertaking the course. This criteria is separate from the Minister's determination, and will depend on the facts of each case.

3.12 In addition to the 3 criteria set out in paragraph 3.10 above, the Education Minister may also make a determination that a course be an adult and community education course (paragraph (b) of the definition of adult and community education course in the ***Dictionary***). For such a course to be an 'education course', and therefore, GST-free, it must:

- be determined by the Education Minister to be an adult and community education course; and
- be likely to add to the employment related skills of people undertaking the course.

3.13 Again, the Education Minister will not determine that a particular course is likely to add to the employment related skills of people undertaking the course.

First aid or life saving courses

3.14 ***Request 13 to the Bill*** inserts 'paragraph (ga) first aid or life saving course' into the definition of 'education course' in the ***Dictionary***. ***Amendment 21 to the Bill*** inserts into the ***Dictionary***, the definition of first aid or life saving course.

3.15 Essentially, a first aid or life saving course will be an 'education course', and therefore GST-free, where it is a course of study or instruction and it meets all the following conditions:

- the course must principally involve training individuals in first aid, resuscitation or other similar life saving skills; and
- it must be provided by a non-profit body that is either:

- registered (or otherwise approved) by a State or Territory authority that has responsibility for registering or approving bodies that provide such courses; or
- approved to provide such courses by a State or Territory body that has responsibility for approving the provision of such courses.

[Amendment 21 to the Bill]

Chapter 4

Input taxing of school tuckshops and canteens – Subdivision 40-E

Overview

4.1 The amendments insert *new Subdivision 40-E* into the A New Tax System (Goods and Services Tax) Bill 1998 (the Bill). The Subdivision allows tuckshops run by a non-profit body at a primary or secondary school to choose to be input taxed if they satisfy certain conditions.

Summary of the legislation

Purpose of the amendments

4.2 The amendments will lessen the compliance costs and make accounting for GST easier for the bodies running school tuckshops and canteens. The amendments will relieve these bodies from the paperwork of having to charge GST or collect input tax credits.

4.3 The amendments will also mean that tuckshop revenue can be excluded from the annual turnover for the GST registration threshold. Therefore, very few non-profit associations such as a 'Parent and Citizens' association or 'Parents and Friends' association would be over the \$100,000 registration threshold.

Date of effect

4.4 The amendments will apply from 1 July 2000.

Background to the legislation

4.5 Under the Bill, food for human consumption is GST-free, except for:

- savoury snacks, confectionery, ice-cream food, biscuits and certain beverages;
- bakery products other than bread; and

- prepared meals, takeaway foods and food supplied by restaurants.

4.6 Without this amendment, school tuckshops and canteens registered for GST will be required to charge GST on most supplies of food (see Chapter 1 for the GST treatment of food). For example, potato chips, sausage rolls, meat pies and sandwiches supplied by the school canteen or tuckshop will be subject to GST. However, some food, such as fresh fruit, will be GST-free.

Explanation of the legislation

4.7 *New subsection 40-130(1)* allows non-profit bodies to choose to input tax supplies of food made through a school tuckshop or canteen run by them. For example, the supply of food through the tuckshop where the tuckshop is run by a Parents and Citizens association, Parent and Friends association or some other similar association.

4.8 The non-profit body may choose whether to be input taxed, or to apply the general GST rules, on supplies of food that it makes. Where the non-profit body chooses to be input taxed, no GST will be payable on any supplies of food and the body is not entitled to claim input tax credits.

4.9 A choice cannot be made under *new Subdivision 40-E* if the non-profit body supplies something other than food through the school canteen or tuckshop [*new paragraph 40-130(2)(a)*]. For example, a school tuckshop that sells school books and uniforms as well as food would not be able to choose to be input taxed.

4.10 A non-profit body that makes a choice under *new Subdivision 40-E*, must treat all supplies of food through the school tuckshop or canteen in the same way [*new paragraph 40-130(1)(b)*]. Once a choice is made to treat all supplies of food as either input taxed or subject to the general GST rules, the non-profit body cannot change the choice for 12 months [*new paragraphs 40-130(2)(b) and (c)*].

