



Motor Vehicle Industry Partnership – issues register

This issues register, originally published on our main website, provides guidance on issues identified during past consultation with industry participants.

Issues in this register that are a public ruling can now be found in the *Public Rulings* section of this Legal Database.

Issues in this register that have not been labelled as public rulings, constitute written guidance. 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 on these issues and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we must still apply the law correctly. If that means you owe us money, we must ask you to pay it but we will not charge you a penalty. Also, if you acted reasonably and in good faith we will not charge you interest. If correcting the mistake means we owe you money, we will pay it to you. We will also pay you any interest you are entitled to.

If you feel that the guidance in this issues register does not fully cover your circumstances, or you are unsure how it applies to you, you can seek further assistance from us.

Introduction

For GST, Luxury Car Tax and Wine Equalisation Tax purposes, from 1 July 2015, where the term 'Australia' is used in this document, it is referring to the 'indirect tax zone' as defined in subsection 195-1 of the GST Act.

This is a register of issues relating to motor vehicles and GST. The issues are addressed in question and answer format.

When issues are resolved, the links will be placed on this page.

List of issues – Click on the link of the issue you wish to view to enter the pages with the full information

Updated	Issue	History
01/11/00	Issue no. 1 – Bailment This issue addresses what supplies occur under a bailment arrangement, how GST is calculated and the input tax credits available in relation to bailment arrangements. 1.a. What supplies occur under a bailment arrangement? 1.b. How is GST calculated? 1.c. Are motor vehicles held by a finance company under a bailment arrangement trading stock for the purposes of luxury car tax? 1.d. What input tax credits are available in relation to bailment arrangements? 1.e. How are input tax credits calculated on used vehicles traded from unregistered entities and sold to a finance company for purposes of bailment to the dealer?	N/A

Updated	Issue	History
	1.f. What is the amount of input tax credit that a finance company can claim where they acquire a car from a dealer for the purposes of bailment and withhold part of the consideration as a security deposit?	
09/07/01	Issue no. 2 – Cars for use by people with a disability This issue addresses whether an eligible disabled person can purchase or lease a car GST-free, eligibility definitions, how luxury car tax applies for people with a disability, and documentation requirements for cars sold to people with a disability. 2.a. Who is an eligible person with a disability? 2.b. Can an eligible person with a disability purchase or lease a car GST-free? 2.c. Can an eligible person with a disability acquire car parts GST-free? 2.d. Are oils and lubricants purchased by a person with a disability 'parts' for the purposes of Subdivision 38-P of the GST Act? 2.e. What medical aids or appliances in relation to motor vehicles for use by people with a disability are GST-free? 2.f. How does luxury car tax (LCT) apply to cars for people with disabilities? 2.g. How does luxury car tax apply on cars that are GST-free? 2.h. How is GST and LCT calculated on cars purchased by a person with a disability? 2.i. Will dealers be required to obtain documentation to support GST-free or luxury car tax free car sales to a person with a disability? 2.j. Is a dealer entitled to an input tax credit on a second-hand vehicle acquired from an unregistered entity that is sold GST-free to an eligible person with a disability? 2.k. Can input tax credits be claimed by an eligible person with a disability on a car that they have acquired or imported GST-free?	N/A
05/02/04	Issue no. 3 – Demonstrator vehicles This issue addresses whether tax credits are available for demonstrator vehicles held at 1 July 2000. 3.a. Is a special credit available for sales tax borne on demonstrator vehicles held at 1 July 2000? 3.b. Is an input tax credit available on demonstrator vehicles held at 1 July 2000?	View history
05/02/04	Issue no. 4 – Delivery charges, stamp duty, registration and insurance This issue addresses whether GST applies to costs such as delivery charges, stamp duty, transfer fees, registration and insurance. 4.a. Does GST apply to costs such as dealer delivery charges, stamp duty, transfer fees, registration and compulsory third party insurance?	N/A

Updated	Issue	History
	4.b. How is GST calculated on a motor vehicle and other charges associated with the sale? 4.c. Compulsory third party insurance 4.c.(i) Is an entity entitled to claim an input tax credit for compulsory third party insurance premiums paid before 1 July 2003? 4.c.(ii) Is an entity entitled to claim an input tax credit for compulsory third party insurance premiums paid on or after 1 July 2003?	
01/11/00	Issue no. 5 – Deposits This issue addresses whether the payment of a deposit which is subject to forfeiture triggers a GST liability. 5.a. Does the payment of a deposit which is subject to forfeiture trigger a GST liability?	N/A
01/11/00	Issue no. 6 – Financial supplies This issue addresses the rules that apply for a registered entity to obtain input credits relating to input-taxed financial supplies. 6.a. What is the de minimis test? 6.b. Is the de minimis threshold based on a group wide test or is the threshold based upon an entity basis only?	N/A
02/07/08	Issue no. 7 – Input tax credits - Motor vehicles The following categories are considered in this issue: • Stock on hand • Spare parts, paint, oil and grease held at 1 July 2000 • Phasing in input tax credits • Trade-ins • Input tax credits. 7.1. Stock on hand 7.1.a. What credits are available for new vehicles held for sale or exchange (including any options added) at 1 July 2000? 7.1.b. What credits are available for second-hand vehicles held for sale or exchange (including any modifications or parts added) at 1 July 2000? 7.1.c. What credits are available for second-hand vehicles imported by dealers and held for sale or exchange at 1 July 2000? 7.1.d. What formula will the ATO accept in order to calculate the special credit where the sales tax is not shown on a suppliers invoice? 7.2. Spare parts, paint, oil and grease held at 1 July 2000 7.2.a. Does the special credit apply to the sales tax borne on spare parts held by a dealer as at 1 July 2000? 7.2.b. Can the special credit for sales tax be claimed for parts, paint, oil and grease held at 1 July 2000? 7.2.c. Will the ATO issue a refund if the special credit exceeds the GST payable in the return in which it is claimed?	View history: issue 7 View history: issue 7.1 View history: issue 7.2 View history: issue 7.3

