



Treasury Laws Amendment (GST Integrity) Act 2017

No. 76, 2017

**An Act to amend the laws relating to taxation, and
for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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No. 76, 2017

An Act to amend the laws relating to taxation, and for related purposes

[Assented to 26 June 2017]

The Parliament of Australia enacts:

1 Short title

This Act is the *Treasury Laws Amendment (GST Integrity) Act 2017*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	27 June 2017

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—GST and valuable metals

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

1 Section 9-69 (at the end of the table)

Add:

6	Valuable metals	Division 86
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2 Section 9-99 (after table item 8)

Insert:

8A	Valuable metals	Division 86
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3 Section 37-1 (after table item 36A)

Insert:

36AA	Valuable metals	Division 86
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4 Paragraph 58-10(2)(b)

After “section 84-5”, insert “or 86-5”.

5 Subsection 58-10(6)

Omit “and 84-10”, substitute “, 84-10 and 86-5”.

6 After Division 85

Insert:

Division 86—Valuable metals

86-1 What this Division is about

The GST on taxable supplies of goods consisting wholly or partly of valuable metal can be “reverse charged” to the recipients.
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86-5 “Reverse charge” on supplies of goods consisting of valuable metal

- (1) The GST on a *taxable supply of goods is payable by the *recipient of the supply, and is not payable by the supplier, if:
 - (a) the goods consist wholly or partly of *valuable metal; and
 - (b) the recipient is *registered or *required to be registered; and
 - (c) either:
 - (i) at the time of the supply, the market value of the goods does not exceed the *valuable metal threshold; or
 - (ii) the supplier and the recipient agree, in writing, that the GST on the supply be payable by the recipient.
- (2) Subsection (1) does not apply to a *taxable supply of goods if the supply is in a class of supplies determined under subsection (3).

Determination

- (3) For the purposes of subsection (2), the Commissioner may, by legislative instrument, determine that subsection (1) does not apply to a specified class of supplies.
- (4) In making a determination under subsection (3), the Commissioner may have regard to the following:
 - (a) the likelihood that *recipients and suppliers of that class of supply will otherwise comply with their obligations under the *GST law, and the risk of GST not being paid on *taxable supplies in that class if recipients do not pay the GST;
 - (b) the costs for recipients and suppliers of that class of supplies to comply with subsection (1);
 - (c) any other relevant matters.

Effect of this section on other sections

- (5) This section has effect despite sections 9-40 (which is about liability for the GST), 48-40, 51-30 and 83-5 (which are about who is liable for GST).

86-10 The valuable metal threshold

- (1) The market value of goods consisting wholly or partly of *valuable metal exceeds the *valuable metal threshold* at a time if, at that time:
- (a) unless paragraph (b) applies—the market value of the goods exceeds the market value of the valuable metal in the goods by at least the specified percentage (see subsection (4)); or
 - (b) if the goods consist of goods (*separate goods*), each of which:
 - (i) consist wholly or partly of valuable metal; and
 - (ii) can be separately supplied;the market value of each of the separate goods exceeds the market value of the valuable metal in those particular separate goods by at least the specified percentage.

Market value of goods and valuable metal

- (2) For the purposes of subsection (1), the market value of goods or *valuable metal in goods:
- (a) is to be worked out disregarding any amount of GST:
 - (i) that is payable on the supply of the goods or metal; or
 - (ii) if there is no supply of valuable metal—that would be payable if there were a supply of valuable metal; and
 - (b) either:
 - (i) unless subparagraph (ii) applies—is the market value of the goods or metal within the ordinary meaning of the expression; or
 - (ii) if the Commissioner has determined under subsection (3) one or more methods for working out the market value of goods or metal—the market value of the goods or metal worked out using any one of those methods.
- (3) The Commissioner may, by legislative instrument, determine one or more methods of working out the market value of goods or *valuable metal for the purposes of subparagraph (2)(b)(ii).

Specified percentage

- (4) For the purposes of subsection (1), the specified percentage is:
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- (a) if the Minister determines a percentage under subsection (5)—that percentage; or
 - (b) otherwise—10%.
- (5) The Minister may, by legislative instrument, determine a percentage for the purposes of paragraph (4)(a).

Effect of section

- (6) To avoid doubt, this section does not affect how goods that consist of goods that can be separately supplied are otherwise treated for the purposes of this Act.

86-15 Recipients who are members of GST groups

- (1) If section 86-5 applies to a *taxable supply but the *recipient of the supply is a *member of a *GST group, the GST on the supply:
- (a) is payable by the *representative member; and
 - (b) is not payable by the member (unless the member is the representative member).
- (2) This section has effect despite sections 48-40, 51-30 and 86-5 (which are about who is liable for GST).

86-20 Recipients who are participants in GST joint ventures

- (1) If section 86-5 applies to a *taxable supply but the *recipient of the supply is a *participant in a *GST joint venture and the supply is made, on the recipient's behalf, by the *joint venture operator of the GST joint venture in the course of activities for which the joint venture was entered into, the GST on the supply:
- (a) is payable by the joint venture operator; and
 - (b) is not payable by the participant.
- (2) This section has effect despite sections 48-40, 51-30 and 86-5 (which are about who is liable for GST).

86-25 The amount of GST on “reverse charged” supplies of goods consisting of valuable metal

- (1) The amount of GST on a supply to which section 86-5, 86-15 or 86-20 applies is 10% of the *price of the supply.

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- (2) This section has effect despite section 9-70 (which is about the amount of GST on taxable supplies).

7 Section 188-23 (heading)

Repeal the heading, substitute:

188-23 Supplies “reverse charged” under Division 83 or 86 not to be included in a recipient’s GST turnover

8 Section 188-23

After “Division 83”, insert “or 86”.

9 Section 195-1

Insert:

incidental valuable metal goods means goods:

- (a) acquired for the purposes of sale or exchange (but not for manufacture) in the ordinary course of *business; and
- (b) that consist wholly or partly of *valuable metal; and
- (c) in relation to which any of the following applies:
 - (i) the goods are collectables or antiques, and the goods are not *precious metals;
 - (ii) at the time of the acquisition, the market value of the goods exceeds the *valuable metal threshold;
 - (iii) the goods are in a class determined by the Minister, by legislative instrument, for the purposes of this subparagraph.

10 Section 195-1 (paragraphs (a) and (b) of the definition of *second-hand goods*)

Repeal the paragraphs, substitute:

- (a) goods (except *incidental valuable metal goods) to the extent that they consist of *valuable metal; or

11 Section 195-1

Insert:

valuable metal means:

- (a) gold, silver or platinum; or

- (b) any other substance specified for the purposes of paragraph (d) of the definition of *precious metal* in this section.

valuable metal threshold has the meaning given by section 86-10.

12 Application

- (1) Division 86 of the *A New Tax System (Goods and Services Tax) Act 1999*, as inserted by this Schedule, applies in relation to supplies of goods made on or after 1 April 2017.
- (2) The amendment of the definition of *second-hand goods* in section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999* made by this Schedule applies in relation to goods acquired on or after 1 April 2017.
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[Minister's second reading speech made in—
House of Representatives on 1 June 2017
Senate on 19 June 2017]

(104/17)
