



GST for government

Manage GST in your government entity and understand the GST treatment of payments.

A better practice guide for the management of GST



Check a better practice guide for the management of GST if you are a government agency for effective management in GST.

GST and grants



Information about the treatment of grants for GST purposes.

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GST and machinery of government



Information about GST and machinery of government changes, including registration, GST groups and tax invoices.

GST and payments between government related entities



An overview of the GST treatment of payments made between government related entities.

GST governance and risk management: Government



This guide can help government agencies assess the effectiveness of their GST governance and risk management.

Notional GST dispute resolution for government entities



How to lodge a notional GST dispute resolution request as a government entity.

QC 82195

A better practice guide for the management of GST

Check a better practice guide for the management of GST if you are a government agency for effective management in GST.

Last updated 24 June 2015




This document contains historical information.

A Better Practice Guide for the Management of GST Administration has been published to assist government agencies to establish appropriate

internal control frameworks for the effective management of goods and services tax (GST) administration within their organisations.

Although aimed principally at government agencies, the guide and its accompanying workbook are considered relevant to any large public or private organisation.

Using the following links, you can download a portable document format (PDF) copy of these publications:

- [A Better Practice Guide for the Management of GST Administration](#)  (1.04 MB, PDF)
- [A Better Practice Guide for the Management accompanying workbook](#)  (596 KB, PDF)
- [A Better Practice Checklist for the Management of GST Administration](#)  (174 KB, PDF).

QC 16942

GST and grants

Information about the treatment of grants for GST purposes.

Last updated 9 December 2020

The GST treatment of grants depends in part on whether something is supplied in return for the grant or sponsorship money.

When a grantee (you) makes a supply

You don't have any GST implications if the government funding (grant) is not for a supply. If you provide something of value in return for the grant it can be a supply and GST implications may arise.

Generally, a grant is not a payment for a supply if you are only required to satisfy eligibility criteria to receive the grant. Eligibility criteria you may need to satisfy to receive a grant can include:

- operating a business located within a state or territory

- employing people
- holding an Australian Business Number (ABN).

Government payments aimed at giving income support to business are typically not for a supply and therefore will not have any GST implications.

Providing something of value for the payment will require you to do something more than just meet the eligibility criteria. You will be making a supply to the government in return for the payment if you do any of the following:

- enter into a binding legal obligation to do something (such as agreeing to display at least 70% locally made products in your shop for 12 months)
- enter into a binding legal obligation refrain from doing something (such as agreeing to stop grazing on your land near national forests for the next two years)
- provide goods and services.

If the grant is for a supply that is a taxable supply, you will be required to remit 1/11th of a grant as GST.

Example 1: Payment to support COVID-19 impacted business

Franco operates a fitness centre which employs six full time and three casual workers. As a result of COVID-19 the fitness centre is closed for three months and operates at reduced capacity after re-opening.

The state government provides a \$10,000 cash payment to businesses that meet eligibility criteria showing they have been impacted by COVID-19. The funds may only be used for unavoidable business expenses. Any funds not spent will need to be repaid.

Franco provides a declaration that he meets the eligibility criteria, applies for and receives the \$10,000 payment. He spends the payment on paying outstanding business utility bills, purchasing replacement stock and deep cleaning the premises

so he can reopen. Franco is required to keep records for five years.

The payment is made to provide financial support to ease the pressures faced by small business impacted by COVID-19. Franco does not enter into any legally binding obligations in return for the provision of the payment. The fitness centre only needs to meet eligibility requirements as stipulated in the funding application. The payment is not for any supply provided by Franco to the state government.

Franco does not have to pay GST on the cash payment received.

Example 2: Payment to support bushfire impacted grantee

A government program's objective is to provide financial assistance targeted to certain grantees directly impacted by the bushfires to assist in the recovery of production. Eligible entities are required to meet the eligibility criteria set out for the program.

The grantee is permitted to use the funds for activities directly linked with:

- re-establishing areas of active production that were damaged or destroyed
- making certain repairs
- cleaning up damaged infrastructure.

Ineligible activities include:

- repair of or replacement of sheds
- rebuilding in areas that were not in active production
- repairing damage to residential properties
- repairing damage or activities covered under existing insurance policies or other state or commonwealth grants.

The payment is not being provided for any legally binding obligations being entered into by the grantee. The grantee has certain eligibility criteria that they must meet, however, meeting these criteria does not involve the grantee making a supply to the government.

The financial assistance is not a payment for any supply and therefore the grantees do not have to pay GST on the cash payment received.

See also

- Grants and sponsorship
- GST definitions – taxable sales
- GSTR 2012/2 *Goods and services tax: financial assistance payments*

If you're unsure about GST on your grant

Both the grantor and grantee must treat grant transactions consistently for GST purposes.

Some government and other entities provide recipient-created tax invoices (RCTI) for grants.

To make sure that the grant arrangement is treated consistently for GST purposes, if the RCTI shows that the grantee is making a taxable sale, the grantee must pay the GST. If the grantee thinks it is not a taxable sale and an RCTI is issued showing that it is a taxable sale, they should discuss this with the grant provider.

If the grantee and grantor disagree about the GST implications for the grant arrangement, they can consider requesting a private ruling. We recommend that the grantee and grantor lodge a joint private ruling request so that we can provide both with consistent advice based on accurate facts.

See also

- Recipient-created tax invoices – Issuing tax invoices

GST and machinery of government changes

Work out your GST obligations for government organisations during machinery of government (MOG) changes.

Last updated 9 October 2017

Helps government organisations meet their goods and services tax (GST) obligations during machinery of government (MOG) changes. It covers some areas of the GST law that may apply during MOG changes and provides links to more detailed information.

About this guide

This ATO guide helps government organisations meet their goods and services tax (GST) obligations during machinery of government (MOG) changes. It covers some areas of the GST law that may apply during MOG changes and provides links to more detailed information.

This document should be read in conjunction with **GST and machinery of government – frequently asked questions**.

Terms we use

When we say **government organisations**, we mean the GST terms **government entities** or **government-related entities**.

Government organisations

What is a government entity?

The term 'government entity' refers to:

- Australian government departments
- departments of an Australian state or territory

- executive and statutory agencies
- some bodies established by the Commonwealth or a state or territory to carry on activities for a public purpose.

Government entities are not 'entities' in their own right. They are part of an entity that is the larger body politic of the Commonwealth, state or territory.

For GST purposes, an entity includes a body corporate, a corporation sole and a body politic.

Examples of a government entity includes a:

- Commonwealth statutory agency
- Australian government department
- state government department
- territory government department.

See also:

- MT 2006/1 *Miscellaneous tax: The new tax system – the meaning of entity carrying on an enterprise for the purposes of entitlement to an Australian Business Number*
- GSTR 2006/5 *Goods and services tax: meaning of 'Commonwealth, a state or a territory'*

What is a government-related entity?

For GST purposes, the definition of a government-related entity builds on the definition of a government entity.

A government-related entity is any of the following:

- a government entity
- an entity that would be a government entity if it were not an entity in its own right
- a local governing body established by or under a state or territory law.

Examples of government-related entities include:

- a Commonwealth authority – for example, an Australian government business enterprise that is a body corporate

- a statutory body corporate
- an independent statutory authority or body corporate established under a territory Act
- a local governing body.

Although all government entities are also considered a government-related entity, not all government-related entities are government entities for GST purposes. For example, a local governing body that is a body corporate is, for GST purposes, a government-related entity but not a government entity.

GST administration and governance

Government organisations interact with the tax system through GST and fringe benefits tax (FBT), as well as pay as you go (PAYG) and super payments.

To meet their taxation obligations as a taxpayer, government organisations must be confident that they have accounting and control systems and processes that accurately deal with their tax and super obligations.

The Tax and super governance for departments and agencies guide has been developed to help government organisations maintain high standards of compliance with tax and super obligations by implementing and maintaining a good governance approach.

The guide includes high-level governance questions about:

- structures
- procedures
- systems
- skills
- staff
- support
- a governance assessment checklist
- information and worked examples.

The checklist helps government organisations develop a methodical, governance-based approach to:

- assessing the areas of potential risk in meeting their tax and super obligations
- receiving their entitlements.

