



# **A New Tax System (Goods and Services Tax) Act 1999**

**No. 55, 1999**



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**An Act about a goods and services tax to implement  
A New Tax System, and for related purposes**

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# **A New Tax System (Goods and Services Tax) Act 1999**

**No. 55, 1999**

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**An Act about a goods and services tax to implement  
A New Tax System, and for related purposes**

*[Assented to 8 July 1999]*

The Parliament of Australia enacts:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Chapter 1—Introduction**

### **Part 1-1—Preliminary**

#### **Division 1—Preliminary**

##### **1-1 Short title**

This Act may be cited as the *A New Tax System (Goods and Services Tax) Act 1999*.

##### **1-2 Commencement**

- (1) This Act commences on 1 July 2000.
- (2) However, if, before the day on which this Act would (but for this subsection) commence under subsection (1), there have not been appropriated, for the purposes of the programs referred to in the second column of an item in the table:
  - (a) in respect of the financial year starting on 1 July 2000—the amount referred to in the third column of that item; and
  - (b) in respect of the financial year starting on 1 July 2001—the amount referred to in the fourth column of that item; and
  - (c) in respect of the financial year starting on 1 July 2002—the amount referred to in the fifth column of that item; and
  - (d) in respect of the financial year starting on 1 July 2003—the amount referred to in the sixth column of that item;

this Act commences on, and tax is not payable under the \*GST law until, the day on which the last of those amounts to be appropriated for those purposes has been appropriated under an Act.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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<b>Amounts to be appropriated</b>					
	<b>Program</b>	<b>Financial years</b>			
		<b>2000/01</b>	<b>2001/02</b>	<b>2002/03</b>	<b>2003/04</b>
		(\$ million)	(\$ million)	(\$ million)	(\$ million)
1	Book industry assistance plan	60	60	60	60
2	Supported Accommodation Assistance Program	15	15	15	15
	<b>Total</b>	<b>75</b>	<b>75</b>	<b>75</b>	<b>75</b>

### 1-3 Commonwealth-State financial relations

The Parliament acknowledges that the Commonwealth:

- (a) will introduce legislation to provide that the revenue from the GST will be granted to the States, the Australian Capital Territory and the Northern Territory; and
- (b) will maintain the rate and base of the GST in accordance with the Agreement on Principles for the Reform of Commonwealth-State Financial Relations endorsed at the Special Premiers' Conference in Canberra on 13 November 1998.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

## **Part 1-2—Using this Act**

### **Division 2—Overview of the GST legislation**

#### **2-1 What this Act is about**

This Act is about the GST.

It begins (in Chapter 2) with the basic rules about the GST, and then sets out in Chapter 3 the exemptions from the GST and in Chapter 4 the special rules that can apply in particular cases.

It concludes with definitions and other interpretative material.

Note: The GST is imposed by 3 Acts:

- (a) the *A New Tax System (Goods and Services Tax Imposition—General) Act 1999*; and
- (b) the *A New Tax System (Goods and Services Tax Imposition—Customs) Act 1999*; and
- (c) the *A New Tax System (Goods and Services Tax Imposition—Excise) Act 1999*.

#### **2-5 The basic rules (Chapter 2)**

Chapter 2 has the basic rules for the GST, including:

- when and how the GST arises, and who is liable to pay it;
- when and how input tax credits arise, and who is entitled to them;
- how to work out payments and refunds of GST;
- when and how the payments and refunds are to be made.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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### **2-10 The exemptions (Chapter 3)**

Chapter 3 sets out the supplies and importations that are GST-free or input taxed.

### **2-15 The special rules (Chapter 4)**

Chapter 4 has special rules which, in particular cases, have the effect of modifying the basic rules in Chapter 2.

Note: There is a checklist of special rules at the end of Chapter 2 (in Part 2-8).

### **2-20 Miscellaneous (Chapter 5)**

Chapter 5 deals with miscellaneous matters.

### **2-25 Interpretative provisions (Chapter 6)**

Chapter 6 contains the Dictionary, which sets out a list of all the terms that are defined in this Act. It also sets out the meanings of some important concepts and rules on how to interpret this Act.

### **2-30 Administration, collection and recovery provisions (Part VI of the *Taxation Administration Act 1953*)**

Part VI of the *Taxation Administration Act 1953* contains provisions relating to the administration of the GST, and to collection and recovery of amounts of GST.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## Division 3—Defined terms

### 3-1 When defined terms are identified

- (1) Many of the terms used in the law relating to the GST are defined.
- (2) Most defined terms in this Act are identified by an asterisk appearing at the start of the term: as in “\*enterprise”. The footnote that goes with the asterisk contains a signpost to the Dictionary definitions starting at section 195-1.

### 3-5 When terms are *not* identified

- (1) Once a defined term has been identified by an asterisk, later occurrences of the term in the same subsection are *not* usually asterisked.
- (2) Terms are *not* asterisked in the non-operative material contained in this Act.  
Note: The non-operative material is described in Division 4.
- (3) The following basic terms used throughout the Act are *not* identified with an asterisk.

<b>Common definitions that are not asterisked</b>	
<b>Item</b>	<b>This term:</b>
1	acquisition
2	amount
3	Australia
4	Commissioner
5	entity
6	goods

---

\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

---

<b>Common definitions that are not asterisked</b>	
<b>Item</b>	<b>This term:</b>
7	GST
8	import
9	input tax credit
10	tax period
11	thing
12	supply
13	you

### **3-10 Identifying the defined term in a definition**

Within a definition, the defined term is identified by *bold italics*.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 4—Status of Guides and other non-operative material**

### **4-1 Non-operative material**

In addition to the operative provisions themselves, this Act contains other material to help you identify accurately and quickly the provisions that are relevant to you and to help you understand them.

This other material falls into 2 main categories.

### **4-5 Explanatory sections**

One category is the explanatory section in many Divisions. Under the section heading “What this Division is about”, a short explanation of the Division appears in boxed text.

Explanatory sections form part of this Act but are not operative provisions. In interpreting an operative provision, explanatory sections may only be considered for limited purposes. They are set out in section 182-10.

### **4-10 Other material**

The other category consists of material such as notes and examples. These also form part of the Act. They are distinguished by type size from the operative provisions (except for formulas), but are not kept separate from them.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Chapter 2—The basic rules**

### **Division 5—Introduction**

#### **5-1 What this Chapter is about**

This Chapter sets out the basic rules for the GST. In particular, these rules will tell you:

- where liability for GST arises;
- where entitlements to input tax credits arise;
- how the amounts of GST and input tax credits are combined to work out the amount payable by you or to you;
- when and how that amount is to be paid.

#### **5-5 The structure of this Chapter**

The diagram on the next page shows how the basic rules in this Chapter relate to each other. It also shows their relationship with:

- the exemptions (Chapter 3)—these provisions exempt from the GST what would otherwise be taxable; and
- the special rules (Chapter 4)—these provisions modify the basic rules in particular situations, often in quite limited ways.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

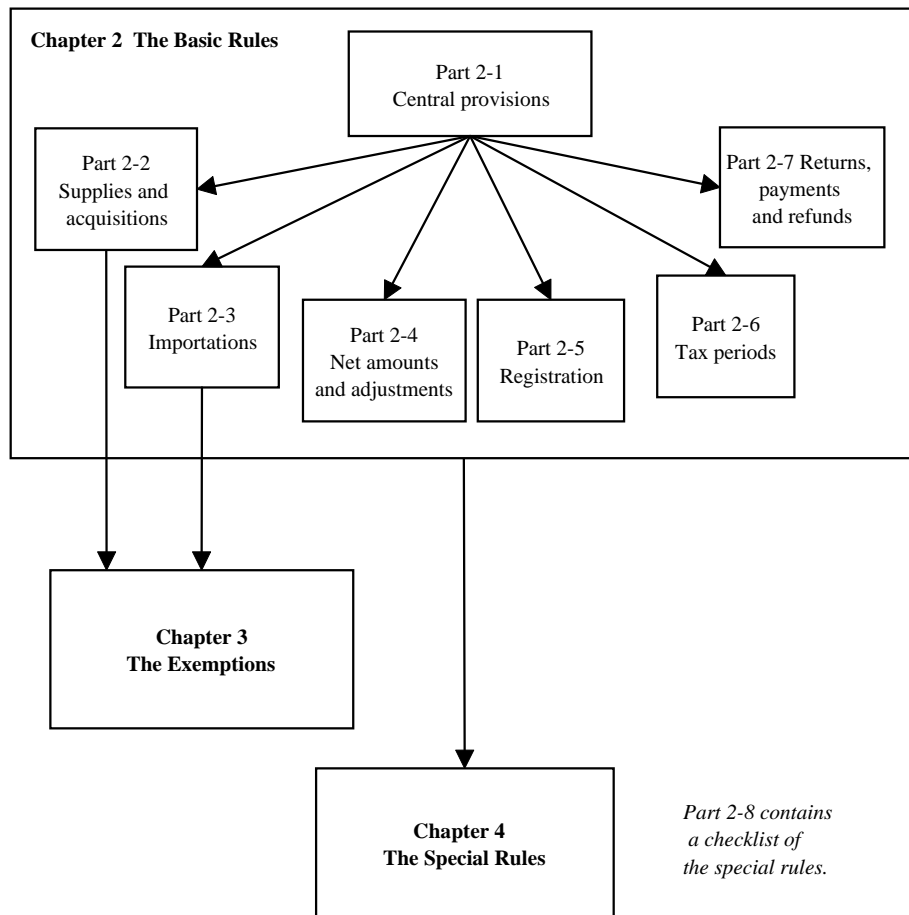
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**Chapter 2** The basic rules

**Division 5** Introduction

**Section 5-5**

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Part 2-1—The central provisions**

### **Division 7—The central provisions**

#### **7-1 GST and input tax credits**

- (1) GST is payable on \*taxable supplies and \*taxable importations.
- (2) Entitlements to input tax credits arise on \*creditable acquisitions and \*creditable importations.

For taxable supplies and creditable acquisitions, see Part 2-2.

For taxable importations and creditable importations, see Part 2-3.

#### **7-5 Net amounts**

Amounts of GST and amounts of input tax credits are set off against each other to produce a \*net amount for a tax period (which may be altered to take account of \*adjustments).

For net amounts (including adjustments to net amounts), see Part 2-4.

#### **7-10 Tax periods**

Every entity that is \*registered, or \*required to be registered, has tax periods applying to it.

For registration, see Part 2-5.

For tax periods, see Part 2-6.

#### **7-15 Payments and refunds**

The \*net amount for a tax period is the amount that the entity must pay to the Commonwealth, or the Commonwealth must refund to the entity, in respect of the period.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Chapter 2** The basic rules  
**Part 2-1** The central provisions  
**Division 7** The central provisions

**Section 7-15**

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For payments and refunds (and GST returns), see Part 2-7.

Note: Refunds may be set off against your other liabilities (if any) under laws administered by the Commissioner.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Part 2-2—Supplies and acquisitions**

### **Division 9—Taxable supplies**

#### **Table of Subdivisions**

- 9-A What are taxable supplies?
- 9-B Who is liable for GST on taxable supplies?
- 9-C How much GST is payable on taxable supplies?

#### **9-1 What this Division is about**

GST is payable on taxable supplies. This Division defines taxable supplies, states who is liable for the GST, and describes how to work out the GST on supplies.

#### **Subdivision 9-A—What are taxable supplies?**

#### **9-5 Taxable supplies**

You make a *taxable supply* if:

- (a) you make the supply for \*consideration; and
- (b) the supply is made in the course or furtherance of an \*enterprise that you \*carry on; and
- (c) the supply is \*connected with Australia; and
- (d) you are \*registered, or \*required to be registered.

However, the supply is not a \*taxable supply to the extent that it is \*GST-free or \*input taxed.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 9-10

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**9-10 Meaning of *supply***

- (1) A *supply* is any form of supply whatsoever.
- (2) Without limiting subsection (1), *supply* includes any of these:
  - (a) a supply of goods;
  - (b) a supply of services;
  - (c) a provision of advice or information;
  - (d) a grant, assignment or surrender of \*real property;
  - (e) a creation, grant, transfer, assignment or surrender of any right;
  - (f) a \*financial supply;
  - (g) an entry into, or release from, an obligation:
    - (i) to do anything; or
    - (ii) to refrain from an act; or
    - (iii) to tolerate an act or situation;
  - (h) any combination of any 2 or more of the matters referred to in paragraphs (a) to (g).However, it does not include a supply of \*money unless the money is provided as \*consideration for a supply that is a supply of money.
- (3) It does not matter whether it is lawful to do, to refrain from doing or to tolerate the act or situation constituting the supply.

**9-15 Consideration**

- (1) *Consideration* includes:
  - (a) any payment, or any act or forbearance, in connection with a supply of anything; and
  - (b) any payment, or any act or forbearance, in response to or for the inducement of a supply of anything.
- (2) It does not matter whether the payment, act or forbearance was voluntary, or whether it was by the \*recipient of the supply.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (3) However:
- (a) if a right or option to acquire a thing is granted, then:
    - (i) the consideration for the supply of the thing on the exercise of the right or option is limited to any additional consideration provided either for the supply or in connection with the exercise of the right or option; or
    - (ii) if there is no such additional consideration—there is no consideration for the supply; and
  - (b) a payment made as a gift to a non-profit body is not the provision of consideration; and
  - (c) a payment made by an \*Australian government agency to another Australian government agency is not the provision of consideration if the payment is specifically covered by an appropriation under an \*Australian law.

### 9-20 Enterprises

- (1) An *enterprise* is an activity, or series of activities, done:
- (a) in the form of a \*business; or
  - (b) in the form of an adventure or concern in the nature of trade; or
  - (c) on a regular or continuous basis, in the form of a lease, licence or other grant of an interest in property; or
  - (d) by the trustee of a fund that is covered by, or by an authority or institution that is covered by, Subdivision 30-B of the *Income Tax Assessment Act 1997* and to which deductible gifts can be made; or
  - (e) by a charitable institution or by a trustee of a charitable fund; or
  - (f) by a religious institution; or
  - (g) by the Commonwealth, a State or a Territory, or by a body corporate, or corporation sole, established for a public

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 9-25

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purpose by or under a law of the Commonwealth, a State or a Territory.

- (2) However, *enterprise* does not include an activity, or series of activities, done:
- (a) as an employee or other \*PAYE earner (unless it is done in supplying services as the holder of an office that the employee or PAYE earner has accepted in the course of or in connection with an activity or series of activities of the kind mentioned in subsection (1)); or
- Note: An employee's or PAYE earner's acts will still form part of the activities of the enterprise in which he or she is employed.
- (b) as a private recreational pursuit or hobby; or
  - (c) by an individual (other than a trustee of a charitable fund), or a \*partnership (all the members of which are individuals), without a reasonable expectation of profit or gain; or
  - (d) as a member of a local governing body established by or under a \*State law or \*Territory law (other than an eligible local governing body within the meaning of section 221A of the *Income Tax Assessment Act 1936*).

## 9-25 Supplies connected with Australia

### *Supplies of goods wholly within Australia*

- (1) A supply of goods is **connected with Australia** if the goods are delivered, or made available, in Australia to the \*recipient of the supply.

### *Supplies of goods from Australia*

- (2) A supply of goods that involves the goods being removed from Australia is **connected with Australia**.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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*Supplies of goods to Australia*

- (3) A supply of goods that involves the goods being brought to Australia is **connected with Australia** if the supplier either:
- (a) imports the goods into Australia; or
  - (b) installs or assembles the goods in Australia.

*Supplies of real property*

- (4) A supply of \*real property is **connected with Australia** if the real property is in Australia.

*Supplies of anything else*

- (5) A supply of anything other than goods or \*real property is **connected with Australia** if either:
- (a) the thing is done in Australia; or
  - (b) the supplier makes the supply through an \*enterprise that the supplier \*carries on in Australia.

*When enterprises are carried on in Australia*

- (6) An \*enterprise is **carried on in Australia** if the enterprise is carried on through:
- (a) a permanent establishment (as defined in subsection 6(1) of the *Income Tax Assessment Act 1936*); or
  - (b) a place that would be such a permanent establishment if paragraph (e), (f) or (g) of that definition did not apply.

## **9-30 Supplies that are GST-free or input taxed**

*GST-free*

- (1) A supply is **GST-free** if it is GST-free under Division 38.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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*Input taxed*

- (2) A supply is **input taxed** if it is input taxed under Division 40.

Note: If a supply is input taxed, there is no entitlement to an input tax credit for the things that are acquired or imported to make the supply (see sections 11-15 and 15-10).

*GST-free overrides input taxed*

- (3) If, apart from this subsection, a supply would be both wholly \*GST-free and wholly \*input taxed, then the supply is taken to be GST-free and not input taxed.

*Supply of things used solely in connection with making supplies that are input taxed but not financial supplies*

- (4) A supply is taken to be a supply that is \*input taxed if it is a supply of anything that you have used *solely* in connection with your supplies that are input taxed but are not \*financial supplies.

**9-39 Special rules relating to taxable supplies**

Chapter 4 contains special rules relating to taxable supplies, as follows:

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<b>Checklist of special rules</b>		
<b>Item</b>	<b>For this case ...</b>	<b>See:</b>
1	Associates	Division 72
2	Cancelled lay-by sales	Division 102
3	Company amalgamations	Division 90
4	Deposits as security	Division 99
5	Gambling	Division 126
6	Insurance	Division 78
7	Offshore supplies other than goods or real property	Division 84

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Checklist of special rules**

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<b>Item</b>	<b>For this case ...</b>	<b>See:</b>
8	Payments of taxes	Division 81
9	Supplies and acquisitions made on a progressive or periodic basis	Division 156
10	Supplies in satisfaction of debts	Division 105
11	Supplies partly connected with Australia	Division 96

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**Subdivision 9-B—Who is liable for GST on taxable supplies?**

**9-40 Liability for GST on taxable supplies**

You must pay the GST payable on any \*taxable supply that you make.

**9-69 Special rules relating to liability for GST on taxable supplies**

Chapter 4 contains special rules relating to liability for GST on taxable supplies, as follows:

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**Checklist of special rules**

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<b>Item</b>	<b>For this case ...</b>	<b>See:</b>
1	Company amalgamations	Division 90
2	GST groups	Division 48
3	GST joint ventures	Division 51
4	Offshore supplies other than goods or real property	Division 84
5	Resident agents acting for non-residents	Division 57

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Subdivision 9-C—How much GST is payable on taxable supplies?**

**9-70 The amount of GST on taxable supplies**

The amount of GST on a \*taxable supply is 10% of the \*value of the taxable supply.

**9-75 The value of taxable supplies**

The *value* of a \*taxable supply is as follows:

$$\text{Price} \times \frac{10}{11}$$

where:

*price* is the sum of:

- (a) so far as the \*consideration for the supply is consideration expressed as an amount of \*money—the amount (without any discount for the amount of GST (if any) payable on the supply); and
- (b) so far as the consideration is not consideration expressed as an amount of money—the \*GST inclusive market value of that consideration.

Example: You make a taxable supply by selling a car for \$22,000 in the course of carrying on an enterprise.

The value of the supply is:

$$\$22,000 \times \frac{10}{11} = \$20,000$$

The GST on the supply is therefore \$2,000 (i.e. 10% of \$20,000).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**9-80 The value of taxable supplies that are partly GST-free or input taxed**

If a supply (the *actual supply*) is:

- (a) partly a \*taxable supply; and
- (b) partly a supply that is \*GST-free or \*input taxed;

the *value* of the part of the actual supply that is a taxable supply is the proportion of the value of the actual supply (worked out as if it were solely a taxable supply) that the taxable supply represents.

**9-99 Special rules relating to the amount of GST on taxable supplies**

Chapter 4 contains special rules relating to the amount of GST on taxable supplies, as follows:

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Checklist of special rules		
Item	For this case ...	See:
1	Associates	Division 72
2	Company amalgamations	Division 90
3	Gambling	Division 126
4	Long-term accommodation in commercial residential premises	Division 87
5	Sale of freehold interests etc.	Division 75
6	Second-hand goods	Division 66
7	Supplies partly connected with Australia	Division 96
8	Transactions relating to insurance policies	Division 78
9	Valuation of taxable supplies of goods in bond	Division 108

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

## Division 11—Creditable acquisitions

### 11-1 What this Division is about

You are entitled to input tax credits for your creditable acquisitions. This Division defines creditable acquisitions, states who is entitled to the input tax credits and describes how to work out the input tax credits on acquisitions.

### 11-5 What is a creditable acquisition?

You make a *creditable acquisition* if:

- (a) you acquire anything solely or partly for a \*creditable purpose; and
- (b) the supply of the thing to you is a \*taxable supply; and
- (c) you provide, or are liable to provide, \*consideration for the supply; and
- (d) you are \*registered, or \*required to be registered.

### 11-10 Meaning of *acquisition*

- (1) An *acquisition* is any form of acquisition whatsoever.
- (2) Without limiting subsection (1), *acquisition* includes any of these:
  - (a) an acquisition of goods;
  - (b) an acquisition of services;
  - (c) a receipt of advice or information;
  - (d) an acceptance of a grant, assignment or surrender of \*real property;
  - (e) an acceptance of a grant, transfer, assignment or surrender of any right;

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 11-15

- (f) an acquisition of something the supply of which is a \*financial supply;
- (g) an acquisition of a right to require another person:
  - (i) to do anything; or
  - (ii) to refrain from an act; or
  - (iii) to tolerate an act or situation;
- (h) any combination of any 2 or more of the matters referred to in paragraphs (a) to (g).

However, it does not include an acquisition of \*money unless the money is provided as \*consideration for a supply that is a supply of money.

### **11-15 Meaning of *creditable purpose***

- (1) You acquire a thing for a ***creditable purpose*** to the extent that you acquire it in \*carrying on your \*enterprise.
- (2) However, you do not acquire the thing for a creditable purpose to the extent that:
  - (a) the acquisition relates to making supplies that would be \*input taxed; or
  - (b) the acquisition is of a private or domestic nature.
- (3) To the extent that an acquisition relates to making \*financial supplies through an \*enterprise, or a part of an enterprise, that you \*carry on outside Australia, the acquisition is not, for the purposes of paragraph (2)(a), treated as one that relates to making supplies that would be \*input taxed.

### **11-20 Who is entitled to input tax credits for creditable acquisitions?**

You are entitled to the input tax credit for any \*creditable acquisition that you make.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**11-25 How much are the input tax credits for creditable acquisitions?**

The amount of the input tax credit for a \*creditable acquisition is an amount equal to the GST payable on the supply of the thing acquired. However, the amount of the input tax credit is reduced if the acquisition is only \*partly creditable.

**11-30 Acquisitions that are partly creditable**

- (1) An acquisition that you make is *partly creditable* if it is a \*creditable acquisition to which one or both of the following apply:
  - (a) you make the acquisition only partly for a \*creditable purpose;
  - (b) you provide, or are liable to provide, only part of the \*consideration for the acquisition.
- (2) However, the acquisition is not \*partly creditable if:
  - (a) it was made for a \*creditable purpose except to the extent (if any) that the acquisition relates to making \*financial supplies; and
  - (b) your \*annual turnover of financial supplies does not exceed either:
    - (i) \$50,000 or such other amount specified in the regulations; or
    - (ii) 5% of your \*annual turnover (treating supplies that are input taxed as part of your annual turnover).
- (3) The amount of the input tax credit on an acquisition that you make that is \*partly creditable is as follows:

$$\text{Full input tax credit} \times \frac{\text{Extent of creditable purpose}}{\text{Extent of consideration}}$$

where:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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*extent of consideration* is the extent to which you provide, or are liable to provide, the \*consideration for the acquisition, expressed as a percentage of the total consideration for the acquisition.

*extent of creditable purpose* is the extent to which the \*creditable acquisition is for a \*creditable purpose, expressed as a percentage of the total purpose of the acquisition.

*full input tax credit* is what would have been the amount of the input tax credit for the acquisition if it had been made solely for a creditable purpose and you had provided, or had been liable to provide, all of the consideration for the acquisition.

- (4) For the purpose of working out the extent of the \*consideration, so far as the consideration is not expressed as an amount of \*money, take into account the \*GST inclusive market value of the consideration.

### 11-99 Special rules relating to acquisitions

Chapter 4 contains special rules relating to acquisitions, as follows:

Checklist of special rules		
Item	For this case ...	See:
1	Associates	Division 72
2	Company amalgamations	Division 90
3	Financial supplies (reduced credit acquisitions)	Division 70
4	Gambling	Division 126
5	GST groups	Division 48
6	GST joint ventures	Division 51
7	Insurance	Division 78
8	Non-deductible expenses	Division 69
9	Pre-establishment costs	Division 60

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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<b>Checklist of special rules</b>		
<b>Item</b>	<b>For this case ...</b>	<b>See:</b>
10	Reimbursement of employees etc.	Division 111
11	Resident agents acting for non-residents	Division 57
12	Returnable containers	Division 93
13	Sale of freehold interests etc.	Division 75
14	Second-hand goods	Division 66

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## Part 2-3—Importations

### Division 13—Taxable importations

#### 13-1 What this Division is about

GST is payable on taxable importations. This Division defines taxable importations, states who is liable for the GST and describes how to work out the GST on importations.

Note 1: This Division applies whether or not you are registered.

Note 2: Things other than goods that are supplied overseas for use in Australia (and are therefore in that sense “imported”) are not taxable importations, but they can attract GST under Division 84.

#### 13-5 What are taxable importations?

- (1) A **taxable importation** is an \*importation of goods into Australia, but only to the extent that it is not a \*non-taxable importation.

Note: There is no registration requirement for taxable importations, and the importer need not be carrying on an enterprise.

- (2) You make an **importation of goods into Australia** if:
- (a) you enter the goods for home consumption (within the meaning of the *Customs Act 1901*); and
  - (b) at the time they are so entered for home consumption, you are the owner (within the meaning of that Act) of the goods.
- (3) However, an importation of \*money is not an importation of goods into Australia.

#### 13-10 Meaning of *non-taxable importation*

An importation is a **non-taxable importation** if:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

Section 13-15

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- (a) it is a non-taxable importation under Part 3-2; or
- (b) it would have been a supply that was \*GST-free or \*input taxed if it had been a supply.

**13-15 Who is liable for GST on taxable importations?**

You must pay the GST payable on any \*taxable importation that you make.

**13-20 How much GST is payable on taxable importations?**

- (1) The amount of GST on the \*taxable importation is 10% of the \*value of the taxable importation.
- (2) The *value* of a \*taxable importation is the sum of:
  - (a) the customs value (for the purposes of Division 2 of Part VIII of the *Customs Act 1901*) of the goods imported; and
  - (b) the amount paid or payable:
    - (i) to transport the goods to Australia; and
    - (ii) to insure the goods for that transport; to the extent that the amount is not already included under paragraph (a); and
  - (c) any \*customs duty payable in respect of the importation of the goods.

**13-25 The value of taxable importations that are partly non-taxable importations**

If an importation (the *actual importation*) is:

- (a) partly a \*taxable importation; and
- (b) partly a \*non-taxable importation;

the *value* of the part of the actual importation that is a taxable importation is the proportion of the value of the actual importation (worked out as if it were solely a taxable importation) that the taxable importation represents.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

### **13-99 Special rules relating to taxable importations**

Chapter 4 contains special rules relating to taxable importations, as follows:

<b>Checklist of special rules</b>		
<b>Item</b>	<b>For this case ...</b>	<b>See:</b>
1	GST groups	Division 48
2	GST joint ventures	Division 51
3	Importations without entry for home consumption	Division 114
4	Non-deductible expenses	Division 69
5	Resident agents acting for non-residents	Division 57
6	Valuation of taxable importations of goods that were exported for repair or renovation	Division 117

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## Division 15—Creditable importations

### 15-1 What this Division is about

You are entitled to input tax credits for your creditable importations. This Division defines creditable importations, states who is entitled to the input tax credits and describes how to work out the input tax credits on importations.

### 15-5 What are creditable importations?

You make a *creditable importation* if:

- (a) you import goods solely or partly for a \*creditable purpose; and
- (b) the importation is a \*taxable importation; and
- (c) you are \*registered, or \*required to be registered.

### 15-10 Meaning of *creditable purpose*

- (1) You import goods for a *creditable purpose* to the extent that you import the goods in \*carrying on your \*enterprise.
- (2) However, you do not import the goods for a creditable purpose to the extent that:
  - (a) the importation relates to making supplies that would be \*input taxed; or
  - (b) the importation is of a private or domestic nature.
- (3) To the extent that an importation relates to making \*financial supplies through an \*enterprise, or a part of an enterprise, that you \*carry on outside Australia, the importation is not, for the purposes of paragraph (2)(a), treated as one that relates to making supplies that would be \*input taxed.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**15-15 Who is entitled to input tax credits for creditable importations?**

You are entitled to the input tax credit for any \*creditable importation that you make.

**15-20 How much are the input tax credits for creditable importations?**

The amount of input tax credit for a \*creditable importation is an amount equal to the GST payable on the importation. However, the amount of the input tax credit is reduced if the importation is only \*partly creditable.

**15-25 Importations that are partly creditable**

- (1) An importation that you make is *partly creditable* if it is a \*creditable importation that you make only partly for a \*creditable purpose.
- (2) However, the importation is not \*partly creditable if:
  - (a) it was made for a \*creditable purpose except to the extent (if any) that the importation relates to making \*financial supplies; and
  - (b) your \*annual financial supplies turnover does not exceed either:
    - (i) \$50,000 or such other amount specified in the regulations; or
    - (ii) 5% of your \*annual turnover (treating supplies that are input taxed as part of your annual turnover)
- (3) The amount of the input tax credit on an importation that you make that is \*partly creditable is as follows:

Full input tax credit × Extent of creditable purpose

where:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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*extent of creditable purpose* is the extent to which the importation is for a \*creditable purpose, expressed as a percentage of the total purpose of the importation.

*full input tax credit* is what would have been the amount of the input tax credit for the importation if it had been made solely for a creditable purpose.

**15-99 Special rules relating to creditable importations**

Chapter 4 contains special rules relating to creditable importations, as follows:

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<b>Checklist of special rules</b>		
<b>Item</b>	<b>For this case ...</b>	<b>See:</b>
1	GST groups	Division 48
2	GST joint ventures	Division 51
3	Pre-establishment costs	Division 60
4	Resident agents acting for non-residents	Division 57

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## Part 2-4—Net amounts and adjustments

### Division 17—Net amounts and adjustments

#### 17-1 What this Division is about

A net amount is worked out for each tax period that applies to you. This is the amount payable by you to the Commonwealth, or payable to you by the Commonwealth, for the tax period.

Adjustments can be made to the net amount. Increasing adjustments increase your net amount, and decreasing adjustments decrease your net amount.

Note 1: GST on taxable importations is not included in the net amount. It is dealt with separately under section 33-15.

Note 2: Net amounts payable to the Commonwealth are to be paid to the Commissioner on the Commonwealth's behalf (see Division 33).

#### 17-5 Net amounts

- (1) The **net amount** for a tax period applying to you is worked out using the following formula:

GST – Input tax credits

where:

**GST** is the sum of all of the GST for which you are liable on the \*taxable supplies that are attributable to the tax period.

**input tax credits** is the sum of all of the input tax credits to which you are entitled for the \*creditable acquisitions and \*creditable importations that are attributable to the tax period.

For the basic rules on what is attributable to a particular period, see Division 29.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (2) However, the \*net amount for the tax period may be increased or decreased if you have any \*adjustments for the tax period.

**17-10 Adjustments**

If you have any \*adjustments that are attributable to a tax period applying to you, alter your \*net amount for the period as follows:

- (a) add to the amount worked out under subsection 17-5(1) for the period the sum of all the \*increasing adjustments (if any) that are attributable to the period;
- (b) subtract from that amount the sum of all the \*decreasing adjustments (if any) that are attributable to the period.

For the basic rules on what adjustments are attributable to a particular period, see Division 29.

**17-99 Special rules relating to net amounts or adjustments**

Chapter 4 contains special rules relating to net amounts or adjustments, as follows:

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<b>Checklist of special rules</b>		
<b>Item</b>	<b>For this case ...</b>	<b>See:</b>
1	Anti-avoidance	Division 165
2	Cessation of registration	Division 138
3	Changes in the extent of creditable purpose	Division 129
4	Company amalgamations	Division 90
5	Gambling	Division 126
6	GST branches	Division 54
7	GST groups	Division 48
8	GST joint ventures	Division 51
9	Insurance	Division 78
10	Representatives of incapacitated entities	Division 147
11	Resident agents acting for non-residents	Division 57

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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<b>Checklist of special rules</b>		
<b>Item</b>	<b>For this case ...</b>	<b>See:</b>
12	Second-hand goods	Division 66
13	Supplies in satisfaction of debts	Division 105
14	Supplies of going concerns	Division 135
15	Supplies of things acquired, imported or applied to make financial supplies	Division 132

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 19—Adjustment events**

### **Table of Subdivisions**

- 19-A Adjustment events
- 19-B Adjustments for supplies
- 19-C Adjustments for acquisitions

### **19-1 What this Division is about**

Adjustments can arise because of adjustment events. They are events such as a cancellation of a supply or acquisition, or a change in the consideration for a supply or acquisition (for example, because of a volume discount).

Note: Importations do not give rise to adjustment events.

### **19-5 Explanation of the effect of adjustment events**

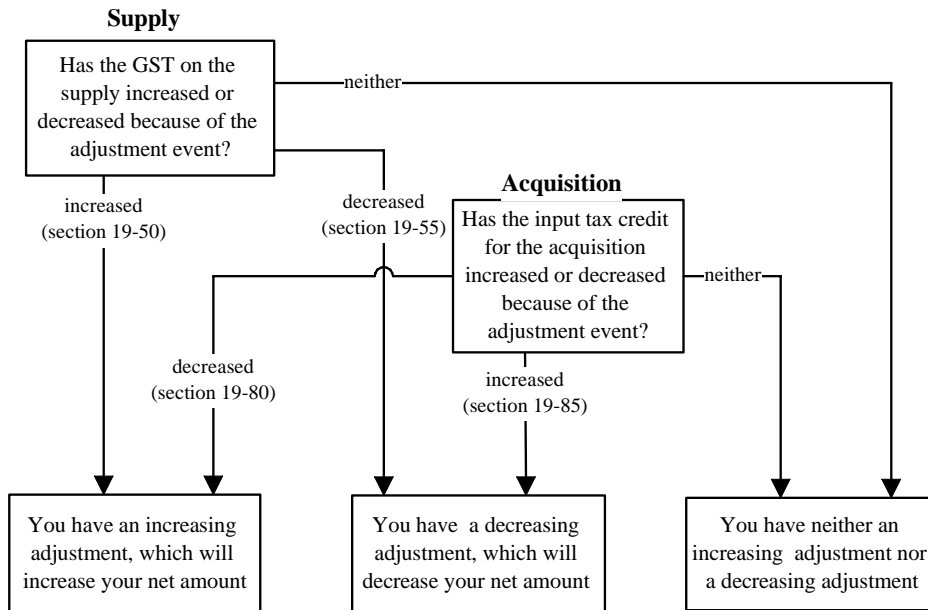
The following diagram shows how an \*adjustment event for a supply or acquisition can give rise to an \*increasing adjustment or a \*decreasing adjustment.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Subdivision 19-A—Adjustment events**

**19-10 Adjustment events**

- (1) An *adjustment event* is any event which has the effect of:
- (a) cancelling a supply or acquisition; or
  - (b) changing the \*consideration for a supply or acquisition; or
  - (c) causing a supply or acquisition to become, or stop being, a \*taxable supply or \*creditable acquisition.

Example: If goods that are supplied for export are not exported within the time provided in section 38-185, the supply is likely to become a taxable supply after originally being a supply that was GST-free.

- (2) Without limiting subsection (1), these are \*adjustment events:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (a) the return to a supplier of a thing, or part of a thing, supplied (whether or not the return involves a change of ownership of the thing);
  - (b) a change to the previously agreed \*consideration for a supply or acquisition, whether due to the offer of a discount or otherwise;
  - (c) a change in the extent to which an entity that makes an acquisition provides, or is liable to provide, consideration for the acquisition (unless the entity \*accounts on a cash basis).
- (3) An \*adjustment event:
- (a) can arise in relation to a supply even if it is not a \*taxable supply; and
  - (b) can arise in relation to an acquisition even if it is not a \*creditable acquisition.

### Subdivision 19-B—Adjustments for supplies

#### 19-40 Where adjustments for supplies arise

You have an *adjustment* for a supply for which you are liable to pay GST (or would be liable to pay GST if it were a \*taxable supply) if:

- (a) in relation to the supply, one or more \*adjustment events occur during a tax period; and
- (b) GST on the supply was attributable to an earlier tax period (or, if the supply was not a taxable supply, would have been attributable to an earlier tax period had the supply been a taxable supply); and
- (c) as a result of those adjustment events, the \*previously attributed GST amount for the supply no longer correctly reflects the amount of GST on the supply (the *corrected GST amount*), taking into account any adjustments for the supply.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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### **19-45 Previously attributed GST amounts**

The *previously attributed GST amount* for a supply is:

- (a) the amount of any GST that was attributable to a tax period in respect of the supply; plus
- (b) the sum of any \*increasing adjustments, under this Subdivision, that were previously attributable to a tax period in respect of the supply; minus
- (c) the sum of any \*decreasing adjustments, under this Subdivision, that were previously attributable to a tax period in respect of the supply.

### **19-50 Increasing adjustments for supplies**

If the \*corrected GST amount is *greater* than the \*previously attributed GST amount, you have an *increasing adjustment* equal to the difference between the corrected GST amount and the previously attributed GST amount.

### **19-55 Decreasing adjustments for supplies**

If the \*corrected GST amount is *less* than the \*previously attributed GST amount, you have a *decreasing adjustment* equal to the difference between the previously attributed GST amount and the corrected GST amount.

## **Subdivision 19-C—Adjustments for acquisitions**

### **19-70 Where adjustments for acquisitions arise**

You have an *adjustment* for an acquisition for which you are entitled to an input tax credit (or would be entitled to an input tax credit if the acquisition were a \*creditable acquisition) if:

- (a) in relation to the acquisition, one or more \*adjustment events occur during a tax period; and

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (b) an input tax credit on the acquisition was attributable to an earlier tax period (or, if the acquisition was not a creditable acquisition, would have been attributable to an earlier tax period had the acquisition been a creditable acquisition); and
- (c) as a result of those adjustment events, the \*previously attributed input tax credit amount for the acquisition (if any) no longer correctly reflects the amount of the input tax credit (if any) on the acquisition (the ***corrected input tax credit amount***), taking into account any adjustments for the acquisition.

**19-75 Previously attributed input tax credit amounts**

The ***previously attributed input tax credit amount*** for an acquisition is:

- (a) the amount of any input tax credit that was attributable to a tax period in respect of the acquisition; plus
- (b) the sum of any \*increasing adjustments, under this Subdivision, that were previously attributable to a tax period in respect of the acquisition; minus
- (c) the sum of any \*decreasing adjustments, under this Subdivision, that were previously attributable to a tax period in respect of the acquisition.