Updated	Issue	History
	7.3. Phasing in input tax credits 7.3.a. What purchases or importations are covered by the phasing in of input tax credits? 7.3.b. What are the effects of the phasing in of input tax credits for vehicles? 7.3.c. What constitutes a second-hand vehicle? 7.3.d. Is an entity that was sales tax exempt subject to the phase in provisions on the acquisition of a car? 7.3.e. What is a 'Motor Vehicle' for GST purposes? 7.3.f. What charges or additions, in respect of a motor vehicle, are subject to the phasing in provisions? 7.3.g. What input tax credits are available where the value of a vehicle exceeds the car limit? 7.3.h. Who is entitled to quote for the purposes of the Luxury Car Tax Act? 7.3.i. How do the phasing in provisions in the GST law apply to leases? 7.3.j. How do the phasing in provisions in the GST law apply to hire purchase arrangements? 7.3.k. Where a business acquires a car by lease, is the amount of input tax credits on the lease payments limited to 1/11th of the car limit? 7.3.l. Where the value of a car, that is not a luxury car, exceeds the car limit, is the amount of the input tax credit limited to 1/11th of the car limit? 7.3.m. Can input tax credits be claimed by an eligible person with a disability on a car that they have acquired or imported GST-free? 7.4. Trade-ins 7.4.a. How are input tax credits calculated on used vehicles traded from registered entities? 7.4.b. How are input tax credits calculated on used vehicles traded in from unregistered entities or entities not required to be registered for GST? 7.4.c. Is a dealer entitled to an input tax credit on a second-hand vehicle acquired from an unregistered entity that is sold GST-free to an eligible person with a disability? 7.4.d. Is a dealer entitled to an input tax credit on a second-hand vehicle acquired from an unregistered entity when the subsequent supply by the dealer is a GST-free export? 7.4.e. In what circumstances is a dealer entitled to claim an input tax credit for motor vehicles acquired/traded in from charities, gift deductible entities or government schools? 7.4.f. What are the GST implications with respect to over allowances on trade-in vehicles? 7.5 Input tax credits 7.5.a. What input tax credits are available where the value of a vehicle exceeds the car limit?	

Updated	Issue	History
	7.5.b. Where a business acquires a car by lease, is the amount of input tax credits on the lease payments limited to 1/11th of the car limit?	
01/07/09	Issue no. 8 – Luxury cars This issue addresses the definitions and requirements for luxury car tax purposes. 8.a. What vehicles are subject to luxury car tax? 8.b. What is a car for luxury car tax purposes? 8.c. What vehicles are not subject to luxury car tax? 8.d. How does luxury car tax apply to the fitting of parts, attachments and accessories to luxury cars? 8.e. For luxury car tax purposes, what is the date of importation for a car? 8.f. When is luxury car tax payable? 8.g. Who is entitled to quote? 8.h. Is there an input tax credit for luxury car tax? 8.i. Luxury motor vehicles for primary producers and tourism operators 8.j. Fuel efficient motor vehicles	View history
29/02/04	Issue no. 9 – Orders/contracts spanning 30 June/1 July 2000 This issue addresses contracts and service arrangements that span 30 June – 1 July 2000 9.a. Where a contract for the sale of a vehicle is prepared prior to 1 July 2000, but the vehicle is not delivered until after 1 July 2000, is the vehicle subject to wholesale sales tax or GST? 9.b. What is the position with 'scheduled servicing' arrangements if a vehicle is sold prior to 1 July 2000, but the 'scheduled servicing' extends beyond 1 July 2000? 9.c. Can parts used in repairs spanning pre and post 1 July 2000 be taxed under different tax regimes?	View history
01/11/00	Issue no. 10 – Sponsorship arrangements This issue addresses the treatment and valuation for GST purposes of vehicles provided as part of sponsorship arrangements. 10.a. What is the treatment and valuation for GST purposes of vehicles provided as part of sponsorship arrangements? 10.b. Monetary sponsorship 10.c. Non-monetary sponsorship	N/A
01/11/00	Issue no. 11 – Vehicles provided for evaluation, product launches, raffles, etc This issue addresses when a taxable supply occurs, and how the value of a taxable supply is calculated. 11.a. When does a taxable supply occur? 11.b. How is the value of a taxable supply calculated?	N/A

Updated	Issue	History
01/11/00	Issue no. 12: Tax invoices, adjustment events & recipient created invoices This issue addresses the requirements, including documentation required, for each of the following: • tax invoices • adjustment events • recipient created tax invoices • RCTI determinations. 12.1. Tax invoices 12.1.a. In preparing a tax invoice, is it acceptable to show total value and total GST to arrive at total, price, rather than showing separately the price, GST and value of each individual item? 12.1.b. Is the part number on the tax invoice sufficient to identify goods? 12.1.c. Is it necessary to provide detail at line item level or will a delivery or supply summary be sufficient to satisfy the content requirements of an electronic tax invoice? 12.1.d. Is a warranty claim made by a dealer for work carried out in respect of a manufacturer/importer warranty a tax invoice? 12.1.e. Who is responsible for issuing a tax invoice when a customer purchases a car under a hire purchase agreement? 12.1.f. Can a tax invoice be issued for an individual dealer to cover a month's supplies rather than for each individual supply by that dealer? 12.1.g. What is an acceptable electronic data interchange (EDI) format for a tax invoice? 12.1.h. Will the ATO accept a tax invoice in a non-human readable form 12.1.i. Is there a need to have an Australian business number (ABN) in the EDI purchase order document? 12.2. Adjustment events 12.2.a. If there is a change in price and an adjustment note is issued, does the adjustment note have to identify a specific shipment and a specific invoice? 12.3. Adjustment events current period 12.3.a. When completing the business activity statement (BAS), why is it necessary to show adjustments relating to the current and earlier tax periods differently? 12.3.b. What type of documentation is required for current period adjustment events? 12.4. Recipient created tax invoices 12.4.a. Can a recipient created adjustment note be issued if the supplier issued the initial tax invoice? 12.4.b. What is the responsibility of the recipient who creates a recipient created tax invoice in case of understatement of GST payable?	N/A

Updated	Issue	History
	12.5. RCTI Determinations	
10/11/11	Issue no. 13 – Third party rebates This issue addresses how a cash-back paid by a car manufacturer to a customer is treated for GST. 13.a. How is a cash-back paid by a car manufacturer to a customer on the purchase of a car treated for GST? 13.b. What type of documentation is required to reflect a third party payment?	View history
01/11/00	Issue no. 14 – Vehicles sold on consignment, at auction, or at auction by government vendors This issue addresses who has the liability to pay GST when vehicles are sold. 14.a. Who has the liability to pay GST where vehicles are sold on consignment? 14.b. Are vehicles sold at auction by government vendors a taxable supply? 14.c. Is the price of vehicles sold at auction to business purchases GST-inclusive?	N/A
05/02/04	Issue no. 15 – Warranties This issue addresses questions on GST and warranty plans, warranty repairs and warranty claims. 15.a. How are warranty plans treated for GST purposes? 15.b. Can parts used in warranty repairs be taxed under different regimes? Withdrawn 29/01/2004. 15.c. Is a warranty repair carried out by a dealer for a customer a taxable supply? 15.d. Is warranty work carried out by a dealer that is invoiced to the manufacturer/importer a taxable supply? 15.e. Is a warranty claim made by a manufacturer/importer on an overseas manufacturer a taxable supply? 15.f. Is a warranty claim made by a local car manufacturer or distributor on a local component manufacturer a taxable supply? 15.g. Is GST payable on refunds from overseas suppliers where the goods have been rejected by the importer? 15.h. Is there GST on warranty repairs on second-hand vehicles? Withdrawn 29 January 2004.	View history
14/01/04	Issue no. 16 – PAYG withholding This issue addresses questions on pay as you go withholding. 16.a. Are spotters' fees subject to PAYG withholding? 16.b. Is the amount of a special credit for sales tax required to be included as instalment income at label T1?	View history
01/02/02	Issue no 17 – Motor vehicles for the diplomatic community	N/A