4.11 Where a primary or secondary school supplies food to boarding students of the school as part of their board, the supplies will be subject to the general GST rules. [*New subsection 40-130(3)*]

Chapter 5

Partial input tax credits

Introduction

5.1 This Chapter explains the amendments to the A New Tax System (Goods and Services Tax) Bill 1998 (the Bill) to allow a partial input tax credit for certain acquisitions made by financial suppliers. Acquisitions that are made for the purpose of making financial supplies are generally input taxed. This means that generally input tax credits are not available for such acquisitions. This could create a bias towards in-sourcing in financial institutions because the effective tax burden is higher on the outsourced services than insourced services.

5.2 **Request 10** requests an amendment to the Bill to insert *new Division 70* which will allow a partial input tax credit for certain acquisitions [*new section 70-1*]. This partial input tax credit effectively removes the bias towards in-sourcing of prescribed services.

Partial input tax credits

5.3 The acquisitions that will be eligible for the partial input tax credit are to be specified in regulations. The regulations will also specify the rate of input tax credit that will be allowed for each type of reduced credit acquisition. The acquisitions may be of things such as credit reference services and cheque clearing facilities etc. [*New section 70-5*]

5.4 A reduced credit acquisition will be acquired or applied for a creditable purpose even though it is acquired or applied for the purpose of making financial supplies [*new section 70-10*]. This means that in the application of the change in extent of creditable purpose provisions in Division 129 of the Bill, the acquisition is treated as being used for a creditable purpose even though it is used to make financial supplies.

Amount of the partial input tax credit

5.5 The amount of the partial input tax credit will depend on whether the acquisition is solely or only partly a reduced credit acquisition.

Solely a reduced credit acquisition

5.6 If the acquisition is solely a reduced credit acquisition, the amount of the partial input tax credit is the amount of GST on the supply

to you (the full input tax credit) multiplied by the percentage specified in the regulations for that type of acquisition. **[New subsection 70-15(1)]**

Example

The Credit Union acquires a service specified in the regulations as a reduced credit acquisition. It intends to use the acquisition 100% for its enterprise. The percentage of input tax credit available for such acquisitions is specified in the regulations to be 50%. The price of the supply to The Credit Union was \$11,000. The Credit Union paid all of that price. Therefore, the full input tax credit for the acquisition is \$1,000. The amount of the partial input tax credit is 50% multiplied by \$1,000, which equals \$500.

Partly creditable

5.7 If you do not provide, or are not liable to provide, all of the consideration for an acquisition, the acquisition is only partly creditable. If you intend to use something only partly for a creditable purpose, such as some private use, or input taxed use, the acquisition is only partly creditable (see section 11-30 of the Bill).

5.8 If an acquisition is partly creditable because you do not provide all of the consideration, you are not entitled to the full input tax credit, only the proportion of it that is equivalent to the proportion of the consideration for which you are liable. That is, if you provide 60% of the consideration you are only entitled to 60% of the input tax credit you would otherwise be entitled to. Therefore, if you are not liable to provide all of the consideration for a reduced credit acquisition, the amount of the partial input tax credit is further reduced.

Example

If in the example at paragraph 5.8 above, The Credit Union only paid 80% of the price for the supply and someone else paid the other 20%, the acquisition would only be partly creditable. The amount of the partial input tax credit that The Credit Union would be entitled to would be 80% of the \$550, which is \$440.

5.9 If an acquisition is partly creditable because it is only partly for a creditable purpose, you are not entitled to the full input tax credit, only the proportion of it that is equivalent to the proportion that your creditable purpose is of your total purpose in making the acquisition. That is, if you only intend to use it 40% for a creditable purpose, you are only entitled to an input tax credit equal to 40% of the full input tax credit. Therefore, if you make a reduced credit acquisition only partly for a creditable purpose, the amount of the partial input tax credit is further reduced.

