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

**No. 55, 1999**



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**No. 55, 1999**

**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:



## 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.

---

<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)

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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>
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.

## **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.

#### **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.

## 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
7	GST
8	import
9	input tax credit
10	tax period
11	thing

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**Common definitions that are not asterisked**

---

**Item    This term:**

---

12    supply

---

13    you

---

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

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

## **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.

## **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.

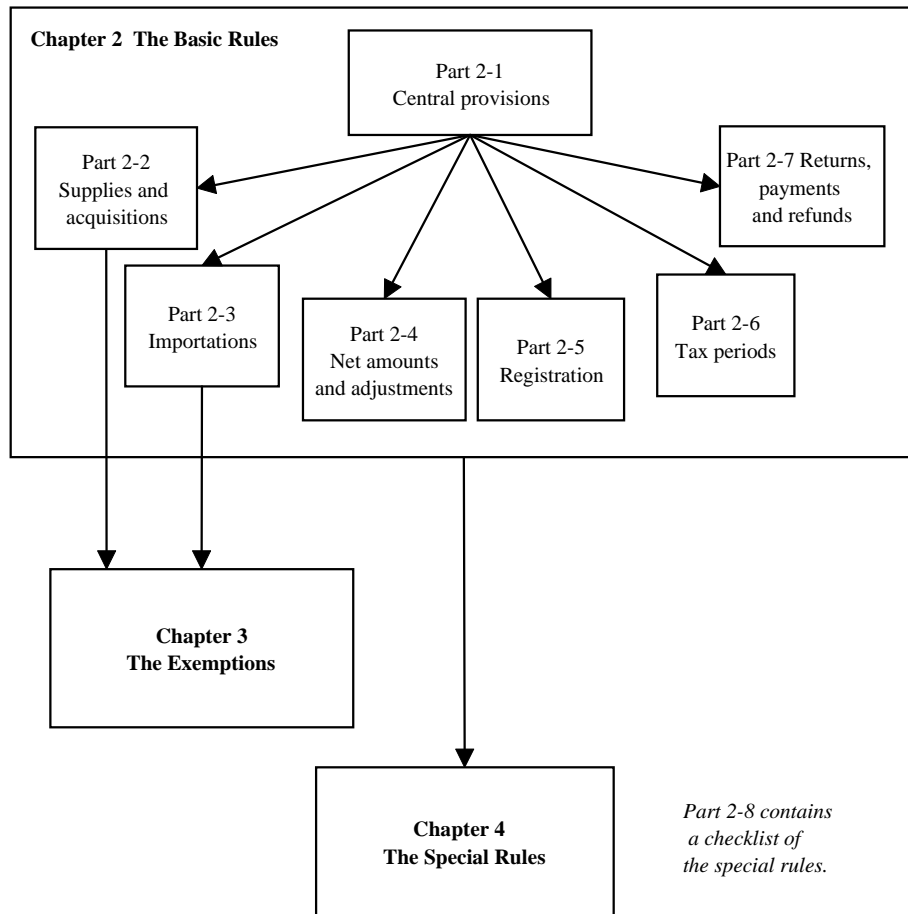


**Chapter 2** The basic rules

**Division 5** Introduction

**Section 5-5**

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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.

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.

## 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.

##### 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;

Section 9-15

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- (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.
- (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 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

Section 9-25

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- (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**.

### *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.

#### *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

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Section 9-40

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<b>Checklist of special rules</b>		
<b>Item</b>	<b>For this case ...</b>	<b>See:</b>
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
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

**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:

<b>Checklist of special rules</b>		
<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

## **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).

### **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;

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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:

<b>Checklist of special rules</b>		
<b>Item</b>	<b>For this case ...</b>	<b>See:</b>
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

## 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;
  - (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;

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(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.

**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:
- 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:

<b>Checklist of special rules</b>		
<b>Item</b>	<b>For this case ...</b>	<b>See:</b>
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
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

## 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:

- (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.