Updated	Issue	History
	This issue addresses questions on motor vehicles used within the Diplomatic Community. 17.a. Can embassies, consulates, international organisations, diplomatic and consular staff purchase vehicles GST and LCT free? 17.b. Can these organisations and individuals receive a refund of GST and LCT which they pay? 17.c. Are all entitlements the same? 17.d. Are there different entitlements for locally manufactured and imported cars? 17.e. What about imported vehicles? 17.f. What is the situation concerning imported vehicles which are purchased in Australia from bond? 17.g. Where can I obtain further information?	

Issue 1 – Bailment

1.a. What supplies occur under a bailment arrangement?

Non-interpretative - other references (see [GSTR 2002/2](#) - *Goods and services tax: GST treatment of financial supplies and related supplies and acquisitions*).

Under bailment arrangements for new vehicles there are typically two supplies, the first being the bailment of the car by the financier to the dealer and the second the sale of the car by the financier to the dealer.

1.b. How is GST calculated?

Non-interpretative - straight application of the law.

Bailment fees charged by the finance company in relation to the supply of the bailment are consideration for a taxable supply, and are accordingly subject to GST. The subsequent sale of the vehicle to the dealer is also a taxable supply and is subject to GST.

1.c. Are motor vehicles held by a finance company under a bailment arrangement trading stock for the purposes of luxury car tax?

Non-interpretative - straight application of the law.

Motor vehicles held under a bailment arrangement by a finance company are not regarded as being held for hire and therefore are trading stock of the finance company for GST and luxury car tax purposes.

1.d. What input tax credits are available in relation to bailment arrangements?

Non-interpretative - straight application of the law.

Provided the acquisitions are for creditable purposes, input tax credits will be available for the GST payable on bailment charges and GST payable on the purchase of the vehicle from the finance company as trading stock.

1.e. How are input tax credits calculated on used vehicles traded in from unregistered entities and sold to a finance company for purposes of bailment to the dealer?

Non-interpretative - other references (see [GSTR 2002/2](#) - *Goods and services tax: GST treatment of financial supplies and related supplies and acquisitions*).

Provided the dealer acquired the vehicle for purposes of sale or exchange, a dealer will be entitled to an input tax credit when the vehicle is sold to the finance company for purposes of bailment. The input tax credit that the dealer can claim is the lesser of:

- 1/11th of the consideration provided for the acquisition, that is, the trade-in value, or
- the GST payable on the subsequent taxable supply to the finance company.

1.f. What is the amount of input tax credit that a finance company can claim where they acquire a car from a dealer for the purposes of bailment and withhold part of the consideration as a security deposit?

Non-interpretative - straight application of the law.

The finance company is entitled to claim an input tax credit equal to 1/11th of the consideration paid provided they hold a tax invoice. The amount of consideration is the amount advanced plus the security deposit.

Example

A dealer sells a car to a financier for \$22,000 including \$2,000 GST. The finance company advances \$18,000 and holds \$4,000 as a security deposit. The consideration paid by the finance company is \$22,000 (that is, \$18,000 plus \$4,000). The amount of input tax credit that the finance company can claim is \$2,000 (that is, 1/11th of \$22,000).

Issue 2 – Cars for use by people with a disability

The web guidance, Tax concessions - cars is available at ato.gov.au which has more information on this issue.

2.a. Who is an eligible person with a disability?

Non-interpretative - straight application of the law.

For GST and luxury car tax purposes an eligible person with a disability is a person:

1. who has served in the Defence Force or any other armed force of Her Majesty, and as a result of that service has

- lost a leg or both arms, or
- had a leg or both arms rendered permanently and completely useless, or
- is a veteran to whom section 24 of the *Veterans' Entitlements Act 1986* applies and receives a pension under Part II of that Act, or
- is receiving a Special Rate Disability Pension under Part 6 of Chapter 4 of the Military Rehabilitation and Compensation Act 2004, or satisfies the eligibility criteria in section 199 of that Act.

2. who has a permanent certificate issued by Medibank Health Solutions certifying that the person has lost the use of one or more limbs to such an extent that they are unable to use public transport or, from 9 December 2020 a current certificate of medical eligibility issued by a registered medical practitioner certifying that the person has lost the use of one or more limbs to such an extent that they are unable to use public transport .

2.b. Can an eligible person with a disability purchase or lease a car GST-free?

Non-interpretative - straight application of the law.

- Yes. A supply of a car, including a supply by way of lease, is GST-free where it is to:
- an eligible disabled veteran who intends to use the car for their personal transportation, for the whole of the Subdivision 38-P period, that is, the earlier of two years or until the car has travelled 40,000km, or
- a person who has a certificate as described above who intends to use the car for their personal transportation to or from gainful employment for the whole of the Subdivision 38-P period, that is, the earlier of two years or until the car has travelled 40,000kms.

The supply of a car by way of purchase is GST-free up to the car limit. Where the GST-inclusive market value of the car exceeds the car limit, GST is payable on the amount above the limit.

When working out the GST-inclusive market value of the car, disregard any value that is attributable to modifications made to the car solely for the purpose of:

- adapting it for driving by an eligible person with a disability, or
- adapting it for transporting an eligible person with a disability.

2.c. Can an eligible person with a disability acquire car parts GST-free?

Non-interpretative - straight application of the law.

An eligible person with a disability can acquire parts for their car GST-free.

2.d. Are oils and lubricants purchased by a person with a disability 'parts' for the purposes of the Subdivision 38-P of the GST Act?

The content for this issue is a public ruling for the purposes of the *Taxation Administration Act 1953* and can be found [here](#).

2.e. What medical aids or appliances in relation to motor vehicles for use by people with a disability are GST-free?

Non-interpretative - straight application of the law.

The following things for a motor vehicle are GST-free:

- special purpose car seats
- car seat harness specifically designed for people with disabilities
- wheelchair and occupant restraints
- wheelchair ramps
- electric/hydraulic wheelchair lifting devices
- motor vehicle modifications

providing the thing supplied is specifically designed for people with an illness or disability, and is not widely used by people without an illness or disability.

2.f. How does luxury car tax (LCT) apply to cars for people with disabilities?

Non-interpretative - straight application of the law.