**19-80 Increasing adjustments for acquisitions**

If the \*previously attributed input tax credit amount is *greater* than the \*corrected input tax credit amount, you have an ***increasing adjustment*** equal to the difference between the previously attributed input tax credit amount and the corrected input tax credit amount.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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### **19-85 Decreasing adjustments for acquisitions**

If the\*previously attributed input tax credit amount is *less* than the\*corrected input tax credit amount, you have a ***decreasing adjustment*** equal to the difference between the corrected input tax credit amount and the previously attributed input tax credit amount.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 21—Bad debts**

### **21-1 What this Division is about**

If debts are written off as bad or are outstanding after 12 months, adjustments (for the purpose of working out net amounts) are made. They can arise both for amounts written off or outstanding and for recovery of amounts previously written off or outstanding.

Note: This Division does not apply to supplies and acquisitions that you account for on a cash basis (except in the limited circumstances referred to in Division 159).

### **21-5 Writing off bad debts (taxable supplies)**

- (1) You have a *decreasing adjustment* if:
- (a) you made a \*taxable supply; and
  - (b) the whole or part of the \*consideration for the supply has not been received; and
  - (c) you write off as bad the whole or a part of the debt, or the whole or a part of the debt has been due for 12 months or more.

The amount of the decreasing adjustment is  $\frac{1}{11}$  of the amount written off, or  $\frac{1}{11}$  of the amount that has been due for 12 months or more, as the case requires.

- (2) However, you cannot have an \*adjustment under this section if you \*account on a cash basis.

### **21-10 Recovering amounts previously written off (taxable supplies)**

You have an *increasing adjustment* if:

- (a) you made a \*taxable supply in relation to which you had a \*decreasing adjustment under section 21-5 for a debt; and

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.



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- (b) you recover the whole or a part of the amount written off, or the whole or a part of the amount that has been due for 12 months or more, as the case requires.

The amount of the increasing adjustment is  $\frac{1}{11}$  of the amount recovered.

**21-15 Bad debts written off (creditable acquisitions)**

- (1) You have an *increasing adjustment* if:
  - (a) you made a \*creditable acquisition for \*consideration; and
  - (b) the whole or part of the consideration is due, but you have not provided the consideration due; and
  - (c) the supplier of the thing you acquired writes off as bad the whole or a part of the debt, or the whole or a part of the debt has been due for 12 months or more.

The amount of the increasing adjustment is  $\frac{1}{11}$  of the amount written off, or  $\frac{1}{11}$  of the amount that has been due for 12 months or more, as the case requires.

- (2) However, you cannot have an \*adjustment under this section if you \*account on a cash basis.

**21-20 Recovering amounts previously written off (creditable acquisitions)**

You have a *decreasing adjustment* if:

- (a) you made a \*creditable acquisition in relation to which you had an \*increasing adjustment under section 21-15 for a debt; and
- (b) you pay to the supplier of the thing you acquired the whole or a part of the amount written off, or the whole or a part of the amount that has been due for 12 months or more, as the case requires.

The amount of the decreasing adjustment is  $\frac{1}{11}$  of the amount recovered.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

Section 21-99

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**21-99 Special rules relating to adjustments for bad debts**

Chapter 4 contains special rules relating to adjustments for bad debts, as follows:

<b>Checklist of special rules</b>		
<b>Item</b>	<b>For this case ...</b>	<b>See:</b>
1	Changing your accounting basis	Division 159
2	Gambling	Division 126
3	Sale of freehold interests etc.	Division 75

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

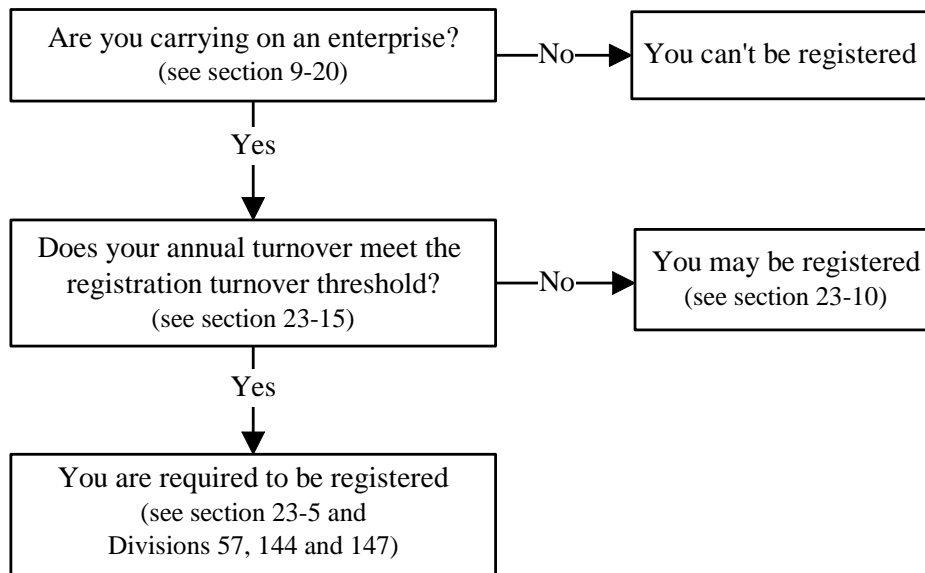
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## Part 2-5—Registration

### Division 23—Who is required to be registered and who may be registered

#### 23-1 Explanation of Division

This diagram shows when you are required to be, and when you may, be registered.



Note: This section is an explanatory section.

\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

Section 23-5

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**23-5 Who is required to be registered**

You are *required to be registered* under this Act if:

- (a) you are \*carrying on an \*enterprise; and
- (b) your \*annual turnover meets the \*registration turnover threshold.

Note: It is the entity that carries on the enterprise that is required to be registered (and not the enterprise).

**23-10 Who may be registered**

- (1) You may be \*registered under this Act if you are carrying on an \*enterprise (whether or not your turnover is at, above or below the \*registration turnover threshold).
- (2) You may be \*registered under this Act if you intend to carry on an \*enterprise from a particular date.

**23-15 The registration turnover threshold**

- (1) Your *registration turnover threshold* (unless you are a non-profit body) is:
  - (a) \$50,000; or
  - (b) such higher amount as the regulations specify.
- (2) Your *registration turnover threshold* if you are a non-profit body is:
  - (a) \$100,000; or
  - (b) such higher amount as the regulations specify.

**23-99 Special rules relating to who is required to be registered or who may be registered**

Chapter 4 contains special rules relating to who is \*required to be registered, or who may be \*registered, as follows:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Checklist of special rules**

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<b>Item</b>	<b>For this case ...</b>	<b>See:</b>
1	Representatives of incapacitated entities	Division 147
2	Resident agents acting for non-residents	Division 57
3	Taxis	Division 144

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 25—How you become registered, and how your registration can be cancelled**

### **Table of Subdivisions**

- 25-A How you become registered
- 25-B How your registration can be cancelled

### **Subdivision 25-A—How you become registered**

#### **25-1 When you must apply for registration**

You must apply, in the \*approved form, to be \*registered under this Act if:

- (a) you are not registered under this Act; and
- (b) you are \*required to be registered.

You must make your application within 21 days after becoming required to be registered.

#### **25-5 When the Commissioner must register you**

- (1) The Commissioner must \*register you if:
  - (a) you have applied for registration in an \*approved form; and
  - (b) the Commissioner is satisfied that you are \*carrying on an \*enterprise, or you intend to carry on an enterprise from a particular date specified in your application.

Note: Refusing to register you under this subsection is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

- (2) The Commissioner must \*register you (even if you have not applied for registration) if the Commissioner is satisfied that you are \*required to be registered.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 25-10

Note: Registering you under this subsection is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

- (3) The Commissioner must notify you in writing of any decision he or she makes in relation to you under this section. If the Commissioner decides to register you, the notice must specify the following:
- (a) the date of effect of your registration;
  - (b) your registration number;
  - (c) the tax periods that apply to you.

### **25-10 The date of effect of your registration**

The Commissioner must decide the date from which your \*registration takes effect, or took effect. However:

- (a) if you did not apply for registration and the Commissioner is satisfied that you are \*required to be registered—the date of effect must not be a day before the day on which you became required to be registered; or
- (b) if you applied for registration—the date of effect must not be a day before:
  - (i) the day specified in your application; or
  - (ii) if the Commissioner is satisfied that you became required to be registered on an earlier day—the day that the Commissioner is satisfied is that earlier day; or
- (c) if you are being registered only because you intend to \*carry on an \*enterprise—the date of effect must not be a day before the day specified, in your application for registration, as the day from which you intend to carry on the enterprise.

Note: Deciding the date of effect of your registration is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

Section 25-15

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**25-15 Effect of backdating your registration**

If the Commissioner decides under section 25-10, as the date of effect of your \*registration (*your registration day*), a day before the day of the decision, then you are taken:

- (a) for the purpose of determining whether a supply you made on or after your registration day was a \*taxable supply; and
  - (b) for the purpose of determining whether an acquisition you made on or after that day was a \*creditable acquisition; and
  - (c) for the purpose of determining whether an importation you made on or after that day was a \*creditable importation;
- to have been registered from and including your registration day.

Note: This section ensures that backdating your registration enables your supplies and acquisitions made on or after the date of effect to be picked up by the GST system. Section 25-10 limits the extent to which your registration can be backdated.

**25-49 Special rules relating to registration**

Chapter 4 contains special rules relating to \*registration in particular cases, as follows:

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Checklist of special rules		
Item	For this case ...	See:
1	GST branches	Division 54

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**Subdivision 25-B—How your registration can be cancelled**

**25-50 When you must apply for cancellation of registration**

If you are \*registered and you are not \*carrying on any \*enterprise, you must apply to the Commissioner in the \*approved form for cancellation of your \*registration. You must lodge your application within 21 days after the day on which you ceased to be carrying on any \*enterprise.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.



### **25-55 When the Commissioner must cancel registration**

- (1) The Commissioner must cancel your \*registration if:
- (a) you have applied for cancellation of registration in the \*approved form; and
  - (b) at the time you applied for cancellation of registration, you had been registered for at least 12 months; and
  - (c) the Commissioner is satisfied that you are not \*required to be registered.

Note: Refusing to cancel your registration under this subsection is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

- (2) The Commissioner must cancel your \*registration (even if you have not applied for cancellation of your registration) if:
- (a) the Commissioner is satisfied that you are not \*carrying on an \*enterprise; and
  - (b) the Commissioner believes on reasonable grounds that you are not likely to carry on an enterprise for at least 12 months.

Note: Cancelling your registration under this subsection is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

- (3) The Commissioner must notify you of any decision he or she makes in relation to you under this section. If the Commissioner decides to cancel your registration, the notice must specify the date of effect of the cancellation.

### **25-60 The date of effect of your cancellation**

The Commissioner must decide the date on which the cancellation of your \*registration under subsection 25-55(1) or (2) takes effect. That date may be any day occurring before, on or after the day on which the Commissioner makes the decision.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Chapter 2** The basic rules

**Part 2-5** Registration

**Division 25** How you become registered, and how your registration can be cancelled

Section 25-65

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Note: Deciding the date of effect of the cancellation of your registration is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

**25-65 Effect of backdating your cancellation of registration**

If the Commissioner decides under section 25-60, as the date of effect of the cancellation of your \*registration (***your cancellation day***), a day before the day of the decision, your registration is taken:

- (a) for the purpose of determining whether a supply you made on or after your cancellation day was a \*taxable supply; and
  - (b) for the purpose of determining whether an acquisition you made on or after that day was a \*creditable acquisition; and
  - (c) for the purpose of determining whether an importation you made on or after that date was a \*creditable importation;
- to have been cancelled from and including your cancellation day.

**25-99 Special rules relating to cancellation of registration**

Chapter 4 contains special rules relating to cancellation of \*registration in particular cases, as follows:

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<b>Checklist of special rules</b>		
<b>Item</b>	<b>For this case ...</b>	<b>See:</b>
1	GST branches	Division 54
2	Representatives of incapacitated entities	Division 147
3	Resident agents acting for non-residents	Division 57

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Part 2-6—Tax periods**

### **Division 27—How to work out the tax periods that apply to you**

#### **27-1 What this Division is about**

This Division tells you the tax periods that apply to you. You need to know this because your net amounts (the amounts payable by you or to you) are worked out in respect of these tax periods.

#### **27-5 General rule—3 month tax periods**

The *tax periods* that apply to you are each period of 3 months ending on 31 March, 30 June, 30 September or 31 December in any year, except to the extent that:

- (a) an election is in force under section 27-10; or
- (b) the Commissioner determines otherwise under this Division.

#### **27-10 Election of one month tax periods**

- (1) The *tax periods* that apply to you are each individual month if, by notifying the Commissioner in the \*approved form, you elect to have as the tax periods that apply to you each individual month.
- (2) The election takes effect on the day specified in the notice. However, the day specified must be 1 January, 1 April, 1 July or 1 October.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 27-15

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**27-15 Determination of one month tax periods**

- (1) The Commissioner must determine that the *tax periods* that apply to you are each individual month if:
- (a) the Commissioner is satisfied that your \*annual turnover meets the \*tax period turnover threshold; or
  - (b) the Commissioner is satisfied that the period for which you will be \*carrying on an \*enterprise in Australia is less than 3 months; or
  - (c) the Commissioner is satisfied that you have a history of failing to comply with your obligations under a \*taxation law; or
  - (d) your \*income year is not the same as the \*financial year.

Note: Determining under this section the tax periods applying to you is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

- (2) The determination takes effect on the day specified in the determination. However, the day specified must be 1 January, 1 April, 1 July or 1 October.

Note: Deciding the date of effect of the determination is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

- (3) The *tax period turnover threshold* is:

- (a) \$20 million; or
- (b) such other amount as the regulations specify.

However, if the regulations change the tax period turnover threshold, the change does not apply to you until the start of the next tax period that starts after the regulation in question comes into operation.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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### **27-20 Withdrawing elections of one month tax periods**

- (1) You may, by notifying the Commissioner in the \*approved form, withdraw an election under section 27-10, unless your \*annual turnover meets the \*tax period turnover threshold.
- (2) The withdrawal takes effect on the day specified in the notice. However, the day specified:
  - (a) must be 1 January, 1 April, 1 July or 1 October, or any day occurring before the election takes effect; and
  - (b) must not be a day occurring earlier than 12 months after the election took effect.

### **27-25 Revoking determinations of one month tax periods**

- (1) The Commissioner must revoke a determination under section 27-15 relating to you if you so request, unless the Commissioner is satisfied that any of the grounds for making a determination under that section apply to you.

Note: Refusing to revoke a determination under this section is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

- (2) The revocation takes effect on the day specified in the instrument of revocation. However, the day specified:
  - (a) must be 1 January, 1 April, 1 July or 1 October; and
  - (b) must not be a day occurring earlier than 12 months after the determination took effect.

Note: Deciding the date of effect of the revocation is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 27-30

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**27-30 Tax periods determined by the Commissioner to take account of changes in tax periods**

- (1) For the purpose of ensuring the effective operation of this Division where the tax periods have changed, the Commissioner may, by written notice given to you, determine that a period specified in the notice is a *tax period* that applies to you.

Note: Determining under this section a tax period applying to you is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

- (2) The period specified in the notice may start earlier than the day on which the notice is given to you.
- (3) However, the period specified in the notice:
- (a) must be less than 3 months; and
  - (b) must not overlap with any part of any other tax period for which you have already given a \*GST return to the Commissioner.

For the giving of GST returns to the Commissioner, see Division 31.

**27-35 Changing the days on which your tax periods end**

- (1) You may change the day in each year on which a tax period would otherwise end. However:
- (a) the day must be no more than 7 days earlier or 7 days later than a day on which one of the tax periods that applies to you would otherwise end if the days were not changed; and
  - (b) the change must be consistent with the commercial accounting periods that apply to you.
- (2) If the day on which a tax period ends is changed, the next tax period starts on the day after that day.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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### **27-37 Special determination of tax periods on request**

- (1) The Commissioner may, in accordance with a request you make in the \*approved form, determine the tax periods applying to you to be the tax periods specified in the request if the Commissioner is satisfied that:
  - (a) your \*annual turnover meets the \*tax period turnover threshold; and
  - (b) the tax periods specified in the request are consistent with the commercial accounting periods that apply to you; and
  - (c) the tax periods specified in the request would, if determined under this section, result in 12 complete tax periods in each year; and
  - (d) any other requirements specified in the regulations are complied with.

Note: Refusing a request for a determination under this section is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

- (2) A determination under this section overrides any determination under section 27-15 or 27-30 relating to tax periods applying to you.

### **27-38 Revoking special determination of tax periods**

- (1) The Commissioner must revoke a determination under section 27-37 if the Commissioner is satisfied that any of the requirements of paragraphs 27-37(1)(a), (b), (c) and (d) are not complied with.

Note: Revoking a determination under this section is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

- (2) The revocation takes effect on the day specified in the instrument of revocation. However, the day specified must be 1 January, 1 April, 1 July or 1 October.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Chapter 2** The basic rules

**Part 2-6** Tax periods

**Division 27** How to work out the tax periods that apply to you

Section 27-40

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Note: Deciding the date of effect of the revocation is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

- (3) A revocation under this section revives any election under section 27-10, or any determination under section 27-15 or 27-30, relating to tax periods applying to you.

**27-40 An entity's concluding tax period**

- (1) If:
- (a) an individual dies, becomes bankrupt or ceases to \*carry on any \*enterprise; or
  - (b) any other entity goes into liquidation or receivership, ceases to carry on any enterprise or for any reason ceases to exist; the individual's or entity's tax period at the time is taken to have ceased at the end of the day before the death, bankruptcy, cessation, liquidation or receivership.
- (2) If an entity's \*registration is cancelled, the entity's tax period at the date of effect of the cancellation (the *cancellation day*) ceases at the end of the cancellation day.

**27-99 Special rules relating to tax periods**

Chapter 4 contains special rules relating to tax periods, as follows:

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Checklist of special rules		
Item	For this case ...	See:
1	Changes in the extent of creditable purpose	Division 129
2	Resident agents acting for non-residents	Division 57

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 29—What is attributable to tax periods**

### **Table of Subdivisions**

29-A	The attribution rules
29-B	Accounting on a cash basis
29-C	Tax invoices and adjustment notes

### **29-1 What this Division is about**

This Division tells you the tax periods to which your taxable supplies, creditable acquisitions, creditable importations and adjustments are attributable. You need to know this to work out your net amounts under Part 2-4.

Note: This Division does not deal with your taxable importations, because they are not attributed to tax periods. See section 33-15 for payment of GST on taxable importations.

### **Subdivision 29-A—The attribution rules**

#### **29-5 Attributing the GST on your taxable supplies**

- (1) The GST payable by you on a \*taxable supply is attributable to:
  - (a) the tax period in which any of the \*consideration is received for the supply; or
  - (b) if, before any of the consideration is received, an \*invoice is issued relating to the supply—the tax period in which the invoice is issued.
- (2) However, if you \*account on a cash basis, then:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 29-10

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- (a) if, in a tax period, *all* of the \*consideration is received for a \*taxable supply—GST on the supply is attributable to that tax period; or
- (b) if, in a tax period, *part* of the consideration is received—GST on the supply is attributable to that tax period, but only to the extent that the consideration is received in that tax period; or
- (c) if, in a tax period, *none* of the consideration is received—none of the GST on the supply is attributable to that tax period.

**29-10 Attributing the input tax credits for your creditable acquisitions**

- (1) The input tax credit to which you are entitled for a \*creditable acquisition is attributable to:
  - (a) the tax period in which you provide any of the \*consideration for the acquisition; or
  - (b) if, before you provide any of the consideration, an \*invoice is issued relating to the acquisition—the tax period in which the invoice is issued.
- (2) However, if you \*account on a cash basis, then:
  - (a) if, in a tax period, you provide *all* of the \*consideration for a \*creditable acquisition—the input tax credit for the acquisition is attributable to that tax period; or
  - (b) if, in a tax period, you provide *part* of the consideration—the input tax credit for the acquisition is attributable to that tax period, but only to the extent that you provided the consideration in that tax period; or
  - (c) if, in a tax period, *none* of the consideration is provided—none of the input tax credit for the acquisition is attributable to that tax period.
- (3) If you do not hold a \*tax invoice for a \*creditable acquisition when you give to the Commissioner a \*GST return for the tax period to

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 29-15

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which the input tax credit (or any part of the input tax credit) on the acquisition would otherwise be attributable:

- (a) the input tax credit (including any part of the input tax credit) is not attributable to that tax period; and
- (b) the input tax credit (or part) is attributable to the first tax period for which you give to the Commissioner a GST return at a time when you hold that tax invoice.

However, this subsection does not apply in circumstances of a kind determined in writing by the Commissioner to be circumstances in which the requirement for a tax invoice does not apply.

For the giving of GST returns to the Commissioner, see Division 31.

### **29-15 Attributing the input tax credits for your creditable importations**

The input tax credit to which you are entitled for a \*creditable importation is attributable to the tax period in which you pay the GST on the importation.

### **29-20 Attributing your adjustments**

- (1) An \*adjustment that you have is attributable to the tax period in which you become aware of the adjustment.
- (2) However, if you \*account on a cash basis, and the \*adjustment arises from an \*adjustment event as a result of which you are liable to provide \*consideration, then:
  - (a) if, in a tax period, *all* of the consideration is provided—the \*adjustment is attributable to that tax period; or
  - (b) if, in a tax period, *part* of the consideration is provided—the adjustment is attributable to that tax period, but only to the extent that the consideration is provided in that tax period; or
  - (c) if, in a tax period, *none* of the consideration is provided—none of the adjustment is attributable to that tax period.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 29-25

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- (3) If:
- (a) you have a \*decreasing adjustment arising from an \*adjustment event; and
  - (b) you do not hold an \*adjustment note for the adjustment when you give to the Commissioner a \*GST return for the tax period to which the adjustment (or any part of the adjustment) would otherwise be attributable;
- then:
- (c) the adjustment (including any part of the adjustment) is not attributable to that tax period; and
  - (d) the adjustment (or part) is attributable to the first tax period for which you give to the Commissioner a GST return at a time when you hold that adjustment note.

However, this subsection does not apply in circumstances of a kind determined in writing by the Commissioner to be circumstances in which the requirement for an adjustment note does not apply.

For the giving of GST returns to the Commissioner, see Division 31.

**29-25 Commissioner may determine particular attribution rules**

- (1) The Commissioner may, in writing, determine the tax periods to which:
  - (a) GST on \*taxable supplies of a specified kind; or
  - (b) input tax credits for \*creditable acquisitions of a specified kind; or
  - (c) input tax credits for \*creditable importations of a specified kind; or
  - (d) \*adjustments of a specified kind;are attributable.
- (2) However, the Commissioner must not make a determination under this section unless satisfied that it is necessary to prevent the provisions of this Division and Chapter 4 applying in a way that is inappropriate in circumstances involving:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 29-39

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- (a) a supply or acquisition in which possession of goods passes, but title in the goods will, or may, pass at some time in the future; or
  - (b) a supply or acquisition for which payment is made or an \*invoice is issued, but use, enjoyment or passing of title will, or may, occur at some time in the future; or
  - (c) a supply or acquisition occurring, but still being subject to a statutory cooling off period under an \*Australian law; or
  - (d) a supply or acquisition occurring before the supplier or \*recipient knows it has occurred; or
  - (e) a supply or acquisition occurring before the supplier or recipient knows the total \*consideration; or
  - (f) a supply or acquisition made under a contract that is subject to preconditions; or
  - (g) a supply or acquisition made under a contract that provides for retention of some or all of the consideration until certain conditions are met.
- (3) Determinations under subsection (1) override the provisions of this Division (except this section) and Chapter 4, but only to the extent of any inconsistency.

### **29-39 Special rules relating to attribution rules**

Chapter 4 contains special rules relating to attribution rules, as follows:

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<b>Checklist of special rules</b>		
<b>Item</b>	<b>For this case ...</b>	<b>See:</b>
1	Agents	Division 153
2	Associates	Division 72
3	Cancelled lay-by sales	Division 102
4	Cessation of registration	Division 138

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 29-40

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<b>Checklist of special rules</b>		
<b>Item</b>	<b>For this case ...</b>	<b>See:</b>
5	Changes in the extent of creditable purpose	Division 129
6	Changing your accounting basis	Division 159
7	Company amalgamations	Division 90
8	Deposits as security	Division 99
9	Pre-establishment costs	Division 60
10	Reimbursement of employees etc.	Division 111
11	Returnable containers	Division 93
12	Supplies and acquisitions made on a progressive or periodic basis	Division 156
13	Supplies of things acquired, imported or applied to make financial supplies	Division 132

**Subdivision 29-B—Accounting on a cash basis**

**29-40 Choosing to account on a cash basis**

- (1) If your \*annual turnover does not exceed the \*cash accounting turnover threshold, you may choose to \*account on a cash basis, with effect from the first day of the tax period that you choose.
- (2) However, any charitable institution, any trustee of a charitable fund or any \*gift-deductible entity may choose to \*account on a cash basis, with effect from the first day of the tax period that the institution, trustee or entity chooses, whether or not its \*annual turnover exceeds the \*cash accounting turnover threshold.
- (3) The *cash accounting turnover threshold* is:
  - (a) \$500,000; or
  - (b) such higher amount as the regulations specify.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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### **29-45 Permission to account on a cash basis**

- (1) The Commissioner may permit you to \*account on a cash basis if:
- (a) you apply to the Commissioner in the \*approved form for permission to account on a cash basis; and
  - (b) the Commissioner is satisfied that, having regard to:
    - (i) the nature and size of the \*enterprise that you \*carry on; and
    - (ii) the nature of the accounting system that you use; and
    - (iii) how you account for income tax purposes;it is appropriate to permit you to account on a cash basis.

Note: Refusing to permit you to account on a cash basis is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

- (2) The Commissioner must notify you in writing of any decision he or she makes in relation to you under this section. If the Commissioner decides to permit you to \*account on a cash basis, the notice must specify the date of effect of your permission.

Note: Deciding the date of effect of your permission to account on a cash basis is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

### **29-50 Ceasing to account on a cash basis**

- (1) You cease to \*account on a cash basis if:
- (a) your \*annual turnover meets the \*cash accounting turnover threshold and you do not have permission to \*account on a cash basis; or
  - (b) you notify the Commissioner, in the \*approved form, that you are ceasing to \*account on a cash basis.
- (2) The date of effect of your cessation is the first day of the next tax period to commence after your \*annual turnover meets the \*cash accounting turnover threshold, or you notify the Commissioner, as the case may be.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 29-70

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- (3) The Commissioner must revoke any permission for you to \*account on a cash basis if the Commissioner is satisfied that:
- (a) your \*annual turnover meets the \*cash accounting turnover threshold; and
  - (b) it is not appropriate to permit you to account on a cash basis.

Note: Revoking your permission to account on a cash basis is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

- (4) The Commissioner must notify you in writing of his or her decision under subsection (3). The notice must specify the date of effect of the revocation, which can be the first day of any tax period starting before, on or after the day on which the Commissioner makes the decision.

Note: Deciding the date of effect of the revocation of your permission to account on a cash basis is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

- (5) Paragraph (1)(a) and subsection (3) do not apply in relation to any charitable institution, any trustee of a charitable fund or any \*gift-deductible entity.

### Subdivision 29-C—Tax invoices and adjustment notes

#### 29-70 Tax invoices

- (1) A *tax invoice* for a \*taxable supply:
- (a) must be issued by the supplier, unless it is a \*recipient created tax invoice (in which case it must be issued by the \*recipient); and
  - (b) must set out the \*ABN of the entity that issues it; and
  - (c) must set out the \*price for the supply; and
  - (d) must contain such other information as the regulations specify; and
  - (e) must be in the \*approved form.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 29-75

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- (2) The supplier of a \*taxable supply must, within 28 days after the \*recipient of the supply requests it, give to the recipient a \*tax invoice for the supply, unless it is a \*recipient created tax invoice.
- (3) A *recipient created tax invoice* is a \*tax invoice belonging to a class of tax invoices that the Commissioner has determined in writing may be issued by the \*recipient of a \*taxable supply.

**29-75 Adjustment notes**

- (1) An *adjustment note* for an \*adjustment that arises from an \*adjustment event relating to a \*taxable supply:
  - (a) must be issued by the supplier of the \*taxable supply, unless any \*tax invoice relating to the supply would have been a \*recipient created tax invoice (in which case it must be issued by the \*recipient of the supply); and
  - (b) must set out the \*ABN of the entity that issues it; and
  - (c) must contain such other information as the Commissioner determines in writing; and
  - (d) must be in the \*approved form.
- (2) The supplier of the \*taxable supply must:
  - (a) within 28 days after the \*recipient of the supply requests the supplier to give an \*adjustment note for the \*adjustment relating to the supply; or
  - (b) if, before receiving such a request, the supplier becomes aware of the adjustment—within 28 days after becoming aware of that fact;give to the recipient an \*adjustment note for the \*adjustment, unless any \*tax invoice relating to the supply would have been a \*recipient created tax invoice.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 29-80

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**29-80 Tax invoices and adjustment notes not required for low value transactions**

- (1) Subsections 29-10(3) and 29-70(2) do not apply to a \*creditable acquisition that relates to a \*taxable supply the \*value of which does not exceed \$50, or such higher amount as the regulations specify.
- (2) Subsections 29-20(3) and 29-75(2) do not apply to a \*decreasing adjustment that relates to a \*taxable supply the \*value of which does not exceed \$50, or such higher amount as the regulations specify.

**29-99 Special rules relating to tax invoices and adjustment notes**

Chapter 4 contains special rules relating to tax invoices and adjustment notes, as follows:

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<b>Checklist of special rules</b>		
<b>Item</b>	<b>For this case ...</b>	<b>See:</b>
1	Agents	Division 153
2	Gambling	Division 126
3	GST branches	Division 54

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Part 2-7—Returns, payments and refunds**

### **Division 31—GST returns**

#### **31-1 What this Division is about**

This Division is about your obligation (if you are registered or required to be registered) to give to the Commissioner GST returns for each tax period.

For the penalties for failing to comply with these obligations, see the *Taxation Administration Act 1953*.

#### **31-5 Who must give GST returns**

- (1) If you are \*registered or \*required to be registered, you must give to the Commissioner a \*GST return for each tax period.
- (2) You must give the return whether or not:
  - (a) your \*net amount for the tax period is zero; or
  - (b) you are liable for the GST on any \*taxable supplies that are attributable to the tax period.

#### **31-10 When GST returns must be given**

You must give your \*GST return for a tax period to the Commissioner:

- (a) on or before the 21st day of the month following the end of that tax period; or
- (b) within such further period as the Commissioner allows.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 31-15

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**31-15 The form and contents of GST returns**

- (1) Your \*GST return for a tax period must:
  - (a) be in the \*approved form; and
  - (b) state your \*net amount for the tax period; and
  - (c) set out such other information as the approved form requires; and
  - (d) be signed in accordance with section 31-30.
- (2) However, if during the tax period:
  - (a) you are not liable for the GST on any \*taxable supplies, and you did not make any supplies that would have been taxable supplies had they not been \*GST-free or \*input taxed; and
  - (b) you are not liable for the GST on any \*taxable importations the GST on which is payable at the time when GST on taxable supplies is normally payable; and
  - (c) you are not entitled to the input tax credits on any \*creditable acquisitions or \*creditable importations;you may give your \*GST return for the period to the Commissioner in the manner the Commissioner requires.

**31-20 Additional GST returns**

In addition to the \*GST returns required under section 31-5, you must give to the Commissioner such further or fuller GST returns as the Commissioner directs you to give (including any GST return in your capacity as agent or trustee).

**31-25 Electronic lodgment of GST returns**

- (1) You may give your \*GST returns to the Commissioner by \*lodging them electronically.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 31-30

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- (2) However, if your \*annual turnover meets the \*electronic lodgment turnover threshold, you *must* give your \*GST returns to the Commissioner by \*lodging them electronically.
- (3) A \*GST return is ***lodged electronically*** if it is transmitted to the Commissioner in an electronic format approved by the Commissioner.
- (4) The ***electronic lodgment turnover threshold*** is:
  - (a) \$20 million; or
  - (b) such higher amount as the regulations specify.

**31-30 Signing GST returns**

- (1) You must sign your \*GST returns unless they are \*lodged electronically.
- (2) Any \*GST return of yours that is \*lodged electronically:
  - (a) if you give it to the Commissioner—must contain your \*electronic signature; or
  - (b) if a \*registered tax agent gives it to the Commissioner on your behalf—must contain the registered tax agent’s electronic signature.

**31-99 Special rules relating to GST returns**

Chapter 4 contains special rules relating to \*GST returns, as follows:

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<b>Checklist of special rules</b>		
<b>Item</b>	<b>For this case ...</b>	<b>See:</b>
1	GST branches	Division 54
2	GST groups	Division 48
3	GST joint ventures	Division 51

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Chapter 2** The basic rules  
**Part 2-7** Returns, payments and refunds  
**Division 31**

Section 31-99

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<b>Checklist of special rules</b>		
<b>Item</b>	<b>For this case ...</b>	<b>See:</b>
4	Insurance	Division 78
5	Resident agents acting for non-residents	Division 57
6	Supplies in satisfaction of debts	Division 105

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 33—Payments of GST**

### **33-1 What this Division is about**

This Division is about your obligation to pay to the Commonwealth amounts of GST that remain after off-setting your entitlements to input tax credits. The obligation to pay arises for any of your net amounts that are *greater* than zero.

For the penalties for failing to comply with these obligations, see the *Taxation Administration Act 1953*.

Note: Payments of GST on importations of goods are dealt with separately in section 33-15.

### **33-5 When payments of net amounts must be made**

- (1) If the \*net amount for a tax period applying to you is greater than zero, you must pay the net amount to the Commissioner on or before the 21st day of the month following the end of that tax period.
- (2) However, if the tax period ends during the first 7 days of a month, you must pay the \*net amount to the Commissioner on or before the 21st day of that month.

### **33-10 How payments of net amounts are made**

- (1) You may pay by \*electronic payment any \*net amounts payable by you under section 33-5. Any amounts of a net amount that you do not pay by electronic payment must be paid in the manner determined in writing by the Commissioner.
- (2) However, if your \*annual turnover meets the \*electronic lodgment turnover threshold, you *must* pay by \*electronic payment any \*net amounts payable by you under section 33-5.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Section 33-15**

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Note: A penalty applies if you fail to make an electronic payment as required—see section 41 of the *Taxation Administration Act 1953*.

**33-15 Payments of amounts of GST on importations**

Amounts of GST on \*taxable importations are to be paid by the importer to the Commonwealth:

- (a) at the same time, at the same place, and in the same manner, as \*customs duty is payable on the goods in question (or would be payable if the goods were subject to customs duty); or
- (b) in the circumstances specified in the regulations, within such further time specified in the regulations, and at the place and in the manner specified in the regulations.

Note: The regulations could (for example) allow for deferral of payments to coincide with payments of net amounts.

**33-20 Commissioner may extend time for payment**

The Commissioner may, in a particular case, extend the time for a payment of:

- (a) a \*net amount; or
- (b) an amount of GST; or
- (c) an amount of a penalty under Part VI of the *Taxation Administration Act 1953*;

or allow it to be paid by instalments on terms determined by the Commissioner.

**33-25 Commissioner may bring forward payment date if you are about to leave Australia**

If the Commissioner has reason to believe that you may leave Australia before a particular payment of:

- (a) a \*net amount; or
- (b) an amount of GST; or

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.



(c) an amount of a penalty under Part VI of the *Taxation Administration Act 1953*;

would (apart from this section) become due, that amount becomes due for payment on the day the Commissioner fixes and notifies to you.

Note: The Commissioner has power to issue departure prohibition orders under Part IVA of the *Taxation Administration Act 1953*.

### **33-30 Net amounts etc. a debt due to the Commonwealth**

When a \*net amount, an amount of GST or an amount of a penalty under Part VI of the *Taxation Administration Act 1953* becomes payable, it is a debt due to the Commonwealth.

### **33-99 Special rules relating to payments of GST**

Chapter 4 contains special rules relating to payments of GST, as follows:

<b>Checklist of special rules</b>		
<b>Item</b>	<b>For this case ...</b>	<b>See:</b>
1	Anti-avoidance	Division 165
2	Customs security etc. given on taxable importations	Division 171
3	GST branches	Division 54
4	GST joint ventures	Division 51
5	Insurance	Division 78
6	Supplies in satisfaction of debts	Division 105

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 35—Refunds**

### **35-1 What this Division is about**

This Division is about the Commissioner's obligation to pay to you your entitlements to input tax credits that remain after off-setting amounts of GST. The obligation to pay arises for any of your net amounts that are *less* than zero.

### **35-5 When refunds must be made**

- (1) If the \*net amount for a tax period is less than zero, the Commissioner must, on behalf of the Commonwealth, pay that amount (expressed as a positive amount) to you within 14 days after you give to the Commissioner, under Division 31, your \*GST return for that tax period.

Note: Interest is payable under the *Taxation (Interest on Overpayments and Early Payments) Act 1983* if the Commonwealth is late in making the payment.

- (2) However, if you have a liability to the Commonwealth arising under or because of an Act of which the Commissioner has the general administration, the Commissioner may:
  - (a) apply that \*net amount against the liability; and
  - (b) pay to you any part of that net amount not so applied.

### **35-10 How refunds are made**

- (1) The Commissioner must pay any \*net amounts payable to you under section 35-5 to the credit of a \*financial institution account nominated and maintained by you.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 35-99

- (2) However, the Commissioner may direct that any \*net amounts payable to you under section 35-5 be paid to you in a different way.
- (3) If you have not nominated a \*financial institution account for the purposes of this section and a direction has not been made under subsection (2) relating to you, the Commissioner is not obliged to pay any refunds to you until you nominate an account for the purposes of this section.

### 35-99 Special rules relating to refunds

Chapter 4 contains special rules relating to refunds, as follows:

<b>Checklist of special rules</b>		
<b>Item</b>	<b>For this case ...</b>	<b>See:</b>
1	Anti-avoidance	Division 165
2	GST branches	Division 54
3	GST joint ventures	Division 51
4	Tourist refund scheme	Division 168

Note: Sections 38 and 39 of the Taxation Administration Act 1953 also relate to refunds of net amounts.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

## **Part 2-8—Checklist of special rules**

### **Division 37—Checklist of special rules**

#### **37-1 Checklist of special rules**

The provisions set out in the table contain special rules relating to the matters indicated.