See also:

- **Better practice guide for the management of GST administration (BPG)** – Government organisations can use this guide with accompanying workbook and checklist to set up practices and procedures to manage their GST obligations more effectively.
- You should read these guides in conjunction with **Better practices for the administration of FBT**.

GST and Australian Business Number (ABN)

Government entities can register for GST even if they are not entities and not carrying on an enterprise.

The Australian Government has a policy that Commonwealth Departments of State, Departments of Parliament and statutory agencies must have an ABN and be registered for GST.

Government entities do not have to cancel their GST registration when they cease to carry on an enterprise, as long as they continue to exist.


Generally, each state (or territory) government has a policy requiring all state (or territory) government entities to be registered for GST.

A government-related entity that is not a government entity must register for GST if it:

- carries on an enterprise
- has a GST turnover of \$75,000 or more.

However, GST registration is optional (not compulsory under the GST Act) if the government-related entity's GST turnover is less than \$75,000. A government-related entity that is not a government entity must cancel its GST registration when they cease to carry on an enterprise.

See also:


- Registering for GST
- registering Australian government entities for tax purposes, visit the Department of Finance and Deregulation website at finance.gov.au 

Applying for an ABN and GST registration

Government agencies can apply for an Australian business number (ABN) and other tax registrations by completing an Application for ABN registration for government organisations (NAT 2946).

The form allows government agencies to apply for:

- an ABN
- goods and services tax (GST)
- fuel tax credits
- pay as you go (PAYG) withholding
- a tax file number (TFN).

Once registered, ABN details are stored in the Australian Business Register (ABR). It is important that if ABN details [change](#) , the agency notifies the Registrar within 28 days of becoming aware of that change.



Government organisations cannot register online for any of the following:

- an ABN
- GST
- other tax obligations.

Next steps:

- Phone us on **13 28 66** to request the form or for more information on registrations including forms, cancellations and changing your details
- When the form is completed it needs to be signed by the authorised contact and posted to the address listed on the form, or faxed to us on **1300 130 905**

See also:

- [Australian business number – government registration process](#) 
- finance.gov.au  – Department of Finance and Deregulation, for proof of identification requirements for new Australian government organisations

Cancelling an ABN and GST registration

Government entities that have been abolished should cancel their ABN, GST and other tax registrations by completing the *Application to cancel registration* (NAT 2955) form.


Completed forms should be signed by the authorised contact person and submitted by mail to the address listed on the form.

When cancelling an ABN and GST registration, Australian government entities must follow procedures developed by the Department of Finance and Deregulation. However, State and territory government entities should follow procedures developed by their relevant Department of Treasury (DOT). Some states and territories require cancellations to be submitted via their relevant DOT.

If a government-related entity, such as a local governing body which is a body corporate, is abolished under relevant legislation the entity must cancel its ABN.

This guide only relates to GST. Cancelling GST registration can impact on other tax obligations such as pay as you go withholding (PAYGW), fringe benefits tax (FBT) and your eligibility to claim fuel tax credits.

See also:

- If your business changes or ceases
- finance.gov.au  - Department of Finance and Deregulation, for procedures for cancelling ABNs, GST and other tax registrations of Australian government entities

Machinery of government changes

A MOG change at a Commonwealth, state, territory and local government level may occur at any time.

Examples of MOG changes undertaken by the Commonwealth, a state or territory in relation to government entities include:

- abolishing a government department by transferring its functions to other government departments
- creating a government department
- merging two or more government departments
- moving functions in to or out of government departments
- changing a government department's name.

Similar changes can apply to local governing bodies under a state or territory law.

For GST purposes, MOG changes apply to both government entities and government-related entities.

How GST applies when MOG changes occur

An example of a common MOG change is when functions from one government organisation (the losing agency) are transferred to another government organisation (the gaining agency).

In these circumstances, both agencies are registered for GST. The losing agency may continue to exist or be abolished. The gaining agency may be an existing government organisation or a newly created one.

The transfer of the functions under the MOG change may be effected by:

- an administrative arrangements order (AAO) made for government entities
- a proclamation declared for government-related entities such as local governing bodies
- an Australian law establishing a government-related entity that is a body corporate.

Specific Commonwealth, state or territory law authorises the making of an AAO or declaration of a proclamation.

At the time the MOG change takes effect, the AAO, proclamation or Australian law would operate (in relation to the transferred functions) to, among other things:

- transfer any property, assets, rights, debts, liabilities and obligations held by the losing agency to the gaining agency
- treat a reference to the losing agency in any document or arrangement as a reference to the gaining agency.

Where the losing agency has not taken any action to cause the assets and liabilities to be transferred to the gaining agency, there are no GST consequences if those assets or liabilities are transferred as a result of MOG changes.

See also:

- GSTR 2006/9 *Goods and services tax: supplies*, especially paragraphs 71 to 91

GST on sales

GST on sales made by the losing agency before the MOG change

The gaining agency must determine the extent to which it should report sales and any related GST payable in its activity statements by working out the extent to which the losing agency has reported those sales and the related GST payable in its activity statements.

If the losing agency is not abolished and continues to exist, any sales income which it has generated from operating transferred functions before the MOG change is its revenue. The losing agency should report those sales and related GST payable in its activity statements.

GST on sales made by the gaining agency after the MOG change

Whether the losing agency is abolished or continues to exist, the sales income from operations undertaken by the gaining agency after the MOG change is revenue of the gaining agency. The gaining agency should report those sales and related GST payable in its activity statements.

If the losing agency continues to exist and receives income and transfers it to the gaining agency, there are no GST consequences for either of them in relation to the transfer. It is the gaining agency that should report those sales and related GST payable in its activity statements.

GST on purchases

GST on purchases made by the losing agency before the MOG change

If the losing agency is abolished and the gaining agency receives and pays for (in part or total) purchases ordered by the losing agency, those purchases are taken to be made by the gaining agency.

The gaining agency needs to determine the extent to which it should report those purchases and claim any related GST credits in its activity statements by determining the extent the losing agency has reported those purchases and claimed any related GST credits in its activity statements.

To claim any GST credits, the gaining agency needs to have valid tax invoices.

If the losing agency continues to exist, it should report in its activity statements any purchases it used in operating the transferred functions before the MOG change and claim any related GST credits if it has valid tax invoices.

GST on purchases made by the gaining agency after the MOG change

If the losing agency continues to exist and pays for a purchase made by the gaining agency after the MOG change, the gaining agency should report the purchase and claim the related GST credit in its activity statements if it has a valid tax invoice.

If the gaining agency reimburses the losing agency for paying for the purchase, there are no GST consequences for either of them in relation to the reimbursement. It is the gaining agency that should report the purchase and claim the related GST credit in its activity statements if it has a valid tax invoice.

Making adjustments on activity statements

From time to time, it may be necessary for a government organisation to make changes that increase or decrease its net GST liability for a reporting period. These changes are called 'adjustments' and are to be made on the activity statements.

If a government organisation has made an error on a previous activity statement, the correction of that error is not classified as an

adjustment.

See also:

- Making adjustments on your activity statements
- Correcting GST errors

Correcting a GST error made by the abolished losing agency

If the abolished losing agency made an error in an activity statement lodged before the MOG change, the gaining agency may be able to correct the error on its next activity statement after the MOG change.

The error can be corrected on the next activity statement as long as the error is within time limits and satisfies the conditions set out in the Correcting GST errors guide.

See also:

- Correcting GST errors
- Time limits on GST refunds

Tax invoices and MOG changes

A tax invoice is a document that is issued by the supplier and satisfies certain requirements, unless it is a recipient created tax invoice (an RCTI is issued by the recipient).

It is important that agencies ensure they hold tax invoices for purchases made during and after MOG changes so they can claim GST credits (if entitled). Tax invoices from suppliers must correctly record, amongst other things, the agency's identity and/or ABN.

Names on tax invoices

A tax invoice or RCTI must include information to establish the identity of the supplier, and the recipient where applicable.

A tax invoice or RCTI that shows a legal name or a registered business name will satisfy the requirement to provide sufficient information to clearly ascertain the identity of the Government organisation.