Cars that are specially fitted out for transporting people with a disability seated in wheelchairs are excluded from the definition of luxury car and are not subject to luxury car tax (unless the supply is GST-free). A person with a disability is defined as a disabled veteran or a person who has lost the use of one or more limbs to such an extent that they are unable to use public transport.

2.g. How does luxury car tax apply on cars that are GST-free?

Non-interpretative - straight application of the law.

If the supply of the luxury car is GST-free under Subdivision 38-P of the GST Act the car is subject to luxury car tax.

The value of the car for luxury car tax purposes does not include the value of modifications made to the car that are made solely for the purpose of adapting it for driving by, or for transporting, a person with a disability.

2.h. How is GST and LCT calculated on cars purchased by a person with a disability?

Non-interpretative - straight application of the law.

If the supply of a car is GST-free and the price exceeds the car limit, the car is a luxury car and subject to luxury car tax.

When the supply of a car is GST-free to a person with a disability, the luxury car tax value of the car will need to include an amount equal to the amount of GST that would otherwise have been payable. A notional GST amount is imputed in the luxury car tax value for purposes of calculating luxury car tax.

The luxury car tax value does not include modifications made to a car that are solely for:

- adapting it for driving by a person with a disability, or
- adapting it for transporting a person with a disability.

For more information, refer to the web guidance, Exemption from luxury car tax available at ato.gov.au.

2.i. Will dealers be required to obtain documentation to support GST-free or luxury car tax free car sales to a person with a disability?

Non-interpretative - straight application of the law.

Yes. If an eligible person with a disability buys a car or car parts GST-free or a car fitted out to transport people with a disability seated in wheelchairs free of luxury car tax, they must give the supplier a declaration in the approved form. This will substantiate that the person is buying the car GST-free or luxury car tax free, or buying car parts GST-free.

The ATO, in consultation with other departments, has developed *Declarations to the Commissioner* which will be provided by the person with a disability to the dealer when purchasing a car.

2.j. Is a dealer entitled to an input tax credit on a second-hand car acquired from an unregistered entity that is sold GST-free to an eligible person with a disability?

Non-interpretative - straight application of the law.

A dealer is not entitled to an input tax credit in these circumstances. Where a dealer acquires a second-hand car for the purposes of sale or exchange, the GST Act entitles a dealer to claim an input tax credit in respect of creditable acquisitions of second-hand vehicles from unregistered vendors.

However, an input tax credit is not available if the dealer makes a supply of the vehicle that is not a taxable supply. As the supply to an eligible person with a disability is a GST-free supply the dealer is not entitled to an input tax credit.

Dealers should take this into account when pricing the vehicle to a person with a disability so that the dealer's profit margin can be maintained.

This issue was referred to the Australian Competition and Consumer Commission (ACCC) and the advice confirmed that dealers would not be contravening pricing guidelines if they maintain their same profit margin when selling to a person with a disability.

2.k. Can input tax credits be claimed by an eligible person with a disability on a car they have acquired or imported GST-free?

Non-interpretative - straight application of the law.

No. If an eligible person with a disability has acquired or imported a car GST-free they cannot claim an input tax credit.

Issue 3 – Demonstrator vehicles

Refer to 'view history' link in index.

Issue 4 – Delivery charges, stamp duty, registration and insurance

4.a. Does GST apply to costs such as dealer delivery charges, stamp duty, transfer fees, registration and compulsory third party insurance?

Non-interpretative - other references:

refer to:

- paragraphs 195 and 196 of - *Goods and services tax: GST treatment of financial supplies and related supplies and acquisitions*
- general principles in [GSTD 2000/10](#) - *Goods and services tax: are outgoings payable by a tenant under a commercial property lease part of the consideration for the supply of the premises?*

No, when paid for by the dealer as agent for the customer:

- stamp duty
- registration charges
- transfer fees.

Yes, GST applies to:

- dealer delivery charges
- compulsory third party insurance.

4.b. How is GST calculated on a motor vehicle and other charges associated with the sale?

Non-interpretative - other references:

refer to:

- paragraphs 195 and 196 in [GSTR 2002/2](#) - *Goods and services tax: GST treatment of financial supplies and related supplies and acquisitions*
- general principles in [GSTD 2000/10](#) - *Goods and services tax: are outgoings payable by a tenant under a commercial property lease part of the consideration for the supply of the premises?*

Example

<i>Retail selling price (excluding GST)</i>	<i>\$46,176.00</i>
<i>Alarm</i>	<i>\$814.00</i>
<i>Metallic paint</i>	<i>\$704.00</i>
<i>Dealer delivery</i>	<i>\$1,650.00</i>
<i>Value of taxable supply</i>	<i>\$49,344.00</i>
<i>GST @ 10%</i>	<i>\$4,934.40</i>
<i>Registration</i>	<i>\$203.70</i>
<i>Stamp duty</i>	<i>\$2,716.00</i>
<i>Compulsory third party insurance (including \$27.00 GST)</i>	<i>\$297.00</i>
<i>Total amount paid</i>	<i>\$57,495.10</i>

4.c. Compulsory third party insurance

4.c. (i) Is an entity entitled to claim an input tax credit in respect of compulsory third party insurance premiums paid before 1 July 2003?

Non-interpretative - other references (see paragraph 140 onwards of [GSTR 2006/10](#) - *Goods and services tax: insurance settlements and entitlement to input tax credits*).

No. An entity is unable to claim an input tax credit for the GST on premiums paid for compulsory third party insurance before 1 July 2003.

4.c. (ii) Is an entity entitled to claim an input tax credit in respect of compulsory third party insurance premiums paid on or after 1 July 2003?

Non-interpretative - other references (see paragraph 140 onwards of [GSTR 2006/10](#) - *Goods and services tax: insurance settlements and entitlement to input tax credits*).

An entity may only claim an input tax credit for the GST on compulsory third party insurance premiums if the period of insurance which is being paid commences on or after 1 July 2003.

Issue 5 – Deposits

5.a. Does the payment of a deposit which is subject to forfeiture trigger a GST liability?

For source of ATO view, refer to principles in [GSTR 2006/2](#) - *Goods and services tax: deposits held as security for the performance of an obligation*.

Division 99 of the GST Act applies to any deposit that is subject to forfeiture by the recipient, on failure to perform an obligation under an agreement for a supply.

The effect of this division is that GST does not become payable when a deposit, which is subject to forfeiture, is received.

GST becomes payable in the tax period in which:

- the deposit is forfeited by the recipient for failure to perform an obligation under the agreement, or
- the deposit is applied as part or all of the consideration for a supply.

Issue 6 – Financial supplies

6.a. What is the de minimis test?

Non-interpretative.

The de minimis test refers to the financial acquisition threshold.

