

# **A New Tax System (Goods and Services Tax Transition) Regulations 2000 2000 No. 111**

## **EXPLANATORY STATEMENT**

### **STATUTORY RULES 2000 No. 111**

Issued by the Authority of the Assistant Treasurer

*A New Tax System (Goods and Services Tax Transition) Act 2000*

A New Tax System (Goods and Services Tax Transition) Regulations 2000

The Governor-General may make regulations under section 25 of the *A New Tax System (Goods and Services Tax Transition) Act 1999* (the Act') for the purposes of that Act.

Further authorities for the *A New Tax System (Goods and Services Tax Transition) Regulations 1999* ('the Regulations') are as follows:

- \* subsection 16C(1) of the Act provides that the regulations must specify the kind of petroleum products that are eligible for a special petroleum credit and the manner of payment for the credit;
- \* section 20 of the Act provides that the regulations must specify the type of detachable trailer that is subject to the phasing in provisions for motor vehicles,
- \* section 21 of the Act provides that the regulations may specify the requirements a supplier of an acupuncture, naturopathy or herbal medicine service must meet for a service performed before 1 July 2003 to be GST-free. and
- \* section 23 of the Act authorises regulations to specify schemes that are a 'compulsory third party scheme'.

The purpose of the Regulations is to:

- \* specify which petroleum products will be covered by the 'special petroleum credit' for the purposes of section 16C of the Act and the manner of payment for the credit;
- \* specify the trailers that will be subject to the input tax credit phasing-in arrangements of section 20 of the Act.)
- \* set out the requirements that a supplier of acupuncture, naturopathy or herbal medicine services must meet for a service performed by the supplier before 1 July 2003 to be GST-free; and
- \* specify the schemes or kind of schemes that are 'compulsory third party motor insurance schemes' for the purposes of removing an insured entity's entitlement to an input tax credit under section 23 of the Act.

The Regulations will assist in the smooth implementation of Goods and Services Tax (GST).

The Regulations will:

- \* provide that diesel, leaded and unleaded gasoline, heating oil and kerosene on which the maximum rate of duty is paid will be eligible for a credit and specify that the application for the credit must be in the approved form and will be paid to the entitled applicant by cheque or electronic funds transfer (*new regulations 4 and 5*);
- \* specify that all detachable trailers, except those that are designed to be towed by a car and are commonly used for private or domestic purposes, will be subject to the input tax credit phasing-in rules of section 20 of the Act (*new regulation 6*);
- \* exempt practitioners of acupuncture, naturopathy and herbal medicine services from the requirement that they are a 'recognised professional'. The effect of this is that an acupuncture, naturopathy and herbal medicine service covered under section 38-10 of the *A New Tax System (Goods and Services Tax) Act 1999* ('GST Act') will be GST-free if the service provider satisfies the tests set out in the regulation. (*new regulation 7*); and
- \* specify the schemes or arrangements that are compulsory third party schemes for the purposes of section 23 of the Act (*new regulation 8 and schedule 1*)

Details of the Regulations are provided in the Attachment.

The Regulations commence on gazettal. [*Regulation 2*]

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

*A New Tax System (Goods and Services Tax Transition) Regulations 2000*

### **Special Petroleum Credit**

Section 16C of the Act entitles resellers to a 'special petroleum credit' equal to the difference between the excise rate at 30 June and the excise rate at 1 July for stock on hand at 1 July 2000.

The Regulation specifies which petroleum products will be covered by the Special Petroleum Credit and the manner of payment for the credit. Commercial resellers of petrol or diesel with an Australian Business number (ABN) may be eligible for the credit. Petroleum products not covered by the Act will not be eligible for a credit.

**Regulation 4** will provide that diesel, leaded and unleaded gasoline, heating oil and kerosene on which the maximum rate of duty is paid will be eligible for a credit.

**Regulation 5** specifies that the application must be in the approved form and will be paid to the entitled applicant. Regulation 5 also provides for the payment to be made by cheque or electronic funds transfer.

The Regulations require payment to be made within 28 days after the application is made provided it is made prior to 30 September 2000 (subregulation 5(4)).