Prior to 28 May 2012, government organisations and businesses could record 'trading names' on the Australian Business Register (ABR). A trading name is an unregistered business name. That is, a trading name is a 'business' name that is used by a government organisation (or an entity) in carrying on an enterprise and is not registered under the national business names registration system – administered by the Australian Securities and Investments Commission (ASIC).

Trading names that were displayed in the ABN Lookup before 28 May 2012 will continue to be displayed up to 31 October 2023, but can no longer be updated and new trading names cannot be added.

A Government organisation that has a trading name which is displayed in the ABN Lookup prior to 12 May 2012 can use the trading name in a tax invoice or RCTI as information to establish its identity up to 31 October 2023.

Example 1: Invoices issued with details of the losing agency for sales made to the gaining agency

Agency A is affected by a MOG change and becomes a losing agency, they have outstanding orders placed with Suppliers Ltd that relate to the operation of the transferred functions. Suppliers Ltd makes sales under those orders to Agency B, the gaining agency. Agency B then uses the goods purchased in operating the transferred functions and is liable to make payments to Suppliers Ltd. Agency B is entitled to the GST credits for the goods purchased. Supplier Ltd issues Agency B with a document that satisfies all the requirements of a tax invoice but it only contains sufficient information to work out the identity and ABN of Agency A, the losing agency.

This document is therefore not a tax invoice and Agency B cannot use it to claim the GST credits.

Example 2: Invoices issued by the losing agency for sales made by the gaining agency

After MOG change comes into effect, Agency C (the losing agency) will continue to process all sales relating to the transferred functions made by Agency D (the gaining agency) for a number of months.

Comp Ltd, a GST registered recipient of the sales, can claim GST credits on their purchases. Agency C issues Comp Ltd with a document that satisfies all the requirements of a tax invoice but does not contain sufficient information to work out the identity and ABN of Agency D. The document contains the identity and ABN of Agency C. The document is therefore not a tax invoice and Comp Ltd cannot use it to claim the GST credits.

See also:

- Claiming GST credits

Treating a document as a tax invoice

A supplier issues a document to a recipient. The document does not contain all the information required of a tax invoice. The recipient may treat the document as a tax invoice if:

- it would be a tax invoice but for the missing information; and
- the missing information can be found in other documents given to the recipient by the supplier.

However, if the recipient finds the missing information from a source which is not another document given to it by the supplier, the recipient cannot rely on this information for the purposes of treating the (first mentioned) document as a tax invoice.

Tax invoices and discretion

We have the discretion under the GST law to treat some documents as tax invoices even though they do not meet all the requirements of a tax invoice.

When MOG changes occur, gaining agencies can request that we exercise the discretion to treat documents satisfying all the requirements of a tax invoice except that they contain the losing agency's identity and ABN as tax invoices. This applies to documents that are issued or to be issued by:

- suppliers to a losing agency for sales made to the gaining agency
- the losing agency for sales made by the gaining agency.

The gaining agency should follow the procedures within their jurisdiction in relation to requesting the exercise of our discretion to treat certain documents as valid tax invoices.

In the situations described in [Example 1](#), the losing and gaining agencies should also ask the suppliers to take steps to use the identity and ABN of the gaining agency in future tax invoices.

Losing and gaining agencies should inform recipients to sales they make relating to the transferred functions that:

- the documents are not tax invoices and cannot be used to claim GST credits
- the gaining agency is the party to the sales
- the gaining agency already has or will request that we exercise the discretion to treat the documents as valid tax invoices.

When the decision to exercise the discretion is received, the affected documents issued during the period specified in the decision will be treated as valid tax invoices.

You may need to lodge a private ruling request or an objection for the ATO to consider whether a document is tax invoice or an adjustment note.

See also:

- When you need a tax invoice
- GSTR 2013/1 *Goods and services tax: tax invoices*
- PS LA 2004/11 *The Commissioner's discretions to treat a particular document as a tax invoice (As at 1 July 2000).*
- Treating a document as a tax invoice or adjustment note- supporting information

RCTIs and discretion

When MOG changes occur, the losing agency and various suppliers may have entered into recipient created tax invoice (RCTI) agreements

that specify certain sales to be made by the suppliers to the losing agency for use in operating the transferred functions.

After the MOG change comes into effect, those suppliers then make sales to the gaining agency. The gaining agency is liable to make payments to the suppliers and can claim GST credits. In these circumstances the losing agency may continue to issue documents with its ABN or identity for sales made to the gaining agency under the RCTI agreements (entered into by the losing agency and the suppliers). Those RCTI agreements will no longer be valid as the losing agency is no longer the recipient of the supply. Therefore, the documents are not RCTIs and the gaining agency cannot use them to claim GST credits even if they contain the identity or ABN of the gaining agency.

The gaining agency can request we exercise the discretion to treat the documents as valid RCTIs. In making the request, the gaining agency should follow the procedures within their jurisdiction in relation to the exercise of our discretion to treat certain documents as valid tax invoices.

The losing and gaining agencies should inform those suppliers that the documents are not RCTIs and that the gaining agency:

- is the recipient of the sales
- has already or will request that the ATO exercises the discretion to treat the documents as RCTIs.

When the decision to exercise the discretion is received, the affected documents issued during the period specified in the decision will be treated as valid RCTIs. The gaining agencies should also take steps to enter into new RCTI agreements with the suppliers as soon as practicable.

See also:

- Recipient created tax invoices
- GSTR 2000/10 *Goods and services tax: recipient-created tax invoices*
- Recipient created tax invoice – Embedded Agreement Amending Legislative Instrument 2009.

Change of name

If a MOG change changes the name of a government organisation, that organisation should contact us to advise of its new legal name.

The organisation should also consider visiting the ASIC website to find out whether it can register its former 'legal' name as a business name. Registered business names will be displayed in the ABN Lookup. The government organisation needs to notify its suppliers of its new legal name as well as any new registered business names.

Abolition of the losing agency and transfer of its functions

If a MOG change also abolishes the losing agency, the gaining agency should consider visiting the ASIC website to find out whether it can register the 'legal' name of the abolished agency as a business name. Registered business names will be displayed in the ABN Lookup. The gaining agency needs to notify its suppliers of its legal name as well as any registered business names.

Next step:

- Government organisations can phone us on **1300 720 092** to request a copy of the form Change of registration details (NAT 2943).

More information

To find out more information:

- email us at LMGTechnicalIssues@ato.gov.au for ABN technical issues and all registration issues, including forms, cancellations and changes to details recorded on the ABR
- phone us on **13 28 66** for all government registration matters
- visit [How we can help](#).


Payments to government agencies under Division 81

A guide to Australian government agencies on the GST treatment of taxes, fees and charges under the amended Division 81.

Last updated 1 April 2019

Terms we use

When we say:

- you – we mean an Australian government agency
- tax – we mean an Australian tax
- fee or charge – we mean an Australian fee or charge
- GST-exempt – we mean not consideration for a supply
- not GST-exempt – we mean consideration for a supply, which may be subject to GST if the requirements of a taxable supply are met
- Treasurer's determination – we mean [A New Tax System \(Goods and Services Tax\) \(Exempt Taxes, Fees and Charges\) Determination 2011 \(No. 1\)](#) 
- GST Act – we mean A New Tax System (Goods and Services Tax) Act 1999
- GST regulations – we mean A New Tax System (Goods and Services Tax) Regulations 2019
- Division 81 – we mean Division 81 of the GST Act that applies to taxes, fees or charges that are payable to Australian government agencies
- grandfathering arrangement – we mean extending the operation of the Treasurer's determination by the GST Act and/or the GST regulations until 30 June 2013
- PSLA 2013/2(GA) – we mean Practice Statement Law Administration (General Administration) PSLA 2013/2(GA) GST and treatment of Australian fees or charges under Division 81 of the A New Tax System (Goods and Services Tax) Act 1999.

Division 81

Not all taxes, fees or charges imposed by government agencies are GST-exempt.

Division 81 enables a government agency to self-assess the GST treatment of taxes, fees or charges that they impose.

GST regulations also apply to make certain fees or charges either:

- not GST-exempt (that is, consideration for a supply)
- GST-exempt (that is, not consideration for a supply).