Refer to Question 7: [Financial services - questions and answers](#):

6.b. Is the de minimis threshold based on a group wide test or is the threshold based upon an entity basis only?

Non-interpretative.

Where members have grouped, ***the de minimis threshold is based on a group wide test.*** Section 48-45 of the GST Act prescribes that where members have grouped the representative member is entitled to the input tax credits.

The tests must therefore be applied to the group.

Issue 7 – Input tax credits - motor vehicle issues

Refer to 'view history' link in index.

7.4 Trade-ins

7.4.a. How are input tax credits calculated on used vehicles traded in from registered entities?

Non-interpretative - straight application of the law.

If the entity trading in the vehicle is a registered entity, the supply will be a taxable supply by the entity trading in the vehicle. The input tax credit for the dealer is the GST payable on the supply of the vehicle traded in.

7.4.b. How are input tax credits calculated on used vehicles traded in from unregistered entities (or entities not required to be registered for GST) that have been acquired for purposes of sale or exchange?

Non-interpretative - straight application of the law.

If a dealer acquires a second-hand vehicle from an unregistered entity (or an entity not required to be registered for GST) for purposes of sale or exchange, the dealer may be entitled to an input tax credit pursuant to section 66-10 of the GST Act. If the consideration for the acquisition is more than \$300, the dealer can only claim an input tax credit at the time the vehicle is subsequently sold, provided the sale is a taxable supply. The input tax credit is the lesser of:

- 1/11th of the amount the dealer paid for the car, or
- the amount of the GST payable when the vehicle is subsequently sold.

7.4.c. Is a dealer entitled to an input tax credit on a second-hand vehicle acquired from an unregistered entity that is sold GST-free to an eligible person with a disability?

Non-interpretative - straight application of the law.

A dealer is not entitled to an input tax credit in these circumstances. The GST Act precludes an input tax credit if the dealer makes a supply that is not a taxable supply. The supply to an eligible person with a disability is a *GST-free* supply therefore the dealer is not entitled to an input tax credit.

7.4.d. Is a dealer entitled to an input tax credit on a second-hand vehicle acquired from an unregistered entity when the subsequent supply by the dealer is a GST-free export?

Non-interpretative - straight application of the law.

A dealer is not entitled to an input tax credit in these circumstances. The GST Act precludes an input tax credit if the dealer acquires a second-hand vehicle from an unregistered entity and makes a supply that is not a taxable supply. Where the supply of the vehicle is a GST-free export the dealer is not entitled to an input tax credit on the acquisition.

7.4.e. In what circumstances is a dealer entitled to claim an input tax credit for motor vehicles acquired/traded in from charities, gift deductible entities or government schools?

Non-interpretative - straight application of the law.

Generally, these entities will probably be GST registered entities (or required to be registered). If they make a supply of a motor vehicle to a dealer it will be a taxable supply or a GST-free supply if section 38-250 of the GST Act applies (see **Note** below). A dealer's entitlement to an input tax credit is outlined below:

- a. If the taxable supply is a creditable acquisition by a dealer, the dealer is entitled to claim an input tax credit, **provided they obtain a tax invoice from the entity supplying the vehicle**.
- b. If the supply is a GST-free non-commercial supply the dealer is not entitled to an input tax credit as the consideration for the vehicle would not include an amount for GST.
- c. For acquisitions of motor vehicles from unregistered entities see questions **7.4.b**.

Note: The GST law provides that the commercial activities of registered charities, gift-deductible entities or government schools will be taxable supplies (or input taxed). However, under section 38-250 of the GST Act, the non-commercial supplies of these entities will be GST-free. A non-commercial supply by these entities is where the consideration received is less than 50% of the GST-inclusive market value of the thing or less than 75% of the consideration the supplier provided when acquiring the thing.

7.4.f. What are the GST implications with respect to over allowances on trade-in vehicles?

Non-interpretative - straight application of the law.

Where the purchase of a trade-in by a dealer from a registered entity is a creditable acquisition, the input tax credit that can be claimed by the dealer will be equal to the GST charged by the supplier.

Where the person trading in the vehicle is not registered for GST and the dealer acquires the vehicle for purposes of sale or exchange the input tax credit will be the lesser of:

- 1/11th of the consideration provided (the amount allowed for the trade-in), or
- the amount of the GST payable when the vehicle is sold by the dealer

provided the subsequent supply of the vehicle by the dealer is a taxable supply.

7.5 Input tax credits

7.5.a. What input tax credits are available where the value of a vehicle exceeds the car limit?

Non-interpretative - straight application of the law.

If:

- you are entitled to an input tax credit for a creditable acquisition/importation of a car
- you are not entitled to quote an Australian business number (ABN) for the purposes of the Luxury Car Tax Act in relation to the supply to which the creditable acquisition/importation relates
- the GST-inclusive market value of the car exceeds the car limit (\$57,466 for the 2011–12 financial year) for the financial year in which you first used the car for any purpose.

the maximum amount of the input tax credit on the acquisition or importation is an amount equal to 1/11th of that limit. The input tax credit is reduced if you do not use the vehicle solely for a creditable purpose and the phasing in rules will still apply.

However, the limit on the input tax credits does not apply to:

- emergency vehicles
- commercial vehicles that are not designed for the principal purpose of carrying passengers
- motor homes or campervans, or
- vehicles specifically fitted out for transporting people with a disability seated in wheelchairs (unless the supply of the car was GST-free).

7.5.b. Where a business acquires a car by lease, is the amount of input tax credits on the lease payments limited to 1/11th of the car limit?

Non-interpretative - straight application of the law.

Where a business acquires a car by lease, the amount of input tax credits that the business can claim is not limited to 1/11th of the car limit. The business may be entitled to claim input tax credits for the amount for GST included in each lease payment if it uses the vehicle wholly for a creditable purpose.

Paragraph 69-10(4)(b) of the GST Act states that section 69-10 of the GST Act, which limits the input tax credit on cars over the car limits, does not apply to cars acquired by way of lease.

Issue 8 – Luxury cars

8.a. What vehicles are subject to luxury car tax?

Non-interpretative - straight application of the law.

Cars with a GST-inclusive value (the luxury car tax value) above the luxury car tax threshold (\$65,094 for the 2017–18 financial year) are subject to luxury car tax.

Fuel efficient cars - luxury car tax applies to fuel efficient cars over the fuel efficient car limit, which is \$75,526 for the 2017–18 financial year. A fuel efficient car is a car that has a fuel consumption not exceeding 7 litres per 100 kilometres.

(See question 'What vehicles are not subject to luxury car tax?').

8.b. What is a car for luxury car tax purposes?

Non-interpretative - straight application of the law.

The term 'car' for luxury car tax purposes includes vehicles (other than motor cycles) designed to carry a load of less than two tonnes and fewer than nine passengers including station wagons and four-wheel-drive vehicles. It also includes limousines regardless of their passenger carrying capacity.