### **Detachable Trailers**

The combined effect of the GST and the limited business input exemption provisions in the wholesale sales tax (WST) system may provide businesses with an incentive to delay purchases of motor vehicles until after the introduction of the GST. As this could seriously disrupt the motor vehicle industry, section 20 of the Act removes the incentive to delay purchases by providing for the phasing-in, over two years, of motor vehicles, bodies and certain trailers.

In the first year of operation (1 July 2000 to 30 June 2001) no input tax credits will be allowed for these purchases. In the second year (1 July 2001 to 30 June 2002), half the value of the full input tax credit will be allowed. The full input tax credit will be available in the third year onwards.

Section 20 of the Act does not apply to enterprises that would have been entitled to an exemption from WST on the purchase under the sales tax law, if it still applied (paragraph 20(4)(c) of the Act). This is because these enterprises will have no incentive to delay purchases and so they will be able to claim input tax credits in full from 1 July 2000.

The phasing-in rule applies to detachable trailers, as prescribed in the regulations, which are designed to be towed by a prime mover (paragraph 20(1)(b) of the Act). The term 'prime mover' is not defined in the GST law but is ordinarily taken to mean a vehicle capable of towing a trailer. The detachable trailers to which the paragraph applies have not previously been specified.

There are a number of detachable trailers that are not within the scope of the existing WST exemption for which it is desired that businesses be able to claim input tax credits from 1 July 2000. The phasing-in provisions should not apply to detachable trailers that are used ordinarily for private or domestic purposes (that is, small trailers such as domestic box trailers and horse trailers).

*Regulation 6* prescribes the meaning of detachable trailers for the purposes of paragraph 20(1)(b) of the GST Act. All detachable trailers are to be subject to the phasing-in rules except those that are designed to be towed by a car and are commonly used for private or domestic purposes.

Car has the meaning given by section 995-1 of the *Income Tax Assessment Act 1997* ('ITAA97') (*regulation 3*). 'Car' is defined in section 995-1 of the ITAA 1997 to be a motor-powered road vehicle (except a motor cycle or similar vehicle) designed to carry a load of less than 1 tonne and fewer than 9 passengers. This definition of car would include such motor vehicles as sedans, station wagons and 4-wheel drive vehicles designed to carry a load of less than 1 tonne.

Trailers such as 6 by 4 box trailers, caravans and horse trailers are all examples of detachable trailers that are designed to be towed by a car and commonly used for private and domestic purposes. These trailers are excluded in the prescription (in regulation 6) of detachable trailers and would not be subject to the phasing-in provisions of section 20 of the Act.

#### **Example AA:**

On 1 August 2000, Sandy buys a small box trailer designed to be towed by a car to help her deliver plants for her business Sandy's Nursery. The trailer is detachable and is towed by the Nursery's motor car. As the trailer Sandy bought is designed to be towed by a car and commonly used for private or domestic purposes, the box trailer is not a detachable trailer for the purposes of paragraph 20(1)(b) of the Act. If Sandy's Nursery is registered for GST purposes, the entity will be entitled to an input tax credit for the GST included in the price of the small box trailer to the extent it is used for business purposes.

#### **Acupuncture, naturopathy and herbal medicine health services**

A number of health services are GST-free where these health services are provided by a 'recognised professional' and they are listed in the table at subsection 38-10(1) of the GST ACT. The table includes health services such as dental, nursing, chiropractic and physiotherapy. A 'recognised professional' is defined in the legislation as a practitioner registered under State or Territory law or, where there is no such State or Territory law, a practitioner who is a member of a professional association with uniform national registration requirements.

The Government has provided transitional arrangements for the following health services listed in subsection 3 8-10(1) of the GST Act to be GST-free:

- \* acupuncture
- \* naturopathy, and
- \* herbal medicine (including traditional Chinese herbal medicine).

Under these transitional arrangements, the Government has deferred the requirement that a supplier of these health services be a 'recognised professional' for the supply of the health service to be GST-free (subsection 21 (1)). This requirement has been deferred for 3 years to allow the providers of these health services to meet the requirements set out under paragraph 38-10(1)(b) of the GST Act.