Example

If in the example at paragraph 5.9 above, The Credit Union made the reduced credit acquisition 80% for a creditable purpose, the acquisition would only be partly creditable. The amount of the partial input tax credit that The Credit Union would be entitled to would be 80% of the \$500, which is \$400.

Partly a reduced credit acquisition

5.10 If an acquisition is partly a reduced credit acquisition, only that part of the input tax credit relating to the reduced credit acquisition will be reduced. *[New section 70-20]*

Example

The Credit Union makes an acquisition which relates 40% to making taxable supplies and 60% to making financial supplies for which there is a reduced input tax credit. The regulations specify 50% of the full input tax credit for that type of reduced credit acquisition. The acquisition was for a price of \$11,000, which is a full input tax credit of \$1,000. The Credit Union is entitled to an input tax credit of: $40\% \times \$1,000$ plus $60\% \times 50\% \times \$1,000$, which is \$400 plus 300, which equals \$700.

Provide only part consideration

5.11 As discussed at paragraph 5.7, you are only entitled to an input tax credit to the extent that you provide or are liable to provide the consideration for the acquisition. Therefore, if in the example from paragraph 5.10 above, The Credit Union only paid 80% of the consideration, the amount of input tax credit it would be entitled to would be: $80\% \times (40\% \times \$1,000 \text{ plus } 60\% \times 50\% \times \$1,000)$, which equals \$560.

Change in use

5.12 Division 129 of the Bill applies to a reduced credit acquisition as if the acquisition is for a creditable purpose. That is, if the acquisition is solely a reduced credit acquisition it will be treated as made solely for a creditable purpose. If the acquisition is partly for making taxable supplies and partly a reduced credit acquisition, it will be treated as made solely for a creditable purpose. If the acquisition is partly a reduced credit acquisition and partly for making other input taxed supplies it will be treated as made for a creditable purpose to the extent that it is a reduced credit acquisition, and so on. This means that if the extent to which an acquisition is used for making financial supplies that give rise to reduced input tax credit changes, you may have adjustments under Division 129 of the Bill. *[New subsection 70-10(2)]*

Sale of reduced credit acquisition

5.13 Under Division 132 of the Bill you may be entitled to a decreasing adjustment when you sell something that you had acquired or applied for making financial supplies. This decreasing adjustment gives you an amount equivalent to the input tax credit, adjusted by the change in price between purchase and sale, you were denied due to your use in making financial supplies.

5.14 In calculating the amount of the adjustment you work out an amount of full input tax credit and an amount of adjusted input tax credit in reference to the extent of creditable purpose. Division 70 of the Bill alters your extent of creditable purpose. To obtain the correct result under Division 132 it is necessary to take account of this alteration to extent of creditable purpose. This is achieved by *new section 70-25*.

5.15 The effect of *new section 70-25* is that the amount of decreasing adjustment you receive under Division 132 of the Bill is equivalent to the amount of input tax credit you did not receive due to making financial supplies other than ones to which Division 70 of the Bill applies, plus the amount of input tax credit you did not receive because you only received a partial input tax credit adjusted for the difference between purchase and sale price.

Consequential amendments

5.16 *Amendments 1, 5, 16, 27 and 30* make amendments to the Bill consequential on inserting *new Division 70*.

Chapter 6

Diesel Fuel Credit Scheme

Introduction

6.1 Input tax credits are provided as a refund of GST paid on the supply to you. The credit provided under Division 123 of the A New Tax System (Goods and Services Tax) Bill 1998 (the Bill) for diesel was not a credit for GST paid on the supply of the diesel. The Diesel Fuel Credit Scheme will be removed from the Bill. The Government will provide other mechanisms for reducing the cost of diesel use.

Amendments

6.2 *Request 11 to the Bill* removes Division 123, the Diesel Fuel Credit Scheme, from the Bill.