8.c. What vehicles are not subject to luxury car tax?

Non-interpretative - straight application of the law.

Luxury car tax does not apply to a vehicle above the luxury car tax threshold if:

- It was sold by retail in Australia before 1 July 2000.
- It was imported into Australia before 1 July 2000 and nobody was entitled to quote for sales tax purposes.
- There was an application to own use (AOU) of the vehicle before 1 July 2000 for sales tax purposes, and a special credit under section 16 of the *New Tax System (Goods and Services Tax Transition) Act 1999* (GST Transition Act) does not apply.
- The date of the supply of the car is more than 2 years after the date of the car's local manufacture or date of entry for home consumption.
- It is a prescribed emergency vehicle.
- It is not GST-free and is specially fitted out for transporting people with a disability seated in wheelchairs.
- It is a motor home or campervan.
- It is a commercial vehicle that is not designed for the principal purpose of carrying passengers.
- It is a fuel efficient vehicle which has a price less than the fuel efficient car limit of \$75,526.

Luxury car tax does not apply to the private sale of a luxury car.

8.d. How does luxury car tax apply to the fitting of parts, attachments and accessories to luxury cars?

Non-interpretative - straight application of the law.

The luxury car tax value of a car includes the price of all supplies in relation to the car that are made to, or are paid for by, the recipient of the car, or an associate of the recipient and that are made before or arranged with the supplier or their associate before the vehicle is delivered.

8.e. For luxury car tax purposes, what is the date of importation for a car?

The content for this issue is a public ruling for the purposes of the *Taxation Administration Act 1953* and can be found [here](#).

8.f. When is luxury car tax payable?

Non-interpretative - straight application of the law.

Luxury car tax is payable on all taxable supplies or taxable importations of luxury cars unless the recipient of the car provides a quote, in the prescribed form, to the supplier or to Customs. The quotation system is designed to prevent luxury car tax becoming payable before the car is sold or imported at the retail level.

8.g. Who is entitled to quote?

Non-interpretative - straight application of the law.

Registered entities will be entitled to quote their ABN in relation to the supply or importation of a luxury car where they have the intention of using the car for one of the following purposes, and for no other purpose:

- holding the car as trading stock, other than holding the car for hire or lease
- carrying out research and development for the manufacturer of the car, or
- exporting the car in circumstances where the export is GST-free.

8.h. Is there an input tax credit for luxury car tax?

Non-interpretative - straight application of the law.

No. Unlike the GST, no input tax credit is available for luxury car tax (LCT), regardless of whether the luxury car is used within a business or for private purposes.

For more information on luxury car tax, refer to the guide [Luxury car tax](#).

8.i. Luxury motor vehicles for primary producers and tourism operators

Non-interpretative - straight application of the law.

Primary producers can claim a refund of luxury car tax from the ATO of up to \$3,000 on an eligible car. Conditions apply.

Tourism operators can claim a refund of luxury car tax from the ATO of up to \$3,000 on eligible cars. Conditions apply.

8.j. Fuel efficient motor vehicles

Non-interpretative - straight application of the law.

Luxury car tax does not apply to fuel efficient cars, imported or delivered after 3 October 2008, that are under \$75,526 which is the fuel efficient car limit.

Issue 9 – Orders/contracts spanning 30 June to 1 July 2000

Refer to 'view history' link in index.

Issue 10 – Sponsorship arrangements

10.a. What is the treatment and valuation for GST purposes of vehicles provided as part of sponsorship arrangements?

Non-interpretative - other references (see general principles in [GSTR 2001/6](#) - *Goods and services tax: non-monetary consideration*).

Amounts paid as sponsorship fees are usually payment for services, such as advertising, and will be subject to GST if the sponsored entity is registered for GST.

10.b. Monetary sponsorship

Non-interpretative - other references (see general principles in

[GSTR 2001/6](#) - *Goods and services tax: non-monetary consideration* and

[GSTR 2012/2](#) - *Goods and services tax: financial assistance payments*).

If the entity supplying the service, such as advertising, is registered for GST it will be liable for GST on the supply. The entity paying the sponsorship fee will be entitled to an input tax credit of 1/11th of the payment if it is registered provided they hold a tax invoice. The sponsor may decide to increase the sponsorship to cover the GST liability.

10.c. Non-monetary sponsorship

Non-interpretative - other references (see general principles in [GSTR 2001/6](#) - *Goods and services tax: non-monetary consideration*).

If a sponsor provides goods and services in return for other goods and services, such as advertising or promotion, there is a supply by both parties to each other. If both parties are registered for GST, each will be liable to pay GST on the supply to each other. The GST will be 1/11th of the GST-inclusive market value of the supply made by the other party.

Issue 11 – Vehicles provided for evaluation, product launches, raffles, etc

11.a. When does a taxable supply occur?

Under section 9-5 of the GST Act, a taxable supply occurs if, among other conditions, there is a supply for consideration. Consideration is defined in section 9-15 to include any payment, or any act or forbearance in connection with the supply of something. Therefore consideration is not limited to the payment of money. Under section 9-75, the value of a taxable supply, where the consideration is not expressed in an amount of money, is based on the GST-inclusive market value of the consideration.

Therefore, where there is a supply and something is received from the recipient in return for the supply, a taxable supply takes place. The something in return may be a monetary payment, or for example, an evaluation report (an act) or an undertaking to display the vehicle (an act). There must be some outcome that flows back to the supplier.

However, whether a taxable supply takes place will depend on the facts of the particular circumstance.

The examples for this issue are a public ruling for the purposes of the *Taxation Administration Act 1953* and can be found [here](#).

11.b. How is the value of the taxable supply calculated?

For source of ATO view, refer to principles in [GSTR 2001/6](#) - *Goods and services tax: non-monetary consideration*.

Once it is established that there is a taxable supply, it is then necessary to determine the GST-inclusive market value of the consideration in order to calculate the GST payable. In the above examples, the consideration would be valued as follows:

- Appraisal or evaluation - the appraisal or evaluation amount.
- Advertising benefit - the amount you would have to pay to receive identical advertising.

GST payable by the dealer is 1/11th of the market value (including GST) of the consideration received as consideration for the market value of the supply of the vehicle.

GST payable by the recipient of the vehicle is 1/11th of the market value (including GST) of the use/supply of the vehicle received as consideration for the supply of the advertising.

Issue 12 – Tax invoices, adjustment events and recipient created tax invoices

12.1. Tax invoices

12.1.a. In preparing a tax invoice, is it acceptable to show total value and total GST to arrive at total price, rather than showing separately the price, GST and value of each individual item?