Where a fee or charge is not GST-exempt, the normal GST rules apply.

From 1 July 2013, **PSLA 2013/2(GA)** provides that if a government agency classifies their fees or charges as GST-exempt in accordance with the Treasurer's determination, we will not change that treatment retrospectively. However, there will need to be changes made to the GST treatment going forward.

Fees or charges regarded as being not GST-exempt under the GST regulations are not eligible for this treatment.

See also

- [GST-exempt under the GST Act](#)
- [Not GST-exempt under the GST regulations](#)
- [GST-exempt under the GST regulations](#)

Operation of Division 81

The following apply for taxes, fees and charges imposed by government agencies.

- Taxes are GST-exempt.
- You can self-assess the GST treatment of fees and charges that your government agency imposes in accordance with Division 81 and the GST regulations.
- You can apply the administrative treatment provided in **PS LA 2013/2(GA)** for fees and charges that your government agency imposes where they were listed in the Treasurer's determination. If you treat a fee or charge as GST-exempt using **PS LA 2013/2(GA)**

and it is later determined that the fee or charge is not GST-exempt, we will not require you to retrospectively change that GST treatment. However, you will need to change the GST treatment going forward. Fees or charges regarded as being not GST-exempt under the GST regulations are not eligible for this treatment.

Fees or charges are not GST-exempt if all of the following statements apply. The fees or charges:

- are not eligible for the administrative treatment provided in PSLA 2013/2(GA)
- do not fall within the exemptions provided under Division 81 and GST regulations
- satisfy the requirements of a taxable supply.

How to self-assess if GST applies to a tax, fee or charge

The following assessment process will help you work out if a tax, fee or charge imposed by your government agency is GST-exempt.

GST assessment process: government taxes, fees and charges

1. Is the item an [Australian tax](#)?

Yes	Treat the item as GST-exempt.
No	Go to question 2.

2. Has the fee or charge been imposed by an [Australian government agency](#)?

Yes	Go to question 3.
No	The item is not a GST-exempt government fee or charge. You will need to apply the normal GST rules.

3. Is the item in the list of items that are [GST-exempt under the GST Act](#)?

Yes	Go to question 4.
No	Go to question 5.

4. Is the item in the list of items that are [not GST-exempt under the GST regulations](#)?

Yes	Go to question 5.
No	Treat the item as GST-exempt.

5. Is the item in the list of items that are [GST-exempt under the GST regulations](#)?

Yes	Go to question 6.
No	The item is not a GST-exempt government fee or charge. You will need to apply the normal GST rules.

6. Is the item in both:

- the list of items that are [not GST-exempt under the GST regulations](#), and
- the list of items that are [GST-exempt under the GST regulations](#)?

Yes	Go to question 7
No	<ul style="list-style-type: none"> • If the item is in the list of items that are not GST-exempt under the GST regulations, the item is not a GST-exempt government fee or charge. You will need to apply the normal GST rules. • If the item is in the list of items that are GST-exempt under the GST regulations, treat the item as GST-exempt.

7. Is the item a fee or charge in the list of items that are [not GST-exempt under the GST regulations](#) other than a fee or charge for a supply of a non-regulatory nature?

Yes	The item is not a GST-exempt government fee or charge. You will need to apply the normal GST rules.
No	Treat the item as GST-exempt.

Australian tax

An Australian tax is a tax (however described) imposed under an Australian law.

Examples of Australian taxes imposed under an Australian law include:

- stamp duty
- payroll tax
- local government rates
- various levies including industry levies.

Division 81 allows a regulation to be made to treat certain Australian taxes as being subject to GST. Currently, no regulations have been made to treat any Australian taxes as being subject to GST.

Australian government agency

Each of the following is an Australian government agency:

- the Commonwealth, a state or a territory
- a Commonwealth, state or territory government department
- a body (whether or not it is an entity) established by the Commonwealth, a state or a territory to carry on activities
- a body (whether or not it is an entity) established for a public purpose by an Australian law
- a local governing body established by a state or territory law (such as a local municipal council).

GST-exempt under the GST Act

GST is not payable for government charges if they are for providing, retaining, or amending:

- a permission, for example

- a permit for a restaurant allowing patrons to occupy and be served on the footpath
- a compulsory inspection fee for the retention of a permit
- an exemption, for example, an exemption from
 - registration under the Australian Maritime Safety Authority Act 1990
 - payment of annual charges payable under the Therapeutic Goods (Charges) Act 1989
- an authority, for example
 - an authority to place an identification plate on a road trailer
 - a petroleum special prospecting authority
 - a greenhouse gas special authority
- a licence, including
 - for the practice of a profession
 - a vehicle drivers licence
 - a pilot's licence.

GST is also not payable for charges paid to you for providing information and for record keeping, including charges for:

- copies of official documents
- searches and extracts from registers
- requests for information from you under freedom of information legislation.

However, the GST regulations may specify that a fee or charge is not GST-exempt.

Not GST-exempt under the GST regulations

The following fees or charges are not GST-exempt under the GST regulations:

- a fee for parking a motor vehicle in a ticketed or metered parking space
- a toll for driving a motor vehicle on a road
- a fee for hiring, using or entry to a facility, other than an entry fee to a national park
- a fee for the use of a waste disposal facility
- a fee for pre-lodgment advice relating to a permission, exemption, authority or licence under an Australian law where it is not compulsory to seek the advice
- a fee or charge for provision of information by an Australian government agency if the provision of the information is of a non-regulatory nature
- a fee or charge for a supply by an Australian government agency, where the supply may also be made by a supplier that is not an Australian government agency
- a fee or charge for any other supply of a non-regulatory nature.

GST-exempt under the GST regulations

The following fees or charges are GST-exempt under the GST regulations:

- a fee or charge for kerbside collection of waste or the supply, exchange or removal of bins or crates used with kerbside collection of waste
- royalties charged in relation to natural resources
- a fee or charge imposed on an industry to finance regulatory or other activities of government connected with the industry
- a fee or charge to compensate an Australian government agency for costs incurred by the agency in undertaking regulatory activities
- a fee or charge imposed in relation to a court, tribunal, commission of inquiry or sheriff's office
- a fee or charge for a supply of a regulatory nature made by an Australian government agency
- a fee or charge for entry to a national park.

From 1 July 2013, under the administrative treatment in PSLA 2013/2(GA), most fees and charges listed in the Treasurer's determination can be treated as GST-exempt.

Fees or charges covered by both a GST-exempt regulation and a not GST-exempt regulation

GST regulations contain tie-breaker rules for situations when a fee or charge is covered by both a GST-exempt and a not GST-exempt regulation. These rules determine whether the GST-exempt or not GST-exempt regulation would apply in specific circumstances depending on the type of fee or charge.

The fee or charge is GST-exempt if the item is:

- in the list of items that are GST-exempt under the GST regulations; and
- a fee or charge for a supply of a non-regulatory nature under the list of items that are not GST-exempt under the GST regulations.

In any other case, the fee or charge is not GST-exempt.

See the assessment process in [How to self-assess if GST applies to a tax, fee or charge](#) which demonstrates how the tie-breaker rules apply.

If you make an error

If you have made an error with the GST treatment of a particular tax, fee or charge, you can correct GST errors on your current activity statement if you meet the time and debit error value limits. If you can't make the correction on your current activity statement you either have to revise the original activity statement or write to us. For tax periods starting on or after 1 July 2012, revising your activity statement or writing to us will be treated as an application to amend an assessment.

If an amount of GST has been overpaid, you may need to meet other conditions, such as refunding your clients the GST component included in the tax, fee or charge before you are entitled to a refund of overpaid GST.

See also:

- [Correcting GST errors](#)
- [Guide to correcting mistakes and disputing our decisions](#)

Questions and answers

1. Is a tax, fee or charge imposed under an Australian law and paid through an authorised payment agent (such as Australia Post) paid to you?

Yes.

A tax, fee or charge must be 'imposed under an Australian law' and 'payable to an Australian government agency'.

If a tax, fee or charge is paid to an authorised payment agent under an arrangement between the Australian government agency and the agent for the collection of those charges, the tax, fee or charge is 'paid to' the Australian government agency by the applicant.

