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2000B00092



A New Tax System (Goods and Services Tax) Amendment Regulations 2000 (No. 3)

Statutory Rules 2000 No. 3

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I, WILLIAM PATRICK DEANE, Governor-General of the
Commonwealth of Australia, acting with the advice of the
Federal Executive Council, make the following Regulations
under the *A New Tax System (Goods and Services Tax) Act 1999*.

Dated 25 MAY 2000 2000

WILLIAM DEANE
Governor-General

By His Excellency's Command

C. R. KEMP
Assistant Treasurer



A New Tax System (Goods and Services Tax) Amendment Regulations 2000 (No. 3)¹

Statutory Rules 2000 No. 3²

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made under the

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

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1 Name of Regulations

These Regulations are the *A New Tax System (Goods and Services Tax) Amendment Regulations 2000 (No. 2)*.

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2 Commencement

These Regulations commence on gazettal.

3 Amendment of *A New Tax System (Goods and Services Tax) Regulations 1999*

Schedule 1 amends the *A New Tax System (Goods and Services Tax) Regulations 1999*.

2 *A New Tax System (Goods and Services Tax) Amendment Regulations 2000 (No. 2)* 2000, 2

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Schedule 1 Amendments

(regulation 3)

[1] **After Part 2-6**

insert

Part 2-7 Returns, payments and refunds

Division 33 Payments of GST

33-15.01 Purpose of Division

For the purposes of paragraph 33-15 (1) (b) of the Act, this Division provides for the deferral of payments of amounts of GST on taxable importations.

33-15.02 Application for approval

- (1) An entity may apply to the Commissioner for approval to make deferred payments of GST on taxable importations.
- (2) The application must:
 - (a) be made in a manner approved by the Commissioner; and
 - (b) contain the information required by the Commissioner.

33-15.03 Requirements for approval

- (1) The Commissioner must, in writing, approve an application by an entity if the Commissioner is satisfied of the following matters:
 - (a) the entity is registered under Part 2-5 of the Act;
 - (b) the entity has an ABN;
 - (c) if the entity is an individual, the entity is not an undischarged bankrupt;
 - (d) the tax period applying to the entity is each individual month;
 - (e) if the entity is a member (but not the representative member) of a GST group, the representative member of the group is an approved entity;
 - (f) the bank guarantee (if any) required under regulation 33-15.04 has been provided;
 - (g) the entity will be able to comply with the requirements in subregulation 33-15.06 (1);
 - (h) it would not be appropriate to refuse the application under subregulation (2), (3) or (4).
- (2) The Commissioner may refuse the application if the entity is an externally-administered body corporate.
- (3) The Commissioner may refuse the application if, in the period of 3 years before the date of the application:
 - (a) the entity; or
 - (b) if the entity is not an individual, an individual who is relevant to the entity's application;
has been convicted by a court, whether in Australia or in another country, of an offence in relation to taxation requirements, customs requirements, the misdescription of goods, trade practices, fair trading or the defrauding of a government.

Note This subregulation is subject to Part VIIC of the *Crimes Act 1914*, which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of spent convictions to disregard them.

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- (4) The Commissioner may refuse the application if the entity, or any of its related entities (if any), has:
- (a) an outstanding tax-related liability; or
 - (b) a return outstanding under a taxation law.
- (5) In subregulation (4):
- related entity*** means:
- (a) for an entity that is a member of a GST group — any other member of the GST group; or
 - (b) for an entity that is a joint venture operator for a GST joint venture — any other company that is a participant in the GST joint venture; or
 - (c) for an entity that is a parent entity of a GST branch — any GST branch of the parent entity; or
 - (d) for an entity that is a GST branch of a parent entity — the parent entity or any other GST branch of the parent entity.

33-15.04 Bank guarantee requirement

- (1) If:
- (a) an entity applies for approval; and
 - (b) a previous approval of the entity has been revoked under regulation 33-15.08;
- the Commissioner may require the entity to provide a bank guarantee in relation to the payment of deferred payments of GST on taxable importations.
- (2) The guarantee must provide that, if an amount of GST on taxable importations is not paid to the Commissioner on or before the day mentioned in regulation 33-15.07, the bank will pay to the Commissioner the lesser of:
- (a) the overdue amount; and
 - (b) the guarantee amount worked out under subregulation (3).