For source of ATO view, refer to [GSTR 2013/1](#) - *Goods and services tax: tax invoices*

Where the supply comprises multiple taxable items that are identified separately on a tax invoice (for example on a 'multiple -line' basis), the price for each item does not have to be shown. Only enough information to determine the price of what is supplied must be shown. This may be the total amount of all the lines or items added together.

12.1.b. Is the part number on the tax invoice sufficient to identify the goods?

For source of ATO view, refer to [GSTR 2013/1](#) - *Goods and services tax: tax invoices*

Subparagraph 29-70(1)(c)(iii) of the GST Act requires a tax invoice to include enough information to ascertain 'what is supplied, including the quantity (if applicable) and the price of what is supplied'.

In the motor vehicle industry it is considered that a part number or code can satisfy the requirement to show what is supplied if the supplier and the recipient hold another document which describes the item that matches the part number or code.

12.1.c. Is it necessary to provide detail at line item level or will a delivery or supply summary be sufficient to satisfy the content requirements of an electronic tax invoice?

For source of ATO view, refer to [GSTR 2013/1](#) - *Goods and services tax: tax invoices*.

An electronic invoice should satisfy the same information requirements as a paper invoice. However, a concession for recipients who create Recipient Created Tax Invoices is identified in [GSTR 2013/1](#) – *Goods and services tax: tax invoices, where electronic purchasing systems are used*.

A delivery or supply summary is sufficient, provided it is linked back to supporting documentation which itself is readily identifiable.

12.1.d. Is a warranty claim made by a dealer for work carried out in respect of a manufacturer/importer warranty a tax invoice?

Depending on the terms of the agreement between the dealer and the manufacturer/importer, the claim may be either a quotation or an invoice for a taxable supply, that is, does the claim notify an obligation to make a payment? A major factor in deciding this issue will be whether the price is determined by the manufacturer/importer after receipt of the claim, or by the dealer before the claim is submitted.

If a taxable supply has been made and an obligation arises, the documentation sent to the manufacturer/importer to claim payment for the repair would be an invoice and may satisfy the requirements of a tax invoice. Any subsequent change in price will be an adjustment event and would normally require the issue of an adjustment note. If, however, the warranty claim is a quotation for work yet to be approved, it will not be a tax invoice.

12.1.e. Who is responsible for issuing a tax invoice when a customer purchases a car under a hire purchase agreement?

Under normal circumstances the car is owned by a finance company until such time as a customer is found. At such time to facilitate the sale under a hire purchase agreement a series of simultaneous transactions occur.

- The finance company will sell the car to the dealer. The finance company should issue a tax invoice to the dealer.
- The dealer will then sell the car to a finance company to facilitate the hire purchase. The dealer should issue a tax invoice to the finance company.
- The dealer, as agent for the finance company, sells the car to the customer under a hire purchase contract. The tax invoice should be issued to the customer by the finance company.

12.1.f. Can a tax invoice be issued for an individual dealer to cover a month's supplies rather than for each individual supply by that dealer?

For source of ATO view, refer to [GSTR 2013/1](#) - *Goods and services tax: tax invoices*.

It is acceptable for the dealer to issue a single tax invoice that includes all supplies made to a customer during the month. Section 29-70 of the GST Act allows for a tax invoice to relate to a number of separate supplies.

The GST Act does however state that 'the supplier of a taxable supply must, within 28 days after the recipient of the supply requests it, give the recipient a tax invoice for the supply, unless it is a recipient created tax invoice.'

12.1.g. What is an acceptable electronic data interchange (EDI) format for a tax invoice?

Non-interpretative - straight application of the law.

Provided that the EDI records satisfy the requirements of the GST legislation and existing requirements dealing with record keeping of electronic records, the EDI records will be satisfactory.

12.1.h. Will the ATO accept a tax invoice in a non-human readable form?

Non-interpretative - other references [GSTR 2013/1](#) - *Goods and services tax: tax invoices*.

Records must be in English or 'readily accessible and easily convertible into English'; computer records which satisfy these requirements will be acceptable.

12.1.i. Is there a need to have an Australian business number (ABN) in the EDI purchase order document?

Non-interpretative - straight application of the law.

The ABN is not required to be shown in an EDI purchase order document. However, a tax invoice must contain sufficient information to enable the ABN to be clearly ascertained.

12.2. Adjustment events

12.2.a. If there is a change in price and an adjustment note is issued, does the adjustment note have to identify a specific shipment and a specific invoice?

For source of ATO view, refer to principles in [GSTR 2013/2](#) - *Goods and services tax: adjustment notes*.

Goods and Services Tax Ruling [GSTR 2013/2](#) - *Goods and services tax: adjustment notes*, which sets out the minimum requirements for adjustment notes, does not require an adjustment note to refer to the original tax invoice.

12.3. Adjustment events current period

12.3.a. When completing the business activity statement (BAS), why is it necessary to show adjustments relating to the current and earlier tax periods differently?

Non-interpretative - straight application of the law.

The GST legislation states that adjustment events in the current tax period do not give rise to adjustments; however, adjustment events outside the current period give rise to adjustments to GST previously payable and must be reported separately.

12.3.b. What type of documentation is required for current period adjustment events?

For source of ATO view, refer to paragraph 19 of [GSTR 2013/2](#) - *Goods and services tax: adjustment notes*.

Adjustment notes do not need to be prepared for current period adjustment events which affect the GST payable in the current period. Even though suppliers are not required to, they may choose to issue adjustment notes in the current period. Paragraph 19 of [GSTR 2013/2](#) - *Goods and services tax: adjustment notes* apply. Adjustment notes must satisfy section 29-75 of the GST Act.

12.4. Recipient created tax invoices

12.4.a. Can a recipient created adjustment note be issued if the supplier issued the initial tax invoice?

For source of ATO view, refer to paragraph 10 [GSTR 2013/2](#) - *Goods and services tax: adjustment notes*.

Paragraph (a) of subsection 29-70(1) of the GST Act requires the supplier to issue the tax invoice unless the invoice is a 'recipient created tax invoice'. Subsection 29-75(2) of the GST Act requires the supplier to issue the adjustment note unless any tax invoice relating to the supply would have been a recipient created tax invoice. The legislation places the obligation to issue the adjustment note with the entity that issued the original tax invoice.

12.4.b. What is the responsibility of the recipient who creates a recipient created tax invoice in case of understatement of GST payable?

For source of ATO view, refer to principles in:

- [GSTR 2013/2](#) - *Goods and services tax: adjustment notes*
- [GSTR 2000/10](#) - *Goods and services tax: recipient created tax invoices*.

[GSTR 2000/10](#) – *Goods and services tax: recipient created tax invoices*, paragraph 13(e) sets out the recipient's responsibility to the supplier.