The tax, fee or charge is a debt payable to the Australian government agency and not the authorised payment agent.

2. Is a regulation made under a State or Territory Government Act an Australian law?

Yes.

A regulation is a law made by a person or body with the authority of parliament.

3. Does a fee or charge captured under the grandfathering arrangements need to be apportioned if it applies to an extended period of time after 1 July 2013?

No.

Until 1 July 2013, any fee or charge listed in the Treasurer's determination is GST-exempt from GST.

If the Australian government agency imposes a fee or charge before 1 July 2013 that relates partly or fully to a period after 30 June 2013 (for example, a 10 year term driver licence), the Treasurer's determination applies to the whole of the fee or charge. There is no requirement to apportion the fee or charge over the 10 year term.

4. Is a fee or charge listed in the Treasurer's determination GST-exempt under the grandfathering arrangements if it is imposed before 1 July 2013 but is not payable until after 1 July 2013?

Yes.

The grandfathering arrangements provide that the changes to Division 81 do not apply to a payment of a fee or charge listed in the Treasurer's determination if it is imposed before 1 July 2013. It is the date that the fee or charge is imposed that determines whether the grandfathering arrangements apply. A fee or charge is imposed when the payer's liability for the fee or charge arises, rather than when the fee or charge is paid or payable.

5. Is a fee or charge listed in the Treasurer's determination GST-exempt under the grandfathering arrangements if the description is correct but the reference is to an old version of the Australian law?

Yes.

A reference in the Treasurer's determination to a particular provision of a State or Territory law that has been repealed and re-enacted is taken to be a reference to the corresponding provision of the re-enacted State or Territory law.

6. Is a fee or charge GST-exempt when it is listed on the Treasurer's determination?

You can apply the administrative treatment provided in PS LA 2013/2(GA) for fees and charges that your government agency imposes where they were listed in the Treasurer's determination. If you treat a fee or charge as GST-exempt using PS LA 2013/2(GA) and it is later determined that the fee or charge is not GST-exempt, we will not require you to retrospectively change that GST treatment.

However, you will need to change the GST treatment going forward. Fees or charges regarded as being not GST-exempt under the GST regulations are not eligible for this treatment.

7. What is the treatment of a fee or charge that is regulatory?

Most non-commercial activities of government agencies are outside the scope of GST. The term regulatory captures those supplies made by a government agency if that agency is legislatively empowered to make the relevant supply and the supply is to satisfy a regulatory purpose.

Examples of fees or charges that have a regulatory character include:

- a charge for providing a copy of a birth, death or marriage certificate

- a compulsory inspection fee for checking that the foundations of a building comply with a building code
- a fee for reviewing a film to give it an appropriate audience rating before it can be exhibited at a public cinema
- a fee for land registry services such as titling, valuation or surveying undertaken by a government agency in providing those services
- a fee for towing and impounding a vehicle, if a traffic offence has been committed
- a fee for impounding animals
- a fee for releasing seized abandoned shopping trolleys.

8. Do you have to review all your fees or charges after 1 July 2013?

Yes.

However, you can apply the administrative treatment provided in PS LA 2013/2(GA) for fees and charges that your government agency imposes where they were listed in the Treasurer's determination. If you treat a fee or charge as GST-exempt using PS LA 2013/2(GA) and it is later determined that the fee or charge is not GST-exempt, we will not require you to retrospectively change that GST treatment.

However, you will need to change the GST treatment going forward. Fees or charges regarded as being not GST-exempt under the GST regulations are not eligible for this treatment.

See also

- Government entities
- How we can help

QC 24540

GST and machinery of government

Information about GST and machinery of government changes, including registration, GST groups and tax invoices.

Last updated 17 October 2017

This document contains information about GST and machinery-of-government changes (MOG), including information on GST registration, GST groups, recipient created tax invoices (RCTIs) and tax invoices.

This ATO guidance document should be read in conjunction with **GST and machinery of government changes**.

Terms we use

When we refer to **government organisations**, generally, we mean the GST terms **government entities** or **government-related entities**.

Government entities

The term 'government entity' refers to:

- Australian government departments
- departments of an Australian state or territory
- executive and statutory agencies
- some bodies established by the Commonwealth or a state or territory to carry on activities for a public purpose.

Government entities are not 'entities' in their own right. They are part of an entity that is the larger body politic of the Commonwealth, state or territory.

Government-related entities

A government-related entity is any of the following:

- a government entity
- an entity that would be a government entity if it were not an entity in its own right
- a local governing body established by or under a state or territory law.

Examples of government-related entities include:

- a Commonwealth authority – for example, an Australian government business enterprise that is a body corporate
- a statutory body corporate

- an independent statutory authority or body corporate established under a territory Act
- a local governing body.

See also

- [GST definitions](#)
- [Government entities](#)
- [How we can help](#)

GST Registration

GST branching and the machinery of government

GST branching requires a branch of an entity (the parent entity) to have both an independent system of accounting and to be identified separately by either:

- the nature of its activities
- its location.

A GST branch is responsible for lodging its own activity statements. However, although the branch may provide payment when it lodges its activity statement, the parent entity is liable for amounts owed by the branch to us.

GST branching can be used by an existing or newly formed government organisation which takes over the functions of another government organisation as a result of machinery of government (MOG) changes.

By treating the transferred functions to be undertaken by one of its branches, the existing or newly formed government organisation can register the branch as a GST branch.

Branch registration number

When registering a GST branch, we notify the parent entity of the GST branch registration number. This number includes the same Australian business number (ABN) of the parent entity with a unique identifying extension.

A GST branch must show its GST branch registration number on tax invoices, including recipient created tax invoices (RCTIs) for taxable supplies that it makes.

Note: A parent entity and its GST branches will need to consider impacts to their business systems and their obligations in relation to giving tax invoices.

See also

- GST and machinery of government changes

Machinery of government change time frames

An 'Administrative Arrangements Order' (AAO) specifies the date on which a MOG change takes effect.

If the AAO specifies the date on which a government organisation (the losing agency) is abolished, the losing agency will:

- not exist on or after that date
- have its functions transferred to another government organisation (the gaining agency).

The losing agency

All transactions undertaken by the losing agency before the date of the MOG change need to be reported in its concluding activity statement.

The abolished agency will need to lodge a concluding activity statement but consideration should be given to the other tax obligations such as pay as you go withholding (PAYGW), fringe benefits tax (FBT) and fuel tax credits, which are also reported on activity statements.

The abolished agency should then cancel its ABN, GST registration and other tax registrations by completing the **Application to cancel registration** (NAT 2955) form.

Cancelling a GST registration

If a government organisation is abolished as a result of a MOG change then it will cease to exist on and after a certain date. The abolished government organisation must cancel its GST registration after it has lodged its concluding activity statement.


The gaining agency

All transactions undertaken by the gaining agency from the date of the MOG change in administering the functions transferred from the losing agency must be reported by the gaining agency.

We understand that the implementation and changeover of transaction processing systems to accommodate a MOG change can take some time. However, a date should be arranged as soon as possible after the date of the MOG change for the gaining agency to undertake the administrative responsibilities in relation to the transferred functions (such as reporting in activity statements and issuing tax invoices).

The gaining agency must work out the extent to which it should report sales, purchases and any GST obligations relating to the transferred functions in its activity statement, by working out what the abolished agency has already reported before the date of the MOG change.

See also

- Section 149-20 of the **GST Act** – for government entities not required to cancel their registration
- **If your business changes or ceases** – for cancelling GST registrations
- [The Department of Finance and Deregulation](#)  – for procedures for cancelling ABNs, GST and other tax registrations of Australian government entities.

When a member of a GST group or joint venture is subject to MOG changes

MOG changes usually take immediate effect which can make it difficult for government organisations to meet their GST obligations.

From the first tax period after 1 July 2010, certain government organisations are able to form, change or dissolve a GST group or GST joint venture on any day during a tax period.

Consideration must be given to these structures following MOG changes. The representative member of a GST group or the operator of a GST joint venture is responsible for notifying us of any changes to the GST group or joint venture as soon as possible.