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<b>Checklist of special rules</b>		
<b>Item</b>	<b>For this case...</b>	<b>See:</b>
1	Agents	Division 153
2	Anti-avoidance	Division 165
3	Associates	Division 72
4	Cancelled lay-by sales	Division 102
5	Cessation of registration	Division 138
6	Changes in the extent of creditable purpose	Division 129
7	Changing your accounting basis	Division 159
8	Company amalgamations	Division 90
9	Customs security etc. given for taxable importations	Division 171
10	Deposits as security	Division 99
11	Financial supplies (reduced credit acquisitions)	Division 70
12	Gambling	Division 126
13	GST branches	Division 54
14	GST groups	Division 48
15	GST joint ventures	Division 51
16	Importations of goods that were exported for repair or renovation	Division 117
17	Importations without entry for home consumption	Division 114

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 37-1

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**Checklist of special rules**

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<b>Item</b>	<b>For this case...</b>	<b>See:</b>
18	Insurance	Division 78
19	Long-term accommodation in commercial residential premises	Division 87
20	Non-deductible expenses	Division 69
21	Offshore supplies other than goods or real property	Division 84
22	Payments of taxes	Division 81
23	Pre-establishment costs	Division 60
24	Reimbursement of employees etc.	Division 111
25	Representatives of incapacitated entities	Division 147
26	Resident agents acting for non-residents	Division 57
27	Returnable containers	Division 93
28	Sale of freehold interests etc.	Division 75
29	Second-hand goods	Division 66
30	Supplies and acquisitions made on a progressive or periodic basis	Division 156
31	Supplies in satisfaction of debts	Division 105
32	Supplies of going concerns	Division 135
33	Supplies of things acquired, imported or applied to make financial supplies	Division 132
34	Supplies partly connected with Australia	Division 96
35	Taxis	Division 144
36	Tourist refund scheme	Division 168
37	Valuation of taxable supplies of goods in bond	Division 108

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Chapter 3—The exemptions**

### **Part 3-1—Supplies that are not taxable supplies**

#### **Division 38—GST-free supplies**

##### **Table of Subdivisions**

38-A	Food
38-B	Health
38-C	Education
38-D	Child care
38-E	Exports and other supplies that are for consumption outside Australia
38-F	Religious services
38-G	Non-commercial activities of charitable institutions etc.
38-H	Raffles and bingo conducted by charitable institutions etc.
38-I	Water and sewerage
38-J	Supplies of going concerns
38-K	Transport and related matters
38-L	Precious metals
38-M	Supplies through inwards duty free shops
38-N	Grants of freehold and similar interests by governments
38-O	Farm land
38-P	Cars for use by disabled people

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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### 38-1 What this Division is about

This Division sets out the supplies that are GST-free. If a supply is GST-free, then:

- no GST is payable on the supply;
- an entitlement to an input tax credit for anything acquired or imported to make the supply is not affected.

For the basic rules about supplies that are GST-free, see sections 9-30 and 9-80.

### Subdivision 38-A—Food

#### 38-2 Food

A supply of \*food is *GST-free*.

#### 38-3 Food that is not GST-free

- (1) A supply is not GST-free under section 38-2 if it is a supply of:
- \*food for consumption on the \*premises from which it is supplied; or
  - hot food for consumption away from those premises; or
  - food of a kind specified in the third column of the table in clause 1 of Schedule 1, or food that is a combination of one or more foods at least one of which is food of such a kind; or
  - a \*beverage (or an ingredient for a beverage), other than a beverage (or ingredient) of a kind specified in the third column of the table in clause 1 of Schedule 2; or
  - food of a kind specified in regulations made for the purposes of this subsection.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 38-4

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- (2) However, this section does not apply to a supply of \*food of a kind specified in regulations made for the purposes of this subsection.
- (3) The items in the table in clause 1 of Schedule 1 or 2 are to be interpreted subject to the other clauses of Schedule 1 or 2, as the case requires.

**38-4 Meaning of *food***

- (1) **Food** means any of these, or any combination of any of these:
  - (a) food for human consumption (whether or not requiring processing or treatment);
  - (b) ingredients for food for human consumption;
  - (c) \*beverages;
  - (d) ingredients for beverages;
  - (e) goods to be mixed with or added to food for human consumption (including condiments, spices, seasonings, sweetening agents or flavourings);
  - (f) fats and oils marketed for culinary purposes;but does not include:
  - (g) live animals (other than crustaceans or molluscs); or
  - (h) any grain, cereal or sugar cane that has not been subject to any process or treatment resulting in an alteration of its form, nature or condition; or
  - (i) plants under cultivation that can be consumed (without being subject to further process or treatment) as food for human consumption.
- (2) **Beverage** includes water.

**38-5 Premises used in supplying food**

- Premises**, in relation to a supply of \*food, includes:
- (a) the place where the supply takes place; or

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (b) the grounds surrounding a cafe or public house, or other outlet for the supply; or
  - (c) the whole of any enclosed space such as a football ground, garden, showground, amusement park or similar area where there is a clear boundary or limit;
- but does not include any part of a public thoroughfare unless it is an area designated for use in connection with supplies of food from an outlet for the supply of food.

### **38-6 Packaging of food**

- (1) A supply of the packaging in which \*food is supplied is ***GST-free*** if the supply of the food is GST-free.
- (2) However, the supply of the packaging is GST-free under this section only to the extent that the packaging:
  - (a) is necessary for the supply of the food; and
  - (b) is packaging of a kind in which food of that kind is normally supplied.

### **Subdivision 38-B—Health**

#### **38-7 Medical services**

- (1) A supply of a \*medical service is ***GST-free***.
- (2) However, a supply of a \*medical service is *not* GST-free under subsection (1) if:
  - (a) it is a supply of a \*professional service rendered in prescribed circumstances within the meaning of regulation 14 of the Health Insurance Regulations made under the *Health Insurance Act 1973* (other than the prescribed circumstances set out in regulations 14(2)(ea) and (f)); or

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 38-10

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- (b) it is rendered for cosmetic reasons and is not a \*professional service for which medicare benefit is payable under Part II of the *Health Insurance Act 1973*.
- (3) A supply of goods is ***GST-free*** if:
  - (a) it is made to an individual in the course of supplying to him or her a \*medical service the supply of which is GST-free; and
  - (b) it is made at the premises at which the medical service is supplied.

**38-10 Other health services**

- (1) A supply is ***GST-free*** if:
  - (a) it is a service of a kind specified in the table in this subsection, or of a kind specified in the regulations; and
  - (b) the supplier is a \*recognised professional in relation to the supply of services of that kind; and
  - (c) the supply would generally be accepted, in the profession associated with supplying services of that kind, as being necessary for the appropriate treatment of the \*recipient of the supply.

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<b>Health services</b>	
<b>Item</b>	<b>Service</b>
1	Aboriginal or Torres Strait Islander health
2	Acupuncture
3	Audiology, audiometry
4	Chiropody
5	Chiropractic
6	Dental
7	Dietary

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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<b>Health services</b>	
<b>Item</b>	<b>Service</b>
8	Herbal medicine (including traditional Chinese herbal medicine)
9	Naturopathy
10	Nursing
11	Occupational therapy
12	Optical
13	Osteopathy
14	Paramedical
15	Pharmacy
16	Psychology
17	Physiotherapy
18	Podiatry
19	Speech pathology
20	Speech therapy
21	Social work

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- (2) However, a supply of a pharmacy service is *not* GST-free under subsection (1) unless it is:
- (a) a supply relating to a supply that is GST-free because of section 38-50; or
  - (b) a service of conducting a medication review.
- (3) A supply of goods is ***GST-free*** if:
- (a) it is made to a person in the course of supplying to the person a service the supply of which is GST-free under subsection (1) (other than a service referred to in item 8, 9, 12 or 15 of the table in subsection (1)); and
  - (b) it is made at the premises at which the service is supplied.
- (4) A supply of goods is ***GST-free*** if:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Chapter 3** The exemptions

**Part 3-1** Supplies that are not taxable supplies

**Division 38** GST-free supplies

**Section 38-15**

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- (a) it is made to a person in the course of supplying to the person a service referred to in item 8 or 9 of the table in subsection (1); and
  - (b) it is supplied, and used or consumed, at the premises at which the service is supplied.
- (5) A supply is ***GST-free*** if it is provided by an ambulance service in the course of the treatment of the \*recipient of the supply.

**38-15 Other government funded health services**

A supply is ***GST-free*** if:

- (a) it is a supply of a health service in connection with a supply that is GST-free because of section 38-7 or 38-10; and
- (b) the supplier receives funding from the Commonwealth, a State or a Territory in connection with the supply of the health service; and
- (c) the supply of the health service is of a kind determined in writing by the \*Health Minister.

**38-20 Hospital treatment**

- (1) A supply of \*hospital treatment is ***GST-free***.
- (2) However, a supply of \*hospital treatment is *not* GST-free to the extent that it relates to a supply of a \*professional service that, because of subsection 38-7(2), is not GST-free.
- (3) A supply of goods is ***GST-free*** if it is a supply that is directly related to a supply of \*hospital treatment that is:
  - (a) GST-free because of subsection (1); and
  - (b) supplied by, or on behalf of, the supplier of the hospital treatment.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**38-25 Residential care etc.**

- (1) A supply of services is *GST-free* if:
  - (a) it is a supply of services covered by Schedule 1 to the \*Quality of Care Principles; and
  - (b) it is provided through a residential care service (within the meaning of the *Aged Care Act 1997*); and
  - (c) the supplier is an approved provider (within the meaning of that Act).
- (2) A supply of services is *GST-free* if:
  - (a) the services are provided to one or more aged or disabled people; and
  - (b) the \*Aged Care Minister has determined in writing that the services are of a kind covered by Schedule 1 to the \*Quality of Care Principles; and
  - (c) the supplier receives funding from the Commonwealth, a State or a Territory in connection with the supply.
- (3) A supply of services is *GST-free* if:
  - (a) the services are provided to one or more aged or disabled people in a residential setting; and
  - (b) the \*Aged Care Minister has determined in writing that the services are of a kind covered by Schedule 1 to the \*Quality of Care Principles; and
  - (c) the services include, and are only provided to people who require, the services set out in:
    - (i) item 2.1 (daily living activities assistance) of Part 2 of that Schedule; or
    - (ii) item 3.8 (nursing services) of Part 3 of that Schedule.
- (4) A supply of accommodation is *GST-free* if it is made to a person in the course of making a supply to that person that is GST-free under subsection (1), (2) or (3).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (5) However, a supply of services that is covered by an extra services fee within the meaning of Division 35 of the *Aged Care Act 1997* is only ***GST-free*** under this section to the extent that the services are covered by Schedule 1 to the \*Quality of Care Principles.

**38-30 Community care etc.**

- (1) A supply of \*community care is ***GST-free*** if community care subsidy is payable under Part 3-2 of the *Aged Care Act 1997* to the supplier for the care.
- (2) A supply of care is ***GST-free*** if the supplier receives funding under the *Home and Community Care Act 1985* in connection with the supply.
- (3) A supply of \*community care is ***GST-free*** if the supply is of services:
- (a) that are provided to one or more aged or disabled people; and
  - (b) that are of a kind covered by item 2.1 (daily living activities assistance) of Part 2 of Schedule 1 to the \*Quality of Care Principles.
- (4) A supply of care is ***GST-free*** if:
- (a) the supplier receives funding from the Commonwealth, a State or a Territory in connection with the supply; and
  - (b) the supply of the care is of a kind determined in writing by the \*Aged Care Minister to be similar to a supply that is GST-free because of subsection (2).

**38-35 Flexible care**

A supply of flexible care (within the meaning of section 49-3 of the *Aged Care Act 1997*) is ***GST-free*** if flexible care subsidy is payable under Part 3.3 of that Act to the supplier for the care.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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### **38-40 Specialist disability services**

A supply of services is ***GST-free*** if the supplier receives funding under the *Disability Services Act 1986* or under a complementary \*State law or \*Territory law in respect of the services.

### **38-45 Medical aids and appliances**

- (1) A supply is ***GST-free*** if:
  - (a) it is covered by Schedule 3 (medical aids and appliances), or specified in the regulations; and
  - (b) the thing supplied is specifically designed for people with an illness or disability, and is not widely used by people without an illness or disability.
- (2) A supply is ***GST-free*** if the thing supplied is supplied as a spare part for, and is specifically designed as a spare part for, another thing the supply of which would be GST-free under subsection (1).
- (3) However, a supply is *not* GST-free under subsection (1) or (2) if the supplier and the \*recipient have agreed that the supply, or supplies of a kind that include that supply, not be treated as GST-free supplies.

### **38-47 Other GST-free health goods**

- (1) A supply is ***GST-free*** if it is a supply of goods of a kind that the \*Health Minister, by determination in writing, declares to be goods the supply of which is GST-free.
- (2) However, a supply is *not* GST-free under subsection (1) if the supplier and the \*recipient have agreed that the supply, or supplies of a kind that include that supply, not be treated as GST-free supplies.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**38-50 Drugs and medicinal preparations etc.**

- (1) A supply of a drug or medicinal preparation is ***GST-free*** if the supply is on prescription and:
  - (a) under a \*State law or a \*Territory law in the State or Territory in which the supply takes place, supply of the drug or medicinal preparation is prohibited except on prescription; or
  - (b) the drug or medicinal preparation is a pharmaceutical benefit (within the meaning of Part VII of the *National Health Act 1953*).
- (2) A supply of a drug or medicinal preparation is ***GST-free*** if, under a \*State law or a \*Territory law in the State or Territory in which it is supplied, the drug or medicinal preparation may only be supplied by a \*medical practitioner, \*dental practitioner or pharmacist.
- (3) A supply of a drug or medicinal preparation is ***GST-free*** if, under a \*State law or a \*Territory law in the State or Territory in which it is supplied, the drug or medicinal preparation may only be supplied:
  - (a) by a \*medical practitioner, \*dental practitioner, or by, or on behalf of, a pharmacist; or
  - (b) a person who is permitted by that law to supply the drug or medicinal preparation in circumstances where pharmacy services are not available.
- (4) A supply of a drug, medicine or other pharmaceutical item is ***GST-free*** if the supply is on prescription and:
  - (a) it is supplied as a pharmaceutical benefit (within the meaning of section 91 of the *Veterans' Entitlements Act 1986*); and
  - (b) it is supplied under an approved scheme (within the meaning of that section).
- (5) A supply of a drug or medicinal preparation is ***GST-free*** if:
  - (a) the drug or medicinal preparation is an analgesic that has a single active ingredient the supply of which as a drug or

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- medicinal preparation would be GST-free under subsection (3) if it were supplied in a larger quantity; and
- (b) the drug or medicinal preparation is of a kind the supply of which is declared by the \*Health Minister to be GST-free, by determination in writing.

**38-55 Private health insurance etc.**

- (1) A supply of \*private health insurance is *GST-free*.
- (2) A supply of insurance against liability to pay for services supplied by ambulance, or a supply of re-insurance of such insurance, is *GST-free*.

**Subdivision 38-C—Education**

**38-85 Education courses**

A supply is *GST-free* if it is a supply of:

- (a) an \*education course; or
- (b) administrative services directly related to the supply of such a course, but only if they are supplied by the supplier of the course.

**38-90 Excursions or field trips**

- (1) A supply is *GST-free* if it is a supply of an excursion or field trip, but only if the excursion or field trip:
- (a) is directly related to the curriculum of an \*education course; and
- (b) is not predominantly recreational.
- (2) However:
- (a) if the course is a \*tertiary course, a \*Masters or Doctoral course, a \*tertiary residential college course or a

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- \*professional or trade course—any supply of accommodation as part of the excursion or field trip is *not* GST-free; and
- (b) in any case—any supply of \*food as part of the excursion or field trip is *not* GST-free under this section.

**38-95 Course materials**

A supply of \*course materials for a subject undertaken in an \*education course is ***GST-free***.

**38-100 Supplies that are *not* GST-free**

To avoid doubt, the following supplies related to an \*education course are *not* GST-free:

- (a) a supply by way of sale, lease or hire of goods (other than \*course materials covered by section 38-95);
- (b) a supply of membership of a student organisation.

**38-105 Accommodation at boarding schools etc.**

- (1) A supply is ***GST-free*** if:
- (a) it is a supply of \*student accommodation to students undertaking a \*primary course, a \*secondary course or a \*special education course; and
- (b) the supplier of the accommodation also supplies the course.
- (2) A supply is ***GST-free*** if:
- (a) it is a supply of \*student accommodation to students who are undertaking a \*primary course, a \*secondary course or a \*special education course; and
- (b) the accommodation is provided in a hostel whose primary purpose is to provide accommodation for students from rural or remote locations who are undertaking such courses.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (3) ***Student accommodation*** means the right to occupy the whole or part of the premises used to provide the accommodation, including, if it is provided as part of the right so to occupy, the supply of:
- (a) cleaning and maintenance; or
  - (b) electricity, gas, air-conditioning or heating; or
  - (c) telephone, television, radio or any other similar thing.
- (4) However, a supply is *not* GST-free under subsection (1) or (2) to the extent that it consists of the supply of \*food.

**38-110 Recognition of prior learning etc.**

- (1) A supply is ***GST-free*** if the supply is the assessment or issue of qualifications for the purpose of:
- (a) access to education; or
  - (b) membership of a professional or trade association; or
  - (c) registration or licensing for a particular occupation; or
  - (d) employment.
- (2) However, a supply is *not* GST-free under subsection (1) unless the supply is carried out by:
- (a) a professional or trade association; or
  - (b) an \*education institution; or
  - (c) an entity that is registered by a training recognition authority of a State or Territory in accordance with the Australian Recognition Framework to provide skill recognition (assessment only) services; or
  - (d) an authority of the Commonwealth or of a State or Territory;  
or
  - (e) a local government body.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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### **Subdivision 38-D—Child care**

#### **38-140 Child care—suppliers registered under the Childcare Rebate Act**

A supply is *GST-free* if:

- (a) it is a supply of child care (within the meaning of the *Childcare Rebate Act 1993*) relating to a child; and
- (b) the supplier is registered under section 49 of that Act.

#### **38-145 Child care—eligible child care centres**

(1) A supply is *GST-free* if:

- (a) it is a supply of child care (within the meaning of the *Child Care Act 1972*) at an eligible child care centre (within the meaning of section 12A of that Act); and
- (b) the supplier of the child care is the operator (within the meaning of section 4 of that Act) of the centre; and
- (c) the operator is granted fee relief (whether or not in respect of that particular supply) under section 12A of that Act.

(2) A supply is *GST-free* if it is a supply of an excursion that is directly related to the supply of child care covered by subsection (1).

#### **38-150 Other child care**

A supply is *GST-free* if it is a supply of child care by a supplier that is eligible for funding (whether or not in respect of that particular supply) from the Commonwealth under guidelines made by the \*Child Care Minister that relate to the funding of:

- (a) family day care; or
- (b) occasional care; or
- (c) outside school hours care; or
- (d) vacation care; or

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

(e) any other type of care determined in writing by that Minister.

**38-155 Supplies directly related to child care that is GST-free**

A supply is *GST-free* if it is a supply that is directly related to a supply of child care that is:

- (a) GST-free because of section 38-140, 38-145 or 38-150; and
- (b) supplied by, or on behalf of, the supplier of the child care.

**Subdivision 38-E—Exports and other supplies for consumption outside Australia**

**38-185 Exports of goods**

(1) The third column of this table sets out supplies that are *GST-free*:

<b>GST-free exports of goods</b>		
<b>Item</b>	<b>Topic</b>	<b>These supplies are GST-free ...</b>
1	Export of goods—general	a supply of goods, but only if the supplier exports them from Australia within 60 days (or such further period as the Commissioner allows) after: <ul style="list-style-type: none"><li>(a) the day on which the supplier receives any of the *consideration for the supply; or</li><li>(b) if, on an earlier day, the supplier gives an *invoice for the supply—the day on which the supplier gives the invoice.</li></ul>

\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

**Chapter 3** The exemptions  
**Part 3-1** Supplies that are not taxable supplies  
**Division 38** GST-free supplies

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<b>GST-free exports of goods</b>		
<b>Item</b>	<b>Topic</b>	<b>These supplies are GST-free ...</b>
2	Export of goods—supplies paid for by instalments	a supply of goods for which the *consideration is provided in instalments under a contract that requires the goods to be exported, but only if the supplier exports them from Australia within 60 days (or such further period as the Commissioner allows) after: <ul style="list-style-type: none"> <li>(a) the day on which the supplier receives any of the final instalment of the consideration for the supply; or</li> <li>(b) if, on an earlier day, the supplier gives an *invoice for that final instalment—the day on which the supplier gives the invoice.</li> </ul>
3	Export of aircraft or ships	a supply of an aircraft or *ship, but only if the recipient of the aircraft or ship exports it from Australia under its own power within 60 days (or such further period as the Commissioner allows) of taking physical possession of it.
4	Export of aircraft or ships—paid for by instalments	a supply of an aircraft or *ship for which the *consideration is provided in instalments under a contract that requires the aircraft or ship to be exported, but only if the *recipient exports it from Australia within 60 days (or such further period as the Commissioner allows) after the earliest day on which one or more of the following occurs: <ul style="list-style-type: none"> <li>(a) the supplier receives any of the final instalment of the consideration for the supply;</li> <li>(b) the supplier gives an *invoice for that final instalment;</li> <li>(c) the supplier delivers the aircraft or ship to the recipient or (at the recipient's request) to another person.</li> </ul>

\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**GST-free exports of goods**

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Item	Topic	These supplies are GST-free ...
5	Export of goods that are to be consumed on international flights or voyages	a supply of: (a) *aircraft's stores for use, consumption or sale on an aircraft on a flight that has a destination outside Australia; or (b) *ship's stores for use, consumption or sale on a *ship on a voyage that has a destination outside Australia; whether or not part of the flight or voyage involves a journey between places in Australia.
6	Export of goods used to repair etc. imported goods	a supply of goods in the course of repairing, renovating, modifying or treating other goods from outside Australia whose destination is outside Australia, but only if: (a) the goods are attached to, or become part of, the other goods; or (b) the goods become unusable or worthless as a direct result of being used to repair, renovate, modify or treat the other goods.
7	Goods exported by travellers as accompanied baggage	a supply of goods to a *relevant traveller, but only if: (a) the supply is made in accordance with the rules specified in the regulations; and (b) the goods are exported as accompanied baggage of the relevant traveller.

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(2) However, a supply covered by any of items 1 to 6 in the table in subsection (1) is *not* GST-free if the supplier reimports the goods into Australia.

**38-190 Supplies of things, other than goods or real property, for consumption outside Australia**

(1) The third column of this table sets out supplies that are *GST-free* (except to the extent that they are supplies of goods or \*real property):

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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

<b>Item</b>	<b>Topic</b>	<b>These supplies are GST-free (except to the extent that they are supplies of goods or *real property)...</b>
1	Supply connected with property outside Australia	a supply that is directly connected with goods or real property situated outside Australia.
2	Recipient not an *Australian resident etc.	a supply that is made to a *recipient who: (a) is not an *Australian resident; and (b) is not in Australia when the thing supplied is done; other than a supply directly connected with goods situated in Australia when the thing supplied is done, or with *real property situated in Australia.
3	Supplies used or enjoyed outside Australia	a supply: (a) that is made to a *recipient who is not in Australia when the thing supplied is done; and (b) the effective use or enjoyment of which takes place outside Australia; other than a supply directly connected with goods situated in Australia when the thing supplied is done, or with *real property situated in Australia.
4	Rights	a supply that is made in relation to rights if: (a) the rights are for use outside Australia; or (b) the supply is to an entity that is not an *Australian resident and is outside Australia when the thing supplied is done.
5	Export of services used to repair etc. imported goods	a supply that is constituted by the repair, renovation, modification or treatment of goods from outside Australia whose destination is outside Australia.

(2) However, a supply covered by any of items 1 to 5 in the table in subsection (1) is *not* GST-free if it is the supply of a right or option

\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.



to acquire something the supply of which would be \*connected with Australia.

### **Subdivision 38-F—Religious services**

#### **38-220 Religious services**

A supply is *GST-free* if it is a supply of service that:

- (a) is supplied by a religious institution; and
- (b) is integral to the practice of that religion.

### **Subdivision 38-G—Non-commercial activities of charitable institutions etc.**

#### **38-250 Nominal consideration etc.**

(1) A supply is *GST-free* if:

- (a) the supplier is a charitable institution, a trustee of a charitable fund or a \*gift-deductible entity; and
- (b) the supply is for \*consideration that is less than 50% of the \*GST inclusive market value of the supply.

(2) A supply is *GST-free* if:

- (a) the supplier is a charitable institution, a trustee of a charitable fund or a \*gift-deductible entity; and
- (b) the supply is for \*consideration that is less than 50% of the consideration the supplier provided, or was liable to provide, for acquiring the thing supplied.

#### **38-255 Second-hand goods**

A supply of \*second-hand goods is *GST-free* if:

- (a) the supplier is a charitable institution, a trustee of a charitable fund or a \*gift-deductible entity; and

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (b) the goods were supplied to the institution, trustee or gift-deductible entity:
  - (i) as a gift; or
  - (ii) by way of a supply that was GST-free because of a previous application of this section.

However, the supply is *not* GST-free if the institution, trustee or gift-deductible entity has dealt with the goods in such a way that the goods no longer have their original character.

**Subdivision 38-H—Raffles and bingo conducted by charitable institutions etc.**

**38-270 Raffles and bingo conducted by charitable institutions etc.**

A supply is *GST-free* if:

- (a) the supplier is a charitable institution, a trustee of a charitable fund or a \*gift-deductible entity; and
- (b) the supply is:
  - (i) a supply of a ticket in a raffle; or
  - (ii) an acceptance of a person's participation in a game of bingo; or
  - (iii) a \*gambling supply of a kind specified in the regulations; and
- (c) the supply does not contravene a \*State law or a \*Territory law.

**Subdivision 38-I—Water and sewerage**

**38-285 Water**

- (1) A supply of water is *GST-free*.
- (2) However, a supply of water is *not* GST-free under this section if it is:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (a) supplied in a container; or
  - (b) transferred into a container;
- that has a capacity of less than 100 litres or such other quantity as the regulations specify.
- (3) It does not matter whether or not the amount of water supplied or transferred fills the container.

### **38-290 Sewerage**

A supply of sewerage services is *GST-free*.

### **38-295 Emptying of septic tanks**

A supply of a service that consists of the emptying of a septic tank is *GST-free*.

## **Subdivision 38-J—Supplies of going concerns**

### **38-325 Supply of a going concern**

- (1) The \*supply of a going concern is *GST-free* if:
  - (a) the supply is for \*consideration; and
  - (b) the \*recipient is \*registered or \*required to be registered; and
  - (c) the supplier and the recipient have agreed in writing that the supply is of a going concern.
- (2) A *supply of a going concern* is a supply under an arrangement under which:
  - (a) the supplier supplies to the \*recipient all of the things that are necessary for the continued operation of an \*enterprise; and
  - (b) the supplier carries on, or will carry on, the enterprise until the day of the supply (whether or not as a part of a larger enterprise carried on by the supplier).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Subdivision 38-K—Transport and related matters**

**38-355 Supplies of transport and related matters**

The third column of this table sets out supplies that are *GST-free*:

<b>Supplies of transport and related matters</b>		
<b>Item</b>	<b>Topic</b>	<b>These supplies are GST-free ...</b>
1	Transport to, from or outside Australia	the transport of a passenger or goods: (a) from the last place of departure in Australia to a destination outside Australia; or (b) from a place outside Australia to the first place of arrival in Australia; or (c) from a place outside Australia to the same or another place outside Australia.
2	Transport of passengers on domestic legs of international flights	the transport of a passenger within Australia by air, but only if: (a) the transport is part of a wider arrangement, itinerary or contract for transport by air involving international travel; and (b) at the time the arrangement, itinerary or contract was entered into, the transport within Australia formed part of a ticket for international travel, or was cross referenced to such a ticket, issued at that time.
3	Domestic air travel of non-residents	the transport of a passenger within Australia by air, but only if: (a) the passenger is a *non-resident; and (b) the supply was purchased while the passenger was outside Australia.

\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Supplies of transport and related matters**

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Item	Topic	These supplies are GST-free ...
4	Transport of passengers on domestic legs of international sea voyages	the transport of a passenger within Australia by sea, but only if: (a) the transport is part of a journey by sea from Australia to a destination outside Australia, or from a destination outside Australia to Australia; and (b) the transport is provided by the supplier who transports the passenger to or from Australia.
5	Transport etc. of goods within Australia	the transport, loading or handling of goods within Australia, but only if: (a) it is an integral part of the supply of transporting goods to or from Australia; and (b) it is provided by the supplier who transports those goods to or from Australia.
6	Insuring transport etc.	(a) insuring transport covered by item 1, 2, 3 or 4; or (b) insuring transport, loading or handling of goods covered by item 5.
7	Arranging transport etc.	(a) arranging transport covered by item 1, 2, 3 or 4; or (b) arranging transport, loading or handling of goods covered by item 5; or (c) arranging insurance covered by item 6.

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**Subdivision 38-L—Precious metals**

**38-385 Supplies of precious metals**

A supply of \*precious metal is *GST-free* if:

- (a) it is the first supply of that precious metal after its refining by the supplier; and
- (b) the supplier is a \*refiner of precious metal; and
- (c) the \*recipient of the supply is a \*dealer in precious metal who acquires the precious metal for investment purposes.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 38-415

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Note: Any other supply of precious metal is input taxed under section 40-100.

**Subdivision 38-M—Supplies through inwards duty free shops**

**38-415 Supplies through inwards duty free shops**

A supply is *GST-free* if:

- (a) the supply is a sale of \*airport shop goods through an \*inwards duty free shop to a \*relevant traveller; and
- (b) the goods are \*imported or are \*excisable goods.

**Subdivision 38-N—Grants of freehold and similar interests by governments**

**38-445 Grants of freehold and similar interests by governments**

- (1) A supply by the Commonwealth, a State or a Territory of land on which there are no improvements is *GST-free* if:
  - (a) the supply is of a freehold interest in the land; or
  - (b) the supply is by way of \*long-term lease.
- (2) However, the supply is *not* GST-free if, since 1 July 2000, the land has already been the subject of a supply that is GST-free under this section.

**Subdivision 38-O—Farm land**

**38-475 Subdivided farm land**

- (1) A supply of \*potential residential land is *GST-free* if:
  - (a) the land is subdivided from land on which the supplier has \*carried on a \*farming business for at least 5 years; and

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (b) the supply is made to an \*associate without \*consideration or for consideration that is less than the \*GST inclusive market value of the supply.
- (2) An entity \*carries on a *farming business* if it carries on a \*business of:
  - (a) cultivating or propagating plants, fungi or their products or parts (including seeds, spores, bulbs and similar things), in any physical environment; or
  - (b) maintaining animals for the purpose of selling them or their bodily produce (including natural increase); or
  - (c) manufacturing dairy produce from raw material that the entity produced; or
  - (d) planting or tending trees in a plantation or forest that are intended to be felled.

### **38-480 Farm land supplied for farming**

A supply of land is *GST-free* if:

- (a) the supplier has \*carried on a \*farming business on the land for at least the period of 5 years preceding the supply; and
- (b) the \*recipient of the supply intends to carry on a farming business on the land.

### **Subdivision 38-P—Cars for use by disabled people**

#### **38-505 Disabled veterans**

- (1) A supply is *GST-free* if it is a supply of a \*car to an individual who:
  - (a) has served in the Defence Force or in any other armed force of Her Majesty; and
  - (b) as a result of that service:
    - (i) has lost a leg or both arms; or

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (ii) has had a leg, or both arms, rendered permanently and completely useless; or
    - (iii) is a veteran to whom section 24 of the *Veterans' Entitlements Act 1986* applies and receives a pension under Part II of that Act; and
  - (c) intends to use the car in his or her personal transportation during all of the \*Subdivision 38-P period.
- (2) However, a supply covered by subsection (1) is *not* GST-free to the extent that the \*GST inclusive market value of the \*car exceeds the \*car depreciation limit.
- (3) In working out the \*GST inclusive market value of the \*car for the purposes of subsection (2), disregard any value that is attributable to modifications made to the car solely for the purpose of:
- (a) adapting it for driving by the person; or
  - (b) adapting it for transporting the person.
- (4) A supply is ***GST-free*** if it is a supply of \*car parts that are for a \*car for an individual to whom paragraphs (1)(a), (b) and (c) apply.

**38-510 Other disabled people**

- (1) A supply is ***GST-free*** if it is a supply of a \*car to an individual who:
- (a) has a current disability certificate issued by:
    - (i) the Secretary to the Department responsible for the administration of the *Disability Services Act 1986*; or
    - (ii) an officer of that Department authorised in writing by that Secretary for the purposes of this Act;certifying that the individual has lost the use of one or more limbs to such an extent that he or she is unable to use public transport; and

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (b) intends to use the car in his or her personal transportation to or from gainful employment during all of the \*Subdivision 38-P period.
- (2) However, a supply covered by subsection (1) is *not* GST-free to the extent that the \*GST inclusive market value of the \*car exceeds the \*car depreciation limit.
- (3) In working out the \*GST inclusive market value of the \*car for the purposes of subsection (2), disregard any value that is attributable to modifications made to the car solely for the purpose of:
  - (a) adapting it for driving by the individual; or
  - (b) adapting it for transporting the individual.
- (4) A supply is ***GST-free*** if it is a supply of \*car parts that are for a \*car for an individual to whom paragraphs (1)(a) and (b) applies.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 40—Input taxed supplies**

### **Table of Subdivisions**

40-A	Financial supplies
40-B	Residential rent
40-C	Residential premises
40-D	Precious metals

### **40-1 What this Division is about**

This Division sets out the supplies that are input taxed. If a supply is input taxed, then:

- no GST is payable on the supply;
- there is no entitlement to an input tax credit for anything acquired or imported to make the supply (see sections 11-15 and 15-10).

For the basic rules about supplies that are input taxed, see sections 9-30 and 9-80.

### **Subdivision 40-A—Financial supplies**

#### **40-5 Financial supplies**

- (1) A \*financial supply is *input taxed*.
- (2) The third column of this table sets out the supplies that are *financial supplies*:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Supplies that are financial supplies**

Item	Topic	These are <i>financial supplies</i> ...
1	Money	the creation, issue, transfer, assignment or receipt of, or any other dealing with, *money including: (a) lending or borrowing money; and (b) creating or transferring a debt or an interest in a debt; and (c) making any advance or granting any credit.
2	Accounts	the creation, keeping or closing of a savings account, cheque account or deposit account.
3	Debt securities	the creation, issue, transfer, assignment or receipt of, or any other dealing with, a security for a debt (including a guarantee or indemnity), but not if the security is a lease, licence or other similar arrangement in respect of *real property.
4	Equity securities	the allotment, issue, transfer, assignment or receipt of, 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).
5	Unit trusts	the creation, issue, transfer, assignment or receipt of, or any other dealing with: (a) a *unit trust; or (b) an interest in, or a right to or under, a unit trust. the management of a unit trust.
6	Futures	the provision, transfer or assignment of a futures contract through a *futures exchange.
7	Options and warrants	the creation, issue, transfer, assignment or receipt of, or any other dealing with, an option or warrant relating to a future supply covered by item 3, 4 or 5.
8	Underwriting	an underwriting of a supply covered by any of items 1 to 7 (other than items 2 and 3).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

**Chapter 3** The exemptions

**Part 3-1** Supplies that are not taxable supplies

**Division 40** Input taxed supplies

Section 40-5

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**Supplies that are financial supplies**

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<b>Item</b>	<b>Topic</b>	<b>These are <i>financial supplies</i> ...</b>
9	Superannuation funds	the creation, transfer, assignment or receipt of, or any other dealing with, an interest in, or a right under, a *superannuation fund. the management of a superannuation fund.
10	Life insurance	the provision, transfer or assignment of: (a) a *life insurance policy; or (b) reinsurance relating to a life insurance policy.
11	Hire purchase etc.	the provision of credit under a *hire purchase agreement, or a sale, relating to goods, but only if: (a) the credit is provided for a separate charge; and (b) the separate charge is disclosed to the *recipient of the goods.
12	Incidental supplies	a supply of anything directly in connection with a supply covered by any of items 1 to 13 (other than this item), but only if the supplier under this item is the same supplier as that under the other item.
13	Arranging etc. supplies	agreeing to make, or arranging, a supply covered by any of items 1 to 12 (other than item 2).

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(3) The third column of the following table sets out the supplies that are *not* financial supplies:

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**Supplies that are not financial supplies**

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<b>Item</b>	<b>Topic</b>	<b>These are <i>not</i> financial supplies ...</b>
1	Advice	a supply of advice, including any advice in relation to a supply covered by any of items 1 to 12 of the table in subsection (2).
2	Insurance	a supply of insurance (other than insurance covered by item 10 of the table in subsection (2)).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Supplies that are not financial supplies**

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<b>Item</b>	<b>Topic</b>	<b>These are <i>not</i> financial supplies ...</b>
3	Legal service	a supply of a legal service by a *legal practitioner in the course of a professional practice.
4	Accounting service	a supply of an accounting service by an accountant in the course of a professional practice.
5	Tax agents	management by a *registered tax agent of an entity's affairs relating to taxation.
6	Safe custody	a supply of a safe custody service for cash, documents or other things.
7	Payroll services	a supply of a payroll service.

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- (4) The regulations may provide that a particular supply is, or is not, a financial supply. The regulations have effect despite subsections (2) and (3).

**Subdivision 40-B—Residential rent**

**40-35 Residential rent**

- (1) A supply of premises that is by way of lease, hire or licence (including a renewal or extension of a lease, hire or licence) is *input taxed* if:
- (a) the supply is of \*residential premises (other than \*commercial residential premises); or
  - (b) the supply is of \*commercial accommodation and Division 87 (which is about long-term accommodation in commercial premises) would apply to the supply but for a choice made by the supplier under section 87-25.
- (2) However:
- (a) the supply is input taxed only to the extent that the premises are to be used predominantly for residential accommodation; and

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Chapter 3** The exemptions

**Part 3-1** Supplies that are not taxable supplies

**Division 40** Input taxed supplies

Section 40-65

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- (b) the supply is not input taxed under this section if the lease, hire or licence, or the renewal or extension of a lease, hire or licence, is a \*long-term lease.

**Subdivision 40-C—Residential premises**

**40-65 Sales of residential premises**

- (1) A sale of \*real property is *input taxed*, but only to the extent that the property is \*residential premises to be used predominantly for residential accommodation.
- (2) However, the sale is *not* input taxed to the extent that the \*residential premises are \*commercial residential premises or \*new residential premises.

**40-70 Supplies of residential premises by way of long-term lease**

- (1) A supply is *input taxed* if:
- (a) the supply is of \*real property but only to the extent that the property is \*residential premises to be used predominantly for residential accommodation; and
- (b) the supply is by way of \*long-term lease.
- (2) However, the supply is *not* input taxed to the extent that the \*residential premises are \*commercial residential premises or \*new residential premises.

**Subdivision 40-D—Precious metals**

**40-100 Precious metals**

A supply of \*precious metal is *input taxed*.

Note: If the supply is the first supply of precious metal after refinement, the supply is GST-free under section 38-385.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Subdivision 40-E—School tuckshops and canteens**

### **40-130 School tuckshops and canteens**

- (1) A supply of \*food is *input taxed* if:
  - (a) the supply is made by a non-profit body through a shop operating on the grounds of a \*school that supplies \*primary courses or \*secondary courses; and
  - (b) the non-profit body chooses to have all its supplies of food through the shop treated as input taxed.
- (2) However, the non-profit body:
  - (a) cannot make a choice under paragraph (1)(b) if any supplies are made through the shop that are not supplies of \*food; and
  - (b) cannot revoke the choice within 12 months after the day on which the non-profit body made the choice; and
  - (c) cannot make a further choice within 12 months after the day on which the non-profit body revoked a previous choice.
- (3) This section does not apply to a supply of \*food by a \*school to boarding students of the school as part of their board.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## Part 3-2—Non-taxable importations

### Division 42—Non-taxable importations

#### 42-1 What this Division is about

This Division sets out the importations that are non-taxable. No GST is payable on an importation that is non-taxable (see sections 7-1 and 13-5).

For the basic rules about non-taxable importations, see sections 13-10 and 13-25.