During this 3 year period, a supply will only be GST-free if the person making the supply of these health services is suitably qualified, as set out in *regulation 7*.

Under *Regulation 7*, a practitioner of the disciplines of acupuncture, naturopathy and herbal medicine will have suitable qualifications for the purpose of section 21 of the Act, as follows:

1) For practitioners who were practising in the disciplines of acupuncture, herbal medicine or naturopathy as at 8 July 1999:

(a) membership of a national professional association for the regulation of that field, or

(b) qualification in the discipline at the diploma, advanced diploma or degree level (where that qualification or the institution providing that qualification have been appropriately accredited) [*Subregulation 7(4)*]

2) For practitioners who were not practising at 8 July 1999:

(a) Qualification in acupuncture, naturopathy or herbal medicine at the diploma, advanced diploma or degree level (where that qualification or the institution providing that qualification has been appropriately accredited), or

(b) Formal qualifications in acupuncture, naturopathy or herbal medicine gained from overseas that are assessed by the relevant assessing authority gazetted by the Minister for Immigration and Multicultural Affairs as being equivalent to the diploma, advanced diploma or degree level [*Subregulation 7(5)*]

Regardless of 1) and 2) above, if the law of the State or Territory in which the service is performed requires a person who performs acupuncture, herbal medicine or naturopathy services to have a permission or approval, or to be registered, the supplier must have the permission, approval under the law of the State or Territory or be registered in accordance with that State or Territory. [*Subregulation 7(6)*]

From 1 July 2003, however, only practitioners recognised under State law or a member of a national professional body with an appropriate self-regulatory process in place will be entitled to provide services GST-free. This will bring the treatment of acupuncture, herbal medicine and naturopathy services in line with that of other health services listed in subsection 3 8-10(1) of the GST Act.

## **Insurance**

All States have compulsory third party motor vehicle insurance and/or compensation schemes (M). The premium or levy for such schemes is generally collected at the annual registration of the relevant motor vehicle. Generally, the motor vehicle registration form contains a simple, often one line, statement about the liability to the CTP premium, contribution or levy.

Division 78 of A *New Tax System (Goods and Services Tax) Act 1999* (the GST Act) provides for the treatment of a settlement of a claim made under an insurance policy. Section 78-50 of the GST Act requires insured entities to notify the insurer of the extent to which they are entitled to an input tax credit on the acquisition of the policy concerned. It is intended that Division 78 of the GST Act will apply to CTP, either because it is insurance at law and hence falls within the definition of insurance policy in section 195-1, or through the application of subdivision 78-E of the GST Act.

Subdivision 78-E provides that Division 78 applies to "statutory compensation schemes". Insured entities will therefore be required to notify their CTP insurer of the extent to which they are entitled to input tax credits on the CTP premium.

However, as the CTP liability is generally notified through a one line statement on the motor vehicle registration form, CTP insurers do not currently have the ability to collect the information about the insured entity's extent of input tax credit.

To provide time for CTP insurers to develop systems and administrative arrangements to collect this information, the States and Territories have requested that insured entities not be entitled to input tax credits for premiums, contributions or levies paid in connection with a "compulsory third party scheme" before 1 July 2003. Section 23 of the Act was amended in December 1999 to achieve this.

Section 23 of the Act authorises the making of regulations to prescribe the schemes or kinds of schemes that are 'compulsory third party schemes'. Subsection 23(2) of that Act provides that:

***"(2) A compulsory third party scheme is:***

(a) a \*statutory compensation scheme; or

(b) a scheme or arrangement, established by an \*Australian law, under which

\*insurance policies are issued; that is specified in the regulations, or that is of a kind specified in the regulations."

New regulation 8 provides that the schemes or arrangements listed in new Schedule 1 are compulsory third party schemes for the purposes of paragraphs 23 (2)(a) and 23(2)(b) respectively of the Act.

New Schedule 1 lists the schemes or arrangements that are compulsory third party schemes for the purposes of section 23 of the Act.