For GST purposes, the GST group representative member lodges a single activity statement and is liable for the GST payable on all

taxable supplies. Despite this special rule, a GST group member is the entity making the taxable supply and must issue a tax invoice for a taxable supply when requested by the recipient. You may however authorise the representative member to issue tax invoices on your behalf. The tax invoice must include your details and not the details of the representative member of your group.

Note: GST group members and GST joint venture participants will need to consider impacts to their business systems and their obligations in relation to tax invoices.

Government-related entities can become:

- members of GST groups under Divisions 48 and 149 of the GST Act
- participants in GST joint ventures under Division 49 of the GST Act.

See also

- GST and machinery of government changes
- GSTR 2013/1 *Goods and services tax: tax invoices*

Sales and purchases

Supply when staff and assets are transferred to the gaining agency following a MOG change

There are generally no GST consequences if staff and assets are compulsorily transferred to the gaining agency as a result of MOG changes. The transfers can be given effect by:

- gazettal of a notice
- specific legislation abolishing a losing agency
- proclamation such as in the case of local authorities.

However, in situations where the staff and assets are transferred as a result of MOG changes and the losing agency has taken action to cause those assets to be transferred to the gaining agency, then there may be GST consequences.

See also

- GSTR 2006/9 *Goods and services tax: supplies* – refer to paragraphs 71 to 91

GST consequences

Generally there are no GST consequences for either the losing agency or the gaining agency if assets or liabilities are transferred as a result of MOG changes, provided that the gaining agency assumes those liabilities.

GST treatment of an appropriation when a government organisation is abolished

When a MOG change occurs, a redirection authority within an Appropriations Act would normally be invoked to redirect the funds to a new government organisation.

For GST purposes, the payment of the redirected funds, if on similar terms, will have the same GST consequences as the payment would have had when paid to the previous agency.

The transfer of unspent funds held by the original government related entity to the government related entity that now has responsibility for the function, is a transfer of money and not itself a supply for GST purposes.

See also

- GST and payments between government related entities – overview

Role of the Treasurer's determination

The payment of any Australian tax, fee or charge that is specified in a written determination of the Treasurer is not subject to GST under Division 81 of the GST Act. This applies where such a tax, fee or charge is paid to a gaining agency which remains a government organisation after a MOG change.

The Treasurer's determination no longer applies from 1 July 2013. The amended Division 81 and the relevant Regulations of the *A New Tax System (Goods and Services Tax) Act 1999* applies from 1 July 2013.

See also

- PS LA 2013/2 (GA) *GST treatment of Australian fees or charges under Division 81 of the A New Tax System (Goods and Services Tax) Act 1999*.

Tax invoices

Commissioner's discretion to treat a document that is not a tax invoice as a tax invoice

The Commissioner has the discretion to treat a document as a tax invoice even when it does not meet all requirements of a tax invoice.

When a MOG change occurs, an affected government organisation can ask us to exercise a tax invoice discretion. In exercising the discretion, we generally specify in the notice of decision a three month period during which certain documents will be treated as tax invoices.

These documents include:

- tax invoices issued to the losing agency for supplies received by the gaining agency
- tax invoices issued in the identity of the losing agency for supplies made by the gaining agency
- RCTIs issued in the identity of the losing agency for supplies received by the gaining agency.

These documents must comply with the other GST requirements for tax invoices.

These discretions are not automatically exercised following a MOG change unless the jurisdiction that the gaining agency belongs to has already obtained from us a notice of decision to exercise the discretion. Otherwise, the gaining agency should follow the procedures within their jurisdiction in relation to the requirement to request the Commissioner to exercise the discretion. You may need to lodge a private ruling request or an objection for us to consider whether a document is tax invoice or an adjustment note. For more information, please go to ato.gov.au.

Circumstances allowing affected government organisations more time to treat certain documents as tax invoices

The three month period specified in the notice of decision about treating certain documents as tax invoices usually commences on the date specified in the AAO or proclamation for the MOG changes to take place. Extensions of this time are considered on a case by case

basis. Government organisations should contact us as soon as possible if they believe it may take longer than three months for them to have their tax invoices compliant.

See also:

- Practice Statement Law Administration PS LA 2004/11 *The Commissioner's discretions to treat a particular document as a tax invoice or adjustment note* (as at 1 July 2000)
- ATO guidance: Treating a document as a tax invoice or adjustment note – supporting information

RCTI agreements with an abolished government organisation

A MOG change usually takes immediate effect which can make it difficult for either the supplier or recipient to an RCTI agreement to meet the requirements for issuing an RCTI.

In these circumstances, an abolished government organisation will no longer be the supplier or recipient of a supply referred to in an existing RCTI agreement. New RCTI agreements must be entered into by the gaining agency and other suppliers or recipients as soon as possible.

If an abolished government organisation was the recipient in an RCTI agreement, the new government organisation will need to request that the Commissioner exercise his discretion to treat a document issued under the existing RCTI agreement as an RCTI. This will enable the new government organisation to claim GST credits on the supply it receives.

See also

- Recipient created tax invoices
- GSTR 2000/10 *Goods and services tax: recipient created tax invoices*
- RCTI 2009/1 *Recipient Created Tax Invoice – Embedded Agreement Amending Legislative Instrument 2009*

When suppliers or recipients to RCTI agreements need to enter new agreements following MOG changes

Suppliers or recipients to RCTI agreements may need to enter into new agreements following MOG changes.

We have the discretion to treat a document as a tax invoice even if the document does not meet all the requirements of a tax invoice.

When a MOG change occurs, an affected government organisation can ask us to exercise the discretion. In exercising the discretion, we generally specify in the notice of decision a three month period during which certain documents will be treated as tax invoices.

The notice of decision in relation to treating certain documents as tax invoices will also apply to RCTIs issued in the identity of a losing agency for supplies received by a gaining agency.

A gaining agency will only be required to make one request to us to exercise the discretion to treat specified documents as tax invoices.

Notice of decision, issued to one jurisdiction under a MOG change

A notice of decision issued to one jurisdiction about treating a document (that is not a tax invoice) as a tax invoice under a MOG change specifies the relevant legislation governing the MOG change.

The notice cannot treat documents that are generated in relation to MOG changes in another jurisdiction under different legislations and which are not tax invoices, as tax invoices.

Private rulings

Role of private rulings issued to a losing agency for a gaining agency

Private rulings issued to a losing agency cannot be relied upon by a gaining agency. GST private rulings can only apply to the entity the ruling was given to.

If a gaining agency (who is not the ruling recipient) relies on a private ruling that was issued to the losing agency and as a result underpays a net amount, the gaining agency will be liable for this amount unpaid.

It is expected that government organisations risk assess to determine whether it is necessary to reapply for a private ruling depending on the changes. This risk assessment process is inherent to the nature of the

self-assessment taxation regime and, in particular, when relying on our publications or rulings (public or private) due to the individual circumstances and any changes to those circumstances.

Pay as you go withholding

Obligations for government organisations undergoing a restructure, merge or change of name at short notice

This information only applies to government organisations.

When a government organisation undergoes a restructure, merge or change of name at short notice, it is often difficult to change systems to quickly reflect this new structure, for example, payroll.

In these circumstances where staff have moved between entities and continue to perform essentially the same role, the guidelines outlined in **Restructure of government organisations** will apply.

See also

- PAYG withholding
- GST and machinery of government changes

QC 25055

GST and payments between government related entities

An overview of the GST treatment of payments made between government related entities.

Last updated 26 March 2021

A payment isn't subject to GST if it meets the following conditions.

The payment **must**:

- be made by a [Government related entity](#) (GRE) to another GRE for [a supply](#)
- be covered either
 - by an [appropriation](#) made under an [Australian law](#)
 - under a [specified intergovernmental health reform agreement](#)
- [satisfy the non-commercial test](#).

Government related entity

A government related entity is:

- a department of state of the Australian Government
- a department of state of a state or territory government
- a department of the parliament established under the *Parliamentary Service Act 1999*
- an executive agency, or statutory agency, within the meaning of the *Public Service Act 1999*
- an organisation that
 - is either established
 - by the Australian Government or a state or territory government (under a law or not) to carry on an enterprise, or
 - for a public purpose by an Australian law
 - can be separately identified by
 - the nature of the activities carried on through the organisation, or
 - the location of the organisation regardless of the organisation being part of a department or branch described in the first 4 dot points above or of another organisation
- a local governing body established by or under a state law or territory law.