#### 42-5 Non-taxable importations—Schedule 4 to the *Customs Tariff Act 1995*

- (1) An importation of goods is a *non-taxable importation* if the goods are covered by item 17, 18A, 18B, 18C, 21, 23A, 23B, 24, 25A, 25B, 25C, 32A, 32B, 33A, 33B or 34 in Schedule 4 to the *Customs Tariff Act 1995*.
- (2) To avoid doubt, a reference to goods that are covered by an item in Schedule 4 to the *Customs Tariff Act 1995* includes a reference to goods to which that item would apply if they were dutiable goods within the meaning of the *Customs Act 1901*.

#### 42-10 Ship and aircraft stores

An importation of goods is a *non-taxable importation* if the goods are \*ship's stores or \*aircraft's stores.

#### 42-15 Goods imported or purchased by overseas travellers

- (1) An importation of goods is a *non-taxable importation* if the goods:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 42-15

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- (a) are imported by a passenger or member of the crew of a \*ship or aircraft; and
  - (b) are covered by item 15 in Schedule 4 to the *Customs Tariff Act 1995*.
- (2) An importation of goods is a ***non-taxable importation*** if the goods:
- (a) are purchased from an \*inwards duty free shop by a \*relevant traveller; and
  - (b) are covered by item 15 in Schedule 4 to the *Customs Tariff Act 1995* (or would be covered if they had been imported by the \*relevant traveller).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Chapter 4—The special rules**

### **Division 45—Introduction**

#### **45-1 What this Chapter is about**

This Chapter sets out the special rules for the GST. The special rules apply only in particular circumstances, and are generally quite limited in their scope.

The special rules modify the application of the basic rules for the GST in Chapter 2.

Note 1: The special rules that modify each group of basic rules in Chapter 2 are specifically identified in tables located at the end of the Divisions and Subdivisions in Chapter 2. In addition, a checklist of special rules is set out in Part 2-8.

Note 2: This section is an explanatory section.

#### **45-5 The effect of special rules**

The provisions of this Chapter override the provisions of Chapter 2 (except section 29-25), but only to the extent of any inconsistency.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Part 4-1—Special rules mainly about particular ways entities are organised**

**Note:** The special rules in this Part mainly modify the operation of Part 2-2 so far as that Part deals with liability for GST and entitlement to input tax credits, but the special rules also affect other aspects of Part 2-2 and the other Parts of Chapter 2.

### **Division 48—GST groups**

#### **Table of Subdivisions**

48-A	Approval of GST groups
48-B	Consequences of approval of GST groups
48-C	Administrative matters

#### **48-1 What this Division is about**

Companies within a 90% owned group can be approved as a GST group. One member of the group then deals with all the GST liabilities and entitlements (except for GST on most taxable importations) of the group, and intra-group transactions are excluded from the GST.

#### **Subdivision 48-A—Approval of GST groups**

##### **48-5 Approval of GST groups**

- (1) The Commissioner must approve 2 or more entities as a \*GST group if:
  - (a) the entities jointly apply, in the \*approved form, for approval as a GST group; and

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Chapter 4** The special rules

**Part 4-1** Special rules mainly about particular ways entities are organised

**Division 48** GST groups

Section 48-10

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- (b) each of the entities \*satisfies the membership requirements for that GST group; and
- (c) the application nominates one of the entities to be the \*representative member for the group; and
- (d) the entity so nominated is an \*Australian resident.

A group of entities that is so approved is a ***GST group***.

- (2) If the application for approval includes 2 or more \*companies, the application need not include all the companies of the \*90% owned group to which the 2 or more companies belong.

Note: Refusing an application for approval under this section is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

**48-10 Membership requirements of a GST group**

- (1) An entity *satisfies the membership requirements* of a \*GST group, or a proposed GST group, if the entity:
  - (a) is:
    - (i) a \*company; or
    - (ii) a \*partnership or trust that satisfies the requirements specified in the regulations; and
  - (b) is, if the entity is a company, a company of the same \*90% owned group as all the other members of the GST group or proposed GST group that are also companies; and
  - (c) is \*registered; and
  - (d) has the same tax periods applying to it as the tax periods applying to all those other members; and
  - (e) accounts on the same basis as all those other members; and
  - (f) is not a member of any other GST group.
- (2) However, paragraph (1)(a) does not apply if:
  - (a) the entity is a non-profit body; and

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (b) all the other members of the GST group or proposed GST group are non-profit bodies; and
- (c) the entity and all those other members are members of the same \*non-profit association.

### **Subdivision 48-B—Consequences of approval of GST groups**

#### **48-40 Who is liable for GST**

- (1) GST payable on any \*taxable supply or \*taxable importation that a \*member of a \*GST group makes:
  - (a) is payable by the \*representative member; and
  - (b) is not payable by the member that made it (unless the member is the representative member).
- (2) However:
  - (a) a supply that an entity makes to another \*member of the same \*GST group is treated as if it were not a \*taxable supply (unless it is a taxable supply because of Division 84 (which is about offshore supplies other than goods or real property)); and
  - (b) this section only applies to GST payable on a \*taxable importation made, by a member of the GST group other than the \*representative member, if the GST on the importation is payable at a time when GST on \*taxable supplies is normally payable by the representative member.
- (3) This section has effect despite sections 9-40 and 13-15 (which are about liability for GST).

#### **48-45 Who is entitled to input tax credits**

- (1) If a \*member of a \*GST group makes a \*creditable acquisition or \*creditable importation:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Chapter 4** The special rules

**Part 4-1** Special rules mainly about particular ways entities are organised

**Division 48** GST groups

Section 48-50

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- (a) the \*representative member is entitled to the input tax credit on the acquisition or importation; and
  - (b) the member making the acquisition or importation is not entitled to the input tax credit on the acquisition or importation (unless the member is the representative member).
- (2) In deciding, for the purposes of subsection (1), whether an acquisition or importation by a \*member of a \*GST group is a \*creditable acquisition or \*creditable importation, the acquisition or importation is treated as being solely or partly for a \*creditable purpose if, and only if, it would be so treated if:
- (a) the GST group were treated as a single entity; and
  - (b) the GST group were not treated as a number of entities corresponding to the members of the GST group.
- (3) However, an acquisition that an entity makes from another \*member of the same \*GST group is treated as if it were not a \*creditable acquisition.
- (4) This section has effect despite sections 11-5 and 15-5 (which are about what are creditable acquisitions and creditable importations), and sections 11-20 and 15-15 (which are about who is entitled to input tax credits).

**48-50 Adjustments**

- (1) Any \*adjustment that a \*member of a \*GST group has is to be treated as if:
- (a) that member did not have the adjustment (unless that member is the \*representative member); and
  - (b) the representative member had the adjustment.
- (2) This section has effect despite section 17-10 (which is about the effect of adjustments on net amounts).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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#### **48-55 GST groups treated as single entities for certain purposes**

- (1) Despite sections 48-45 and 48-50, a \*GST group is treated as a single entity, and not as a number of entities corresponding to the \*members of the GST group, for the purposes of working out:
  - (a) the amounts of any input tax credits to which the \*representative member is entitled; and
  - (b) whether the representative member has any \*adjustments; and
  - (c) the amounts of any such adjustments.
- (2) This section has effect despite section 11-25 (which is about the amount of input tax credits) and section 17-10 (which is about the effect of adjustments on net amounts).

#### **48-60 GST returns**

- (1) If you are a \*member of a \*GST group during the whole of a tax period, you are not required to give to the Commissioner a \*GST return for that tax period, unless you are the \*representative member of the group during that period.
- (2) This section has effect despite section 31-5 (which is about who must give GST returns).

#### **Subdivision 48-C—Administrative matters**

#### **48-70 Changing the membership etc. of GST groups**

##### *Changes made on application*

- (1) The Commissioner must, if the \*representative member of a \*GST group applies to the Commissioner in the \*approved form, do one or more of these (as requested in the application):
  - (a) approve, as an additional \*member of the GST group, another \*company that \*satisfies the membership requirements for the GST group;

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

**Chapter 4** The special rules

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**Division 48** GST groups

Section 48-75

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- (b) revoke the approval of one of the members of the GST group as a member of the group;
- (c) approve another member of the GST group to replace the applicant as the representative member of the group.

Note: Refusing an application for approval or revocation under this subsection is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

*Changes made without application*

- (2) The Commissioner must revoke the approval of one of the \*members of a \*GST group if satisfied that the member does not \*satisfy the membership requirements for the GST group.

Note: Revoking under this subsection an approval under this Division is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

**48-75 Revoking the approval of GST groups**

*Revoking on application*

- (1) The Commissioner must, if the \*representative member of a \*GST group applies to the Commissioner in the \*approved form, revoke the approval of the group as a GST group.

Note: Refusing an application for revocation under this subsection is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

*Revoking without application*

- (2) The Commissioner must revoke the approval of the \*GST group if satisfied that none of its members, or only one of its members, \*satisfies the membership requirements for that GST group.

Note: Revoking under this subsection the approval of a GST group is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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#### **48-80 Notification by representative members**

The \*representative member of a \*GST group must notify the Commissioner of any circumstances under which the Commissioner must:

- (a) revoke the approval of one of the \*members of the group under subsection 48-70(2); or
- (b) revoke the approval of the group under subsection 48-75(2).

The notification may (in appropriate cases) be in the form of an application under subsection 48-70(1). The notification, or application, must be given to the Commissioner within 21 days after the circumstances occurred.

#### **48-85 Date of effect of approvals and revocations**

- (1) The Commissioner must decide the date of effect of any approval, or any revocation of an approval, under this Division.
- (2) The date of effect may be the day of the decision, or a day before or after that day. However, it must be the beginning of a tax period applying to the members of the \*GST group in question.

Note: Deciding under this section the date of effect of any approval, or any revocation of an approval, under this Division is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

#### **48-90 Notification by the Commissioner**

The Commissioner must give notice of any decision that he or she makes under this Division:

- (a) if the decision relates to the approval of 2 or more companies as a \*GST group—to the company nominated in the application for approval to be the \*representative member of the group; or
- (b) otherwise—to the representative member of the \*GST group to which the decision relates.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

**Chapter 4** The special rules

**Part 4-1** Special rules mainly about particular ways entities are organised

**Division 51** GST joint ventures

Section 51-1

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**Division 51—GST joint ventures**

**Table of Subdivisions**

- 51-A Approval of GST joint ventures
- 51-B Consequences of approval of GST joint ventures
- 51-C Administrative matters

**51-1 What this Division is about**

Companies engaged in a joint venture can have it approved as a GST joint venture. The joint venture operator then deals with the GST liabilities and entitlements arising from the joint venture operator's dealings on behalf of the other participants in the joint venture.

**Subdivision 51-A—Approval of GST joint ventures**

**51-5 Approval of GST joint ventures**

- (1) The Commissioner must approve 2 or more \*companies as the \*participants in a \*GST joint venture if:
  - (a) the joint venture is a joint venture for the exploration or exploitation of \*mineral deposits, or for a purpose specified in the regulations; and
  - (b) the joint venture is not a \*partnership; and
  - (c) the companies jointly apply, in the \*approved form, for approval of the joint venture as a GST joint venture; and
  - (d) each of the companies \*satisfies the participation requirements for that GST joint venture; and
  - (e) the application nominates one of the companies to be the \*joint venture operator for the joint venture.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

A joint venture that is so approved is a *GST joint venture*.

- (2) The application for approval need not include all the \*companies that are engaged in, or intend to engage in, the joint venture.

Note: Refusing an application for approval under this section is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

### **51-10 Participation requirements of a GST joint venture**

A \*company *satisfies the participation requirements* for a \*GST joint venture, or a proposed GST joint venture, if the company:

- (a) participates in, or intends to participate in, the joint venture; and
- (b) is a party to a joint venture agreement with all the other companies participating in, or intending to participate in, the joint venture; and
- (c) is \*registered; and
- (d) is an \*Australian resident; and
- (e) has the same tax periods applying to it as the tax periods applying to all the other participants of the GST joint venture; and
- (f) accounts on the same basis as all those other participants; and
- (g) is not a member of a \*GST group.

### **Subdivision 51-B—Consequences of approval of GST joint ventures**

#### **51-30 Who is liable for GST**

- (1) GST payable on any \*taxable supply or \*taxable importation that the \*joint venture operator of a \*GST joint venture makes, on behalf of another \*participant in the joint venture, in the course of activities for which the joint venture was entered into:
- (a) is payable by the joint venture operator; and

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Division 51** GST joint ventures

Section 51-35

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- (b) is not payable by the other participant.
- (2) However, a supply that the \*joint venture operator of a \*GST joint venture makes is treated as if it were not a \*taxable supply if:
  - (a) it is made to another \*participant in the joint venture; and
  - (b) the other participant acquired the thing supplied for consumption, use or supply in the course of activities for which the joint venture was entered into.
- (3) This section has effect despite sections 9-40 and 13-15 (which are about liability for GST).

**51-35 Who is entitled to input tax credits**

- (1) If the \*joint venture operator of a \*GST joint venture makes a \*creditable acquisition or \*creditable importation, on behalf of another \*participant in the joint venture, in the course of activities for which the joint venture was entered into:
  - (a) the \*joint venture operator is entitled to the input tax credit for the acquisition or importation; and
  - (b) the other participant is not entitled to the input tax credit on the acquisition or importation.
- (2) This section has effect despite sections 11-20 and 15-15 (which are about who is entitled to input tax credits).

**51-40 Adjustments**

- (1) Any \*adjustment relating to any supply, acquisition or importation that the \*joint venture operator of a \*GST joint venture makes, on behalf of another \*participant in the joint venture, in the course of activities for which the joint venture was entered into is to be treated as if:
  - (a) the other participant did not have the adjustment; and
  - (b) the joint venture operator had the adjustment.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (2) This section has effect despite section 17-10 (which is about the effect of adjustments on net amounts).

#### **51-45 Additional net amounts relating to GST joint ventures**

- (1) Division 17 applies to the \*joint venture operator of a \*GST joint venture as if the joint venture operator had an additional \*net amount, relating to the joint venture, for each tax period.
- (2) The additional \*net amount relating to the joint venture is worked out as if the joint venture operator:
- (a) is only liable for the GST on \*taxable supplies that the joint venture operator makes, on behalf of another \*participant in the joint venture, in the course of activities for which the joint venture was entered into; and
  - (b) is only entitled to the input tax credits for \*creditable acquisitions or \*creditable importations that the joint venture operator makes on behalf of another participant in the joint venture, in the course of activities for which the joint venture was entered into; and
  - (c) only has adjustments relating to supplies, acquisitions or importations that the joint venture operator makes, on behalf of another participant in the joint venture, in the course of activities for which the joint venture was entered into.
- (3) This section has effect despite sections 17-5 and 17-10 (which are about net amounts and adjustments).

#### **51-50 GST returns relating to GST joint ventures**

- (1) The \*joint venture operator of a \*GST joint venture must, in relation to each \*GST joint venture of the joint venture operator, give to the Commissioner a \*GST return for each tax period applying to the joint venture operator.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Chapter 4** The special rules

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- (2) The \*net amount stated in such a return must be the net amount relating to the \*GST joint venture in question.
- (3) This section has effect despite sections 31-5 and 31-15 (which are about GST returns).

**51-55 Payments of GST relating to GST joint ventures**

- (1) If the \*net amount relating to a \*GST joint venture for a tax period is greater than zero:
  - (a) the \*joint venture operator of the GST joint venture must pay that net amount to the Commissioner; and
  - (b) Division 33 applies to payment of that amount as if it were a payment the joint venture operator was obliged to make under section 33-5.
- (2) This section has effect despite Division 33 (which is about payments of GST).

**51-60 Refunds relating to GST joint ventures**

- (1) If the \*net amount relating to a \*GST joint venture for a tax period is less than zero:
  - (a) the Commissioner must, on behalf of the Commonwealth, pay that net amount (expressed as a positive amount) to the \*joint venture operator of the GST joint venture; and
  - (b) Division 35 applies to payment of that amount as if it were a payment the Commissioner was obliged to make under section 35-5.
- (2) This section has effect despite Division 35 (which is about refunds).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Subdivision 51-C—Administrative matters**

### **51-70 Changing the participants etc. of GST joint ventures**

#### *Changes made on application*

- (1) The Commissioner must, if the \*joint venture operator of a \*GST joint venture applies to the Commissioner in the \*approved form, do one or more of these (as requested in the application):
  - (a) approve, as an additional \*participant of the GST joint venture, another \*company that \*satisfies the participation requirements of the GST joint venture;
  - (b) revoke the approval of one of the participants of the GST joint venture as a participant in the joint venture;
  - (c) approve another participant of the GST joint venture to replace the applicant as the joint venture operator of the joint venture.

Note: Refusing an application for approval or revocation under this subsection is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

#### *Changes made without application*

- (2) The Commissioner must revoke the approval of one of the \*participants of a \*GST joint venture if satisfied that the participant does not \*satisfy the participation requirements of the GST joint venture.

Note: Revoking under this subsection an approval under this Division is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 51-75

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**51-75 Revoking the approval of GST joint ventures**

*Revoking on application*

- (1) The Commissioner must, if the \*joint venture operator of a \*GST joint venture applies to the Commissioner in the \*approved form, revoke the approval of the joint venture as a GST joint venture.

Note: Refusing an application for revocation under this subsection is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

*Revoking without application*

- (2) The Commissioner must revoke the approval of the \*GST joint venture if satisfied that none of its \*participants, or only one of its participants, \*satisfies the participation requirements of the GST joint venture.

Note: Revoking under this subsection the approval of a GST joint venture is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

**51-80 Notification by joint venture operators**

The \*joint venture operator of a \*GST joint venture must notify the Commissioner of any circumstances under which the Commissioner must:

- (a) revoke the approval of one of the \*participants of the joint venture under subsection 51-70(2); or  
(b) revoke the approval of the joint venture under subsection 51-75(2).

The notification may (in appropriate cases) be in the form of an application under subsection 51-70(1). The notification, or application, must be given to the Commissioner within 21 days after the circumstances occurred.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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### **51-85 Date of effect of approvals and revocations**

- (1) The Commissioner must decide the date of effect of any approval, or any revocation of an approval, under this Division.
- (2) The date of effect may be the day of the decision, or a day before or after that day. However, it must be the beginning of a tax period applying to the participants of the \*GST joint venture in question.

Note: Deciding under this section the date of effect of any approval, or any revocation of an approval, under this Division is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

### **51-90 Notification by the Commissioner**

The Commissioner must give notice of any decision that he or she makes under this Division:

- (a) if the decision relates to the approval of 2 or more \*companies as the \*participants of a \*GST joint venture—to the company nominated in the application for approval to be the \*joint venture operator of the joint venture; or
- (b) otherwise—to the joint venture operator of the \*GST joint venture to which the decision relates.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 54-1

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## **Division 54—GST branches**

### **Table of Subdivisions**

- 54-A Registration of GST branches
- 54-B Consequences of registration of GST branches
- 54-C Cancellation of registration of GST branches

### **54-1 What this Division is about**

A branch of a registered entity can be separately registered as a GST branch. Separate GST returns are given, and separate payments and refunds of GST are made, in respect of the branch.

### **Subdivision 54-A—Registration of GST branches**

#### **54-5 Registration of GST branches**

- (1) The Commissioner must \*register a branch of a \*registered entity if:
  - (a) the registered entity applies, in the \*approved form, for registration of the branch; and
  - (b) the Commissioner is satisfied that the branch maintains an independent system of accounting, and can be separately identified by reference to:
    - (i) the nature of the activities carried on through the branch; or
    - (ii) the location of the branch; and
  - (c) the Commissioner is satisfied that the registered entity is \*carrying on an \*enterprise through the branch, or intends to carry on an enterprise through the branch, from a particular date specified in the application.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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A branch that is so registered is a ***GST branch***.

- (2) A branch of a \*registered entity can be registered as a \*GST branch without all or any of the other branches of the entity being so registered.
- (3) However, a branch of a \*registered entity cannot be registered as a \*GST branch if the registered entity is a \*member of a \*GST group.

Note: Refusing an application for registration under this section is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

### **54-10 The date of effect of registration of a GST branch**

The Commissioner must decide the date from which \*registration as a \*GST branch takes effect. However, the date of effect must not be a day before:

- (a) the day specified in the application for that purpose; or
- (b) if the branch is being registered only because it is intended that an \*enterprise be \*carried on through the branch—the date of effect must not be a day before the day specified, in the application, as the day from which it is intended to carry on the enterprise through the branch.

Note: Deciding the date of effect of registration as a GST branch is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

### **54-15 GST branch registration number**

If the Commissioner registers a \*GST branch, the Commissioner must notify the \*registered entity of the branch's \*GST branch registration number.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Subdivision 54-B—Consequences of registration of GST branches**

**54-40 Additional net amounts relating to GST branches**

- (1) If an entity (the *parent entity*) has a \*GST branch, Division 17 applies to the parent entity as if it had an additional \*net amount, relating to the branch, for each tax period.
- (2) The additional \*net amount relating to the branch is worked out as if the branch were a separate entity and as if:
  - (a) all the supplies, acquisitions and importations made through the branch were made by that separate entity; and
  - (b) all the \*adjustments that the parent entity has arising from such supplies, acquisitions and importations were adjustments that the branch has; and
  - (c) all transfers of anything by the branch to the parent entity (including any other branch of the parent entity), that would have been supplies made by the branch if it were an entity, were supplies made by the separate entity; and
  - (d) all transfers of anything by the parent entity (including any other branch of the parent entity) to the branch, that would have been acquisitions made by the branch if it were an entity, were acquisitions made by the separate entity; and
  - (e) all adjustments that the branch would have had, if it were an entity, relating to the supplies and acquisitions it would have made as mentioned in paragraphs (c) and (d), were adjustments that the branch had.
- (3) This section has effect despite sections 17-5 and 17-10 (which are about net amounts and adjustments).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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### **54-45 Net amounts of parent entities**

- (1) If an entity (the *parent entity*) has a \*GST branch, the parent entity's \*net amount is worked out as if:
  - (a) all the supplies, acquisitions and importations made through any GST branch of the parent entity were not supplies for which the parent entity is liable for GST, or acquisitions or importations for which the parent entity is entitled to input tax credits; and
  - (b) the parent entity does not have any \*adjustments arising from such supplies, acquisitions and importations; and
  - (c) all transfers of anything by the parent entity to any GST branch of the parent entity, that would have been supplies made to the branch if it were an entity, were supplies made by the parent entity; and
  - (d) all transfers of anything by any GST branch of the parent entity to the parent entity, that would have been acquisitions made from the branch if it were an entity, were acquisitions made by the parent entity; and
  - (e) all adjustments that the parent entity would have had, if the GST branches of the parent entity were entities, relating to the supplies and acquisitions the parent entity would have made as mentioned in paragraphs (c) and (d), were adjustments that the parent entity had.
- (2) However, the parent entity has no \*net amount under this section if all the \*enterprises that it \*carries on are carried on through its \*GST branches.
- (3) This section has effect despite sections 17-5 and 17-10 (which are about net amounts and adjustments).

### **54-50 Tax invoices and adjustment notes**

- (1) The \*GST branch registration number of a \*GST branch must be set out in:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (a) any \*tax invoice relating to a \*taxable supply made through that GST branch; and
  - (b) any \*adjustment note for a \*decreasing adjustment that arose from the occurrence of an \*adjustment event relating to a \*taxable supply made through that GST branch.
- (2) This section has effect despite sections 29-70 and 29-75 (which are about tax invoices and adjustment notes).

**54-55 GST returns relating to GST branches**

- (1) An entity must, in relation to each \*GST branch of the entity, give to the Commissioner a \*GST return for each tax period applying to the entity.
- (2) The \*net amount stated in such a return must be the net amount relating to the \*GST branch in question.
- (3) The entity must still give a \*GST return under section 31-5, unless all the \*enterprises that it \*carries on are carried on through its \*GST branches.
- (4) This section has effect despite sections 31-5 and 31-15 (which are about GST returns).

**54-60 Payments of GST relating to GST branches**

- (1) If an entity has a \*GST branch and the \*net amount relating to the \*GST branch for a tax period is greater than zero:
  - (a) the entity must pay that net amount to the Commissioner; and
  - (b) Division 33 applies to payment of that amount as if it were a payment the entity was obliged to make under section 33-5.
- (2) This section has effect despite Division 33 (which is about payments of GST).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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### **54-65 Refunds relating to GST branches**

- (1) If an entity has a \*GST branch and the \*net amount relating to the \*GST branch for a tax period is less than zero:
  - (a) the Commissioner must, on behalf of the Commonwealth, pay that net amount (expressed as a positive amount) to the entity; and
  - (b) Division 35 applies to payment of that amount as if it were a payment the Commissioner was obliged to make under section 35-5.
- (2) This section has effect despite Division 35 (which is about refunds).

### **Subdivision 54-C—Cancellation of registration of GST branches**

#### **54-70 When an entity must apply for cancellation of registration of a GST branch**

- (1) If an entity has a \*GST branch and the entity is not \*carrying on any \*enterprise through the branch, the entity must apply to the Commissioner in the \*approved form for cancellation of the \*registration of the branch.
- (2) The entity must lodge its application within 21 days after the day on which it ceased to \*carry on any \*enterprise through the branch.

#### **54-75 When the Commissioner must cancel registration of a GST branch**

- (1) The Commissioner must cancel the \*registration of a \*GST branch of an entity if:
  - (a) the entity has applied for cancellation of registration in the \*approved form; and

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (b) at the time it applied, the branch had been registered for at least 12 months.

Note: Refusing to cancel the registration of a GST branch under this subsection is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

- (2) The Commissioner must cancel the \*registration of a \*GST branch of the entity (even if the entity has not applied for cancellation of the registration) if:

- (a) the Commissioner is satisfied that the entity is not \*carrying on an \*enterprise through the branch; and
- (b) the Commissioner believes on reasonable grounds that the entity is unlikely to carry on an enterprise through the branch for at least 12 months.

Note: Cancelling the registration of a GST branch under this subsection is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

- (3) The Commissioner must notify the entity of any decision he or she makes in relation to it under this section. If the Commissioner decides to cancel the registration, the notice must specify the date of effect of the cancellation.

**54-80 The date of effect of cancellation of registration of a GST branch**

The Commissioner must decide the date on which the cancellation of the \*registration of a \*GST branch of an entity under subsection 54-75(1) or (2) takes effect. That date may be any day occurring before, on or after the day on which the Commissioner makes the decision.

Note: Deciding the date of effect of the cancellation of the registration of a GST branch is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**54-85 Application of Subdivision 25-B**

Subdivision 25-B does not apply to the cancellation of the  
\*registration of a \*GST branch.

**54-90 Effect on GST branches of cancelling the entity's registration**

If an entity's \*registration is cancelled, the registration of any \*GST  
branches of the entity ceases to have effect from the day the  
cancellation takes effect.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Chapter 4** The special rules

**Part 4-1** Special rules mainly about particular ways entities are organised

**Division 57** Resident agents acting for non-residents

Section 57-1

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**Division 57—Resident agents acting for non-residents**

**57-1 What this Division is about**

This Division effectively makes resident agents acting for non-residents responsible for the GST consequences of what the non-residents do through their resident agents.

**57-5 Who is liable for GST**

- (1) GST payable on a \*taxable supply or \*taxable importation made by a \*non-resident through a \*resident agent:
  - (a) is payable by the agent; and
  - (b) is not payable by the non-resident.
- (2) This section has effect despite sections 9-40 and 13-15 (which are about liability for GST).

**57-10 Who is entitled to input tax credits**

- (1) If a \*non-resident makes a \*creditable acquisition or \*creditable importation through a \*resident agent:
  - (a) the agent is entitled to the input tax credit on the acquisition or importation; and
  - (b) the non-resident is not entitled to the input tax credit on the acquisition or importation.
- (2) This section has effect despite sections 11-20 and 15-15 (which are about who is entitled to input tax credits).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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### **57-15 Adjustments**

- (1) Any \*adjustment that a \*non-resident has relating to a supply, acquisition or importation made through a \*resident agent is to be treated as if:
  - (a) the non-resident did not have the adjustment; and
  - (b) the agent had the adjustment.
- (2) This section has effect despite section 17-10 (which is about the effect of adjustments on net amounts).

### **57-20 Resident agents are required to be registered**

- (1) A \*resident agent who is acting as agent for a \*non-resident is ***required to be registered*** if the non-resident is \*registered or \*required to be registered.
- (2) The section has effect despite section 23-5 (which is about who is required to be registered).

### **57-25 Cancellation of registration of a resident agent**

- (1) The Commissioner must cancel the \*registration of a \*resident agent if the Commissioner is satisfied that the resident agent is not \*required to be registered.

Note: Cancelling the registration of a resident agent under this subsection is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

- (2) The Commissioner must notify the \*resident agent of the cancellation.
- (3) Sections 25-50 and 25-55 do not apply to the cancellation of the \*registration of a \*resident agent.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**57-30 Notice of cessation of agency**

A \*resident agent who ceases to act as agent for a \*non-resident must notify the Commissioner of that cessation, in the \*approved form, within 14 days after so ceasing to act.

**57-35 Tax periods of resident agents**

- (1) If you are a \*resident agent who is acting as agent for a \*non-resident, the Commissioner must determine that the **tax periods** that apply to you are each individual month if the Commissioner is satisfied that the non-resident's \*annual turnover meets the \*tax period turnover threshold.

Note: Determining under this section the tax periods applying to you is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

- (2) The determination takes effect on the day specified in the determination. However, the day specified must be 1 January, 1 April, 1 July or 1 October.

Note: Deciding the date of effect of the determination is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

- (3) This section has effect in addition to section 27-15 (which is about determination of one month tax periods).

**57-40 GST returns for non-residents**

- (1) A \*non-resident is not required to give a \*GST return for a tax period if:
- (a) the non-resident's \*net amount for the tax period is zero; or
  - (b) the only \*taxable supplies or \*taxable importations that the non-resident made that are attributable to the tax period are taxable supplies or taxable importations made through a \*resident agent.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (2) This section has effect despite section 31-5 (which is about who must give GST returns).

#### **57-45 Resident agents giving GST returns**

If you are a \*resident agent acting for a \*non-resident, subsection 31-15(2) does not apply to you in relation to a tax period if, during the tax period:

- (a) the non-resident made \*taxable supplies, or supplies that would have been taxable supplies had they not been \*GST-free or \*input taxed, through you as agent; or
- (b) the non-resident made \*creditable acquisitions through you as agent.

#### **57-50 Non-residents that belong to GST groups**

This Division does not apply in relation to a \*non-resident that is a \*member of a \*GST group.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 60—Pre-establishment costs**

### **60-1 What this Division is about**

This Division enables input tax credits to arise in some circumstances in which acquisitions and importations are made before a company is in existence.

### **60-5 Input tax credit for acquisitions and importations before establishment**

- (1) If you make a \*creditable acquisition that is a \*pre-establishment acquisition, or a \*creditable importation that is a \*pre-establishment importation, relating to a \*company before it is \*in existence:
  - (a) you are not entitled to the input tax credit on the acquisition or importation; and
  - (b) once the company is in existence, it is entitled to the input tax credit on the acquisition or importation.
- (2) This section has effect despite sections 11-20 and 15-15 (which are about who is entitled to input tax credits).

### **60-10 Registration etc. not needed for input tax credits**

- (1) If you make a \*pre-establishment acquisition, the fact that you are not \*registered or \*required to be registered does not stop the acquisition being a \*creditable acquisition.
- (2) If you make a \*pre-establishment importation, the fact that you are not \*registered or \*required to be registered does not stop the acquisition being a \*creditable importation.
- (3) This section has effect despite sections 11-5 and 15-5 (which are about what are creditable acquisitions and creditable importations).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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### **60-15 Pre-establishment acquisitions and importations**

- (1) An acquisition that you make is a *pre-establishment acquisition*, and an importation that you make is a *pre-establishment importation*, if:
  - (a) you do not \*apply the thing acquired or imported for any purpose other than for a \*creditable purpose relating to a \*company not yet \*in existence; and
  - (b) the company comes into existence, and becomes \*registered, within 6 months after the acquisition or importation; and
  - (c) you become a member, officer or employee of the company; and
  - (d) in the case of an acquisition—you have been fully reimbursed by the company for the \*consideration you provided for the acquisition; and
  - (e) in the case of an importation—you have been fully reimbursed by the company:
    - (i) for the GST paid on the importation; and
    - (ii) for the cost of acquiring or producing the thing imported.
- (2) However, the acquisition or importation is *not a pre-establishment acquisition* or a *pre-establishment importation* if:
  - (a) you are entitled to an input tax credit for the acquisition or importation; or
  - (b) the company acquires the thing acquired or imported, and that acquisition by the company is a \*creditable acquisition.

### **60-20 Creditable purpose**

- (1) If, before a \*company is \*in existence, you make an acquisition or importation:
  - (a) for the purpose of bringing the company into existence; or

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (b) for the purpose of the company \*carrying on an \*enterprise after it is in existence;  
you acquire or import the thing for a *creditable purpose* only to the extent that you acquire or import it for either or both of those purposes.
- (2) However, you do not acquire or import the thing for a creditable purpose to the extent that:
- (a) the acquisition or importation relates (directly or indirectly) to the company making supplies that would be \*input taxed; or
  - (b) the acquisition or importation is of a private or domestic nature.
- (3) To the extent that an acquisition or importation relates to making \*financial supplies through an \*enterprise, or a part of an enterprise, that the company will \*carry on outside Australia, the acquisition or importation is not, for the purposes of paragraph (2)(a), treated as one that relates to making supplies that would be \*input taxed.
- (4) This section has effect despite sections 11-15 and 15-10 (which are about creditable purpose).

**60-25 Attributing the input tax credit for pre-establishment acquisitions**

- (1) The input tax credit to which a \*company is entitled under this Division for an acquisition that you made is attributable to the tax period (applying to the company) in which you were fully reimbursed by the company for the \*consideration you paid for the acquisition.
- (2) However, if the company does not hold a copy of a \*tax invoice that you (or your agent) hold for the acquisition when the company gives to the Commissioner a \*GST return for the tax period to

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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which the input tax credit for the acquisition would otherwise be attributable, then:

- (a) the input tax credit (including any part of the input tax credit) is not attributable to that tax period; and
- (b) the input tax credit (or the part of the input tax credit) is attributable to the first tax period for which the company gives to the Commissioner a GST return at a time when it holds a copy of that tax invoice.

However, this subsection does not apply in circumstances of a kind determined in writing by the Commissioner, under subsection 29-10(3), to be circumstances in which the requirement for a tax invoice does not apply.

For the giving of GST returns to the Commissioner, see Division 31.

- (3) This section has effect despite section 29-10 (which is about attributing input tax credits for acquisitions).

### **60-30 Attributing the input tax credit for pre-establishment importations**

- (1) The input tax credit to which a \*company is entitled under this Division for an importation that you made is attributable to the tax period (applying to the company) in which you were fully reimbursed by the company:
  - (a) for the GST paid on the importation; and
  - (b) for the cost of acquiring or producing the thing imported.
- (2) This section has effect despite section 29-15 (which is about attributing input tax credits for importations).

### **60-35 Application of Division 129**

If a \*company is entitled under this Division to an input tax credit for an acquisition or importation, the acquisition or importation is

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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treated, for the purposes of Division 129 (which is about changes in the extent of creditable purpose), as if the company had made it.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Part 4-2—Special rules mainly about supplies and acquisitions**

Note: The special rules in this Part mainly modify the operation of Part 2-2, but they may affect other Parts of Chapter 2 in minor ways.

### **Division 66—Second-hand goods**

#### **66-1 What this Division is about**

This Division allows you to claim input tax credits for your acquisitions of second-hand goods, even though GST was not payable on the supply of the goods to you. However, some limitations apply.

#### **66-5 Creditable acquisitions of second-hand goods**

- (1) If you acquire \*second-hand goods, the fact that the supply of the goods to you is not a \*taxable supply does not stop the acquisition being a \*creditable acquisition.
- (2) However, this section does not apply, and is taken never to have applied, to the acquisition if:
  - (a) the supply of the goods to you was a \*taxable supply, or was \*GST-free; or
  - (b) you \*imported the goods; or
  - (c) the supply of the goods to you was a supply by way of hire; or
  - (d) the supply of the goods to you occurred before 1 July 2000; or
  - (e) you make a supply of the goods that is not a taxable supply.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (3) This section has effect despite section 11-5 (which is about what is a creditable acquisition).

**66-10 Amounts of input tax credits for creditable acquisitions of second-hand goods**

- (1) The amount of the input tax credit for a \*creditable acquisition of \*second-hand goods is:
- (a) an amount equal to  $\frac{1}{11}$  of the \*consideration that you provide, or are liable to provide, for the acquisition; or
  - (b) if that amount is more than the amount of the GST payable on a \*taxable supply of the goods that you make—the amount of GST on that taxable supply.
- (2) However, this section does not apply if the supply of the goods to you is a \*taxable supply.
- (3) This section has effect despite section 11-25 (which is about the amount of input tax credits for creditable acquisitions).

**66-15 Attributing input tax credits for creditable acquisitions of second-hand goods**

- (1) If:
- (a) you are entitled, under this Division, to the input tax credit for a \*creditable acquisition of \*second-hand goods; and
  - (b) the \*consideration for the acquisition was more than \$300; the input tax credit for the acquisition is attributable to:
  - (c) the tax period in which any \*consideration is received for a subsequent \*taxable supply of the goods; or
  - (d) if, before any of the consideration is received, you have issued an \*invoice relating to the supply—the tax period in which the invoice is issued.
- (2) However, if you \*account on a cash basis, then:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (a) if, in a tax period, *all* of the \*consideration is received for the subsequent \*taxable supply—the input tax credit for the acquisition is attributable to that tax period; or
  - (b) if, in a tax period, *part* of the consideration is received—the input tax credit for the acquisition is attributable to that tax period, but only to the extent that the consideration is received in that tax period; or
  - (c) if, in a tax period, *none* of the consideration is received—none of the input tax credit for the acquisition is attributable to that tax period.
- (3) Subsection 29-10(3) does not apply in relation to a \*creditable acquisition of \*second-hand goods if the supply of the goods to you was not a \*taxable supply.
- (4) This section has effect despite section 29-10 (which is about attributing the input tax credits for creditable acquisitions).

#### **66-20 Returnable containers**

This Division does not apply to an acquisition of a \*returnable container.

Note: See Division 93 for input tax credits for acquisitions of returnable containers.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

## **Division 69—Non-deductible expenses**

### **69-1 What this Division is about**

Some expenses that are not deductible under the ITAA 1997 do not give rise to creditable acquisitions or creditable importations. The amount of input tax credits on some creditable acquisitions or creditable importations of cars is reduced.