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- (3) The guarantee amount is 1.5 times the highest monthly amount of GST on taxable importations that was payable by the entity:
- (a) in the 12 months before the application mentioned in paragraph (1) (a) was made; or
 - (b) if no monthly amounts of GST on taxable importations were payable in that 12 months, in the 12 months before the previous approval was revoked.

33-15.05 Decision on application — notice and date of effect

- (1) If the Commissioner approves an entity's application, the Commissioner must give to the entity written notice of the approval.
- (2) The approval takes effect on the day specified in the approval.
- (3) If the Commissioner refuses an entity's application, the Commissioner must give to the entity written notice of the refusal.
- (4) The notice must:
 - (a) state the reasons for the refusal; and
 - (b) state that the entity has a right under regulation 33-15.09 to object against the decision.

33-15.06 Approved entities to deal electronically with Customs and the Commissioner

- (1) An approved entity must:
 - (a) enter goods for home consumption by computer (within the meaning of the *Customs Act 1901*); and
 - (b) lodge its GST returns electronically in a format approved by the Commissioner for the purposes of this regulation; and
 - (c) pay the amounts of GST for which the entity is liable by electronic payment.

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- (2) However, paragraphs (1) (b) and (c) do not apply to an approved entity that is a member (but not the representative member) of a GST group.

33-15.07 Due date for deferred payments

An amount of GST on taxable importations that is payable by an approved entity must be paid to the Commissioner on or before the 21st day after the end of the month in which the liability for the GST arose.

33-15.08 Revocation of approval

- (1) The Commissioner may, in writing, revoke an entity's approval if the Commissioner is satisfied that:
- (a) the entity no longer meets the requirements for approval in regulation 33-15.03; or
 - (b) the bank guarantee (if any) provided by the entity under regulation 33-15.04 has lapsed; or
 - (c) the entity has failed to meet a requirement in subregulation 33-15.06 (1); or
 - (d) the entity is liable to pay a charge or penalty mentioned in Part IIA of the *Taxation Administration Act 1953*; or
 - (e) the entity is being prosecuted for, or has been convicted of, an offence under Part III of the *Taxation Administration Act 1953*.
- (2) The revocation takes effect on the day specified in the revocation.
- (3) If the Commissioner revokes an entity's approval, the Commissioner must give to the entity written notice of the revocation.
- (4) The notice must:
- (a) state the reasons for the revocation; and
 - (b) state that the entity has a right under regulation 33-15.09 to object against the decision.

33-15.09 Review of decisions

An entity that is dissatisfied with a decision of the Commissioner to refuse an application by the entity under regulation 33-15.03, to require the entity to provide a bank guarantee under regulation 33-15.04, or to revoke an approval of the entity under regulation 33-15.08, may object against the decision in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

[2] Dictionary, after definition of Act

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approved entity means an entity with an approval under regulation 33-15.03 to make deferred payments of GST on taxable importations.

[3] Dictionary, after definition of disposal

insert

electronic payment see the Dictionary in Part 6-3 of the Act.

enter goods for home consumption has the meaning given in the *Customs Act 1901*.

[4] Dictionary, after definition of entity

insert

externally-administered body corporate has the meaning given in the Corporations Law.

[5] Dictionary, after definition of GST

insert

GST branch see section 54-5 of the Act.

[6] Dictionary, after definition of *GST-free**insert**GST group* see section 48-5 of the Act.*GST joint venture* see section 51-5 of the Act.*GST return* see the Dictionary in Part 6-3 of the Act.*joint venture operator*, for a GST joint venture, see the Dictionary in Part 6-3 of the Act.**[7] Dictionary, after definition of *money****insert**outstanding tax-related liability* has the meaning given in the Dictionary in section 995-1 of the *Income Tax Assessment Act 1997*.*participant*, in relation to a GST joint venture, see the Dictionary in Part 6-3 of the Act.**[8] Dictionary, after definition of *taxable supply****insert**taxation law* see the Dictionary in Part 6-3 of the Act.**Notes**

1. These Regulations amend Statutory Rules 1999 No. 245, as amended by 2000 No. ~~49~~
2. Made by the Governor-General on the *Commonwealth of Australia Gazette* on

2000, and notified in
2000.

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25 MAY
1 June