A supply

For a payment to be exempt for GST, it must be made by one government related entity (GRE) to another GRE for a supply.

Supplies can be made to:

- a GRE making a payment, or
- to a third party.

If there is no supply made for payment, there is no GST under the basic rules in the GST Act.

Appropriation

An 'appropriation' is a segregation of funds from a consolidated revenue fund by a statute of:

- the Australian Government
- a state or a territory government, or
- by delegated legislation.

Payments covered by an appropriation or intergovernmental health reform agreement must be covered by an appropriation under an Australian law.

Specified intergovernmental health reform agreement

If a payment is not covered by an appropriation under an Australian law, it must be made under one of the following:

- the National Health Reform Agreement agreed by the Council of Australian Governments on 2 August 2011
- an agreement entered into to implement the National Health Reform Agreement.
- The National Health Reform Agreement is available from the [Council of Australian Governments \(COAG\)](#) [↗](#).

Australian law

An 'Australian law' means a:

- statute of the Australian Government
- state or a territory
- delegated legislation.

Satisfy the non-commercial test

To satisfy the non-commercial test, the amount of a payment must be less than the anticipated or actual cost of making those supplies.

In this context, 'cost' includes the supplier's direct and indirect costs of making the supply.

It does not include a return on capital or concepts of cost which are measured based on opportunity cost or forgone revenue.

If the payment is made in instalments, use an aggregate of the instalment payments to work out costs. Instalment payments are not tested separately.

If the payment is worked out before the supply is made, the calculation is based on the anticipated cost of making the supply.

If the payment is worked out after the supply or supplies are made, the calculation is based on the actual costs of making the supply.

If costs are worked out using anticipated costs, you do not need to re-calculate once the actual costs of making the supply is known.

Example 1: Anticipated costs – education outcomes

A territory department of education (the Department) has funding arrangements with government and non-government schools. Funding payments are made under a territory appropriation Act.

The terms of the appropriation:

- allow payments to be made to both government and non-government schools that commit to achieving certain educational outcomes
- states the total amount of money authorised to be paid to both government and non-government schools.

A payment is made by the Department to a government school to fund its general operations. The Department determines the amount of funding to be allocated to each school based on anticipated costs the school needs to meet the agreed educational outcomes.

The payment from the Department to a government school is:

- from a GRE (the Department) to another GRE (government school) for the school making the supply of delivering educational outcomes
- covered by an appropriation under an Australian law
- calculated so the payment doesn't exceed the anticipated costs to the school in delivering the educational outcomes.

The payment from the Department to the government school isn't subject to GST because all requirements are satisfied.

Even though the payment was calculated based on anticipated costs, it's not necessary to review the calculation once the actual costs of making the supply are known.

Payments by the Department to non-government schools are subject to normal GST rules.

Example 2: Actual costs – bulk purchase

A state government decides to centralise purchasing stationery through Department A. Department A bulk buys stationery and on-supplies to individual departments.

The individual departments agree to pay Department A an amount equal to their portion of the actual costs incurred by Department A, including administration costs. These payments are made under a state appropriation Act.

The payments made by individual departments to Department A are:

- from a GRE (the individual department) to another GRE (Department A) for making a supply of stationery items
- covered by an appropriation under an Australian law

- the amount of the payment is calculated so it doesn't exceed Department A's actual costs, including administration costs.

The payments made by individual departments to Department A isn't subject to GST because **all** requirements are satisfied.

Example 3: Instalment costs – sub-lease of office space

Department A is the lessee of a building and sub-leases an unoccupied floor to Department B.

The annual rent Department B pays to Department A is calculated to cover anticipated lease costs for that floor. The lease agreement allows payments to be made in instalments throughout the agreement using funds allocated to Department B under an Australian Government appropriation Act for general operating costs.

The payment from Department B to Department A is:

- from one GRE (Department B) to another GRE (Department A) for sub-leasing office space
- covered by an appropriation under an Australian law
- calculated so the total of the instalment payments won't exceed Department A's anticipated costs of making the supply.

The payment from Department B to Department A isn't subject to GST because **all** requirements are satisfied.

Even though the payment is calculated on anticipated costs and it's not necessary to review the calculation when the actual costs are known.

Related supplies

A GRE that receives a payment from another GRE may make supplies to third parties relating to the payment.

Supplies to third parties relate to the payment if the supply is part of the arrangement between the GREs.

Payments or any other thing the GRE receives from a third party for a supply related to the payment must be included in determining if the non-commercial test is satisfied.

Example 4: Subsidy arrangement with supplies made to both the GRE payer and third parties

A state GRE (transport supplier) supplies transport services to the general public.

The full fare charged by the transport supplier exceeds the anticipated costs of supplying the transport. The full fare for transport is \$10.00.

A state department (Department A) establishes a program to subsidise fares for pensioners residing in the state (eligible customers).

Department A makes an agreement with the transport supplier. Under the agreement, the transport supplier enters into a binding obligation to charge a lower amount to eligible customers with Department A paying the balance.

Under the program, an eligible customer pays half the whole fare (\$5.00) to the transport supplier and Department A pays the other half (\$5.00) of the fare (the subsidy).

The payments by Department A are made as an appropriation under a state appropriation Act.

The subsidy payment (\$5.00) is:

- made by a GRE (Department A) to another GRE (the transport supplier) for making a supply
- covered by an appropriation under an Australian law.
- does not satisfy the non-commercial test as the payment is calculated on the basis that the sum of the subsidy payment (\$5.00) and the subsidised fare (\$5.00) **exceeds** the anticipated cost of the transport supplier making the supplies to the GRE and the eligible customer.

Therefore, the payment **is subject to GST** if the basic GST rules are met.

The GST consequences are:

- The transport supplier is making a taxable supply to Department A and a separate supply to the eligible customer and is required to pay GST of 1/11th of the \$5 received from Department A and 1/11th of \$5 received from the passenger.
- Department A is entitled to a GST credit for 1/11th of the \$5 paid to the transport supplier where the acquisition from the transport supplier is for a creditable purpose.

Example 5: Subsidy arrangement with supplies made to third parties only

In some subsidy arrangements there won't be a supply to the GRE making the payment. Instead, the subsidy payment is only for the supply made to a third party.

If in Example 4 the arrangement between Department A and the transport supplier didn't involve the transport supplier entering into a binding obligation with Department A, the subsidy payment by Department A and the payment from the eligible customer are both payments for the supply of transport to the eligible customer.

The subsidy payment is:

- made by a GRE (Department A) to another GRE (the transport supplier) for making the supply to the eligible customer
- covered by an appropriation under an Australian law.

The payment is calculated so the sum of the subsidy payment and the subsidised fare **exceeds** anticipated costs of making the supply of transport to the eligible customer. This doesn't satisfy the non-commercial test and **is subject** to GST if the basic GST rules are met.

The GST consequences are:

- The transport supplier is making a taxable supply to the eligible customer and is required to pay GST of 1/11th of the \$10 received for the supply (\$5 received from Department A and \$5 received from the passenger).

- Department A isn't entitled to a GST credit for 1/11th of the \$5 paid to the transport supplier as no supply was made to it for the payment.

QC 25884

GST governance and risk management: government

This guide can help government agencies assess the effectiveness of their GST governance and risk management.

Last updated 16 July 2014

We have developed the *Government checklist* as a guide to help government-related entities – including local government, government-owned corporations and statutory corporations – assess the effectiveness of their goods and services tax (GST) governance, risk management, internal assurance processes and procedures.

It is an interactive guide that can be completed electronically or on paper and you may add or alter the content to suit your entity's specific needs.


Undertaking a comprehensive assessment of your entity's GST governance and risk management processes allows you to check them against best practice actions. Use this checklist as a guide to help you determine if your processes follow best practice and not as a substitute for any detailed review processes and/ or monitoring programs already in place.