### **69-5 Non-deductible expenses do not give rise to creditable acquisitions or creditable importations**

- (1) An acquisition is not a \*creditable acquisition to the extent that it is a \*non-deductible expense.
- (2) An importation is not a \*creditable importation to the extent that it is a \*non-deductible expense.
- (3) An acquisition or importation is a *non-deductible expense* if it is not deductible under Division 8 of the \*ITAA 1997 because of one of the following:
  - (a) section 26-5 of the \*ITAA 1997 (Penalties);
  - (b) section 26-30 of the \*ITAA 1997 (Relative's travel expenses);
  - (c) section 26-40 of the \*ITAA 1997 (Maintaining your family);
  - (d) section 26-45 of the \*ITAA 1997 (Recreational club expenses);
  - (e) section 26-50 of the \*ITAA 1997 (Expenses for a leisure facility or boat);
  - (f) Division 32 of the \*ITAA 1997 (Entertainment expenses);
  - (g) Division 34 of the \*ITAA 1997 (Non-compulsory uniforms);

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (h) section 51AK of the \*ITAA 1936 (Agreements for the provision of non-deductible non-cash business benefits);
  - (i) Division 4A of Part III of the \*ITAA 1936 (Car parking for certain self-employed persons, partnerships and trusts).
- (4) If the entity making the acquisition or importation is an \*exempt entity, the acquisition or importation is a **non-deductible expense** if it would have been a non-deductible expense under subsection (3) had the entity not been an exempt entity.
- (5) This section has effect despite sections 11-5 and 15-5 (which are about what is a creditable acquisition and what is a creditable importation).

**69-10 Amounts of input tax credits for creditable acquisitions or creditable importations of certain cars**

- (1) If:
- (a) you are entitled to an input tax credit for a \*creditable acquisition or \*creditable importation of a \*car; and
  - (b) you are not, for the purposes of the *A New Tax System (Luxury Car Tax) Act 1999*, entitled to quote an \*ABN in relation to the supply to which the creditable acquisition relates, or in relation to the importation, as the case requires; and
  - (c) the \*GST inclusive market value of the car exceeds the \*car depreciation limit for the \*financial year in which you first used the car for any purpose;
- the amount of the input tax credit on the acquisition or importation is an amount equal to  $\frac{1}{11}$  of that limit.
- (2) This section has effect despite sections 11-25 and 15-20 (which are about the amount of input tax credits on creditable acquisitions and the amount of input tax credits on creditable importations).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 70—Financial supplies (reduced credit acquisitions)**

### **70-1 What this Division is about**

In some cases, acquisitions relating to financial supplies can attract a reduced input tax credit, even though no input tax credit could arise under the basic rules.

### **70-5 Acquisitions that attract the reduced credit**

- (1) The regulations may provide that acquisitions of a specified kind that relate to making \*financial supplies can give rise to an entitlement to a reduced input tax credit. These are *reduced credit acquisitions*.
- (2) For each kind of \*reduced credit acquisition specified, the regulations must specify a percentage to which the input tax credit is reduced.

### **70-10 Extended meaning of *creditable purpose***

- (1) The fact that a \*reduced credit acquisition relates to making \*financial supplies does not stop it being for a \*creditable purpose, to the extent that it relates to making financial supplies.
- (2) The fact that you \*apply a \*reduced credit acquisition in making \*financial supplies does not stop it being applied for a \*creditable purpose, to the extent that it relates to making financial supplies.
- (3) This section has effect despite sections 11-15 and 129-50 (which are about the meaning of creditable purpose).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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### **70-15 How much are the reduced input tax credits?**

- (1) The amount of an input tax credit for a \*creditable acquisition of a \*reduced credit acquisition is an amount equal to the GST payable on the supply of the acquisition multiplied by the percentage specified under subsection 70-5(2) for acquisitions of that kind.
- (2) However, the amount of such an input tax credit is further reduced if the acquisition is only \*partly creditable.
- (3) This section has effect despite section 11-25 (which is about the amount of input tax credits).

### **70-20 Extent of creditable purpose**

- (1) If:
  - (a) a \*reduced credit acquisition is a \*creditable acquisition; and
  - (b) it is not wholly for a \*creditable purpose because of this Division;it is \*partly creditable.

- (2) The extent to which the acquisition is acquired or applied for a \*creditable purpose is worked out using the following formula:

$$\text{Extent of creditable purpose} + \left[ \text{Extent of Division 70 creditable purpose} \times \text{Percentage credit reduction} \right]$$

where:

***extent of creditable purpose*** is the extent to which the purpose for which you applied or acquired the acquisition was a \*creditable purpose otherwise than because of this Division, expressed as a percentage.

***extent of Division 70 creditable purpose*** is the extent to which the purpose for which you applied or acquired the acquisition was a \*creditable purpose because of this Division, expressed as a percentage.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

Section 70-25

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**percentage credit reduction** is the reduced input tax credit percentage prescribed for the purposes of subsection 70-5(2) for an acquisition of that kind.

Note: This section affects sections 11-30 and 129-40. It is used even if the reduced credit acquisition is used wholly in carrying on your enterprise (unless the acquisition was wholly for a creditable purpose because of this Division, then section 70-15 applies).

Example 1: You make a reduced credit acquisition of \$110,000, wholly for the purposes of carrying on your enterprise, partly for the purpose of making financial supplies (40%) and partly for the purpose of making taxable supplies (60%). Assume the percentage credit reduction to be 50%. The extent to which you make the acquisition for a creditable purpose is:

$$60\% + \left[ 40\% \times 50\% \right] = 80\%$$

Applying section 11-30, your input tax credit is \$8,000 (assuming you were liable for all the consideration).

Example 2: You subsequently apply the acquisition partly in making financial supplies (40%), partly in making taxable supplies (40%) and partly for private use (20%). The extent to which you made the acquisition for a creditable purpose is:

$$40\% + \left[ 40\% \times 50\% \right] = 60\%$$

Applying Division 129, your input tax credit is reduced to \$6,000, giving you an increasing adjustment of \$2,000.

**70-25 Sale of reduced credit acquisitions (Division 132)**

- (1) If:
- (a) you supply a \*reduced credit acquisition in circumstances to which Division 132 applies; and
  - (b) you made the acquisition for a \*creditable purpose because of this Division, or you applied the acquisition for a \*creditable purpose because of this Division;
- this section applies for the purposes of Division 132.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (2) In working out the full input tax credit in subsection 132-5(2), the reference to a \*creditable purpose in paragraph (a) of the definition of **full input tax credit** is to be read as a reference to a \*creditable purpose otherwise than because of Division 70.
- (3) In working out the adjusted input tax credit in subsection 132-5(2), the extent of the \*creditable purpose because of subsection 132-5(4) is increased by the following extent:

$$\text{Extent of Division 70} \times \text{Percentage credit} \\ \text{creditable purpose} \quad \quad \quad \text{reduction}$$

where:

**extent of Division 70 creditable purpose** has the same meaning as in section 70-20.

**percentage credit reduction** has the same meaning as in section 70-20.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 72-1

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## **Division 72—Associates**

### **Table of Subdivisions**

72-A	Supplies without consideration
72-B	Acquisitions without consideration
72-C	Supplies for inadequate consideration

### **72-1 What this Division is about**

This Division ensures that supplies to, and acquisitions from, 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.

### **Subdivision 72-A—Supplies without consideration**

#### **72-5 Taxable supplies without consideration**

- (1) The fact that a supply to your \*associate is without \*consideration, does not stop the supply being a \*taxable supply if:
  - (a) your associate is not \*registered or \*required to be registered;  
or
  - (b) your associate acquires the thing supplied otherwise than solely for a \*creditable purpose.
- (2) This section has effect despite paragraph 9-5(a) (which would otherwise require a taxable supply to be for consideration).

#### **72-10 The value of taxable supplies without consideration**

- (1) If a supply to your \*associate without \*consideration is a \*taxable supply, its *value* is the \*GST exclusive market value of the supply.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (2) This section has effect despite section 9-75 (which is about the value of taxable supplies).

### **72-15 Attributing the GST to tax periods**

- (1) The tax period to which the GST on a \*taxable supply to your \*associate without \*consideration is attributable is the tax period in which the supply first becomes a supply that is \*connected with Australia.
- (2) This section has effect despite section 29-5 (which is about attributing GST on taxable supplies).

### **Subdivision 72-B—Acquisitions without consideration**

#### **72-40 Creditable acquisitions without consideration**

- (1) The fact that an acquisition from your \*associate is without \*consideration does not stop the acquisition being a \*creditable acquisition if you acquire the thing supplied otherwise than solely for a \*creditable purpose.
- (2) This section has effect despite paragraph 11-5(c) (which would otherwise require a creditable acquisition to be for consideration).

#### **72-45 The amount of the input tax credit**

- (1) The amount of the input tax credit on an acquisition from your \*associate that is without \*consideration is as follows:

Full input tax credit × Extent of creditable purpose

where:

*extent of creditable purpose* is the extent to which the creditable acquisition is for a \*creditable purpose, expressed as a percentage of the total purpose of the acquisition.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 72-50

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*full input tax credit* is what would have been the amount of the input tax credit for the acquisition if it had been made solely for a creditable purpose and you had provided, or had been liable to provide, all of the consideration for the acquisition.

- (2) This section has effect despite subsection 11-30(2) (which is about the amount of input tax credits on partly creditable acquisitions).

**72-50 Attributing the input tax credit to tax periods**

- (1) The tax period to which the input tax credit for a \*creditable acquisition from your \*associate without \*consideration is attributable is the tax period in which the supply to which the acquisition relates first becomes a supply that is \*connected with Australia.
- (2) This section has effect despite section 29-10 (which is about attributing input tax credits for creditable acquisitions).

**Subdivision 72-C—Supplies for inadequate consideration**

**72-70 The value of taxable supplies for inadequate consideration**

- (1) If a supply to your \*associate for \*consideration that is *less* than the \*GST inclusive market value is a \*taxable supply, its *value* is the \*GST exclusive market value of the supply.
- (2) Subsection (1) does not apply if:
- (a) your associate is \*registered or \*required to be registered; and
  - (b) your associate acquires the thing supplied *solely* for a \*creditable purpose.
- (3) This section has effect despite section 9-75 (which is about the value of taxable supplies).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 75—Sale of freehold interests etc.**

### **75-1 What this Division is about**

This Division allows you to use a margin scheme to bring within the GST system your taxable supplies of freehold interests in land, of stratum units and of long-term leases.

### **75-5 Choosing to apply the margin scheme**

- (1) If you make a \*taxable supply of \*real property by:
  - (a) selling a freehold interest in land; or
  - (b) selling a \*stratum unit; or
  - (c) granting or selling a \*long-term lease;you may choose to apply the \*margin scheme in working out the amount of GST on the supply.
- (2) However, you cannot choose to apply the \*margin scheme if you acquired the freehold interest, \*stratum unit or \*long-term lease through a \*taxable supply on which the GST was worked out without applying the margin scheme.

### **75-10 The amount of GST on taxable supplies**

- (1) If a \*taxable supply of \*real property is under the \*margin scheme, the amount of GST on the supply is  $\frac{1}{11}$  of the \*margin for the supply.
- (2) The *margin* for the supply is the amount by which the \*consideration for the supply exceeds the consideration for your acquisition of the interest, unit or lease in question.
- (3) However, if:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 75-10

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- (a) the circumstances specified in an item in the second column of the table in this subsection apply to the supply; and
- (b) a valuation of the freehold interest, \*stratum unit or \*long-term lease, as at the day specified in the corresponding item in the third column of the table, has been made that complies with any requirements determined in writing by the Commissioner for making valuations for the purposes of this Division;

the *margin* for the supply is the amount by which the \*consideration for the supply exceeds that valuation of the interest, unit or lease.

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<b>Use of valuations to work out margins</b>		
<b>Item</b>	<b>When valuations may be used</b>	<b>Days when valuations are to be made</b>
1	The supplier acquired the interest, unit or lease before 1 July 2000, and items 2, 3 and 4 do not apply.	1 July 2000
2	The supplier acquired the interest, unit or lease before 1 July 2000, but does not become *registered or *required to be registered until after 1 July 2000.	The date of effect of your registration, or the day on which you applied for registration (if it is earlier)
3	The supplier is *registered or *required to be registered and has held the interest, unit or lease since before 1 July 2000, and there were improvements on the land or premises in question as at 1 July 2000.	1 July 2000

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 75-15

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<b>Use of valuations to work out margins</b>		
<b>Item</b>	<b>When valuations may be used</b>	<b>Days when valuations are to be made</b>
4	The supplier is the Commonwealth, a State or a Territory and has held the interest, unit or lease since before 1 July 2000, and there were no improvements on the land or premises in question as at 1 July 2000.	The day on which the *taxable supply takes place

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- (4) This section has effect despite section 9-70 (which is about the amount of GST on taxable supplies).

**75-15 Subdivided land**

For the purposes of section 75-10, if the freehold interest, \*stratum unit or \*long-term lease you supply relates only to part of land or premises that you acquired, the \*consideration for your acquisition of that part is the corresponding proportion of the consideration for the land or premises that you acquired.

**75-20 Supplies under a margin scheme do not give rise to creditable acquisitions**

- (1) An acquisition of a freehold interest in land, a \*stratum unit or a \*long-term lease is not a \*creditable acquisition if the supply of the interest, unit or lease was a \*taxable supply under the \*margin scheme.
- (2) This section has effect despite section 11-5 (which is about what is a creditable acquisition).

**75-25 Adjustments relating to bad debts**

- (1) If:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (a) you have an \*adjustment under Division 21 relating to a supply that you made that is a \*taxable supply of \*real property under the \*margin scheme; and
  - (b) the amount of the adjustment would (apart from this section) exceed  $\frac{1}{11}$  of the \*margin for the supply;  
the amount of the adjustment is  $\frac{1}{11}$  of the margin for the supply.
- (2) This section has effect despite sections 21-5 and 21-10 (which are about adjustments for writing off and recovering suppliers' bad debts).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 78—Insurance**

### **78-1 What this Division is about**

Settlements of claims under insurance policies in most cases entitle insurers to input tax credits. Entities that are insured can be liable for GST on the settlement, but third parties paid under the settlement are not liable for GST.

### **Table of Subdivisions**

78-A	Insurers
78-B	Insured entities
78-C	Third parties
78-D	Insured entities that are not registered etc.

### **Subdivision 78-A—Insurers**

#### **78-5 Creditable acquisitions relating to settlements of insurance claims**

- (1) If, in settlement of a claim under an \*insurance policy, an insurer:
  - (a) makes a payment of \*money; or
  - (b) makes a supply; or
  - (c) makes both a payment of money and a supply;the payment or supply is treated as \*consideration for an acquisition made by the insurer.
- (2) The acquisition is a *creditable acquisition* if:
  - (a) the insurer settles the claim for a \*creditable purpose; and
  - (b) the insurer is \*registered, or \*required to be registered.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (3) However, this section only applies if the supply of the \*insurance policy by the insurer was a \*taxable supply.
- (4) An *insurance policy* is a policy of insurance (or of reinsurance) against loss, damage, injury or risk of any kind, whether under a contract or a law. However, it does not include such a policy to the extent that it does not relate to insurance (or reinsurance) against loss, damage, injury or risk of any kind.
- (5) This section has effect despite section 11-5 (which is about what is a creditable acquisition).

**78-10 Amount of input tax credits relating to settlements of insurance claims**

- (1) The amount of the input tax credit for a \*creditable acquisition to which section 78-5 applies is an amount equal to <sup>1</sup>/<sub>11</sub> of:
  - (a) all payments of \*money made in settlement of the claim in question; plus
  - (b) the market value of all supplies, made in settlement of the claim, that are not \*taxable supplies; minus
  - (c) any payments of an excess under the \*insurance policy in question.
- (2) However, the amount of the input tax credit is reduced by the extent (if any) to which the settlement relates to one or more \*non-creditable insurance events.
- (3) An event is a *non-creditable insurance event* if the supply of an \*insurance policy would not be a \*taxable supply if it were only an insurance policy against loss, damage, injury or risk that relates to that event happening.
- (4) This section has effect despite section 11-25 (which is about the amount of input tax credits for creditable acquisitions).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**78-15 Acquisitions of goods by insurers in the course of settling claims**

- (1) An acquisition of \*goods is not a \*creditable acquisition if:
  - (a) it is *solely* an acquisition made by an insurer for the purpose of supplying the goods in the course of settling a claim under an \*insurance policy; and
  - (b) the supply of the insurance policy by the insurer was not a \*taxable supply.
- (2) This section has effect despite section 11-5 (which is about what is a creditable acquisition).

**Subdivision 78-B—Insured entities**

**78-30 Taxable supplies relating to settlements of insurance claims**

- (1) If, in settlement of a claim under an \*insurance policy, an insurer:
  - (a) makes a payment of \*money; or
  - (b) makes a supply; or
  - (c) makes both a payment of money and a supply;the payment or supply is treated as \*consideration for a supply made by the entity insured under the insurance policy, whether or not the payment or supply is made to that entity.
- (2) The supply made by the entity insured under the insurance policy is a **taxable supply** if the entity was entitled to an input tax credit for the premium it paid relating to the period during which the event giving rise to the claim happened.
- (3) It does not matter whether the entity is \*registered, or \*required to be registered, at the time of the settlement or at the time of the payment or supply by the insurer.

Note: Subdivision 78-D deals with how GST applies to the taxable supply if the insured entity is not registered, or required to be registered.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 78-35

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- (4) However, the supply to the entity insured is not a \*taxable supply to the extent (if any) that the \*consideration for the supply is a taxable supply.
- (5) This section has effect despite section 9-5 (which is about what are taxable supplies) and section 9-15 (which is about consideration).

**78-35 Payments of excess under insurance policies are not consideration for supplies**

- (1) The making of any payment by an entity is not treated as \*consideration for a supply, to the entity or any other entity, to the extent that the payment is the payment of an excess under an \*insurance policy.
- (2) This section has effect despite section 9-15 (which is about consideration).

**78-40 Effect of payments of excess under insurance policies on amounts of GST**

- (1) If, in settlement of a claim under an \*insurance policy:
  - (a) the entity insured under the insurance policy makes a \*taxable supply under subsection 78-30(2); and
  - (b) the entity makes a payment of an excess under the policy; the *value* of the taxable supply is reduced by an amount equal to <sup>10</sup>/<sub>11</sub> of the amount of the excess.
- (2) This section has effect despite section 9-75 (which is about the value of taxable supplies).

**78-45 Supplies of goods to insurers in the course of settling claims**

- (1) A supply of goods is not a \*taxable supply if it is *solely* a supply made under an \*insurance policy to an insurer in the course of settling a claim under the policy.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 78-50

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- (2) In working out the *value* of a \*taxable supply that is *partly* a supply of goods made under an \*insurance policy to an insurer in the course of settling a claim under the policy, disregard the \*consideration to the extent that it relates to the supply of those goods.
- (3) This section has effect despite section 9-5 (which is about what are taxable supplies) and section 9-75 (which is about the value of taxable supplies).

**78-50 Settlements of claims relating to non-creditable insurance events**

- (1) Despite section 78-30, a supply by an insured entity under subsection 78-30(1) is not a \*taxable supply to the extent (if any) that it relates to a settlement that relates to one or more \*non-creditable insurance events.
- (2) This section has effect despite section 9-5 (which is about what are taxable supplies).

**Subdivision 78-C—Third parties**

**78-65 Payments etc. to third parties by insurers**

- (1) The making of any payment by an insurer to an entity is not treated as \*consideration for a supply to the insurer by the entity, to the extent that the payment is made in settlement of a claim under an \*insurance policy under which the entity is not insured.
- (2) The making of any supply by an insurer to an entity:
  - (a) is not to be treated as a \*taxable supply by the insurer; and
  - (b) is not to be treated as \*consideration for a supply to the insurer by the entity, or any other entity;to the extent that the supply is made in settlement of a claim under an \*insurance policy under which the entity is not insured.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (3) This section has effect despite section 9-5 (which is about what are taxable supplies) and section 9-15 (which is about consideration).

**78-70 Payments etc. to third parties by insured entities**

- (1) The making of any payment by an entity to another entity is not to be treated as \*consideration for a supply to the entity by that other entity, to the extent that:
- (a) the payment is to discharge a liability of the entity to that other entity; and
  - (b) the payment is covered by a settlement of a claim under an \*insurance policy under which the entity was insured against that liability.
- (2) The making of any supply by an entity to another entity:
- (a) is not to be treated as a \*taxable supply by the entity; and
  - (b) is not to be treated as \*consideration for a supply to the entity by that other, or any other, entity;
- to the extent that:
- (c) the supply is to discharge a liability of the entity to that other entity; and
  - (d) the supply is covered by a settlement of a claim under an \*insurance policy under which the entity was insured against that liability.
- (3) This section has effect despite section 9-5 (which is about what are taxable supplies) and section 9-15 (which is about consideration).

**Subdivision 78-D—Insured entities that are not registered etc.**

**78-80 Net amounts**

- (1) If an entity insured under an \*insurance policy is not \*registered or \*required to be registered, it does not have a \*net amount under

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 78-85

Part 2-4 merely because it makes a \*taxable supply under section 78-30.

- (2) This section does not prevent an \*adjustment arising that relates to such a supply, but the entity cannot have a \*decreasing adjustment unless it is \*registered or \*required to be registered.
- (3) This section has effect despite Division 17 (which is about net amounts and adjustments).

**78-85 GST returns**

- (1) If, during a month:
  - (a) an entity makes any \*taxable supplies under section 78-30; or
  - (b) an entity has any \*increasing adjustments that arise in relation to any such supplies (whether made in that month or a previous month);and the entity is not \*registered or \*required to be registered during that month, it must give to the Commissioner a \*GST return, within 21 days after the end of the month, relating to those supplies it made in that month and those adjustments.
- (2) The \*GST return need not state a \*net amount.
- (3) This section has effect despite sections 31-5, 31-10 and 31-15 (which are about giving GST returns).

**78-90 Payments of GST**

- (1) If an entity is not \*registered or \*required to be registered during a particular month, it must pay:
  - (a) amounts of GST on \*taxable supplies under section 78-30 that it makes during that month; and
  - (b) amounts of \*increasing adjustments that it has that arise, during that month, in relation to supplies that are \*taxable supplies under section 78-30;

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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within 21 days after the end of the month, and at the place and in the manner specified by the Commissioner.

- (2) This section has effect despite Division 33 (which is about payments of GST).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 81—Payments of taxes**

### **81-1 What this Division is about**

GST applies to payments of taxes and other charges, except those taxes and other charges that are excluded from the GST by a determination of the Treasurer.

### **81-5 Payments of taxes can constitute consideration**

- (1) The payment of any \*Australian tax (other than the GST) that you make, or the discharging of your liability to make such a payment, is to be treated as the provision of \*consideration, to the entity to which the tax is payable, for a supply that the entity makes to you.
- (2) However, the payment of any \*Australian tax that is specified in a written determination of the Treasurer, or the discharging of a liability to make such a payment, is not the provision of \*consideration.
- (3) A determination by the Treasurer under this section is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (4) This section has effect despite section 9-15 (which is about consideration).

### **81-10 Supplies need not be connected with Australia if the consideration is the payment of tax**

- (1) The fact that a supply is not \*connected with Australia does not stop the supply being a \*taxable supply if the \*consideration for the supply is the payment of any \*Australian tax, or the discharging of a liability to make such a payment.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (2) This section has effect despite section 9-5 (which is about taxable supplies).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 84—Offshore supplies other than goods or real property**

### **84-1 What this Division is about**

In some limited cases, supplies (of things other than goods or real property) taking place outside Australia are brought within the GST system.

### **84-5 Intangible supplies from offshore may be taxable supplies**

- (1) A supply of anything other than goods or \*real property that is a supply not \*connected with Australia is a **taxable supply** if:
  - (a) the \*recipient of the supply acquires the thing supplied solely or partly for the purpose of an \*enterprise that the recipient \*carries on in Australia, but not solely for a \*creditable purpose; and
  - (b) the supply is for \*consideration; and
  - (c) the recipient is \*registered, or \*required to be registered.However, the supply is not a \*taxable supply to the extent that it is \*GST-free or \*input taxed.
- (2) For the purposes of paragraph (1)(c), in determining whether the \*recipient is \*required to be registered, what would be the \*value of such supplies (if they were \*taxable supplies) is to be counted towards the recipient's \*annual turnover.
- (3) This section has effect despite section 9-5 (which is about what is a taxable supply).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 84-10

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**84-10 “Reverse charge” on offshore intangible supplies**

- (1) The GST on a supply that is a \*taxable supply because of section 84-5:
  - (a) is payable by the \*recipient of the supply; and
  - (b) is not payable by the supplier.
- (2) This section has effect despite section 9-40 (which is about liability for the GST).

**84-15 Transfers etc. between branches of the same entity**

For the purposes of section 84-5, if an entity:

- (a) \*carries on an \*enterprise in Australia; and
- (b) also carries on that or another enterprise outside Australia;

then:

- (c) the transfer of anything to the enterprise in Australia from the enterprise outside Australia; or
- (d) the doing of anything for the enterprise in Australia by the enterprise outside Australia;

is taken to be a supply that is not \*connected with Australia.

**Example:** An entity acquires, through a place of business it has overseas, the right to exploit a particular copyright in Australia. That right is then transferred to a place of business that the entity has in Australia.

Under this section, the transfer is taken to be a supply that is not connected with Australia and, if the other requirements of section 84-5 are satisfied, the transfer is a taxable supply.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 87—Long-term accommodation in commercial residential premises**

### **87-1 What this Division is about**

Long-term stays in commercial residential premises are given a lower value than would otherwise apply, reducing the amount of GST payable.

### **87-5 Commercial residential premises that are predominantly for long-term accommodation**

- (1) The *value* of a \*taxable supply of \*commercial accommodation that:
  - (a) is provided in \*commercial residential premises that are \*predominantly for long-term accommodation; and
  - (b) is provided to an individual as \*long-term accommodation; is 50%, or such other percentage as is specified in the regulations, of what would be the \*price of the supply if this Division did not apply.
- (2) This section has effect despite section 9-75 (which is about the value of taxable supplies).

### **87-10 Commercial residential premises that are not predominantly for long-term accommodation**

- (1) The *value* of a \*taxable supply of \*commercial accommodation that:
  - (a) is provided in \*commercial residential premises that are not \*predominantly for long-term accommodation; and
  - (b) is provided to an individual as \*long-term accommodation;

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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is the sum of:

- (c) the value, worked out in the way set out in section 9-75, of that part of the supply that relates to provision of the commercial accommodation *during* the first 27 days; and
  - (d) 50%, or such other percentage as is specified in the regulations, of what would be the \*price (if this Division did not apply) of that part of the supply that relates to provision of the commercial accommodation *after* the first 27 days.
- (2) This section has effect despite section 9-75 (which is about the value of taxable supplies).

**87-15 Meaning of *commercial accommodation***

*Commercial accommodation* means the right to occupy the whole or any part of \*commercial residential premises, including, if it is provided as part of the right so to occupy, the supply of:

- (a) cleaning and maintenance; or
- (b) electricity, gas, air-conditioning or heating; or
- (c) telephone, television, radio or any other similar thing.

**87-20 Meaning of *long-term accommodation etc.***

- (1) *Long-term accommodation* is provided to an individual if \*commercial accommodation is provided, for a continuous period of 28 days or more, in the same premises:
- (a) to that individual alone; or
  - (b) to that individual, together with one or more other individuals who:
    - (i) are also provided with that commercial accommodation; and
    - (ii) are not provided with it at their own expense (whether incurred directly or indirectly).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (2) For the purpose of working out the number of days in the period for which an individual is provided with \*commercial accommodation:
  - (a) count the day on which he or she is first provided with the commercial accommodation; and
  - (b) disregard the day on which he or she ceases to be provided with commercial accommodation.
- (3) \*Commercial residential premises are *predominantly for long-term accommodation* if at least 70% of the individuals who are provided with \*commercial accommodation in the premises are provided with commercial accommodation as \*long-term accommodation.

### **87-25 Suppliers may choose not to apply this Division**

- (1) This Division does not apply to a supply of \*commercial accommodation if the supplier chooses not to apply this Division to any supplies of commercial accommodation that the supplier makes.
- (2) The choice applies to all supplies of \*commercial accommodation that the supplier makes after the choice is made and before the choice is revoked.
- (3) However, the supplier:
  - (a) cannot revoke the choice within 12 months after the day on which the supplier made the choice; and
  - (b) cannot make a further choice within 12 months after the day on which the supplier revoked a previous choice.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 90—Company amalgamations**

### **90-1 What this Division is about**

<p>This Division ensures proper account is taken of liabilities and entitlements under the GST system when companies amalgamate.</p>
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### **90-5 Supplies not taxable—amalgamated company registered or required to be registered**

- (1) A supply made by an \*amalgamating company to an \*amalgamated company in the course of \*amalgamation is not a \*taxable supply if, immediately after the amalgamation, the amalgamated company is \*registered or \*required to be registered.
- (2) This section has effect despite section 9-5 (which is about what is a taxable supply).

### **90-10 Value of taxable supplies—amalgamated company not registered or required to be registered**

- (1) If:
  - (a) an \*amalgamating company makes a \*taxable supply to an \*amalgamated company in the course of \*amalgamation; and
  - (b) immediately after the amalgamation, the amalgamated company is neither \*registered nor \*required to be registered;the *value* of the taxable supply is the \*GST exclusive market value of the supply.
- (2) This section has effect despite section 9-75 (which is about the value of taxable supplies).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**90-15 Acquisitions not creditable—amalgamated company registered or required to be registered**

- (1) An acquisition made by an \*amalgamated company from an \*amalgamating company in the course of \*amalgamation is not a \*creditable acquisition if, immediately after the amalgamation, the amalgamated company is \*registered or \*required to be registered.
- (2) This section has effect despite section 11-5 (which is about what is a creditable acquisition).

**90-20 Liability after amalgamation for GST on amalgamating company's supplies**

- (1) An \*amalgamated company must pay the GST payable on a \*taxable supply if:
  - (a) apart from the \*amalgamation, the GST would have been payable by any of the \*amalgamating companies; and
  - (b) the GST was not attributable, before the amalgamation, to a tax period applying to the amalgamating company.
- (2) This section has effect despite section 9-40 (which is about liability for GST).

**90-25 Entitlement after amalgamation to input tax credits for amalgamating company's acquisitions**

- (1) An \*amalgamated company is entitled to the input tax credit for a \*creditable acquisition if:
  - (a) apart from the \*amalgamation, any of the \*amalgamating companies would have been entitled to the input tax credit; and
  - (b) the input tax credit was not attributable, before the amalgamation, to a tax period applying to the amalgamating company.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 90-30

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- (2) This section has effect despite section 11-20 (which is about who is entitled to input tax credits).

**90-30 Adjustments**

- (1) An \*amalgamated company has an \*adjustment if:
- (a) apart from the \*amalgamation, any of the \*amalgamating companies would have had the adjustment; and
  - (b) the adjustment was not attributable, before the amalgamation, to a tax period applying to the amalgamating company.
- (2) This section has effect despite section 17-10 (which is about the effect of adjustments on net amounts).

**90-35 Amalgamating companies accounting on a cash basis**

- (1) If:
- (a) immediately before \*amalgamation, an \*amalgamating company \*accounted on a cash basis; and
  - (b) GST payable by the company on a \*taxable supply, an input tax credit to which the company was entitled for a \*creditable acquisition, or an \*adjustment that the company had, was not attributable, before the amalgamation, to any of the tax periods applying to the company; and
  - (c) the GST, input tax credit or adjustment would have been attributable to such a tax period if the company had not accounted on a cash basis during that period; and
  - (d) immediately after the amalgamation, the \*amalgamated company does not account on a cash basis;
- the GST, input tax credit or adjustment (as the case requires) is attributable to the first tax period applying to the amalgamated company that ends after the amalgamation.

- (2) If:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (a) immediately before \*amalgamation, an \*amalgamating company \*accounted on a cash basis; and
  - (b) GST payable by the company on a \*taxable supply, an input tax credit to which the company was entitled for a \*creditable acquisition, or an \*adjustment that the company had, was only to some extent attributable, before the amalgamation, to any of the tax periods applying to the company; and
  - (c) the GST, input tax credit or adjustment would have been solely attributable to such a tax period if the company had not accounted on a cash basis during that period; and
  - (d) immediately after the amalgamation, the \*amalgamated company does not account on a cash basis;
- the GST, input tax credit or adjustment (as the case requires) is attributable to the first tax period applying to the amalgamated company that ends after the amalgamation, but only to the extent that it was not attributable to any of the tax periods applying to the amalgamating company.
- (3) This section has effect despite sections 29-5, 29-10 and 29-20 (which are about attributing GST on supplies, input tax credits for acquisitions, and adjustments).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 93—Returnable containers**

### **93-1 What this Division is about**

This Division allows for input tax credits for the acquisition of returnable containers from people who are not making taxable supplies.

### **93-5 Creditable acquisitions of returnable containers**

- (1) If you acquire a \*returnable container from an entity that is not \*registered or \*required to be registered, the fact that the supply of the container to you is not a \*taxable supply does not stop the acquisition being a \*creditable acquisition.
- (2) A container is a *returnable container* if entities of a kind provided under a \*State law or \*Territory law are obliged under that law:
  - (a) to accept delivery of that container when empty; and
  - (b) to pay a refund to the entity delivering the container.
- (3) This section has effect despite section 11-5 (which is about what is a creditable acquisition).

### **93-10 How much are the input tax credits for creditable acquisitions of returnable containers?**

- (1) The amount of the input tax credit on a \*creditable acquisition of a \*returnable container is an amount equal to <sup>1</sup>/<sub>11</sub> of:
  - (a) the \*consideration that you provide, or are liable to provide, for the acquisition; or
  - (b) if that consideration is more than the amount of the refund that you are obliged to pay under the \*State law or \*Territory

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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law in question—the amount of the refund that you are obliged to pay.

- (2) However, this section does not apply if the supply of the container to you is a \*taxable supply.
- (3) This section has effect despite section 11-25 (which is about the amount of input tax credits for creditable acquisitions).

### **93-15 Attributing creditable acquisitions of returnable containers**

- (1) If you are entitled to the input tax credit for a \*creditable acquisition of a \*returnable container but the supply of the container was not a \*taxable supply, the input tax credit for the acquisition is attributable to:
  - (a) the tax period in which any \*consideration is received for a subsequent \*taxable supply of the container; or
  - (b) if, before any of the consideration is received, you have issued an \*invoice relating to the supply—the tax period in which the invoice is issued.
- (2) However, if you \*account on a cash basis, then:
  - (a) if, in a tax period, *all* of the \*consideration is received for the subsequent \*taxable supply—the input tax credit for the acquisition is attributable to that tax period; or
  - (b) if, in a tax period, *part* of the consideration is received—the input tax credit for the acquisition is attributable to that tax period, but only to the extent that the consideration is received in that tax period; or
  - (c) if, in a tax period, *none* of the consideration is received—none of the input tax credit for the acquisition is attributable to that tax period.
- (3) Subsection 29-10(3) does not apply in relation to a \*creditable acquisition of a \*returnable container if the supply of the container was not a \*taxable supply.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (4) This section has effect despite section 29-10 (which is about attributing the input tax credits for creditable acquisitions).

**93-20 Ownership of returnable containers**

To avoid doubt, if a \*returnable container is delivered to you in circumstances under which you are obliged, under a \*State law or \*Territory law, to make a refund to the entity delivering the container, your acceptance of the delivery is an acquisition of the container:

- (a) whether or not you owned the container immediately prior to the delivery; and
- (b) whether or not you become the owner of the container on that delivery.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 96—Supplies partly connected with Australia**

### **96-1 What this Division is about**

<p>This Division treats a supply that is partly connected with Australia as separate supplies, so that only the part of a supply that is connected with Australia is included in the GST system.</p>
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### **96-5 Supplies that are only partly connected with Australia**

- (1) If, because a supply (the *actual supply*) is a supply of more than one of these kinds:
  - (a) a supply of goods;
  - (b) a supply of \*real property;
  - (c) a supply of anything other than goods or real property;only part of the actual supply is \*connected with Australia, then the actual supply is to be treated as if it were separate supplies in the following way.
- (2) The part of the actual supply that is \*connected with Australia is to be treated as if it were a separate supply that is connected with Australia.
- (3) The part of the actual supply that is not \*connected with Australia is to be treated as if it were a separate supply that is not connected with Australia.
- (4) However, if one of the kinds of supply that forms part of the actual supply may reasonably be regarded as incidental to:
  - (a) the other kind of supply that forms part of the actual supply;  
or
  - (b) one (but not both) of the other kinds of supply that form part of the actual supply;

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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and its value (if it were a separate \*taxable supply) would not exceed \$50,000, it is treated as part of that other kind of supply.

- (5) This section has effect despite section 9-25 (which is about when supplies are connected with Australia).

**96-10 The value of the taxable components of supplies that are only partly connected with Australia**

- (1) If a supply (the *actual supply*):
- (a) is, because of section 96-5, to be treated as separate supplies; and
  - (b) the part of the actual supply that is \*connected with Australia is a \*taxable supply, or is partly a \*taxable supply and partly a supply that is \*GST-free or \*input taxed;
- the *value* of that part of the actual supply is worked out as follows:
- (c) work out the value of the actual supply, under section 9-75, as if it were solely a taxable supply; and
  - (d) work out the proportion of that value of the actual supply that the taxable supply represents; and
  - (e) multiply that value by the proportion in paragraph (d).
- (2) If that part of the actual supply is partly a \*taxable supply and partly a supply that is \*GST-free or \*input taxed, this section does not affect the operation of section 9-80 in working out the value of so much of that part of the actual supply as is a taxable supply.
- (3) This section has effect despite section 9-75 (which is about the value of taxable supplies).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 99—Deposits as security**

### **99-1 What this Division is about**

GST does not apply to the taking of a deposit as security for the performance of an obligation (unless the deposit is forfeited or is applied as consideration). GST is not attributable prior to forfeiture.

### **99-5 Giving a deposit as security does not constitute consideration**

- (1) A deposit held as security for the performance of an obligation is not treated as \*consideration for a supply, unless the deposit:
  - (a) is forfeited because of a failure to perform the obligation; or
  - (b) is applied as all or part of the consideration for a supply.
- (2) This section has effect despite section 9-15 (which is about consideration).

### **99-10 Attributing the GST relating to deposits that are forfeited etc.**

- (1) The GST payable by you on a \*taxable supply for which the \*consideration is a deposit that was held as security for the performance of an obligation is attributable to the tax period during which the deposit:
  - (a) is forfeited because of a failure to perform the obligation; or
  - (b) is applied as all or part of the consideration for a supply.
- (2) This section has effect despite section 29-5 (which is about attributing GST for taxable supplies).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 102—Cancelled lay-by sales**

### **102-1 What this Division is about**

If a lay-by sale is cancelled, any amount retained or recovered by the supplier is within the GST system.

### **102-5 Cancelled lay-by sales**

- (1) If a supply by way of lay-by sale is cancelled:
  - (a) any amount already paid by the \*recipient that the supplier retains because of the cancellation; and
  - (b) any amount the supplier recovers from the recipient because of the cancellation;is treated as \*consideration for a supply made by the supplier and as consideration for an acquisition made by the recipient.
- (2) This section has effect despite section 9-15 (which is about what is consideration).

### **102-10 Attributing GST and input tax credits**

- (1) If an amount is retained or recovered in circumstances referred to in section 102-5:
  - (a) the GST payable by you on a \*taxable supply for which the amount is \*consideration; or
  - (b) the input tax credit to which you are entitled for a \*creditable acquisition for which the amount is consideration;is attributable to the tax period during which the amount was retained or recovered, as the case requires.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 102-10

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- (2) This section has effect despite sections 29-5 and 29-10 (which are about attributing GST for taxable supplies and input tax credits for creditable acquisitions).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 105—Supplies in satisfaction of debts**

### **105-1 What this Division is about**

This Division makes a creditor liable for GST on supplies of a debtor's property where the supply is in satisfaction of a debt owed to the creditor.