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**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.

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

Chapter 4 contains special rules relating to taxable importations, 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	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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## 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.

**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:

*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.

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*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:

<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

## 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:

$$\text{GST} - \text{Input tax credits}$$

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.

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

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**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:

<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
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

## **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).

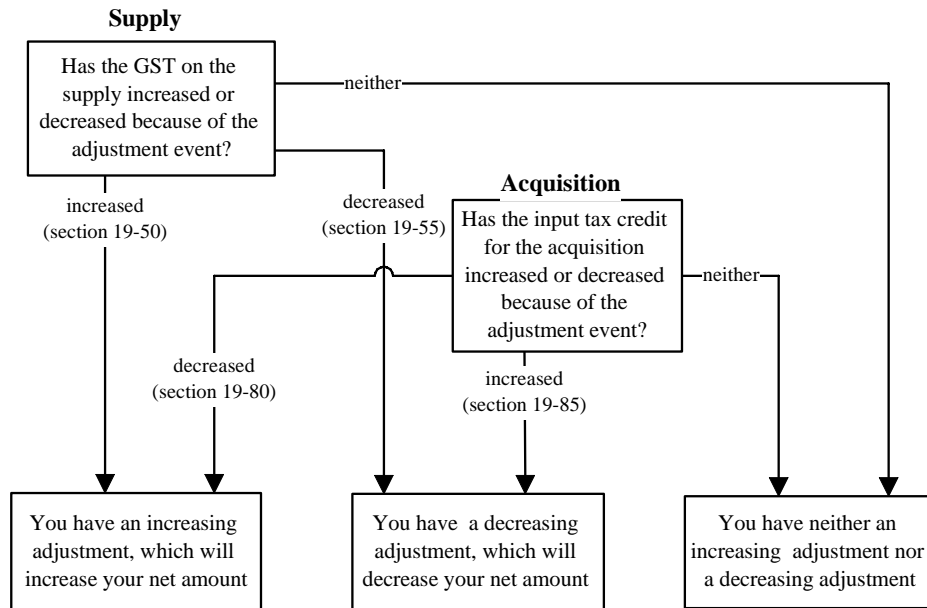
Note: Importations do not give rise to adjustment events.

### **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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**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:
- (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.

#### **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

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- (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
- (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.

### **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.

## 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
- (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.

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

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

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<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

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**Checklist of special rules**

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<b>Item</b>	<b>For this case ...</b>	<b>See:</b>
3	Sale of freehold interests etc.	Division 75

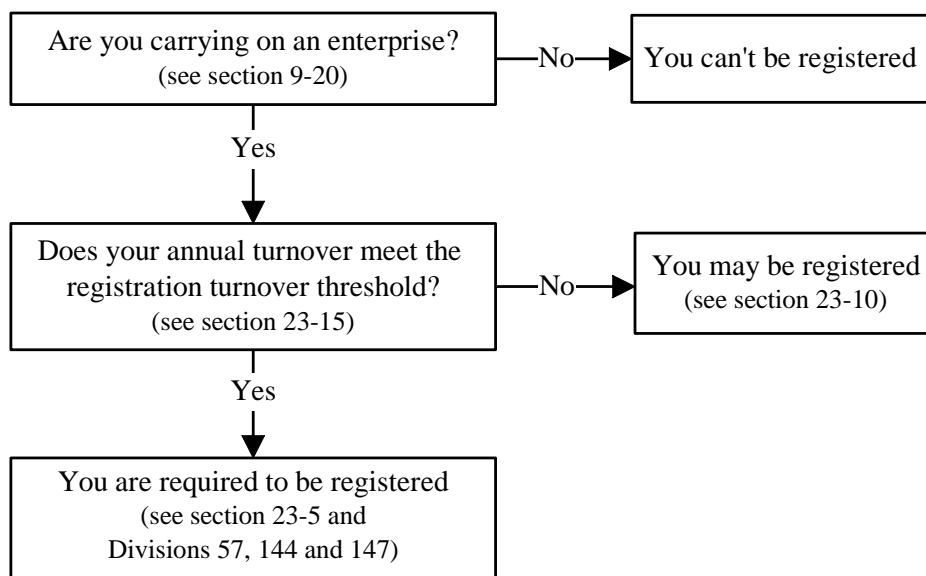
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## Part 2-5—Registration

### 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.

#### 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.



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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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<b>Checklist of special rules</b>		
<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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## **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.