This page explains [how to get the form](#), [how to use the checklist](#), [what to do if you find a discrepancy](#) in your GST reporting, and provides an [overview](#) of the checklist.

How to get the form

Double clicking the form won't open it. The form will **not** load on a **mobile device, tablet** or within a **browser**.

To complete the form, you **must** save it to your **desktop computer** or **laptop** (with the latest version of **Adobe Acrobat** installed).

- To download, right click on the link below and select **Save target as** (or a similar option depending on your internet browser) to save it to your computer.
- [The Government checklist\(NAT 74780, PDF, 969.41KB\)](#) 
- Open your saved form with Adobe Acrobat Reader DC and enable JavaScript if prompted before filling in the form.
- Once you've completed your form, save it using the **Save form** button at the end of the form.

Tip: Update your default app for pdf file types to Adobe Acrobat Reader DC to open all pdf files with Adobe Acrobat.

The checklist will help you:

- identify your GST governance, risk management and assurance processes
- determine whether your processes follow best practice
- help you to meet your GST compliance obligations
- identify additional measures you can take to reduce the risk of GST compliance failures.

Completing this assessment will help you check if:

- you are paying the correct amount of GST
- you are able to lodge and pay on time
- you are prepared for any unusual transactions or system failures
- you and your staff have the skills and expertise to manage your GST affairs
- your systems can cater for growth and expansion
- you are getting the GST credits you are entitled to.

The checklist does not form part of your reporting requirements.

Benefits of good governance and risk management

Managing your tax risk appropriately is core to good corporate governance. Good governance and effective risk management help ensure your entity meets its commitments to government. They are also important in managing the risks associated with the outcomes of compliance failures such as tax shortfalls or overpayments.

Terms we use

- **government related entity:** includes government departments, government owned corporations and statutory bodies
- **governance:** the processes and policies that regulate your organisation
- **risk management:** the identification, management and minimisation of the risk of your organisation failing to meet its GST obligations
- **staff:** people who play an active role in the entry of data and the preparation of your activity statement.

How to use the checklist

We recommend you use the checklist regularly, for example every 12 months, to review your GST assurance and compliance processes. We also recommend you undertake this assessment if you encounter:

- changes in
 - software
 - key personnel
 - organisational structure, including machinery of government changes
 - GST regulation
- significant shifts in the size and scope of your entity
- an unusual or complex transaction

If you encounter any of the points listed above, you are at an increased risk of incorrectly reporting GST.

Completing the checklist

When completing the checklist, it is in your own best interest to be completely honest:

- consider each point and respond to the best of your knowledge
- involve all available relevant parties (your tax manager, tax advisers or data processing staff)
- talk to your specialist business areas (if required)
- gather evidence to support your answers.

By looking at your responses and the evidence you collect, you will be able to determine how effective your organisation's GST governance and risk management processes are.

What is evidence?

Evidence will help you prove your entity meets the best practice actions set out in the checklist. Examples of possible sources of evidence could be:

- records of tests
- samples
- descriptions of processes
- invoices/receipts
- endorsement forms
- copies or links to documents, or detail of their location
- reports
- staff records.

Some difficulties may be encountered using the interactive PDF checklist with screen reader applications. We are working toward developing a fully accessible version of the checklists.

If you encounter difficulties, contact Phillip Davies on (07) 3213 3194 for assistance.

What to do if a discrepancy is found

We recommend that after completing the checklist, you communicate the results with the relevant individuals, such as tax managers and tax advisers and, where applicable, senior management and internal audit.

After reviewing your systems and controls you may discover an error or discrepancy with your reported GST that increases your liabilities or reduces your credits. If this happens, we encourage you to make a voluntary disclosure. Reduced penalties may apply if you let us know before we commence an audit.

Get it done

Make a voluntary disclosure






Overview of checklist

In the checklist you will fill in the following sections:

No.	Section	Content
1	Governance	Analyse your governance risk management procedures and processes.
2	Processing	Review and address issues around processing and reporting your data.
2a	Documented processes	Understand the role of your staff in your GST affairs and ways to maintain consistency, and assess your documentation standards.
2b	GST transactions	Analyse how your systems deal with GST transactions.
2c	Reconciliation	Identify where errors have occurred and where system deficiencies may exist; assess whether you have correct processes in place.
3	Resources and capabilities	Assess the resources and capabilities that exist in your entity and whether you have the correct processes in place.
3a	Staffing	Identify whether your staff have the skills and experience to

		effectively deal with your GST obligations – key issues to consider.
3b	Segregation of duties	Identify your segregation process – allows for greater oversight, reducing the impact of key employees leaving your organisation and the potential for fraud.
3c	Business continuity	Check whether you have the correct processes in place – by ensuring your entity has appropriate continuity procedures in place, you will be able to deal with unexpected circumstances, ensuring you will still be able to meet your tax obligations.
4	Assurance (testing and review)	Regular reviews will allow you to check whether your systems are functioning correctly and that you have correct processes in place.

More information

- Visit these websites
 - Standards Australia corporate governance and risk management standards website www.standards.org.au 
 - Australian Securities & Investment Commission (ASIC) website www.asic.gov.au 
 - Australian Securities Exchange (ASX) website www.asx.com.au 
 - Australian Prudential Regulation Authority website www.apra.gov.au 
 - International Organisation for Economic Co-operation and Development (OECD) website www.oecd.org 
- Refer to other ATO governance and risk management guides

- **SME simple checklist** (NAT 73949A, 280KB) - helps you undertake a simple self assessment of your GST governance and risk management processes. This checklist is aimed at businesses with a turnover between \$2 million and \$10 million.
- **SME comprehensive checklist** (NAT 73949B, 365KB) - helps you undertake a comprehensive self assessment of your GST governance and risk management processes. This checklist is aimed at businesses with a turnover greater than \$10 million but may also be suitable for businesses with a turnover between \$2 million and \$10 million.
- Businesses with a turnover between \$100 million and \$250 million may want to complete the **GST governance and risk management guide for large businesses** (NAT 73616, 233KB) instead.

QC 41326

Notional GST dispute resolution for government entities

How to lodge a notional GST dispute resolution request as a government entity.

Last updated 28 November 2022

Overview

The notional GST dispute resolution process is a process for resolving disputes between a government entity and the ATO in respect of a notional GST issue.

This process does not apply to other disputes, even if the dispute is with a government entity.

What notional GST is

Notional GST refers to certain GST amounts which government entities are not legally required to pay, but which the Commonwealth, the states and the territories have agreed their government entities will pay. The table below outlines whether the amount is legal GST or notional GST.

Table: Legal and notional GST

Jurisdiction	Legal GST	Notional GST
Commonwealth	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • All GST • All GST credits
States (including local government in each state)	<ul style="list-style-type: none"> • GST (other than GST on property) • All GST credits 	<ul style="list-style-type: none"> • GST on property
Australian Capital Territory	<ul style="list-style-type: none"> • GST (other than GST on real property supplied on behalf of the Commonwealth) • All GST credits (other than GST credits on acquisitions made on behalf of the Commonwealth) 	<ul style="list-style-type: none"> • GST on real property supplied on behalf of the Commonwealth • GST credits on acquisitions made on behalf of the Commonwealth
Northern Territory (including local government in the Northern Territory)	<ul style="list-style-type: none"> • All GST • All GST credits 	<ul style="list-style-type: none"> • None

How to dispute an ATO position

Notional GST disputes can arise

- during an ATO engagement or assurance activity
- as a result of ATO advice or guidance.

If you don't agree with:

- an ATO position during your engagement or assurance activity, you can explore alternate dispute resolution (ADR) options if both parties agree
- the outcome of an ATO engagement or assurance activity, you can seek an ATO internal review – you can also explore ADR options as part of this review if both parties agree
- the outcome of ATO advice and guidance, you can seek an ATO internal review – you can explore ADR options as part of this review if both parties agree.

To seek an ATO internal review, you can use the **process and forms for objections**. Due to the nature of notional GST, the usual review options of objection and appeal may not be the most appropriate path for resolution of the issue in dispute. After you lodge your objection, you will be contacted to discuss the internal review options. One of these options may be the **notional GST dispute resolution process** described on the ATO legal database.

QC 69318

Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year

before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

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