### **105-5 Supplies by creditors in satisfaction of debts may be taxable supplies**

- (1) You make a *taxable supply* if:
  - (a) you supply the property of another entity (the *debtor*) to a third entity in or towards the satisfaction of a debt that the debtor owes to you; and
  - (b) had the debtor made the supply, the supply would have been a \*taxable supply.
- (2) It does not matter whether:
  - (a) you made the supply in the course or furtherance of an \*enterprise that you \*carry on; or
  - (b) you are \*registered, or \*required to be registered.
- (3) However, the supply is not a \*taxable supply if:
  - (a) the debtor has given you a written notice stating that the supply would not be a taxable supply if the debtor were to make it, and stating fully the reasons why the supply would not be a taxable supply; or
  - (b) if you cannot obtain such a notice—you believe on the basis of reasonable information that the supply would not be a taxable supply if the debtor were to make it.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (4) This section has effect despite section 9-5 (which is about what is a taxable supply).

### **105-10 Net amounts**

- (1) If you are not \*registered or \*required to be registered, you do not have a \*net amount under Part 2-4 merely because you make a \*taxable supply under section 105-5.
- (2) This section does not prevent an \*adjustment arising that relates to such a supply, but you cannot have a \*decreasing adjustment unless you are \*registered or \*required to be registered.
- (3) This section has effect despite Division 17 (which is about net amounts and adjustments).

### **105-15 GST returns**

- (1) If, during a month:
- (a) you make any \*taxable supplies under section 105-5; or
  - (b) you have any \*increasing adjustments that arise in relation to any such supplies (whether made in that month or a previous month);
- and you are not \*registered or \*required to be registered during that month, you must give to the Commissioner a \*GST return, within 21 days after the end of the month, relating to those supplies you made in that month and those adjustments.
- (2) The \*GST return need not state a \*net amount.
- (3) This section has effect despite sections 31-5, 31-10 and 31-15 (which are about giving GST returns).

### **105-20 Payments of GST**

- (1) If you are not \*registered or \*required to be registered during a particular month, you must pay:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (a) amounts of GST on \*taxable supplies under section 105-5 that you make during that month; and
  - (b) amounts of \*increasing adjustments that you have that arise, during that month, in relation to supplies that are \*taxable supplies under section 105-5;  
within 21 days after the end of the month, and at the place and in the manner specified by the Commissioner.
- (2) This section has effect despite Division 33 (which is about payments of GST).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 108—Valuation of taxable supplies of goods in bond**

### **108-1 What this Division is about**

Taxable supplies of goods in bond are given a higher value than would otherwise apply, because the price of a supply in bond does not include any customs duty or excise duty that would be included after entry of the goods for home consumption.

### **108-5 Taxable supplies of goods in bond etc.**

- (1) The *value* of a \*taxable supply of goods that are in bond or otherwise subject to the control of Customs is the sum of:
  - (a) the value of the supply worked out in the way set out in section 9-75; and
  - (b) the amount of \*customs duty or \*excise duty to which the goods would have been subject if they had been entered for home consumption under the *Customs Act 1901* or the law relating to excise (as the case requires) at the time the supply first became a supply \*connected with Australia.
- (2) However, this section does not apply to a supply of goods to a \*recipient who:
  - (a) is \*registered or \*required to be registered; and
  - (b) acquires the goods solely for a \*creditable purpose.
- (3) This section has effect despite section 9-75 (which is about the value of taxable supplies).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 111—Reimbursement of employees etc.**

### **111-1 What this Division is about**

<p>You may be entitled to input tax credits for reimbursing employees, agents, officers or partners for expenses they incur in connection with the carrying on of your enterprise.</p>
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### **111-5 Creditable acquisitions relating to reimbursements**

- (1) If:
- (a) you reimburse an employee, other \*PAYE earner or agent for an expense he or she incurs that is related directly to his or her activities as your employee, PAYE earner or agent; or
  - (b) you are a \*company and you reimburse an \*officer for an expense he or she incurs that is related directly to his or her activities as your officer; or
  - (c) you are a \*partnership and you reimburse a partner for an expense he or she incurs that is related directly to his or her activities as a partner in the partnership;
- the reimbursement is treated as \*consideration for an acquisition that you make from the employee, PAYE earner, agent, officer or partner.
- (2) The fact that the supply to you is not a \*taxable supply does not stop the acquisition being a \*creditable acquisition.
- (3) However, the acquisition:
- (a) is not a \*creditable acquisition to the extent (if any) that the employee, \*PAYE earner, agent, \*officer or partner is entitled to an input tax credit for acquiring the thing acquired in incurring the expense; and

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (b) is not a creditable acquisition unless the supply of the thing acquired, by the employee, PAYE earner, agent, officer or partner in incurring the expense, was a taxable supply.
- (4) This section has effect despite section 11-5 (which is about what is a creditable acquisition).

### **111-10 Amounts of input tax credits relating to reimbursements**

- (1) The amount of the input tax credit for a \*creditable acquisition the \*consideration for which is a reimbursement to which section 111-5 applies is an amount equal to  $\frac{1}{11}$  of the amount of the reimbursement.
- (2) However, if:
  - (a) the incurring of the expense by the employee, \*PAYE earner, agent, \*officer or partner is only in part related directly to his or her activities as your employee, PAYE earner or agent or officer, or as a partner in the \*partnership, as the case requires; and
  - (b) the reimbursement does not constitute:
    - (i) a fringe benefit within the meaning of the *Fringe Benefits Tax Assessment Act 1986*; or
    - (ii) a benefit that, but for paragraph (g) of the definition of *fringe benefit* in subsection 136(1) of that Act, would be a fringe benefit within the meaning of that Act;the amount of the input tax credit under subsection (1) is reduced by an extent equivalent to the extent to which the incurring of the expense is not related directly to those activities.
- (3) This section has effect despite section 11-25 (which is about the amount of input tax credits for creditable acquisitions).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**111-15 Tax invoices relating to reimbursements**

For the purposes of subsection 29-10(3), you are taken to hold a \*tax invoice for a \*creditable acquisition the \*consideration for which is a reimbursement to which section 111-5 applies if you hold a tax invoice for the \*taxable supply referred to in subsection 111-5(3).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## Part 4-3—Special rules mainly about importations

Note: The special rules in this Part mainly modify the operation of Part 2-3, but they may affect other Parts of Chapter 2 in minor ways.

### Division 114—Importations without entry for home consumption

#### 114-1 What this Division is about

This Division treats as taxable importations several kinds of importations of goods covered by the *Customs Act 1901*, even though the goods are not entered for home consumption.

#### 114-5 Importations without entry for home consumption

The circumstances referred to in the third column of the following table are *importations of goods into Australia*. You are taken to have imported the goods if you are referred to in the fourth column of the table as the importer in relation to those circumstances. This section has effect despite section 13-5.

Importations without entry for home consumption			
Item	Topic	Circumstance	Importer
1	Personal or household effects of passengers or crew	Goods of a kind referred to in paragraph 68(1)(d) of the <i>Customs Act 1901</i> are delivered into home consumption in accordance with an authorisation under section 71 of that Act.	The person to whom the authorisation was granted.

\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Division 114** Importations without entry for home consumption

Section 114-5

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<b>Importations without entry for home consumption</b>			
<b>Item</b>	<b>Topic</b>	<b>Circumstance</b>	<b>Importer</b>
2	Low value consignments by post	Goods of a kind referred to in paragraph 68(1)(e) of the <i>Customs Act 1901</i> are delivered into home consumption in accordance with an authorisation under section 71 of that Act.	The person to whom the authorisation was granted.
3	Other low value consignments	Goods of a kind referred to in paragraph 68(1)(f) of the <i>Customs Act 1901</i> are delivered into home consumption in accordance with an authorisation under section 71 of that Act.	The person to whom the authorisation was granted.
4	Other goods exempt from entry	Goods of a kind referred to in paragraph 68(1)(i) of the <i>Customs Act 1901</i> are delivered into home consumption in accordance with an authorisation under section 71 of that Act.	The person to whom the authorisation was granted.
5	Like customable goods	Goods are delivered into home consumption in accordance with a permission granted under section 69 of the <i>Customs Act 1901</i> .	The person to whom the permission was granted.
6	Special clearance goods	Goods are delivered into home consumption in accordance with a permission granted under section 70 of the <i>Customs Act 1901</i> .	The person to whom the permission was granted.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 114-5

<b>Importations without entry for home consumption</b>			
<b>Item</b>	<b>Topic</b>	<b>Circumstance</b>	<b>Importer</b>
7	Sale or disposal of goods by Customs	Goods are sold or disposed of under section 72, 87, 96, 206 or 207 of the <i>Customs Act 1901</i> .	The person who was the owner (within the meaning of the <i>Customs Act 1901</i> ) of the goods immediately before the sale or disposal.
8	Goods released on security	Goods are released under section 208 of the <i>Customs Act 1901</i> .	The person to whom the goods are released.
9	Goods delivered under a court order	Goods are delivered to a person under a court order made: (a) in an action under the <i>Customs Act 1901</i> for condemnation or recovery of the goods; or (b) in an action for a declaration that the goods are not forfeited under the <i>Customs Act 1901</i> .	The person to whom the goods are delivered.
10	Return of seized goods	Goods that have been seized under section 203 of the <i>Customs Act 1901</i> are delivered to a person on the basis that they are not forfeited goods.	The person to whom the goods are delivered.
11	Impounded goods that cease to be forfeited	Delivery of the goods is authorised under subsection 209(6) of the <i>Customs Act 1901</i> .	The person to whom the goods are delivered, or are to be delivered.
12	Goods for public exhibition, testing etc.	Goods are taken out of a warehouse under a permission granted under section 97 of the <i>Customs Act 1901</i> .	The person to whom the permission is granted.

\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

**Chapter 4** The special rules

**Part 4-3** Special rules mainly about importations

**Division 114** Importations without entry for home consumption

Section 114-5

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<b>Importations without entry for home consumption</b>			
<b>Item</b>	<b>Topic</b>	<b>Circumstance</b>	<b>Importer</b>
13	Inwards duty free shops	Goods that are *airport shop goods purchased from an *inwards duty free shop by a *relevant traveller are removed from a *customs clearance area.	The relevant traveller.
14	COMPILE contingency arrangements	Goods are taken into home consumption in accordance with a permission granted under section 77D of the <i>Customs Act 1901</i> .	The person to whom the permission is granted.
15	Installations and goods on installations	Goods are deemed by section 49B of the <i>Customs Act 1901</i> to be imported into Australia.	The person who is the owner (within the meaning of the <i>Customs Act 1901</i> ) of the goods when they are deemed to be so imported.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 117—Importations of goods that were exported for repair or renovation**

### **117-1 What this Division is about**

Taxable importations of goods that were exported for repair or renovation are given a lower value than would otherwise apply, so that the GST only applies to the value of the repair or renovation, and not to the entire value of the goods.

### **117-5 Valuation of taxable importations of goods that were exported for repair or renovation**

- (1) The *value* of a \*taxable importation of goods that were exported from Australia for repair or renovation, or that are part of a \*batch repair process, is the sum of:
  - (a) the \*value of the repair or renovation; and
  - (b) the amount paid or payable:
    - (i) to transport the goods to Australia; and
    - (ii) to insure the goods for that transport;to the extent that the amount is not already included under paragraph (a); and
  - (c) any \*customs duty payable in respect of the importation of the goods (other than the amount of GST payable on the importation).
- (2) Goods are part of a *batch repair process* if:
  - (a) they are part of a process to replace goods that were exported from Australia for repair or renovation; and
  - (b) they are not new or upgraded versions of the exported goods; and

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Chapter 4** The special rules

**Part 4-3** Special rules mainly about importations

**Division 117** Importations of goods that were exported for repair or renovation

Section 117-10

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- (c) they are not replacing goods that have reached the end of their effective operational life.
- (3) This section has effect despite subsection 13-20(2) (which is about the value of taxable importations).

**117-10 The value of repairs and renovations**

- (1) The *value* of a repair or renovation of goods that have been \*imported is the \*customs value of the repair or renovation if:
  - (a) \*customs duty has or will become payable on the importation; and
  - (b) that duty is calculated solely by reference to the customs value of the repair or renovation.
- (2) The *value* of a repair or renovation of goods that have been \*imported is as follows if \*customs duty has or will become payable on the importation and paragraph (1)(b) does not apply:

$$\text{Notional customs value} + \frac{\text{*Customs duty} \times \text{Notional customs value}}{\text{*Customs value of the goods}}$$

where:

*notional customs value* is the amount that would have been the \*customs value of the repair or renovation if paragraph (1)(b) had applied.

- (3) If \*customs duty has not, and will not, become payable on an \*importation of goods, the *value* of a repair or renovation of the goods is the amount that would have been the \*customs value of the repair or renovation if:
  - (a) customs duty had or would have become payable on the importation; and
  - (b) that duty were calculated solely by reference to the customs value of the repair or renovation.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Part 4-4—Special rules mainly about net amounts and adjustments**

Note: The special rules in this Part mainly modify the operation of Part 2-4, but they may affect other Parts of Chapter 2 in minor ways.

### **Division 126—Gambling**

#### **126-1 What this Division is about**

Gambling is dealt with under the GST by using a global accounting system that provides for an alternative way of working out your net amounts by incorporating your net profits from taxable supplies involving gambling.

#### **126-5 Global accounting system for gambling supplies**

- (1) If you are liable for the GST on a \*gambling supply, your ***net amount*** for the tax period to which the GST on the supply is attributable is as follows:

Global GST amount + Other GST – Input tax credits

where:

***global GST amount*** is your \*global GST amount for the tax period.

***input tax credits*** is the sum of all of the input tax credits to which you are entitled on the \*creditable acquisitions and \*creditable importations that are attributable to the tax period.

Note: Any supplies under the global accounting system will not have attracted input tax credits.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 126-10

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**other GST** is the sum of all of the GST for which you are liable on the \*taxable supplies that are attributable to the tax period, other than \*gambling supplies.

For the basic rules on what is attributable to a particular period, see Division 29.

- (2) However, the \*net amount for the tax period may be increased or decreased if you have any \*adjustments for the tax period.

For the basic rules on adjustments, see Part 2-4.

- (3) This section has effect despite section 17-5 (which is about net amounts).

**126-10 Global GST amounts**

- (1) Your **global GST amount** for a tax period is as follows:

$$\left( \text{Total amount wagered} - \text{Total monetary prizes} \right) \times \frac{1}{11}$$

where:

**total amounts wagered** is the sum of the \*consideration for all of your \*gambling supplies that are attributable to that tax period.

**total monetary prizes** is the sum of:

- (a) the \*monetary prizes you are liable to pay, during the tax period, on the outcome of gambling events (whether or not any of those gambling events, or the \*gambling supplies to which the monetary prizes relate, take place during the tax period); and
- (b) any amounts of \*money you are liable to pay, during the tax period, under agreements between you and \*recipients of your gambling supplies, to repay to them a proportion of their losses relating to those supplies (whether or not the supplies take place during the tax period).

For the basic rules on what is attributable to a particular period, see Division 29.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (2) However, your **global GST amount** is zero for any tax period in which total monetary prizes exceeds total amounts wagered.
- (3) In working out the total monetary prizes for a tax period, disregard any \*monetary prizes you are liable to pay, during the tax period, that relate to supplies that are \*GST-free under Subdivision 38-H.
- (4) Your **global GST amount** for a tax period may be affected by sections 126-15 and 126-20.

### **126-15 Losses carried forward**

If, for any tax period, your total monetary prizes referred to in subsection 126-10(1) exceed your total amounts wagered referred to in that subsection, the amount of that excess is to be added to your total monetary prizes, referred to in that subsection, for the next tax period.

### **126-20 Bad debts**

- (1) You cannot have an \*adjustment under Division 21 in relation to a \*gambling supply.
- (2) If, in a tax period, you write off as bad the whole or part of the \*consideration for a \*gambling supply that is due as a debt, but has not been received, the amount written off is to be added to your total monetary prizes, referred to in subsection 126-10(1), for that tax period.
- (3) However, if, in a tax period, you recover the whole or part of the amount written off, the amount recovered is to be added to your total amounts wagered, referred to in subsection 126-10(1), for that tax period.
- (4) This section has effect despite sections 21-5 and 21-10 (which are about adjustments for writing off and recovering suppliers' bad debts).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 126-25

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**126-25 Application of Subdivision 9-C**

Subdivision 9-C does not apply to a \*gambling supply.

**126-30 Gambling supplies do not give rise to creditable acquisitions**

- (1) An acquisition of a thing is not a \*creditable acquisition if the supply of the thing acquired was a \*gambling supply.
- (2) This section has effect despite section 11-5 (which is about what is a creditable acquisition).

**126-32 Repayments of gambling losses are not consideration**

- (1) A payment of money is not the provision of \*consideration to the extent that the payment:
  - (a) is made by a supplier of \*gambling supplies to a \*recipient of gambling supplies that the supplier makes; and
  - (b) is made, under an agreement between them, to repay to the recipient a proportion of his or her losses relating to those supplies.
- (2) This section has effect despite section 9-15 (which is about what is consideration).

**126-33 Tax invoices not required for gambling supplies**

- (1) You are not required to issue a \*tax invoice for a \*taxable supply that you make that is solely a \*gambling supply.
- (2) This section has effect despite section 29-70 (which is about the requirement to issue tax invoices).

**126-35 Meaning of *gambling supply* and *gambling event***

- (1) A *gambling supply* is a \*taxable supply involving:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (a) the supply of a ticket (however described) in a lottery, raffle or similar undertaking; or
  - (b) the acceptance of a bet (however described) relating to the outcome of a \*gambling event.
- (2) A **gambling event** is:
- (a) the conducting of a lottery or raffle, or similar undertaking; or
  - (b) a race, game, or sporting event, or any other event, for which there is an outcome.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Chapter 4** The special rules

**Part 4-4** Special rules mainly about net amounts and adjustments

**Division 129** Changes in the extent of creditable purpose

Section 129-1

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## **Division 129—Changes in the extent of creditable purpose**

### **Table of Subdivisions**

129-A	General
129-B	Adjustment periods
129-C	When adjustments for acquisitions and importations arise
129-D	Amounts of adjustments for acquisitions and importations
129-E	Attributing adjustments under this Division

### **129-1 What this Division is about**

The extent to which an acquisition or importation is for a creditable purpose affects the amount of the resulting input tax credit. When the extent of creditable purpose is changed by later events, adjustments (for the purpose of working out net amounts under Part 2-4) may need to be made.

### **Subdivision 129-A—General**

#### **129-5 Adjustments arising under this Division**

- (1) An \*adjustment can arise under this Division for:
  - (a) an acquisition, even if it is not a \*creditable acquisition; or
  - (b) an importation, even if it is not a \*creditable importation;in respect of any \*adjustment period for the acquisition or importation.
- (2) However, in determining:
  - (a) whether an adjustment under this Division arises; or
  - (b) the amount of such an \*adjustment;

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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disregard any change in the extent to which the thing acquired or imported is \*applied in making \*financial supplies, unless your \*annual turnover of financial supplies does not exceed either:

- (c) \$50,000 or such other amount specified in the regulations; or
- (d) 5% of your \*annual turnover (treating supplies that are input taxed as part of your annual turnover).

### **129-10 Adjustments do not arise under this Division for acquisitions and importations below a certain value**

- (1) Despite section 129-5, an adjustment cannot arise under this Division for an acquisition or importation that \*relates to business finance, unless the acquisition or importation had a \*GST exclusive value of more than \$10,000.
- (2) Despite section 129-5, an adjustment cannot arise under this Division for an acquisition or importation that does not \*relate to business finance, unless the acquisition or importation had a \*GST exclusive value of more than \$1,000.
- (3) An acquisition or importation *relates to business finance* if, at the time of the acquisition or importation, it:
  - (a) related solely or partly to making \*financial supplies; and
  - (b) was not solely or partly of a private or domestic nature.

### **Subdivision 129-B—Adjustment periods**

#### **129-20 Adjustment periods**

- (1) An *adjustment period* for an acquisition or importation is a tax period applying to you that:
  - (a) starts at least 12 months after the end of the tax period to which the acquisition or importation is attributable (or would be attributable if it were a \*creditable acquisition or \*creditable importation); and

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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(b) ends:

- (i) on 30 June in any year; or
- (ii) if none of the tax periods applying to you in a particular year ends on 30 June—ends closer to 30 June than any of the other tax periods applying to you in that year.

In addition, a tax period provided for under section 27-40 is an ***adjustment period*** for the acquisition or importation.

Note: Section 27-40 deals with an entity's concluding tax period.

- (2) Despite subsection (1), for an acquisition or importation that <sup>\*</sup>relates to business finance:
  - (a) if the <sup>\*</sup>GST exclusive value of the acquisition or importation is \$50,000 or less—only the first such tax period is an ***adjustment period***; or
  - (b) if the GST exclusive value of the acquisition or importation is more than \$50,000 but less than \$500,000—only the first 5 such tax periods are ***adjustment periods***; or
  - (c) if the GST exclusive value of the acquisition or importation is \$500,000 or more—only the first 10 such tax periods are ***adjustment periods***.
- (3) Despite subsection (1), for an acquisition or importation that does not <sup>\*</sup>relate to business finance:
  - (a) if the <sup>\*</sup>GST exclusive value of the acquisition or importation is \$5,000 or less—only the first 2 such tax periods are ***adjustment periods***; or
  - (b) if the GST exclusive value of the acquisition or importation is more than \$5,000 but less than \$500,000—only the first 5 such tax periods are ***adjustment periods***; or
  - (c) if the GST exclusive value of the acquisition or importation is \$500,000 or more—only the first 10 such tax periods are ***adjustment periods***.

However, the Commissioner may, having regard to record keeping requirements for the purposes of income tax, determine in writing

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<sup>\*</sup>To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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that a fewer number of tax periods are *adjustment periods* for a particular class of acquisitions or importations that do not \*relate to business finance.

**129-25 Effect on adjustment periods of things being disposed of etc.**

- (1) Despite section 129-20, if:
- (a) you dispose of a thing acquired or imported (other than in circumstances giving rise to a \*decreasing adjustment under Division 132); or
  - (b) a thing acquired or imported is lost, stolen or destroyed; or
  - (c) a thing is acquired only for a particular period and that period expires;
- the next \*adjustment period to end after the disposal, loss, theft, destruction or expiry is the last adjustment period for the acquisition or importation in question.
- (2) Despite section 129-20, if:
- (a) you dispose of a thing acquired or imported; and
  - (b) the disposal takes place in circumstances giving rise to a \*decreasing adjustment under Division 132;
- then:
- (c) the last \*adjustment period to end before the disposal is the last adjustment period for the acquisition or importation in question; and
  - (d) if no such adjustment period ended before the disposal, there is no adjustment period for the acquisition or importation.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Subdivision 129-C—When adjustments for acquisitions and importations arise**

**129-40 Working out whether you have an adjustment**

- (1) This is how to work out whether you have an \*increasing adjustment or a \*decreasing adjustment under this Division, for an \*adjustment period, for an acquisition or importation:

*Method statement*

*Step 1.* Work out the extent (if any) to which you have \*applied the thing acquired or imported for a \*creditable purpose during the period of time:

- (a) starting when you acquired or imported the thing; and
- (b) ending at the end of the \*adjustment period.

This is the *actual application of the thing*.

*Step 2.* Work out:

- (a) if you have not previously had an \*adjustment under this Division for the acquisition or importation—the extent (if any) to which you acquired or imported the thing for a \*creditable purpose; or
- (b) if you have previously had an \*adjustment under this Division for the acquisition or importation—the \*actual application of the thing in respect of the last adjustment.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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This is the *intended or former application of the thing*.

- Step 3.* If the \*actual application of the thing is less than its \*intended or former application, you have an **increasing adjustment**, for the \*adjustment period, for the acquisition or importation.
- Step 4.* If the \*actual application of the thing is greater than its \*intended or former application, you have a **decreasing adjustment**, for the \*adjustment period, for the acquisition or importation.
- Step 5.* If the \*actual application of the thing is the same as its \*intended or former application, you have neither an increasing adjustment nor a decreasing adjustment, for the \*adjustment period, for the acquisition or importation.

- (2) \*Actual applications and \*intended or former applications are to be expressed as percentages.

### **129-45 Gifts to gift-deductible entities**

If you are or were entitled to an input tax credit for the \*creditable acquisition of a thing, an \*adjustment does not arise under this Subdivision merely because you supply the thing as a gift to a charitable institution, a trustee of a charitable fund or \*gift-deductible entity.

### **129-50 Creditable purpose**

- (1) You \*apply a thing for a **creditable purpose** to the extent that you apply it in \*carrying on your \*enterprise.
- (2) However, you do not \*apply a thing for a creditable purpose to the extent that:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (a) the application relates to making supplies that are \*input taxed; or
  - (b) the application is of a private or domestic nature.
- (3) To the extent that an \*application relates to making \*financial supplies through an \*enterprise, or a part of an enterprise, that you \*carry on outside Australia, the application is not, for the purposes of paragraph (2)(a), treated as one that relates to making supplies that would be \*input taxed.

**129-55 Meaning of *apply***

*Apply*, in relation to a thing acquired or imported, includes:

- (a) supply the thing; and
- (b) consume, dispose of or destroy the thing; and
- (c) allow another entity to consume, dispose of or destroy the thing.

**Subdivision 129-D—Amounts of adjustments for acquisitions and importations**

**129-70 The amount of an increasing adjustment**

The amount of an \*increasing adjustment that you have under Step 3 of the Method statement in section 129-40 for the thing acquired or imported is worked out as follows:

$$\text{Increasing adjustment} = \frac{\text{Full input tax credit}}{\text{tax credit}} \times \left( \begin{array}{c} \text{* Intended or} \\ \text{former application} \end{array} - \begin{array}{c} \text{* Actual} \\ \text{application} \end{array} \right)$$

where:

***full input tax credit*** is the amount of the input tax credit to which you would have been entitled for acquiring or importing the thing for the purpose of your \*enterprise if:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

- (a) the acquisition or importation had been solely for a \*creditable purpose; and
- (b) in the case where the supply to you was a \*taxable supply only because of section 72-5 or 84-5—the supply had been a \*taxable supply under section 9-5.

### **129-75 The amount of a decreasing adjustment**

The amount of a \*decreasing adjustment that you have under Step 4 of the Method statement in section 129-40 for the thing acquired or imported is worked out as follows:

$$\text{Decreasing adjustment} = \text{Full input tax credit} \times \left( \begin{array}{l} \text{* Actual} \\ \text{application} \end{array} - \begin{array}{l} \text{* Intended or} \\ \text{former application} \end{array} \right)$$

where:

**full input tax credit** is the amount of the input tax credit to which you would have been entitled for acquiring or importing the thing for the purpose of your \*enterprise if:

- (a) the acquisition or importation had been solely for a \*creditable purpose; and
- (b) in the case where the supply to you was a \*taxable supply only because of section 72-5 or 84-5—the supply had been a \*taxable supply under section 9-5.

### **129-80 Effect of adjustments under Division 19**

For the purpose of working out under this Subdivision the amount of an \*adjustment for an acquisition, any adjustments under Division 19 or 21 that you have had for the acquisition are to be taken into account in working out the full input tax credit for the purpose of section 129-70 or 129-75.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Division 129** Changes in the extent of creditable purpose

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**Subdivision 129-E—Attributing adjustments under this Division**

**129-90 Attributing your adjustments for changes in extent of creditable purpose**

- (1) An \*adjustment that you have arising in respect of an \*adjustment period under this Division is attributable to the tax period that is that adjustment period.
- (2) This section has effect despite section 29-20 (which is about attributing adjustments).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 132—Supplies of things acquired, imported or applied to make financial supplies**

### **132-1 What this Division is about**

You may have a decreasing adjustment if you make a supply of something that you earlier acquired or imported, or subsequently applied, to make financial supplies.

### **132-5 Decreasing adjustments for supplies of things acquired, imported or applied to make financial supplies**

- (1) You have a \*decreasing adjustment under this Division if:
- (a) you make a \*taxable supply of a thing (or a supply of a thing that would have been a taxable supply had it not been \*GST-free under Subdivision 38-J); and
  - (b) the supply is a supply by way of sale; and
  - (c) your acquisition or importation of the thing related solely or partly to making \*financial supplies, or you subsequently \*applied the thing solely or partly to making financial supplies.
- (2) The amount of the \*decreasing adjustment is as follows:

$$\frac{1}{11} \times \text{Price} \times \left( 1 - \frac{\text{Adjusted input tax credit}}{\text{Full input tax credit}} \right)$$

where:

***adjusted input tax credit*** is:

- (a) the amount of any input tax credit that was attributable to a tax period in respect of the acquisition or importation; minus

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (b) the sum of any \*increasing adjustments, under Subdivision 19-C or Division 129, that were previously attributable to a tax period in respect of the acquisition or importation; plus
- (c) the sum of any \*decreasing adjustments, under Subdivision 19-C or Division 129, that were previously attributable to a tax period in respect of the acquisition or importation.

**full input tax credit** is the amount of the input tax credit to which you would have been entitled for acquiring or importing the thing for the purpose of your \*enterprise if:

- (a) the acquisition or importation had been solely for a \*creditable purpose; and
- (b) in the case where the supply to you was a \*taxable supply only because of section 72-5 or 84-5—the supply had been a \*taxable supply under section 9-5.

**price** is the \*price of the \*taxable supply.

- (3) However, if the amount worked out under subsection (2) is greater than the difference between the full input tax credit and the adjusted input tax credit, the amount of the \*decreasing adjustment is an amount equal to that difference.
- (4) In working out the adjusted input tax credit, the acquisition, importation or \*application in question is treated as having been for a \*creditable purpose except to the extent that the acquisition, importation or application relates to the making of \*financial supplies.

**132-10 Attribution of adjustments under this Division**

- (1) A \*decreasing adjustment under this Division is attributable to:
  - (a) the same tax period as the \*taxable supply to which it relates;or

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (b) if it relates to a supply that is not a taxable supply—the tax period to which the supply would be attributable if it were a taxable supply.
- (2) This section has effect despite section 29-20 (which is about attributing your adjustments).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## Division 135—Supplies of going concerns

### 135-1 What this Division is about

The recipient of a supply of a going concern has an increasing adjustment to take into account the proportion of input taxed supplies (if any) that will be made in running the concern. Later adjustments are needed if this proportion changes over time.

### 135-5 Initial adjustments for supplies of going concerns

- (1) You have an *increasing adjustment* if:
  - (a) you are the \*recipient of a \*supply of a going concern, or a supply that is \*GST-free under section 38-480; and
  - (b) you intend that some, but not all, of the supplies made through the \*enterprise to which the supply relates will be supplies that are \*input taxed.
- (2) The amount of the increasing adjustment is as follows:

$$\frac{1}{11} \times \frac{\text{*Price of the *supply}}{\text{of the going concern}} \times \frac{\text{Proportion of input}}{\text{taxed supplies}}$$

where:

*proportion of input taxed supplies* is the proportion of all the supplies made through the \*enterprise that you intend will be supplies that are \*input taxed, expressed as a percentage worked out on the basis of the \*prices of those supplies.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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### **135-10 Later adjustments for supplies of going concerns**

- (1) If you are the \*recipient of a \*supply of a going concern, or a supply that is \*GST-free under section 38-480, Division 129 (which is about changes in the extent of creditable purpose) applies to that acquisition, in relation to:
  - (a) the proportion of all the supplies made through the \*enterprise that you intend will be supplies that are \*input taxed; and
  - (b) the proportion of all the supplies made through the \*enterprise that are supplies that are \*input taxed;in the same way as that Division applies:
  - (c) in relation to the extent to which you made an acquisition for a \*creditable purpose; and
  - (d) in relation to the extent to which a thing acquired is \*applied for a creditable purpose.
- (2) For the purpose of applying Division 129, the proportions referred to in paragraphs (1)(a) and (b) are to be expressed as percentages worked out on the basis of the \*prices of the supplies in question.
- (3) This section applies in relation to any \*supply of a going concern, or a supply that is \*GST-free under section 38-480, whether or not it is a supply in respect of which you have had an \*increasing adjustment under section 135-5.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## Division 138—Cessation of registration

### 138-1 What this Division is about

An entity whose registration has been cancelled may still have acquisitions and importations for which entitlements to input tax credits have arisen. This Division provides for an increasing adjustment to cancel those input tax credits.

### 138-5 Adjustments for cessation of registration

- (1) You have an *increasing adjustment* if:
- (a) your \*registration is cancelled; and
  - (b) immediately before the cancellation takes effect, your assets include anything in respect of which you were, or are, entitled to an input tax credit.

Note: Increasing adjustments increase your net amounts.

- (2) The amount of the adjustment, for each thing referred to in paragraph (1)(b), is as follows:

$$\frac{1}{11} \times \text{*Actual application of the thing} \times \text{Applicable value}$$

where:

*applicable value* is:

- (a) the \*GST inclusive market value of the thing immediately before the cancellation takes effect; or
- (b) if you were, or are, entitled to an input tax credit for acquiring the thing—the amount of the \*consideration that you provided, or were liable to provide, for your acquisition of the thing, but only if the amount is less than that value; or

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (c) if you were, or are, entitled to an input tax credit for importing the thing—the cost to you of acquiring or producing the thing (plus the GST paid on its importation), but only if the amount is less than that value.
- (3) However, an \*adjustment does not arise under this section in respect of an asset if:
  - (a) there were one or more \*adjustment periods for your acquisition or importation of the asset; and
  - (b) the last of those adjustment periods has ended before the cancellation of your \*registration takes effect.

### **138-10 Attributing adjustments for cessation of registration**

- (1) An \*adjustment that you have under this Division is attributable to your concluding tax period under section 27-40.
- (2) This section has effect despite section 29-20 (which is about attributing your adjustments).

### **138-15 Ceasing to be registered—amounts not previously attributed**

- (1) The GST payable by you on a \*taxable supply, the input tax credit to which you are entitled for a \*creditable acquisition, or an \*adjustment that you have, is attributable to a particular tax period, and no other, if:
  - (a) during the tax period, your \*registration is cancelled; and
  - (b) immediately before the cancellation, you were \*accounting on a cash basis; and
  - (c) the GST on the supply, the input tax credit on the acquisition, or the adjustment, was not attributable, to any extent, to a previous tax period during which you accounted on a cash basis; and
  - (d) it would have been attributable to that previous tax period had you not accounted on a cash basis during that period.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Chapter 4** The special rules

**Part 4-4** Special rules mainly about net amounts and adjustments

**Division 138** Cessation of registration

Section 138-20

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For accounting on a cash basis, see Subdivision 29-B.

- (2) This section has effect despite sections 29-5, 29-10 and 29-20 (which are about attributing GST on supplies, input tax credits on acquisitions, and adjustments) and any other provisions of this Chapter.

**138-20 Application of Division 129**

This Division does not affect the operation of Division 129 (which is about changes in the extent of creditable purpose).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Part 4-5—Special rules mainly about registration**

Note: The special rules in this Part mainly modify the operation of Part 2-5, but they may affect other Parts of Chapter 2 in minor ways.

### **Division 144—Taxis**

#### **144-1 What this Division is about**

Taxi operators are required to be registered, regardless of turnover.
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#### **144-5 Requirement to register**

- (1) You are ***required to be registered*** if, in \*carrying on your enterprise, you supply \*taxi travel.
- (2) It does not matter whether:
  - (a) your \*annual turnover meets the \*registration turnover threshold; or
  - (b) in \*carrying on your enterprise, you make other supplies besides supplies of \*taxi travel.
- (3) This section has effect despite section 23-5 (which is about who is required to be registered).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 147—Representatives of incapacitated entities**

### **147-1 What this Division is about**

Representatives of incapacitated entities may be required to register for GST purposes.
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### **147-5 Representatives are required to be registered**

- (1) A \*representative of an \*incapacitated entity is ***required to be registered*** in that capacity if the incapacitated entity is \*registered or \*required to be registered.
- (2) This section has effect despite section 23-5 (which is about who is required to be registered).

### **147-10 Cancellation of registration of a representative**

- (1) The Commissioner must cancel the \*registration of a \*representative of an \*incapacitated entity if the Commissioner is satisfied that the representative is not \*required to be registered in that capacity.

Note: Cancelling the registration of a representative under this subsection is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

- (2) The Commissioner must notify the \*representative of the cancellation.
- (3) Sections 25-50 and 25-55 do not apply to the cancellation of the \*registration of a \*representative of an \*incapacitated entity.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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### **147-15 Notice of cessation of representation**

A \*representative who ceases to be a representative of an \*incapacitated entity must notify the Commissioner of that cessation, in the \*approved form, within 21 days after so ceasing.

### **147-20 Adjustments**

- (1) Any \*adjustment relating to a supply, acquisition or importation that:
  - (a) an \*incapacitated entity had before a \*representative of an \*incapacitated entity was appointed; and
  - (b) was not attributable to a tax period applying to the incapacitated entity that ended before that appointment;is to be treated as if:
  - (c) the incapacitated entity did not have the adjustment; and
  - (d) the representative had the adjustment.
- (2) This section has effect despite section 17-10 (which is about the effect of adjustments on net amounts).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Part 4-6—Special rules mainly about tax periods**

**Note:** The special rules in this Part mainly modify the operation of Part 2-6, but they may affect other Parts of Chapter 2 in minor ways.

### **Division 153—Agents**

#### **153-1 What this Division is about**

This Division sets out the rules for holding and issuing tax invoices and adjustment notes when your supplies or acquisitions are made through an agent.

#### **153-5 Attributing the input tax credits for your creditable acquisitions**

- (1) If:
- (a) you are entitled to the input tax credit for a \*creditable acquisition made through an agent; and
  - (b) neither you nor your agent holds a \*tax invoice for the acquisition when you give to the Commissioner a \*GST return for the tax period to which the input tax credit on the acquisition would otherwise be attributable;
- then:
- (c) the input tax credit (including any part of the input tax credit) is not attributable to that tax period; and
  - (d) the input tax credit (or the part of the input tax credit) is attributable to the first tax period for which you give to the Commissioner a GST return at a time when you or your agent holds that tax invoice.
- (2) This section has effect despite subsection 29-10(3) (which is about the requirement to hold a tax invoice).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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### **153-10 Attributing your adjustments**

- (1) If:
- (a) you have a \*decreasing adjustment relating to a supply made by you through an agent or made to you through an agent; and
  - (b) neither you nor your agent holds an \*adjustment note for the adjustment when you give to the Commissioner a \*GST return for the tax period to which the adjustment would otherwise be attributable;
- then:
- (c) the adjustment (including any part of the adjustment) is not attributable to that tax period; and
  - (d) the adjustment (or the part of the adjustment) is attributable to the first tax period for which you give to the Commissioner a GST return at a time when you or your agent holds that adjustment note.
- (2) This section has effect despite subsection 29-20(3) (which is about the requirement to hold an adjustment note).