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

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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*).

**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:

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

### **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.

#### **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:

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(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.

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:

<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

## 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.

#### 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.

### **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



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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*).

**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.

### **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*).

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- (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.

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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## **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:
  - (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

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- (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 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.
- (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.

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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:
  - (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:

<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
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



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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.

**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.
- (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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- (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.

**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:

<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

## **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.

#### **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.
- (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.

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**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
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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## 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.

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
- (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

## 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.
- (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.

## **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
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

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**Checklist of special rules**

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<b>Item</b>	<b>For this case...</b>	<b>See:</b>
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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## **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

##### **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:
  - (a) \*food for consumption on the \*premises from which it is supplied; or
  - (b) hot food for consumption away from those premises; or
  - (c) 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
  - (d) 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
  - (e) food of a kind specified in regulations made for the purposes of this subsection.
- (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;



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

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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
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

- (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:
  - (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.

### **38-25 Residential care etc.**

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

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- (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).
- (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.

### **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

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- (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.

**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 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



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- (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 \*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.
- (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.

### 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
- (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: (a) the day on which the supplier receives any of the *consideration for the supply; or (b) if, on an earlier day, the supplier gives an *invoice for the supply—the day on which the supplier gives the invoice.
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: (a) the day on which the supplier receives any of the final instalment of the consideration for the supply; or (b) if, on an earlier day, the supplier gives an *invoice for that final instalment—the day on which the supplier gives the invoice.
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.

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<b>GST-free exports of goods</b>		
<b>Item</b>	<b>Topic</b>	<b>These supplies are GST-free ...</b>
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: (a) the supplier receives any of the final instalment of the consideration for the supply; (b) the supplier gives an *invoice for that final instalment; (c) the supplier delivers the aircraft or ship to the recipient or (at the recipient's request) to another person.
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.

(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):

<b>Supplies of things, other than goods or real property, for consumption outside Australia</b>		
<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

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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
- (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:
  - (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*.



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**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).

**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*:

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<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: <ol style="list-style-type: none"><li>(a) from the last place of departure in Australia to a destination outside Australia; or</li><li>(b) from a place outside Australia to the first place of arrival in Australia; or</li><li>(c) from a place outside Australia to the same or another place outside Australia.</li></ol>

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**Supplies of transport and related matters**

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<b>Item</b>	<b>Topic</b>	<b>These supplies are GST-free ...</b>
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.
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:

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- (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.

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

- (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
    - (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

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- (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
  - (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.

## 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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<b>Supplies that are financial supplies</b>		
<b>Item</b>	<b>Topic</b>	<b>These are <i>financial supplies</i> ...</b>
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).
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.

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**Chapter 3** The exemptions

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

**Division 40** Input taxed supplies

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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>
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)).
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
  - (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

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- (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.

**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.

## **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:
  - (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*.

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- (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).

## **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.

## 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
  - (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
  - (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



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- (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:
  - (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).

#### **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;
  - (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*).

**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

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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.

## 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.

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.

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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
  - (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.
- (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



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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.
- (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).

## **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.

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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*).

**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.

### **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.

## 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.

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.

### **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

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- (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).

**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:
  - (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).



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**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).

**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
  - (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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**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.

## **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).

### **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.

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- (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.

**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.
- (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.

## **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).

### **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
  - (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.



Section 60-25

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- (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 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 treated, for the purposes of Division 129 (which is about changes in the extent of creditable purpose), as if the company had made it.