6.3 *Amendments 2 to 4 to the Bill* take out cross references to the Diesel Fuel Credit Scheme.

6.4 *Amendments 15, 17 to 20, 23 to 26, 29, 31 and 32 to the Bill* amend the definitions in section 195-1 of the Bill consequential on *Request 11*.

6.5 *Request 1* to A New Tax System (Goods and Services Tax Transition) Bill 1998 requests an amendment consequential on the removal of the Diesel Fuel Credit Scheme from the Bill.

6.6 *Amendments 1 to 4* to the A New Tax System (Indirect Tax Administration) Bill 1999 make amendments consequential on the removal of the Diesel Fuel Credit Scheme from the Bill.

6.7 *Amendments 1 to 4* to the A New Tax System (Goods and Services Tax Administration) Bill 1998 make amendments consequential on the removal of the Diesel Fuel Credit Scheme from the Bill.

Chapter 7

Transitional and Administration

Introduction

7.1 This chapter discusses requests for amendments to the A New Tax System (Goods and Services Tax Transition) Bill 1998.

Progressive or periodic supplies

7.2 *Requests 2 to 4 to the Transition Bill* replace the previous requests that dealt with progressive or periodic supplies. The following paragraphs replace paragraphs 2.2 to 2.6 of the Supplementary Explanatory Memorandum.

7.3 Section 11 of the Transition Bill provides the transitional rules that apply to supplies made progressively or periodically, such as a lease or a one year maintenance agreement. The government intended that the proportion of the supply made after 1 July 2000 would be subject to GST.

7.4 It is not clear from section 11, as currently drafted, that supplies that are made for a period, rather than made periodically, are covered, as the government intended. *Requests 2 to 4 to the Transition Bill* request amendments to section 11 so that it more accurately reflects the government's policy. The requests make it clear that section 11 applies to supplies and acquisitions made for a period. This would cover, for example, a supply of a right to use a printing press for a 4 year period.

7.5 Section 11, as currently drafted, also excludes the supply of goods and real property from the operation of the provision. This has the effect that a supply of goods, or a lease of a building, would not be subject to section 11. The general time of supply provisions in section 6 would apply. For example, if goods were supplied for use for a 3 year period and were removed on 30 June 2000, it is not clear whether section 11 as currently drafted applies to the supply. The government intended that such supplies be taxable to the extent they are made after 1 July 2000. As another example, if a 10 year lease of a building was entered into before 1 July 2000 and the building was made available to the recipient before 1 July 2000, section 11 as currently drafted would not apply. The government also intended that such supplies be taxable, to the extent they are made after 1 July 2000.

7.6 The amendments ensure that supplies made for a period, or made progressively over a period are subject to GST to the extent they are made after 1 July 2000. The amendments also make it clear that section 11 applies to leases, hire agreements and similar arrangements.

Review opportunity

7.7 For an explanation of *request 5 to the Transition Bill* see paragraphs 2.7 to 2.8 of the Supplementary Explanatory Memorandum.

Second hand imported goods

7.8 For an explanation of *requests 6 and 7 to the Transition Bill* see paragraphs 2.9 to 2.13 of the Supplementary Explanatory Memorandum.

Insurance

7.9 For an explanation of *requests 9 to 11 to the Transition Bill* see paragraphs 2.14 to 2.18 of the Supplementary Explanatory Memorandum.

Gambling

7.10 *Request 12 to the Transition Bill* amends Division 126 of the Bill to provide for the inclusion of various rebate type payments in the calculation of total monetary prizes. The amendment will ensure that such amounts are not included in total monetary prizes if they relate to a gambling event occurring before 1 July 2000.

Phase down of the 32% sales tax rate

7.11 For an explanation of *requests 13 and 14 to the Transition Bill* see paragraphs 2.21 and 2.22 of the Supplementary Explanatory Memorandum. *Request 15 to the Transition Bill* also ensures that the phase down of the 32% sales tax rate will apply from the 21st day following Royal Assent.