### **153-15 Tax invoices**

- (1) If you make a \*taxable supply through an agent, an obligation to issue a \*tax invoice relating to the supply:
- (a) arises whether the \*recipient makes a request for a tax invoice to you *or* the agent; and
  - (b) is complied with if either you *or* the agent gives the recipient a tax invoice within 28 days after the request.
- (2) However, you and the agent must not *both* issue separate \*tax invoices relating to the supply.
- (3) This section has effect despite section 29-70 (which is about tax invoices).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**153-20 Adjustment notes**

- (1) If you have a \*decreasing adjustment relating to a supply made by you through an agent or made to you through an agent, an obligation under subsection 29-75(2) to issue an \*adjustment note for the adjustment:
  - (a) arises whether the \*recipient makes a request for an adjustment note to you *or* the agent; and
  - (b) is complied with if either you *or* your agent gives the recipient an adjustment note within 28 days after the request.
- (2) However, you and the agent must not *both* issue separate \*adjustment notes for the adjustment.
- (3) This section has effect despite section 29-75 (which is about adjustment notes).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 156—Supplies and acquisitions made on a progressive or periodic basis**

### **156-1 What this Division is about**

Supplies and acquisitions made for a period or on a progressive basis are treated as separate supplies or acquisitions for some purposes, in particular the attribution rules.

### **156-5 Attributing the GST on progressive or periodic supplies**

- (1) The GST payable by you on a \*taxable supply that is made:
  - (a) for a period or on a progressive basis; and
  - (b) for \*consideration that is to be provided on a progressive or periodic basis;is attributable to one or more tax periods as if each progressive or periodic component of the supply were a separate supply.
- (2) This section has effect despite section 29-5 (which is about attributing GST on taxable supplies).

### **156-10 Attributing the input tax credits on progressive or periodic acquisitions**

- (1) The input tax credit to which you are entitled for a \*creditable acquisition that is made:
  - (a) for a period or on a progressive basis; and
  - (b) for \*consideration that is to be provided on a progressive or periodic basis;is attributable to one or more tax periods as if each progressive or periodic component of the acquisition were a separate acquisition.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Chapter 4** The special rules

**Part 4-6** Special rules mainly about tax periods

**Division 156** Supplies and acquisitions made on a progressive or periodic basis

Section 156-15

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- (2) This section has effect despite section 29-10 (which is about attributing input tax credits on creditable acquisitions).

**156-15 Progressive or periodic supplies partly connected with Australia**

- (1) If the whole of a progressive or periodic component of a \*taxable supply referred to in section 156-5 would not be \*connected with Australia if it were a separate supply, that component is treated as if it were a separate supply that is not connected with Australia.
- (2) This section has effect despite section 9-25 (which is about when supplies are connected with Australia) and Division 96.

**156-20 Application of Division 129 to progressive or periodic acquisitions**

An acquisition that is made:

- (a) for a period or on a progressive basis; and  
(b) for \*consideration that is to be provided on a progressive or periodic basis;

is treated, for the purposes of Division 129 (which is about changes in the extent of creditable purpose), as if each progressive or periodic component of the acquisition were a separate acquisition.

**156-25 Accounting on a cash basis**

This Division does not apply if you \*account on a cash basis.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 159—Changing your accounting basis**

### **159-1 What this Division is about**

This Division tells you to which tax periods to attribute any supplies and acquisitions that are affected by a change in your accounting basis, and how to treat bad debts if your accounting basis changes.

### **159-5 Ceasing to account on a cash basis—amounts not previously attributed**

- (1) The GST payable by you on a \*taxable supply, the input tax credit to which you are entitled for a \*creditable acquisition, or an \*adjustment that you have, is attributable to a particular tax period (the *transition tax period*), and not to any other tax period, if:
  - (a) at the start of the transition tax period, you cease to \*account on a cash basis; and
  - (b) the GST on the supply, the input tax credit on the acquisition, or the adjustment, was not attributable, to any extent, to a previous tax period during which you accounted on a cash basis; and
  - (c) it would have been attributable to that previous tax period had you not accounted on a cash basis during that period.

For accounting on a cash basis, see Subdivision 29-B.

Example: In tax period A in the following diagram, you issue an invoice for a supply that you made, but you receive no payment for the supply until tax period D. However, you cease to account on a cash basis at the start of tax period C (which is therefore the transition tax period).

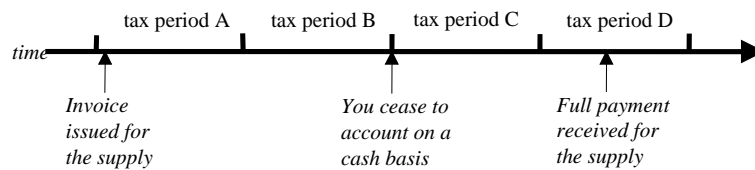
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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Under section 29-5, the supply was not attributable to tax period A (because at the time you were accounting on a cash basis), but it would have been attributable to that period if you had not been accounting on a cash basis (because you issued the invoice in that period). Therefore the supply is attributable to tax period C (the transition tax period).

- (2) This section has effect despite sections 29-5, 29-10 and 29-20 (which are about attributing GST on supplies, input tax credits on acquisitions, and adjustments) and any other provisions of this Chapter.

**159-10 Ceasing to account on a cash basis—amounts partly attributed**

- (1) The GST payable by you on a \*taxable supply, the input tax credit to which you are entitled for a \*creditable acquisition, or an \*adjustment that you have, is attributable to a particular tax period (the *transition tax period*), and not to any other tax period, if:
  - (a) at the start of the transition tax period, you cease to \*account on a cash basis; and
  - (b) the GST on the supply, the input tax credit on the acquisition, or the adjustment, was only to some extent attributable to a previous tax period during which you accounted on a cash basis; and
  - (c) it would have been attributable solely to that previous tax period had you not accounted on a cash basis during that period.
- (2) However, the GST on the supply, the input tax credit on the acquisition, or the adjustment, is attributable to the transition tax

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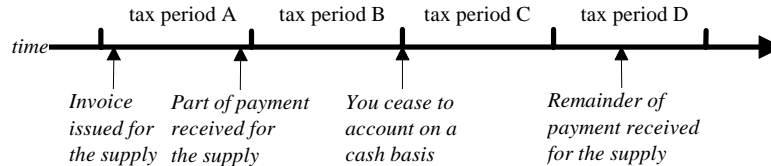
\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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period only to the extent that it has not been previously attributed to one or more of those previous tax periods.

For accounting on a cash basis, see Subdivision 29-B.

Example: Take the example in section 159-5 as changed in the following diagram so that you receive part of the payment for the supply in tax period A. The transition tax period is still tax period C.



Under section 29-5, the supply was to some extent attributable to tax period A, but it would have been attributable only to that tax period if you had not been accounting on a cash basis. Therefore the supply is attributable to tax period C (the transition tax period), but only to the extent that it is not attributable to tax period A.

- (3) This section has effect despite sections 29-5, 29-10 and 29-20 (which are about attributing GST on supplies, input tax credits on acquisitions, and adjustments) and any other provisions of this Chapter.

### 159-15 Ceasing to account on a cash basis—bad debts

(1) If:

- (a) the GST payable by you on a \*taxable supply or the input tax credit to which you are entitled for a \*creditable acquisition is attributable to a particular tax period (the transition tax period) under section 159-5 or 159-10; and
- (b) before the start of the transition tax period, the whole or part of a debt relating to the \*consideration for the supply or acquisition is written off as bad;

then:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (c) the amount written off, and any part of that amount recovered before the start of the transition tax period, is to be treated, for the purposes of Division 21, as if at all relevant times you were not \*accounting on a cash basis; and
  - (d) any adjustment arising under Division 21 as a result is attributable to the transition tax period.
- (2) This section has effect despite subsections 21-5(2) and 21-15(2) (which preclude adjustments for bad debts when accounting on a cash basis) and section 29-20 (which is about attributing adjustments).

**159-20 Starting to account on a cash basis**

- (1) If, at the start of a tax period, you start to \*account on a cash basis, then:
- (a) the GST payable by you on a \*taxable supply that you made; or
  - (b) the input tax credit to which you are entitled for a \*creditable acquisition; or
  - (c) an \*adjustment that you have;
- that was attributable to one or more previous tax periods remains attributable to those periods, and not to any other tax period.
- (2) This section has effect despite sections 29-5, 29-10 and 29-20 (which are about attributing GST on supplies, input tax credits on acquisitions, and adjustments) and any other provisions of this Chapter.

**159-25 Starting to account on a cash basis—bad debts**

- (1) If:
- (a) the GST payable by you on a \*taxable supply, or the input tax credit to which you are entitled for a \*creditable acquisition,

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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was attributable to a tax period during which you were not  
\*accounting on a cash basis; and

- (b) at a time when you are accounting on a cash basis, the whole  
or part of a debt relating to the \*consideration for the supply  
or acquisition is written off as bad;

the amount written off, and any part of that amount that is  
recovered, is to be treated, for the purposes of Division 21, as if at  
all relevant times you were not accounting on a cash basis.

- (2) This section has effect despite subsections 21-5(2) and 21-15(2)  
(which preclude adjustments for bad debts when accounting on a  
cash basis).

**159-30 Entities ceasing to exist or coming into existence**

This Division does not apply in relation to an entity ceasing to  
\*account on a cash basis as it ceases to exist, or in relation to an  
entity starting to account on a cash basis as it comes into existence.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Part 4-7—Special rules mainly about returns, payments and refunds**

Note: The special rules in this Part mainly modify the operation of Part 2-7, but they may affect other Parts of Chapter 2 in minor ways.

### **Division 165—Anti-avoidance**

#### **Table of Subdivisions**

- 165-A Application of this Division
- 165-B Commissioner may negate effects of schemes for GST benefits
- 165-C Penalties for getting GST benefits from schemes

#### **165-1 What this Division is about**

The object of this Division is to deter schemes to give entities benefits by reducing GST, increasing refunds or altering the timing of payment of GST or refunds.

If the dominant purpose or principal effect of a scheme is to give an entity such a benefit, the Commissioner may negate the benefit an entity gets from the scheme by declaring how much GST or refund would have been payable, and when it would have been payable, apart from the scheme.

This Division is aimed at artificial or contrived schemes. It is not, for example, intended to apply to:

- an exporter electing to have monthly tax periods in order to bring forward the entitlement to input tax credits; or

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

- a supplier of child care applying to register under the *Childcare Rebate Act 1993* (registration would make the supplies of child care GST-free); or
- a supplier choosing under section 9-25 of the *A New Tax System (Wine Equalisation Tax) Act 1999* to use the average wholesale price method for working out the taxable value of retail sales of grape wine; or
- a bank having its car fleet serviced earlier than usual, and before 1 July 2000, so that the servicing does not, at least initially, bear the GST.

### **Subdivision 165-A—Application of this Division**

#### **165-5 When does this Division operate?**

*General rule*

- (1) This Division operates if:
- (a) an entity (the *avoider*) gets or got a \*GST benefit from a \*scheme; and
  - (b) the GST benefit is not attributable to the making, by any entity, of a choice, election, application or agreement that is expressly provided for by the \*GST law, the \*wine tax law or the \*luxury car tax law; and
  - (c) taking account of the matters described in section 165-15, it is reasonable to conclude that either:
    - (i) an entity that (whether alone or with others) entered into or carried out the scheme, or part of the scheme, did so with the sole or dominant purpose of that entity or another entity getting a \*GST benefit from the scheme; or

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (ii) the principal effect of the scheme, or of part of the scheme, is that the avoider gets the GST benefit from the scheme directly or indirectly; and
- (d) the scheme:
  - (i) is a scheme that has been or is entered into on or after 2 December 1998; or
  - (ii) is a scheme that has been or is carried out or commenced on or after that day (other than a scheme that was entered into before that day).

*Territorial application*

- (2) It does not matter whether the \*scheme, or any part of the scheme, was entered into or carried out inside or outside Australia.

**165-10 When does an entity get a *GST benefit* from a scheme?**

- (1) An entity gets a ***GST benefit*** from a \*scheme if:
  - (a) an amount that is payable by the entity under this Act apart from this Division is, or could reasonably be expected to be, smaller than it would be apart from the scheme or a part of the scheme; or
  - (b) an amount that is payable to the entity under this Act apart from this Division is, or could reasonably be expected to be, larger than it would be apart from the scheme or a part of the scheme; or
  - (c) all or part of an amount that is payable by the entity under this Act apart from this Division is, or could reasonably be expected to be, payable later than it would have been apart from the scheme or a part of the scheme; or
  - (d) all or part of an amount that is payable to the entity under this Act apart from this Division is, or could reasonably be expected to be, payable earlier than it would have been apart from the scheme or a part of the scheme.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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*What is a scheme?*

- (2) A *scheme* is:
- (a) any arrangement, agreement, understanding, promise or undertaking:
    - (i) whether it is express or implied; and
    - (ii) whether or not it is, or is intended to be, enforceable by legal proceedings; or
  - (b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise.

*GST benefit can arise even if no economic alternative*

- (3) An entity can get a \*GST benefit from a \*scheme even if the entity or entities that entered into or carried out the scheme, or a part of the scheme, could not have engaged economically in any activities:
- (a) of the kind to which this Act applies; and
  - (b) that would produce an effect equivalent (except in terms of this Act) to the effect of the scheme or part of the scheme; other than the activities involved in entering into or carrying out the scheme or part of the scheme.

### **165-15 Matters to be considered in determining purpose or effect**

- (1) The following matters are to be taken into account under section 165-5 in considering an entity's purpose in entering into or carrying out the \*scheme from which the avoider got a \*GST benefit, and the effect of the scheme:
- (a) the manner in which the scheme was entered into or carried out;
  - (b) the form and substance of the scheme, including:
    - (i) the legal rights and obligations involved in the scheme; and
    - (ii) the economic and commercial substance of the scheme;

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (c) the purpose or object of this Act, the *Customs Act 1901* (so far as it is relevant to this Act) and any relevant provision of this Act or that Act (whether the purpose or object is stated expressly or not);
  - (d) the timing of the scheme;
  - (e) the period over which the scheme was entered into and carried out;
  - (f) the effect that this Act would have in relation to the scheme apart from this Division;
  - (g) any change in the avoider's financial position that has resulted, or may reasonably be expected to result, from the scheme;
  - (h) any change that has resulted, or may reasonably be expected to result, from the scheme in the financial position of an entity (a ***connected entity***) that has or had a connection or dealing with the avoider, whether the connection or dealing is or was of a family, business or other nature;
  - (i) any other consequence for the avoider or a connected entity of the scheme having been entered into or carried out;
  - (j) the nature of the connection between the avoider and a connected entity, including the question whether the dealing is or was at arm's length;
  - (k) the circumstances surrounding the scheme;
  - (l) any other relevant circumstances.
- (2) Subsection (1) applies in relation to consideration of an entity's purpose in entering into or carrying out a part of a \*scheme from which the avoider gets or got a \*GST benefit, and the effect of part of the scheme, as if the part were itself the \*scheme from which the avoider gets or got the GST benefit.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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### **Subdivision 165-B—Commissioner may negate effects of schemes for GST benefits**

#### **165-40 Commissioner may negate avoider's GST benefits**

For the purpose of negating a \*GST benefit the avoider mentioned in section 165-5 gets or got from the \*scheme, the Commissioner may make a declaration stating either or both of the following:

- (a) the amount that is (and has been at all times) the avoider's \*net amount for a specified tax period that has ended;
- (b) the amount that is (and has been at all times) the amount of GST on a specified \*taxable importation that was made (or is stated in the declaration to have been made) by the avoider.

Note: A declaration of the Commissioner under this section is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

#### **165-45 Commissioner may reduce an entity's net amount or GST to compensate**

- (1) This section operates if:
  - (a) the Commissioner has made a declaration under section 165-40 to negate the \*GST benefit an entity gets or got from a \*scheme; and
  - (b) the Commissioner considers that another entity (the *loser*) gets or got a \*GST disadvantage from the scheme; and
  - (c) the Commissioner considers that it is fair and reasonable that the loser's GST disadvantage be negated or reduced.
- (2) An entity gets a *GST disadvantage* from a \*scheme if:
  - (a) an amount that is payable by the entity under this Act apart from this Division is, or could reasonably be expected to be, larger than it would have been apart from the scheme or a part of the scheme; or

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Chapter 4** The special rules

**Part 4-7** Special rules mainly about returns, payments and refunds

**Division 165** Anti-avoidance

**Section 165-45**

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- (b) an amount that is payable to the entity under this Act apart from this Division is, or could reasonably be expected to be, smaller than it would have been apart from the scheme or a part of the scheme; or
  - (c) all or part of an amount that is payable by the entity under this Act apart from this Division is, or could reasonably be expected to be, payable earlier than it would have been apart from the scheme or a part of the scheme; or
  - (d) all or part of an amount that is payable to the entity under this Act apart from this Division is, or could reasonably be expected to be, payable later than it would have been apart from the scheme or a part of the scheme.
- (3) For the purposes of negating or reducing the loser's \*GST disadvantage from the \*scheme, the Commissioner may make a declaration (under this section) stating either or both of the following:
- (a) the amount that is (and has been at all times) the loser's \*net amount for a specified tax period that has ended;
  - (b) the amount that is (and has been at all times) the amount of GST on a specified \*taxable importation that was made (or is stated in the declaration to have been made) by the loser.
- Note: A declaration of the Commissioner under this section is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).
- (4) An amount stated in a declaration as the loser's \*net amount or the amount of GST on a \*taxable importation must not be less than the net amount or amount of GST (as appropriate) would have been apart from the \*scheme, or part of the scheme, and the declaration.
- (5) An entity may give the Commissioner a written request to make a declaration under this section relating to the entity. The Commissioner must decide whether or not to grant the request, and give the entity notice of the Commissioner's decision.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Note: A decision of the Commissioner under subsection (5) is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

### **165-50 GST or refund payable in accordance with declaration**

A statement in a declaration under this Subdivision has effect according to its terms, for the purposes of Division 33 (about payments of GST) and Division 35 (about refunds), despite the provisions of this Act outside those Divisions and this Division.

### **165-55 Commissioner may disregard scheme in making declarations**

For the purposes of making a declaration under this Subdivision, the Commissioner may:

- (a) treat a particular event that actually happened as not having happened; and
- (b) treat a particular event that did not actually happen as having happened and, if appropriate, treat the event as:
  - (i) having happened at a particular time; and
  - (ii) having involved particular action by a particular entity; and
- (c) treat a particular event that actually happened as:
  - (i) having happened at a time different from the time it actually happened; or
  - (ii) having involved particular action by a particular entity (whether or not the event actually involved any action by that entity).

### **165-60 One declaration may cover several tax periods and importations**

To avoid doubt, statements relating to different tax periods and different \*taxable importations may be included in a single declaration under this Subdivision.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

Section 165-65

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**165-65 Commissioner must give copy of declaration to entity affected**

- (1) The Commissioner must give a copy of a declaration under this Subdivision to the entity whose \*net amount or GST liability is stated in the declaration.
- (2) A failure to comply with subsection (1) does not affect the validity of the declaration.

**Subdivision 165-C—Penalties for getting GST benefits from schemes**

**165-80 Penalty**

- (1) The avoider mentioned in section 165-5 must pay the Commonwealth a penalty.
- (2) The amount of the penalty is worked out as follows:

*Method statement*

*Step 1.* For each tax period for which a declaration under section 165-40 states as the avoider's \*net amount, an amount exceeding the amount that would be the avoider's \*net amount apart from the statement, work out the excess.

*Step 2.* For each \*taxable importation (or event stated by the declaration to be a \*taxable importation) for which the declaration states as the amount of GST, an amount exceeding the amount that would be the amount of GST apart from the statement, work out the excess.

*Step 3.* Total all the excesses worked out under Steps 1 and 2.

*Step 4.* Double the total from Step 3.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

- (3) The penalty is in addition to any payment the avoider must make apart from this section.
- (4) Part VI of the *Taxation Administration Act 1953* applies to the penalty in the same way as it applies to penalty an entity is liable to pay under that Part.

Note: That Part deals with remission, notice, payment and recovery of penalty (among other things).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 168—Tourist refund scheme**

### **168-1 What this Division is about**

If you take goods overseas as accompanied baggage, you may be entitled to a refund of the GST that was payable on the supply of the goods to you.

### **168-5 Tourist refund scheme**

- (1) If:
- (a) you make an acquisition of goods the supply of which to you is a \*taxable supply; and
  - (b) the acquisition is of a kind specified in the regulations; and
  - (c) you leave Australia, and export the goods from Australia as accompanied baggage, in the circumstances specified in the regulations;
- the Commissioner must, on behalf of the Commonwealth, pay to you an amount equal to:
- (d) the amount of the GST payable on the taxable supply; or
  - (e) such proportion of that amount of GST as is specified in the regulations.
- (2) The amount is payable within the period and in the manner specified in the regulations.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 171—Customs security etc. given on taxable importations**

### **171-1 What this Division is about**

Security or undertakings can be required under the *Customs Act 1901* before a temporary import is permitted. In these cases, this Division delays the requirement to pay GST on the importation.

### **171-5 Security or undertaking given under section 162 or 162A of the Customs Act**

- (1) If:
  - (a) you make a \*taxable importation of goods; and
  - (b) a security or undertaking has been given under section 162 or 162A of the *Customs Act 1901* for the payment of \*customs duty on the goods;any amount of GST on the importation is not payable while, under subsection 162(3) or 162A(5) of that Act (as the case requires), customs duty is not payable on the goods.
- (2) This section has effect despite section 33-15 (which is about payments of amounts of GST on importations).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## Chapter 5—Miscellaneous

### Part 5-1—Miscellaneous

#### Division 177—Miscellaneous

##### 177-1 Commonwealth etc. not liable to pay GST

- (1) The Commonwealth and \*Commonwealth entities are not liable to pay GST payable under this Act. However, it is the Parliament's intention that the Commonwealth and Commonwealth entities should:
  - (a) be notionally liable to pay GST payable under this Act; and
  - (b) be notionally entitled to input tax credits arising under this Act; and
  - (c) notionally have \*adjustments arising under this Act.
- (2) The \*Finance Minister may give such written directions as are necessary or convenient for carrying out or giving effect to subsection (1) and, in particular, may give directions in relation to the transfer of money within an account, or between accounts, operated by the Commonwealth or a \*Commonwealth entity.
- (3) Directions under subsection (2) have effect, and must be complied with, despite any other Commonwealth law.
- (4) If the Commonwealth or a \*Commonwealth entity is notionally liable to pay GST for a supply made to another entity (other than the Commonwealth or a \*Commonwealth entity), the \*GST law applies in relation to the other entity as if:
  - (a) the supply were a \*taxable supply to that entity; and
  - (b) the amount of GST for which the Commonwealth or a \*Commonwealth entity is notionally liable for the supply is treated as the amount of GST payable for the supply.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (5) **Commonwealth entity** means:
- (a) an Agency (within the meaning of the *Financial Management and Accountability Act 1997*); or
  - (b) a Commonwealth authority (within the meaning of the *Commonwealth Authorities and Companies Act 1997*);
- that cannot be made liable to taxation by a Commonwealth law.

### **177-3 Acquisitions from State or Territory bodies where GST liability is notional**

If:

- (a) an \*Australian government agency, other than the Commonwealth or a \*Commonwealth entity, makes a supply to another entity; and
  - (b) the agency is not liable for GST on the supply, but an amount relating to the agency's notional liability for GST on the supply is included in the \*consideration for the supply;
- the \*GST law applies in relation to the other entity as if:
- (c) the supply were a \*taxable supply to that entity; and
  - (d) the amount of GST for which the agency is notionally liable on the supply is the amount of GST payable on the supply.

### **177-5 Cancellation of exemptions from GST**

- (1) This section cancels the effect of a provision of another Act that would have the effect of exempting a person from liability to pay GST payable under this Act.
- (2) The cancellation does not apply if the provision of the other Act:
  - (a) commences after this section commences; and
  - (b) refers specifically to GST payable under this Act.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 177-10

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**177-10 Ministerial determinations**

- (1) The \*Aged Care Minister may make a determination for the purposes of:
  - (a) paragraph 38-15(c); or
  - (b) paragraph 38-25(2)(b); or
  - (c) paragraph 38-25(3)(b); or
  - (d) paragraph 38-30(4)(b).
- (2) The \*Child Care Minister may make a determination for the purposes of paragraph 38-150(e).
- (3) The \*Education Minister may make a determination under:
  - (a) paragraphs (a) and (b) of the definition of **adult and community education course** in the Dictionary; or
  - (b) paragraph (b) of the definition of **primary course** in the Dictionary; or
  - (c) paragraph (b) of the definition of **secondary course** in the Dictionary; or
  - (d) paragraph (b) of the definition of **tertiary course** in the Dictionary.
- (4) The \*Health Minister may make a determination for the purposes of:
  - (a) paragraph 38-15(c); or
  - (b) subsection 38-47(1); or
  - (c) paragraph 38-50(5)(b).
- (5) A determination under this section is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

**177-15 Regulations**

- The Governor-General may make regulations prescribing matters:
- (a) required or permitted by this Act to be prescribed; or

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Chapter 6—Interpreting this Act**

### **Part 6-1—Rules for interpreting this Act**

#### **Division 182—Rules for interpreting this Act**

##### **182-1 What forms part of this Act**

(1) These all form part of this Act:

- the headings to the Chapters, Parts, Divisions and Subdivisions of this Act;
- \*explanatory sections;
- the headings to the sections and subsections of this Act;
- the headings for groups of sections of this Act (group headings);
- the notes and examples (however described) that follow provisions of this Act.

(2) The asterisks used to identify defined terms form part of this Act. However, if a term is not identified by an asterisk, disregard that fact in deciding whether or not to apply to that term a definition or other interpretation provision.

##### **182-5 What does not form part of this Act**

These do not form part of this Act:

- footnotes and endnotes;
- Tables of Subdivisions.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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### **182-10 Explanatory sections, and their role in interpreting this Act**

- (1) An *explanatory section* is:
  - (a) any section that is the first section in a Division and that has as its heading “What this Division is about”; or
  - (b) any section in Chapter 1 (other than sections 1-1 and 1-2); or
  - (c) any section in Division 5 or 37; or
  - (d) any section that is the last section in a Division or Subdivision of Chapter 2 and that has a checklist of special rules in Chapter 4; or
  - (e) any section that a note states to be an explanatory section.
- (2) Explanatory sections form part of this Act, but they are not operative provisions. In interpreting an operative provision, an explanatory section may only be considered:
  - (a) in determining the purpose or object underlying the provision; or
  - (b) to confirm that the provision’s meaning is the ordinary meaning conveyed by its text, taking into account its context in this Act and the purpose or object underlying the provision; or
  - (c) in determining the provision’s meaning if the provision is ambiguous or obscure; or
  - (d) in determining the provision’s meaning if the ordinary meaning conveyed by its text, taking into account its context in this Act and the purpose or object underlying the provision, leads to a result that is manifestly absurd or is unreasonable.

### **182-15 Schedules 1 and 2**

The second columns of the tables in Schedules 1 and 2 are not operative. In interpreting an item in those tables, or any other operative provision, those columns may only be considered for a

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

**Chapter 6** Interpreting this Act  
**Part 6-1** Rules for interpreting this Act  
**Division 182** Rules for interpreting this Act

Section 182-15

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purpose for which an \*explanatory section may be considered under subsection 182-10(2).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Part 6-2—Meaning of some important concepts**

### **Division 184—Meaning of entity**

#### **184-1 Entities**

(1) **Entity** means any of the following:

- (a) an \*individual;
- (b) a body corporate;
- (c) a corporation sole;
- (d) a body politic;
- (e) a \*partnership;
- (f) any other unincorporated association or body of persons;
- (g) a trust;
- (h) a \*superannuation fund.

Note: The term “entity” is used in a number of different but related senses. It covers all kinds of legal persons. It also covers groups of legal persons, and other things, that in practice are treated as having a separate identity in the same way as a legal person does.

(2) The trustee of a trust or of a \*superannuation fund is taken to be an entity consisting of the person who is the trustee, or the persons who are the trustees, at any given time.

Note: This is because a right or obligation cannot be conferred or imposed on an entity that is not a legal person.

(3) A legal person can have a number of different capacities in which the person does things. In each of those capacities, the person is taken to be a different entity.

Example: In addition to his or her personal capacity, an individual may be:

- sole trustee of one or more trusts; and
- one of a number of trustees of a further trust.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

**Chapter 6** Interpreting this Act  
**Part 6-2** Meaning of some important concepts  
**Division 184** Meaning of entity

**Section 184-1**

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In his or her personal capacity, he or she is one entity. As trustee of each trust, he or she is a different entity. The trustees of the further trust are a different entity again, of which the individual is a member.

- (4) If a provision refers to an entity of a particular kind, it refers to the entity in its capacity as that kind of entity, not to that entity in any other capacity.

Example: A provision that refers to a company does not cover a company in a capacity as trustee, unless it also refers to a trustee.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 186—Meaning of approved form**

### **186-1 Approved forms**

- (1) A notice, application or other document is in the *approved form* if:
  - (a) it is in the form approved in writing by the Commissioner in relation to that kind of notice, application or other document; and
  - (b) it contains the information that the form requires, and such further information as the Commissioner requires; and
  - (c) it is lodged at the place and in the manner that the Commissioner requires.
- (2) The Commissioner may combine in the same approved form more than one notice, application or other document.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 188-1

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## **Division 188—Meaning of annual turnover**

### **188-1 What this Division is about**

In some important respects, the way that this Act applies to you depends on your annual turnover. There are several turnover thresholds, and whether your annual turnover meets a particular turnover threshold, or whether it does not exceed a particular turnover threshold, can determine how this Act applies to you.

### **188-5 Explanation of the turnover thresholds**

This table specifies the turnover thresholds and indicates how they affect the operation of this Act.

<b>Turnover thresholds</b>		
<b>Item</b>	<b>This turnover threshold ...</b>	<b>Is relevant to working out:</b>
1	Registration turnover threshold	whether you are required to be registered (see section 23-5).
2	Tax period turnover threshold	whether tax periods must be monthly (see section 27-15).
3	Cash accounting turnover threshold	whether you can elect to account on a cash basis (see section 29-40)
4	Electronic lodgment turnover threshold	whether you must lodge GST returns electronically (see section 31-25); whether you must pay amounts of GST electronically (see section 33-10).

Note 1: The provisions referred to in the table indicate if the issue in relation to the turnover threshold in question is whether the threshold is met, or whether the threshold is not exceeded.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Note 2: This section is an explanatory section.

### **188-10 Whether your annual turnover meets, or does not exceed, a turnover threshold**

- (1) You have an **annual turnover** that meets a particular \*turnover threshold if:
  - (a) your \*current annual turnover is at or above the turnover threshold, and the Commissioner is not satisfied that your \*projected annual turnover is below the turnover threshold; or
  - (b) your projected annual turnover is at or above the turnover threshold.
- (2) You have an **annual turnover** that does not exceed a particular \*turnover threshold if:
  - (a) your \*current annual turnover is at or below the turnover threshold, and the Commissioner is not satisfied that your \*projected annual turnover is above the turnover threshold; or
  - (b) your projected annual turnover is at or below the turnover threshold.
- (3) Each of these is a **turnover threshold**:
  - (a) the \*cash accounting turnover threshold;
  - (a) the \*electronic lodgment turnover threshold;
  - (b) the \*registration turnover threshold;
  - (c) the \*tax period turnover threshold.

### **188-15 Current annual turnover**

#### *General*

- (1) Your **current annual turnover** at a time during a particular month is the sum of the \*values of all the supplies that you have made, or are likely to make, during the 12 months ending at the end of that month, other than:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 188-20

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- (a) supplies that are \*input taxed; or
- (b) supplies that are not for \*consideration (and are not \*taxable supplies under section 72-5); or
- (c) supplies that are not made in connection with an \*enterprise that you \*carry on.

*Members of GST groups*

- (2) If you are a \*member of a \*GST group, your **current annual turnover** at a time during a particular month is the sum of the \*values of all the supplies that you or any other member of the group have made, or are likely to make, during the 12 months, other than:
  - (a) supplies made from one member of the group to another member of the group; or
  - (b) supplies that are \*input taxed; or
  - (c) supplies that are not for \*consideration (and are not \*taxable supplies under section 72-5); or
  - (d) supplies that are not made in connection with an \*enterprise that you \*carry on.

**188-20 Projected annual turnover**

*General*

- (1) Your **projected annual turnover** at a time during a particular month is the sum of the \*values of all the supplies that you have made, or are likely to make, during that month and the next 11 months, other than:
  - (a) supplies that are \*input taxed; or
  - (b) supplies that are not for \*consideration (and are not \*taxable supplies under section 72-5); or
  - (c) supplies that are not made in connection with an \*enterprise that you \*carry on.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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*Members of GST groups*

- (2) If you are a \*member of a \*GST group, your **projected annual turnover** at a time during a particular month is the sum of the \*values of all the supplies that you or any other member of the group have made, or are likely to make, during that month and the next 11 months other than:
- (a) supplies made from one member of the group to another member of the group; or
  - (b) supplies that are \*input taxed; or
  - (c) supplies that are not for \*consideration (and are not \*taxable supplies under section 72-5); or
  - (d) supplies that are not made in connection with an \*enterprise that you \*carry on.

**188-25 Transfer of capital assets, and termination etc. of enterprise, to be disregarded**

In working out your \*projected annual turnover, disregard:

- (a) any supply made, or likely to be made, by you by way of transfer of ownership of a capital asset of yours; and
- (b) any supply made, or likely to be made, by you solely as a consequence of:
  - (i) ceasing to carry on an \*enterprise; or
  - (ii) substantially and permanently reducing the size or scale of an enterprise.

**188-30 The value of non-taxable supplies**

For the purposes only of this Division, work out the value of a supply that is not a \*taxable supply in the same way that you would work out the \*value of the supply if it were a taxable supply, but without any discount for the amount of GST (if any) payable on the supply.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**Chapter 6** Interpreting this Act  
**Part 6-2** Meaning of some important concepts  
**Division 188** Meaning of annual turnover

**Section 188-30**

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For the basic rules on the value of taxable supplies, see Subdivision 9-C.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## **Division 190—90% owned groups of companies**

### **190-1 90% owned groups**

Two companies are members of the same **90% owned group** if:

- (a) one of the companies has \*at least a 90% stake in the other company; or
- (b) a third company has \*at least a 90% stake in each of the two companies.

### **190-5 When a company has at least a 90% stake in another company**

A \*company (the **holding company**) has **at least a 90% stake** in another company (the **subsidiary company**) if the holding company:

- (a) controls, or is able to control, at least 90% of the voting power in the subsidiary company (whether directly, or indirectly through one or more interposed companies); and
- (b) has the right to receive (whether directly, or indirectly through one or more interposed companies) at least 90% of any \*dividends that the subsidiary company may pay; and
- (c) has the right to receive (whether directly, or indirectly through one or more interposed companies) at least 90% of any distribution of capital of the subsidiary company.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## Part 6-3—Dictionary

### Division 195—Dictionary

#### 195-1 Dictionary

In this Act, except so far as the contrary intention appears:

**90% owned group** has the meaning given by section 190-1.

**ABN** has the meaning given by section 41 of the *A New Tax System (Australian Business Number) Act 1999*.

**account on a cash basis**: you account on a cash basis while a choice you make under section 29-40, or a permission of the Commissioner under section 29-45 in relation to you, has effect.

**account on the same basis**: 2 or more \*companies account on the same basis if:

- (a) each company \*accounts on a cash basis; or
- (b) none of the companies account on a cash basis.

**acquisition** has the meaning given by section 11-10.

**actual application of a thing** has the meaning given by section 129-40.

**adjustment** means an \*increasing adjustment or a \*decreasing adjustment.

**adjustment event** has the meaning given by section 19-10.

**adjustment note** means a document that complies with the requirements of subsection 29-75(1) and (if applicable) section 54-50.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 195-1

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***adjustment period*** has the meaning given by Subdivision 129-B.

***adult and community education course*** means a course of study or instruction that is likely to add to the employment related skills of people undertaking the course and:

- (a) is of a kind determined by the \*Education Minister to be an adult and community education course and is provided by, or on behalf of, a body:
  - (i) that is a \*higher education institution; or
  - (ii) that is recognised, by a State or Territory authority, as a provider of courses of a kind described in the determination; or
  - (iii) that is funded by a State or Territory on the basis that it is a provider of courses of a kind described in the determination; or
- (b) is determined by the \*Education Minister to be an adult and community education course.

***Aged Care Minister*** means the Minister administering the *Aged Care Act 1997*.

***aircraft's stores*** has the meaning given by section 130C of the *Customs Act 1901*.

***airport shop goods*** has the same meaning as in the *Customs Act 1901*.

***amalgamated company***, in relation to an \*amalgamation, means the single \*company that is, or will be, the result of the amalgamation, and that continues, or will continue, after the amalgamation. It may be one of the \*amalgamating companies or a new company.

***amalgamating company***, in relation to an \*amalgamation, means any \*company that amalgamates with one or more other companies under the amalgamation.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 195-1

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**amalgamation** means any procedure, under an \*Australian law or a \*foreign law, by which 2 or more \*companies amalgamate and continue as one company.

**amount** includes a nil amount.

**annual turnover of financial supplies** means the amount that would be your \*current annual turnover, or your \*projected annual turnover (if that would be greater), if:

- (a) the \*financial supplies that you made, or would be likely to make, during the 12 month period in question were \*taxable supplies; and
- (b) those supplies were the only supplies that you made, or would be likely to make, during that period.

**annual turnover** means:

- (a) in relation to meeting a \*turnover threshold—has the meaning given by subsection 188-10(1); and
- (b) in relation to not exceeding a \*turnover threshold—has the meaning given by subsection 188-10(2).

**apply**, in relation to a thing acquired or imported, has the meaning given by section 129-55.

**approved form** has the meaning given by section 186-1.

**approved pathology practitioner** means a person who is an approved pathology practitioner for the purposes of the *Health Insurance Act 1973*.

**associate** has the meaning given by section 318 of the \*ITAA 1936.

**at least a 90% stake** in a \*company has the meaning given by section 190-5.

**Australia** does not include any external Territory. However, it includes an installation (within the meaning of the *Customs Act*

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

Section 195-1

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*1901*) that is deemed by section 5C of the *Customs Act 1901* to be part of Australia.

***Australian government agency*** has the meaning given by section 995-1 of the \*ITAA 1997.

***Australian law*** has the meaning given by section 995-1 of the \*ITAA 1997.

***Australian resident*** means a person who is a resident of Australia for the purposes of the \*ITAA 1936.

***Australian tax*** means a tax (however described) imposed under an \*Australian law.

***batch repair process*** has the meaning given by section 117-5.

***beverage*** has the meaning given by subsection 38-4(2).

***borrowing*** has the meaning given by section 995-1 of the \*ITAA 1997.

***business*** includes any profession, trade, employment, vocation or calling, but does not include occupation as an employee.

***car*** has the meaning given by section 995-1 of the \*ITAA 1997.

***car depreciation limit*** has the meaning given by section 42-80 of the \*ITAA 1997.

***car parts***, in relation to \*cars, includes:

- (a) bodies for those cars (including insulated bodies, tank-bodies, and other bodies designed for the transport or delivery of goods or other property of particular kinds); and
- (b) underbody hoists, and other equipment or apparatus of a kind ordinarily fitted to cars for use in connection with the transport or delivery of goods or other property by those road vehicles.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 195-1

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***carried on in Australia***, in relation to an \*enterprise, has the meaning given by subsection 9-25(6).

***carrying on*** an \*enterprise includes doing anything in the course of the commencement or termination of the enterprise.

***cash accounting turnover threshold*** has the meaning given by subsection 29-40(2).

***Child Care Minister*** means the Minister administering the *Child Care Act 1972*.

***commercial accommodation*** has the meaning given by section 87-15.

***commercial residential premises*** means:

- (a) a hotel, motel, inn, hostel or boarding house; or
- (b) premises used to provide accommodation in connection with a \*school; or
- (c) a \*ship that is mainly let out on hire in the ordinary course of a \*business of letting ships out on hire; or
- (d) a ship that is mainly used for \*entertainment or transport in the ordinary course of a \*business of providing ships for entertainment or transport; or
- (e) a caravan park or a camping ground; or
- (f) anything similar to \*residential premises described in paragraphs (a) to (e).

However, it does not include premises to the extent that they are used to provide accommodation to students in connection with an \*education institution that is not a \*school.

***Commissioner*** means the Commissioner of Taxation.

***Commonwealth entity*** has the meaning given by section 177-1.

***community care*** has the meaning given by section 45-3 of the *Aged Care Act 1997*.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Note: Community care can include respite care.

**company** means:

(a) a body corporate; or

(b) any other unincorporated association or body of persons;

but does not include a \*partnership.

**connected with Australia**, in relation to a supply, has the meaning given by section 9-25.

Note: This meaning is also affected by sections 81-10 and 96-5.

**consideration**, for a supply or acquisition, means any consideration, within the meaning given by section 9-15, in connection with the supply or acquisition.

Note: This meaning is affected by sections 78-30, 78-35, 78-65, 78-70, 81-5, 99-5 and 102-5.

**corrected GST amount** has the meaning given by paragraph 19-40(c).

**corrected input tax credit amount** has the meaning given by paragraph 19-70(c).

**course materials**, in relation to an \*education course, means materials provided by the entity supplying the course that are necessarily consumed or transformed by the students undertaking the course for the purposes of the course.

**creditable acquisition** has the meaning given by section 11-5 and subsection 78-5(2).

Note: This meaning is affected by sections 60-10, 69-5, 72-40, 75-20, 78-15, 90-15, 93-5 and 111-5.

**creditable importation** has the meaning given by section 15-5.

Note: This meaning is affected by sections 60-10 and 69-5.

**creditable purpose**:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (a) in relation to the acquisition of a thing—has the meaning given by sections 11-15 and 60-20; and
- (b) in relation to the importation of a thing—has the meaning given by sections 15-10 and 60-20; and
- (c) in relation to the \*application of a thing acquired or imported—has the meaning given by section 129-50.

Note: This meaning is affected by section 70-10.

**current annual turnover** has the meaning given by section 188-15.

**customs clearance area** means a place identified under section 234AA of the *Customs Act 1901*.

**customs duty** means any duty of customs imposed by that name under a law of the Commonwealth, (other than the *A New Tax System (Goods and Services Tax Imposition—Customs) Act 1999*).

**customs value**, in relation to goods, means the customs value of the goods for the purposes of Division 2 of Part VIII of the *Customs Act 1901*.

**dealer in precious metal** means an entity that satisfies the Commissioner that a principal part of \*carrying on its \*enterprise is the regular supply and acquisition of \*precious metal for investment purposes.

**decreasing adjustment** means an amount arising under one of the following provisions:

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<b>Decreasing adjustments</b>		
<b>Item</b>	<b>Provision</b>	<b>Subject matter</b>
1	Section 19-55	Adjustment events (supplies)
2	Section 19-85	Adjustment events (acquisitions)
3	Section 21-5	Writing off bad debts (taxable supplies)

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## Section 195-1

**Decreasing adjustments**

<b>Item</b>	<b>Provision</b>	<b>Subject matter</b>
4	Section 21-20	Recovering amounts previously written off (creditable acquisitions)
5	Section 129-40	Changes in the extent of creditable purpose
6	Section 132-15	Supplies of things acquired or imported to make supplies

Note: Decreasing adjustments decrease your net amounts.

**dental practitioner** has the meaning given by subsection 3(1) of the *Health Insurance Act 1973*.

**dividend** has the meaning given by subsections 6(1), (4) and (5) of the *\*ITAA 1936*.

**education course** means:

- (a) a *\*pre-school* course; or
- (b) a *\*primary* course; or
- (c) a *\*secondary* course; or
- (d) a *\*tertiary* course; or
- (e) a *\*Masters or Doctoral* course; or
- (f) a *\*special education* course; or
- (g) an *\*adult and community education* course; or
- (h) an *\*English language* course for overseas students; or
- (i) a *\*first aid or life saving* course; or
- (j) a *\*professional or trade* course; or
- (k) a *\*tertiary residential college* course.

**education institution** has the meaning given by subsection 3(1) of the *Student Assistance Act 1973*.

**Education Minister** means the Minister administering the *Student Assistance Act 1973*.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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***electronic lodgment turnover threshold*** has the meaning given by subsection 31-25(4).

***electronic payment*** means a payment by way of electronic transmission, in an electronic format approved by the Commissioner.

***electronic signature***, in relation to a person, means a unique identification in an electronic form that is approved by the Commissioner for the purposes of the \*ITAA 1936.

***English language course for overseas students*** means a course of study or education supplied to overseas students that:

- (a) includes study or education in the English language; and
- (b) is supplied by an entity that is accredited to provide such courses by a State or Territory authority responsible for their accreditation.

***enterprise*** has the meaning given by section 9-20.

***entertainment*** has the meaning given by section 32-10 of the \*ITAA 1997.

***entity*** has the meaning given by section 184-1.

***essential prerequisite***: a qualification is an ***essential prerequisite*** in relation to the entry to, or the commencement of the practice of, a particular profession or trade if the qualification is imposed:

- (a) by or under an \*industrial instrument; or
- (b) if there is no industrial instrument for that profession or trade but there is a professional or trade association that has uniform national requirements relating to the entry to the profession or trade concerned—by that association; or
- (c) if neither paragraph (a) nor (b) applies but there is a professional or trade association in a State or Territory that has requirements relating to the entry to the profession or trade concerned—by that association.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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***excisable goods*** has the meaning given by section 4 of the *Excise Act 1901*.

***excise duty*** means any duty of excise imposed by that name under a law of the Commonwealth.

***exempt entity*** has the meaning given by section 995-1 of the \*ITAA 1997.

***explanatory section*** has the meaning given by section 182-10.

***family*** has the meaning given by section 5 of the *Childcare Rebate Act 1993*.

***farming business*** has the meaning given by subsection 38-475(2).

***Finance Minister*** means the Minister administering the *Financial Management and Accountability Act 1997*.

***financial institution account*** means an account maintained by an entity:

- (a) with an authorised deposit taking institution within the meaning of the *Banking Act 1959*; or
- (b) with an organisation registered as a permanent building society, or as a credit union, under a \*State law or \*Territory law;

into which money received on deposit from the entity is paid.

***financial supply*** has the meaning given by section 40-5.

***financial year*** means a period of 12 months beginning on 1 July.

***first aid or life saving course*** means a course of study or instruction that:

- (a) principally involves training individuals in first aid, resuscitation or other similar life saving skills; and
- (b) is provided by a non-profit body that is:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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

***floating home*** means a structure that is composed of a floating platform and a building designed to be occupied as a residence that is permanently affixed to the platform, but does not include any structure that has means of, or is capable of being readily adapted for, self-propulsion.

***food*** has the meaning given by section 38-4.

***foreign law*** has the meaning given by section 995-1 of the \*ITAA 1997.

***futures exchange*** means:

- (a) a body corporate in relation to which an approval under section 1126 of the Corporations Law is in force, or is taken to be in force because of subsection 1126(3) of that Law; or
- (b) a body corporate that is recognised as a futures exchange in a foreign country and operates as a futures exchange under the laws of that country.

***gambling event*** has the meaning given by subsection 126-35(2).

***gambling supply*** has the meaning given by subsection 126-35(1).

***gift-deductible entity***: an entity is a gift-deductible entity if gifts or contributions made to it can be deductible under Division 30 of the \*ITAA 1997.

***global GST amount*** has the meaning given by sections 126-10, 126-15 and 126-20.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**goods** means any form of tangible personal property.

**GST** means tax that is payable under the \*GST law and imposed as goods and services tax by any of these:

- (a) the *A New Tax System (Goods and Services Tax Imposition—General) Act 1999*; or
- (b) the *A New Tax System (Goods and Services Tax Imposition—Customs) Act 1999*; or
- (c) the *A New Tax System (Goods and Services Tax Imposition—Excise) Act 1999*.

**GST benefit** has the meaning given by subsection 165-10(1).

**GST branch** has the meaning given by section 54-5.

**GST branch registration number**, of a branch, means the branch's GST branch registration number notified under section 54-15.

**GST disadvantage** has the meaning given by subsection 165-45(2).

**GST exclusive market value**, in relation to a supply or acquisition, is <sup>10/11</sup> of the \*GST inclusive market value of the supply or acquisition.

**GST exclusive value**:

- (a) in relation to an acquisition, means <sup>10/11</sup> of the \*price of the supply of the thing being acquired; and
- (b) in relation to an importation that is a \*taxable importation, means the \*value of the importation; and
- (c) in relation to an importation that is not a taxable importation, means the amount that would be the value of the importation if it were a taxable importation.

**GST-free** has the meaning given by subsection 9-30(1) and Division 38.

**GST group** has the meaning given by section 48-5.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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***GST inclusive market value*** of:

- (a) \*consideration in connection with a supply; or
- (b) a thing, or a supply or acquisition of a thing;

means the market value of the consideration or thing, without any discount for the amount of GST (if any) payable on the supply.

***GST joint venture*** has the meaning given by section 51-5.

***GST law*** means:

- (a) this Act; and
- (b) any Act that imposes GST; and
- (c) the *A New Tax System (Goods and Services Tax Transition) Act 1999*; and
- (d) the *Taxation Administration Act 1953*, so far as it relates to any Act covered by paragraphs (a) to (c); and
- (e) any other Act, so far as it relates to any Act covered by paragraphs (a) to (d) (or to so much of that Act as is covered); and
- (f) regulations under any Act, so far as they relate to any Act covered by paragraphs (a) to (e) (or to so much of that Act as is covered).

***GST return*** means a return of the kind referred to in Division 31, that complies with all the requirements of sections 31-15, 31-25 and 31-30.

***Health Minister*** means the Minister administering the *National Health Act 1953*.

***higher education institution*** means an institution specified in section 4, or paragraph 34(4)(b), (f) or (h), of the *Higher Education Funding Act 1988*.

***hire purchase agreement*** has the meaning given by section 995-1 of the \*ITAA 1997.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**hospital treatment** has the meaning given by subsection 67(4) of the *National Health Act 1953*.

**import** means \*import goods into Australia.

**importation of goods into Australia** has the meaning given by subsection 13-5(2) and section 114-5.

**incapacitated entity** means:

- (a) an individual who is a bankrupt; or
- (b) an entity that is in liquidation or receivership.

**income year** has the meaning given by section 995-1 of the \*ITAA 1997.

**increasing adjustment** means an amount arising under one of the following provisions:

<b>Increasing adjustments</b>		
<b>Item</b>	<b>Provision</b>	<b>Subject matter</b>
1	Section 19-50	Adjustment events (supplies)
2	Section 19-80	Adjustment events (acquisitions)
3	Section 21-10	Recovering amounts previously written off (taxable supplies)
4	Section 21-15	Bad debts written off (creditable acquisitions)
5	Section 129-40	Changes in the extent of creditable purpose
6	Section 132-10	Supplies of things acquired or imported to make supplies
7	Section 135-5	Supplies of going concerns
8	Section 138-5	Cessation of registration

Note: Increasing adjustments increase your net amounts.

**individual** means a natural person.

\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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***industrial instrument*** has the meaning given by section 995-1 of the \*ITAA 1997.

***in existence*** has the meaning given by section 995-100 of the \*ITAA 1997.

***input tax credit*** means an entitlement arising under section 11-20 or 15-15.

***input taxed*** has the meaning given by subsection 9-30(2) and Division 40.

***insurance policy*** has the meaning given by subsection 78-5(4).

***intended or former application of a thing*** has the meaning given by section 129-40.

***invoice*** means a document notifying an obligation to make a payment.

***inwards duty free shop*** has the same meaning as in section 96B of the *Customs Act 1901*.

***ITAA 1936*** means the *Income Tax Assessment Act 1936*.

***ITAA 1997*** means the *Income Tax Assessment Act 1997*.

***joint venture operator***, for a \*GST joint venture, is the \*participant of the joint venture nominated as mentioned in paragraph 51-5(e), or approved as a replacement joint venture operator for the joint venture under paragraph 51-70(1)(c).

***legal practitioner*** means a person who is enrolled as a barrister, a solicitor or a barrister and solicitor of:

- (a) a federal court; or
- (b) a court of a State or Territory.

***life insurance policy*** means a policy of insurance on the life of an individual.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**liquidator** has the meaning given by subsection 6(1) of the \*ITAA 1936.

**live stock** has the meaning given by section 995-1 of the \*ITAA 1997.

**lodged electronically** has the meaning given by subsection 31-25(3).

**long-term accommodation** has the meaning given by subsection 87-20(1).

**long-term lease** means a supply by way of lease, hire or licence (including a renewal or extension of a lease, hire or licence) for at least 50 years if:

- (a) at the time of the lease, hire or licence, or the renewal or extension of the lease, hire or licence, it was reasonable to expect that it would continue for at least 50 years; and
- (b) unless the supplier is an \*Australian government agency—the terms of the lease, hire or licence, or the renewal or extension of the lease, hire or licence, as they apply to the \*recipient are substantially the same as those under which the supplier held the premises.

**luxury car tax law** has the meaning given in section 27-1 of the *A New Tax System (Luxury Car Tax) Act 1999*.

**margin**, in relation to a \*taxable supply of \*real property, has the meaning given by subsection 75-10(2).

**margin scheme**: a \*taxable supply of \*real property is under the margin scheme if you choose, under section 75-5, to use the margin scheme in working out the amount of GST on the supply.

**Masters or Doctoral course** means a course of study or instruction, accredited at Masters or Doctoral level and supplied by a \*higher education institution or a \*non-government higher education institution.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**medical practitioner** means a person who is a medical practitioner for the purposes of the *Health Insurance Act 1973*.

**medical service** means a service supplied by or on behalf of a \*medical practitioner or \*approved pathology practitioner that is generally accepted in the medical profession as being necessary for the appropriate treatment of the \*recipient of the supply.

**member**, in relation to a \*GST group, means a \*company currently approved as one of the companies of the group under section 48-5 or paragraph 48-70(1)(a).

**mineral deposit** means a deposit of \*minerals, and includes a deposit of sand or gravel.

**monetary prize** means:

- (a) any prize, or part of a prize, in the form of \*money; or
- (b) if the prize is given at a casino—any prize, or part of a prize, in the form of \*money or in the form of gambling chips that may be redeemed for money.

**money** includes:

- (a) currency (whether of Australia or of any other country); and
- (b) promissory notes and bills of exchange; and
- (c) any negotiable instrument used or circulated, or intended for use or circulation, as currency (whether of Australia or of any other country); and
- (d) postal notes and money orders; and
- (e) whatever is supplied as payment by way of:
  - (i) credit card or debit card; or
  - (ii) crediting or debiting an account; or
  - (iii) creation or transfer of a debt.

However, it does not include:

- (f) a collector's piece; or
- (g) an investment article; or

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (h) an item of numismatic interest; or
- (i) currency the market value of which exceeds its stated value as legal tender in the country of issue.

**net amount** has the meaning given by section 17-5 and 126-5.

**new residential premises** means \*residential premises that have not previously been sold as residential premises and have not previously been the subject of a \*long-term lease.

**non-creditable insurance event** has the meaning given by subsection 78-10(3).

**non-deductible expense** has the meaning given by subsection 69-5(3).

**non-government higher education institution** means an institution that is not a \*higher education institution and that:

- (a) is established as a non-government higher education institution under the law of a State or Territory; or
- (b) is registered by a State or Territory higher education recognition authority.

**non-profit association** means an entity all the members of which are non-profit bodies.

**non-resident** means an entity that is not an \*Australian resident.

**non-taxable importation** has the meaning given by section 13-10 and Division 42.

**officer**, except in section 38-510, has the meaning given by the Corporations Law.

**operations cease**, in relation to the recovery of a mineral, has the meaning given by subsection 123-55(4).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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***outwards duty free shop*** has the same meaning as in section 96A of the *Customs Act 1901*.

***participant***, in relation to a \*GST joint venture, means a \*company currently approved as one of the participants of the joint venture under section 51-5 or paragraph 51-70(1)(a).

***partly creditable:***

- (a) in relation to an acquisition, has the meaning given by sections 11-30 and 70-20; or
- (b) in relation to an importation, has the meaning given by section 15-25.

***partly creditable land transport*** has the meaning given by subsection 123-55(1).

***partnership*** has the meaning given by section 995-1 of the \*ITAA 1997.

***PAYE earner*** means an employee as defined by section 221A of the \*ITAA 1936.

***person*** includes a \*company.

***potential residential land*** means land that it is permissible to use for residential purposes, but that does not contain any \*residential premises.

***precious metal*** means:

- (a) gold (in any form) of at least 99.5% fineness; or
- (b) silver (in any form) of at least 99.9% fineness; or
- (c) platinum (in any form) of at least 99% fineness; or
- (d) any other substance specified in the regulations of a particular fineness specified in the regulations.

***predominantly for long-term accommodation*** has the meaning given by subsection 87-20(3).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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***pre-establishment acquisition*** has the meaning given by section 60-15.

***pre-establishment importation*** has the meaning given by section 60-15.

***premises***, in relation to a supply of \*food, has the meaning given by section 38-5.

***pre-school course*** means a course that is delivered:

- (a) in accordance with a pre-school curriculum recognised by the education authority of the State or Territory in which the course is delivered; and
- (b) by a \*school that is recognised as a pre-school under the law of the State or Territory.

***previously attributed GST amount*** has the meaning given by section 19-45.

***previously attributed input tax credit amount*** has the meaning given by section 19-75.

***price***, in relation to a supply, has the meaning given by section 9-75.

***primary course*** means:

- (a) a course of study or instruction that is delivered:
  - (i) in accordance with a primary curriculum recognised by the education authority of the State or Territory in which the course is delivered; and
  - (ii) by a \*school that is recognised as a primary school under the law of the State or Territory; or
- (b) any other course of study or instruction that the \*Education Minister has determined is a primary course for the purposes of this Act.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**private health insurance** means insurance provided under a contract of insurance that was entered into by a registered organisation (within the meaning of Part VI of the *National Health Act 1953*) in the course of carrying on health insurance business (within the meaning of subsection 67(4) of that Act).

**professional or trade course** means a course leading to a qualification that is an \*essential prerequisite:

- (a) for entry to a particular profession or trade in Australia; or
- (b) to commence the practice of (but not to maintain the practice of) a profession or trade in Australia.

**professional service** has the meaning given by subsection 3(1) of the *Health Insurance Act 1973*.

**projected annual turnover** has the meaning given by section 188-20.

**Quality of Care Principles** means the principles made under section 96-1 of the *Aged Care Act 1997*.

**real property** includes:

- (a) any interest in or right over land; or
- (b) a personal right to call for or be granted any interest in or right over land; or
- (c) a licence to occupy land or any other contractual right exercisable over or in relation to land.

**recipient**, in relation to a supply, means the entity to which the supply was made.

**recipient created tax invoice** has the meaning given by subsection 29-70(3).

**recognised professional**: a person is a recognised professional, in relation to the supply of a service of a kind specified in the table in subsection 38-10(1), if:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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- (a) the service is supplied in a State or Territory in which the person has a permission or approval, or is registered, under a \*State law or a \*Territory law prohibiting the supply of services of that kind without such permission, approval or registration; or
- (b) the service is supplied in a State or Territory in which there is no State law or Territory law requiring such permission, approval or registration, and the person is a member of a professional association that has uniform national registration requirements relating to the supply of services of that kind; or
- (c) in the case of services covered by item 2 in the table—the service is supplied by an accredited service provider within the meaning of section 4 of the *Hearing Services Administration Act 1997*.

**recognised tax adviser** has the meaning given by section 995-1 of the \*ITAA 1997.

**reduced credit acquisition** has the meaning given by subsection 70-5(1).

**reduced credit land transport** has the meaning given by section 123-55.

**refiner of precious metal** means an entity that satisfies the Commissioner that it regularly converts or refines \*precious metal in \*carrying on its \*enterprise.

**registered** means registered under Part 2-5.

**registered tax agent** means an entity that is registered as a tax agent under Part VIIA (Registration of tax agents) of the \*ITAA 1936.

**registration turnover threshold** has the meaning given by section 23-15.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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***relates to business finance*** has the meaning given by subsection 129-10(3).

***relevant traveller:***

- (a) in relation to goods that are exported—has the same meaning as in section 96A of the *Customs Act 1901*; and
- (b) in relation to goods that are imported or \*excisable goods—has the same meaning as in section 96B of the *Customs Act 1901*.

***representative*** means:

- (a) a trustee in bankruptcy; or
- (b) a \*liquidator; or
- (c) a receiver.

***representative member***, for a \*GST group, is the \*member of the group nominated as mentioned in paragraph 48-5(1)(c), or approved as a replacement representative member for the group under paragraph 48-70(1)(c).

***required to be registered*** has the meaning given by sections 23-5, 57-20, 144-5 and 147-5.

***resident agent*** means an agent that is an \*Australian resident.

***residential care*** has the meaning given by section 41-3 of the *Aged Care Act 1997*.

Note: Residential care can include respite care.

***residential care service*** has the meaning given by the Dictionary in Schedule 1 to the *Aged Care Act 1997*.

***residential premises*** means land or a building occupied or intended to be occupied as a residence, and includes a \*floating home.

***returnable container*** has the meaning given by subsection 93-5(2).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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**reviewable GST decision** has the meaning given by Division 7 of Part VI of the *Taxation Administration Act 1953*.

**satisfies the membership requirements** for a \*GST group has the meaning given by section 48-10.

**satisfies the participation requirements** for a \*GST joint venture has the meaning given by section 51-10.

**scheme** has the meaning given by subsection 165-10(2).

**school** means an institution that supplies \*pre-school courses, \*primary courses, \*secondary courses or \*special education courses but not any other \*education course.

**secondary course** means:

- (a) a course of study or instruction that is a secondary course determined by the \*Education Minister under subsection 5D(1) of the *Student Assistance Act 1973* for the purposes of that Act; or
- (b) any other course of study or instruction that the \*Education Minister has determined is a secondary course for the purposes of this Act.

**second-hand goods** does not include:

- (a) \*precious metal; or
- (b) goods to the extent that they consist of gold, silver, platinum, or any other substance which, if it were of the required fineness, would be precious metal; or
- (c) \*live stock that you did not acquire in a supply to you.

**share** in a \*company means a share in the capital of the company, and includes stock.

**ship** means any vessel used in navigation, other than air navigation.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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***ship's stores*** has the meaning given by section 130C of the *Customs Act 1901*.

***special education course*** means a course of education that provides special programs designed specifically for children with disabilities or students with disabilities (or both) and that is supplied at:

- (a) a centre conducted by or on behalf of a State or Territory; or
- (b) any other place that is not a school.

***State law*** has the meaning given by section 995-1 of the \*ITAA 1997.

***stratum unit*** has the meaning given by subsection 124-190(3) of the \*ITAA 1997.

***student accommodation*** has the meaning given by subsection 38-105(3).

***Subdivision 38-P period***, in relation to the supply of a \*car to an individual, means the period starting when he or she acquires it and ending at the earliest of the following times:

- (a) the end of 2 years after the acquisition;
- (b) the time when the car is no longer reasonably capable of being used for the purpose for which cars of that kind are ordinarily used;
- (c) a time that the Commissioner considers to be appropriate in special circumstances.

***superannuation fund*** has the meaning given by section 995-1 of the \*ITAA 1997.

***supply*** has the meaning given by section 9-10.

***supply of a going concern*** has the meaning given by subsection 38-325(2).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 195-1

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**taxable importation** has the meaning given by subsection 13-5(1).

**taxable supply** has the meaning given by sections 9-5, 78-30, 84-5 and 105-5.

Note: This meaning is also affected by sections 72-5, 78-45, 78-50, 78-65, 78-70, 81-10 and 90-5.

**taxation law** has the meaning given by section 2 of the *Taxation Administration Act 1953*.

**tax invoice** means a document that complies with the requirements of subsection 29-70(1) and (if applicable) section 54-50.

**taxi travel** means travel that involves transporting passengers, by taxi or limousine, for fares.

**tax period** means a tax period applying to you under Division 27 or section 57-35.

**tax period turnover threshold** has the meaning given by subsection 27-15(3).

**Territory law** has the meaning given by section 995-1 of the \*ITAA 1997.

**tertiary course** means:

- (a) a course of study or instruction that is a tertiary course determined by the \*Education Minister under subsection 5D(1) of the *Student Assistance Act 1973* for the purposes of that Act; or
- (b) any other course of study or instruction that the Education Minister has determined is a tertiary course for the purposes of this Act.

**tertiary residential college course** means a course supplied in connection with a \*tertiary course or a \*Masters or Doctoral course at premises that are used to provide accommodation to students undertaking tertiary courses or Masters or Doctoral courses.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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Section 195-1

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**thing** means anything that can be supplied or imported.

**turnover threshold** means:

- (a) the \*cash accounting turnover threshold; or
- (b) the \*electronic lodgment turnover threshold; or
- (c) the \*registration turnover threshold; or
- (d) the \*tax period turnover threshold.

**unit trust** has the meaning given by subsection 202A(1) of the \*ITAA 1936.

**value:**

- (a) value of a \*taxable importation has the meaning given by sections 13-20, 13-25 and 117-5; and
- (b) value of a \*taxable supply has the meaning given by sections 9-75, 9-80, 72-10, 72-70, 78-40, 78-45, 87-10, 90-10, 96-10 and 108-5; and
- (c) value of a repair or renovation of goods has the meaning given by section 117-10.

Note: Section 188-30 contains a means of working out, for the purposes of Division 188, the value of a supply that is not a taxable supply.

**wine tax law** has the meaning given in section 33-1 of the *A New Tax System (Wine Equalisation Tax) Act 1999*.

**you:** if a provision of this Act uses the expression **you**, it applies to entities generally, unless its application is expressly limited.

Note: The expression “you” is not used in provisions that apply only to entities that are not individuals.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## Schedule 1—Food that is not GST-free

Note 1: See section 38-3.

Note 2: The second column of the table is not operative (see section 182-15).

### 1 Food that is not GST-free

\*Food specified in the third column of the table is not GST-free.

<b>Food that is not GST-free</b>		
<b>Item</b>	<b>Category</b>	<b>Food</b>
1	Prepared food	quiches
2		sandwiches (using any type of bread or roll)
3		pizzas, pizza subs, pizza pockets and similar *food
4		*food marketed as a prepared meal, but not including soup
5		platters etc. of cheese, cold cuts, fruit or vegetables and other arrangements of *food
6		hamburgers, chicken burgers and similar *food
7		hot dogs
8	Confectionery	confectionery, *food marketed as confectionery, food marketed as ingredients for confectionery or food consisting principally of confectionery
9		popcorn
10		confectionery novelties
11		*food known as muesli bars or health food bars, and similar foodstuffs
12		crystallised fruit, glace fruit and drained fruit
13		crystallised ginger and preserved ginger
14		edible cake decorations
15	Savoury snacks	potato crisps, sticks or straws, corn crisps or chips, bacon or pork crackling or prawn chips
16		seeds or nuts that have been processed or treated by salting, spicing, smoking or roasting, or in any other similar way

\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

**Schedule 1** Food that is not GST-free

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<b>Food that is not GST-free</b>		
<b>Item</b>	<b>Category</b>	<b>Food</b>
17		caviar and similar fish roe
18		*food similar to that covered by item 15 or 16, whether or not it consists wholly or partly of any vegetable, herb, fruit, meat, seafood or dairy product or extract and whether or not it is artificially flavoured
19		*food consisting principally of food covered by items 15 to 18
20	Bakery products	cakes, slices, cheesecakes, pancakes, waffles, crepes, muffins and puddings
21		pavlova and meringues
22		pies (meat, vegetable or fruit), pasties and sausage rolls
23		tarts and pastries
24		doughnuts and croissants
25		pastizzi, calzoni and brioche
26		scones and scrolls
27		bread (including buns) with a sweet filling or coating
28	Ice-cream food	ice-cream, ice-cream cakes, ice-creams and ice-cream substitutes
29		frozen confectionery, frozen yoghurt and frozen fruit products (but not frozen whole fruit)
30		flavoured iceblocks (whether or not marketed in a frozen state)
31		any *food similar to food listed in items 28 to 30
32	Biscuit goods	*food that is, or consists principally of, biscuits, cookies, crackers, pretzels, cones or wafers

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**2 Prepared food, bakery products and biscuit goods**

For the purpose of determining whether particular \*food is covered by any of the items in the table relating to the category of prepared food, bakery products or biscuit goods, it does not matter whether it is supplied hot or cold, or requires cooking, heating, thawing or chilling prior to consumption.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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### **3 Prepared meals**

Item 4 in the table only applies to \*food that requires refrigeration or freezing for its storage.

### **4 Candied peel**

None of the items in the table relating to the category of confectionery include candied peel.

### **5 Goods that are not biscuit goods**

None of the items in the table relating to the category of biscuit goods include:

- (a) breakfast \*food consisting principally of compressed, rolled or flattened cereal; or
- (b) rusks for infants or invalids, or goods consisting principally of those rusks.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## Schedule 2—Beverages that are GST-free

Note 1: See section 38-3.

Note 2: The second column of the table is not operative (see section 182-15).

### 1 Beverages that are GST-free

\*Beverages specified in the third column of the table are GST-free.

<b>Beverages that are GST-free</b>		
<b>Item</b>	<b>Category</b>	<b>Beverages</b>
1	Milk products	any of the following products: (a) milk, skim milk or buttermilk (whether liquid, powdered, concentrated or condensed); (b) casein; (c) whey, whey powder or whey paste
2		*beverages consisting of products referred to in item 1 (or a combination of those products), to the extent of at least 95%, but not including flavoured beverages
3		lactose
4	Soy milk and rice milk	*beverages consisting principally of soy milk or rice milk, but not including flavoured beverages
5	Tea, coffee etc.	tea (including herbal tea, fruit tea, ginseng tea and other similar *beverage preparations), coffee and coffee essence, chicory and chicory essence, and malt
6		malt extract, if it is marketed principally for drinking purposes
7		preparations for drinking purposes that are marketed principally as tea preparations, coffee preparations, or preparations for malted *beverages
8		preparations marketed principally as substitutes for preparations covered by item 6 or 7
9		dry preparations marketed for the purpose of flavouring milk
10	Fruit and vegetable juices	concentrates for making non-alcoholic *beverages, if the concentrates consist of at least 90% by volume of juices of fruits

\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.



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<b>Beverages that are GST-free</b>		
<b>Item</b>	<b>Category</b>	<b>Beverages</b>
11		non-alcoholic carbonated *beverages, if they consist wholly of juices of fruits or vegetables
12		non-alcoholic non-carbonated *beverages, if they consist of at least 90% by volume of juices of fruits or vegetables
13	Beverages for infants or invalids	*beverages, and ingredients for beverages, of a kind marketed principally as *food for infants or invalids
14	Water	bottled natural water, non-carbonated and without any other additives

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## **2 Tea, coffee etc.**

None of the items in the table relating to the category of tea, coffee etc. include any \*beverage that is marketed in a ready-to-drink form.

## **3 Fruit and vegetable juices**

For the purposes of items 11 and 12 in the table, herbage is treated as vegetables.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 195-1.

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## Schedule 3—Medical aids and appliances

Note: GST-free supplies of medical aids and appliances are dealt with in section 38-45.

<b>Medical aids and appliances</b>			
<b>Item</b>	<b>Category</b>	<b>Medical aids or appliances</b>	
1	Cardiovascular	heart monitors	
2		pacemakers	
3		surgical stockings	
4	Communication aids for people with disabilities	communication boards and voice output devices	
5		communication cards	
6		page turners	
7		eye pointing frames	
8		software programs specifically designed for people with disabilities	
9		printers and scanners specifically designed for software and hardware used by people with disabilities	
10		switches and switch interfaces	
11		mouth/head sticks/pointers	
12		alternative keyboards	
13		electrolarynx replacements	
14		speech amplification/clarification aids	
15		Continence	urine/faecal drainage/collection devices
16			waterproof covers or mattress protectors
17			absorbent pads for beds and chairs
18	disposable/reusable continence pads, pants and nappies required for continence use (excluding nappies for babies, sanitary pads or tampons)		
19	enuresis alarms		
20	incontinence appliances		
21	hospital/medical/continence deodorising products		
22	waterproof protection for beds and chairs		
23	sterile plastic bags		
24	electric bag emptiers		

<b>Medical aids and appliances</b>		
<b>Item</b>	<b>Category</b>	<b>Medical aids or appliances</b>
25		enemas, suppositories and applicators
26		urinals and bedpans
27		penile clamps
28	Daily living for people with disabilities	customised eating equipment for people with disabilities
29		customised toothbrushes for people with disabilities
30		dentures and artificial teeth
31		environmental control units designed for the disability of a particular person
32		computer modifications required for people with disabilities
33		“medical alert” devices
34	Diabetes	finger prickers
35		alcohol skin wipes
36		test strips
37		needles and syringes
38		glucose monitors
39	Dialysis	home dialysis machines
40	Enteral nutrition	enteral nutrition and associated delivery equipment
41	Footwear for people with disabilities	surgical shoes, boots, braces and irons
42		orthotics
43	Hearing/speech	hearing aids
44		visual display units specifically designed for deaf people, or for people with a speech impairment, to communicate with others
45		telephone communication devices specifically designed to allow deaf people to send and receive messages by telephone
46		batteries specifically designed specifically for use with hearing aids
47		visual/tactile alerting devices
48		interactive and broadcast videotext systems

**Schedule 3** Medical aids and appliances

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<b>Medical aids and appliances</b>		
<b>Item</b>	<b>Category</b>	<b>Medical aids or appliances</b>
49		closed caption decoding devices
50		external processors for cochlear implants
51	Home modifications for people with disabilities	bidet/bidet toilet attachments
52		special door fittings relating to the disability of a particular person
53	Mobility of people with disabilities—motor vehicles	special purpose car seats
54		car seat harness specifically designed for people with disabilities
55		wheelchair and occupant restraint
56		wheelchair ramp
57		electric/hydraulic wheelchair lifting device
58		motor vehicle modifications
59	Mobility of people with disabilities—physical: bedding for people with disabilities	manually operated adjustable beds
60		electronically operated adjustable beds
61		hospital-type beds
62		customised bed rails for people with disabilities
63		bed cradles
64		bed restraints
65		bed poles and sticks
66		pressure management mattresses and overlays
67		backrests, leg rests and footboards for bed use
68	Mobility of people with disabilities—physical: orthoses	spinal orthoses
69		lower limb orthoses
70		upper limb orthoses
71		pressure management garments and lymphoedema pumps
72		callipers

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<b>Medical aids and appliances</b>		
<b>Item</b>	<b>Category</b>	<b>Medical aids or appliances</b>
73		corsets (surgical)
74		handsplints and cervical collars
75		mandibular advancement splints
76	Mobility of people with disabilities—physical: positioning aids	alternative positional seating corner chairs
77		alternative positional seating abduction cushions or long leg wedges
78		alternative positional seating modifications
79		standing frames
80		standing frames or tilt table modifications
81		side lying boards
82		night-time positioning equipment modifications
83	Mobility of people with disabilities—physical: prostheses	artificial limbs and associated supplements and aids
84		mammary
85	Mobility of people with disabilities—physical: seating aids	postural support seating trays
86		electrically operated therapeutic lounge/recliner chairs specifically designed for people with disabilities
87		cushions specifically designed for people with disabilities
88	Mobility of people with disabilities—physical: transfer aids	manual, electric, ceiling track or pool hoists specifically designed for people with disabilities
89		hoist slings
90		goosenecks
91		transfer boards
92		transfer sheets, mats or belts
93		stairlifts
94		portable stair climbers
95		monkey rings for people with disabilities

**Schedule 3** Medical aids and appliances

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<b>Medical aids and appliances</b>		
<b>Item</b>	<b>Category</b>	<b>Medical aids or appliances</b>
96	Mobility of people with disabilities—physical: walking aids	crutches
97		walking sticks—specialised
98		walking frames—standard adult
99		walking frames—standard child
100		walking frames—specialised
101		walking frame modifications
102		specialised ambulatory orthoses
103		specialised ambulatory orthosis modifications
104		quadrupod and tripod walking aids
105	Mobility of people with disabilities—physical: wheelchairs and accessories	wheelchairs, motorised wheelchairs, scooters, tricycles, spinal carriages and other goods for the carriage of people with disabilities
106		accessories associated with wheelchairs, motorised wheelchairs, scooters, tricycles, spinal carriages and other goods for the carriage of people with disabilities
107		battery chargers for wheelchairs, scooters, tricycles, spinal carriages and other goods for the carriage of people with disabilities
108		stair-aid apparatuses designed for carrying people with disabilities in wheelchairs up or down stairs
109	Pain relief delivery systems	syringe drivers
110		patient control analgesia
111	Personal hygiene for people with disabilities	bathboards or toilet seats for people with disabilities
112		bath supports
113		shower chairs or stools
114		shower supports
115		shower trolleys
116		mobile shower chairs
117		commodes

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<b>Medical aids and appliances</b>		
<b>Item</b>	<b>Category</b>	<b>Medical aids or appliances</b>
118		commode cushions
119		commode pans
120		toilet frames
121		toilet supports
122		self-help poles
123	Respiratory appliances	ventilators
124		continuous positive airway pressure (CPAP) appliances
125		respiratory appliance mask assemblies—complete
126		respiratory appliance mask assemblies—components
127		respiratory appliance accessories
128		sleep apnoea machines
129	Respiratory appliances—other products for those with breathing difficulties:	peak flow meters
130		nebulisers
131		spacers
132		vaporisers
133		respirators
134		air pumps
135		bottled oxygen and associated hardware
136		oxygen concentrators
137		breathing monitors
138		ventilators
139	Safety helmets specifically designed for people with disabilities	safety helmets specifically designed for people with disabilities
140	Skin	jobst suits
141		transcutaneous nerve stimulator machines
142	Stoma	stoma products including all bags and related equipment for patients with colostomies and ileostomies

### Schedule 3 Medical aids and appliances

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<b>Medical aids and appliances</b>		
<b>Item</b>	<b>Category</b>	<b>Medical aids or appliances</b>
143	Vision	tactile or Braille books, magazines or newspapers
144		electronic reading aids
145		talking book machines (and parts) specifically designed for people with a vision impairment
146		enlarged text computer monitors for people with a visual impairment
147		Braille note takers
148		Braille printers and paper
149		Braille translators (hardware and software)
150		money identification equipment
151		auditory/tactile alerting devices
152		sonar canes
153		reading magnification devices (excluding magnifying glasses)
154		artificial eyes
155		lenses for prescription spectacles
156		prescription contact lenses
157		ultrasonic sensing devices specifically designed for use by people with a vision impairment
158		viewscan apparatus specifically designed for use by people with a vision impairment

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*[Minister's second reading speech made in—  
House of Representatives on 2 December 1998  
Senate on 10 December 1998]*

(217/98)