Where the supplier creates the invoice, the liability to calculate GST payable on the supply and remit GST collected is the supplier's responsibility. However, where the recipient creates the invoice, the recipient will calculate the GST payable on the supply. It remains the responsibility of the supplier to remit the GST on the supply, based on 10% of the value.

[GSTR 2013/2](#) – *Goods and services tax: adjustment notes deals with the required contents of adjustment notes.*

12.5. RCTI Determinations

Non-interpretative.

The Motor Trades Association of Australia lodged a request for a determination to issue RCTI in respect of trade-in vehicles. See [A New Tax System \(Goods and Services Tax\) Act 1999 Classes of Recipient Created Tax Invoice Determination \(No. 46\) 2000](#) provides the conditions under which a dealer can issue a RCTI for trade-in vehicles.

Issue 13 – Third party rebates

13.a. How is a cash-back paid by a car manufacturer to a customer on the purchase of a car treated for GST?

For source of ATO view, refer to paragraphs 40 to 42C of [GSTR 2000/19](#) - *Goods and services tax: making adjustments under division 19 for adjustment events*.

Where a customer purchases a car from a dealer and subsequently receives a cash-back payment from the manufacturer, the payment by the manufacturer is not an adjustment event as it does not alter the consideration on the supply of the car between the manufacturer and the dealer or the supply between the dealer and the customer.

However, a third party payment such as a cash-back may result in an adjustment under division 134 of the GST Act. Division 134 only apply if third party payment is made on or after 1 July 2010.

A manufacturer registered for GST remits GST based on the price for which it sells the car, however, under division 134, may be entitled to a decreasing adjustment, as if the consideration for the manufacturer's taxable supply of the car to the dealer had been reduced by the amount of the third party payment. A customer registered for GST may be subject to an increasing adjustment under division 134, as if the consideration for the customer's acquisition of a taxable supply of the car by the dealer had been reduced by the amount of the payment.

In order for a manufacturer to be entitled to a decreasing adjustment under division 134, it is a requirement that the third party payment is not consideration for a supply made to the manufacturer (paragraph 134-5(1)(e) of the GST Act. In order for division 134 to impose an increasing adjustment on a customer, it is a requirement that the third party payment is not consideration for a supply from the customer (paragraph 134-10(1)(e) of the GST Act).

13.b. What type of documentation is required to reflect a third party payment?

Division 134 of the GST Act requires a new form of adjustment note - Third Party Adjustment Note - for decreasing adjustments above \$75 (the adjustment note threshold).

A new legislative instrument titled [A New Tax System \(Goods and Services Tax\) Third Party Adjustment Note Information Requirements Determination \(No.1\) 2010](#) has been created to inform manufacturers of the information they need to include in a third party adjustment note in order to properly account for their third party payment adjustments.

The instrument also sets out the information that the Commissioner requires for a third party adjustment note. The requirements provide for appropriate documentation to be created, which will be held by manufacturers and customers to substantiate their third party adjustments.

Note: There is a requirement for the manufacturer to issue a third party adjustment note if they make a third party payment in the same tax period they supplied the car to another entity and which the customer subsequently purchased.

Issue 14 – Vehicles sold on consignment, at auction, or at auction by government vendors

14.a. Who has the liability to pay GST where vehicles are sold on consignment?

For source of ATO view, refer to paragraphs 20 to 25 of [GSTR 2000/37](#) - *Goods and services tax: agency relationships and the application of the law*.

Where a dealer is acting as agent for the other party, the principal, and does not obtain title to the vehicle, the GST liability, if any, on the supply of the vehicle rests with the principal, and not the dealer. The dealer would have a GST liability in relation to the supply of a selling service, if a commission is received from the principal.

When the dealer is acting on behalf of a registered person, the dealer may issue the tax invoice rather than the principal.

Registered entities may enter into an arrangement in writing, under which an agent acting for a principal will be treated as a supplier or acquirer, ie, as a principal in their own right. The agent will issue the tax invoice and adjustment notes to the third parties and the principal will not issue such documents. Certain conditions will apply.

14.b. Are vehicles sold at auction by government vendors a taxable supply?

Non-interpretative - other references (see principles in [GSTR 2000/37](#) - *Goods and services tax: agency relationships and the application of the law*).

Government bodies that are registered or required to be registered and sell motor vehicles make a taxable supply of the vehicle. If the auctioneer is acting as agent, the GST liability, if any, on the supply of the vehicle rests with the principal not the auctioneer.

14.c. Is the price of vehicles sold at auction to business purchasers GST-inclusive?

For source of ATO view, refer to general principles and paragraph 38 of [GSTR 2000/37](#) - *Goods and services tax: agency relationships and the application of the law*.

If the vendor is a registered entity it is required to charge GST. The auctioneer has to state whether the vendor is a registered or unregistered entity and also state whether the bid is GST-inclusive or exclusive. Auctioneers will have to decide on how it will operate in practice.

Issue 15 – Warranties

15.a. How are warranty plans treated for GST purposes?

For source of ATO view, refer to:

- paragraphs 56 to 69 of [GSTR 2003/7](#) - *Goods and services tax: what do the expressions 'directly connected with goods or real property' and 'a supply of work physically performed on goods' mean for the purposes of subsection 38-190(1) of the A New Tax System (Goods and Services Tax) Act 1999?*
- principles in [GSTR 2005/6](#) - *Goods and services tax: the scope of subsection 38-190(3) and its application to supplies of things (other than goods or real property) made to non-residents that are GST-free under item 2 in the table in subsection 38-190(1) of the A New Tax System (Goods and Services Tax) Act 1999.*

There is no GST liability in respect of statutory warranties or the standard manufacturer's warranty included in the price of a motor vehicle sold before 1 July 2000, (subsection 12 (1A) of the Transition Act).

However, any warranties offered by the dealer in excess of these warranties for which there is a separate charge, such as 'extended warranties', will be subject to GST to the extent that the warranty relates to the period on or after 1 July 2000.

Warranties sold on or after 1 July 2000 will be subject to GST.

15.b. Withdrawn 29/01/2004

15.c. Is a warranty repair carried out by a dealer for a customer a taxable supply?

Non-interpretative - other references: refer to general principles in:

- [GSTR 2003/7](#) - *Goods and services tax: what do the expressions 'directly connected with goods or real property' and 'a supply of work physically performed on goods' mean for the purposes of subsection 38-190(1) of the A New Tax System (Goods and Services Tax) Act 1999?*
- [GSTR 2004/7](#) - *Goods and services tax: in the application of items 2 and 3 and paragraph (b) of item 4 in the table in subsection 38-190(1) of the A New Tax System (Goods and Services Tax) Act 1999*
 - when is a 'non-resident' or other 'recipient' of a supply 'not in Australia when the thing supplied is done'?
 - when is 'an entity that is not an Australian resident' 'outside Australia when the thing supplied is done'?
- [GSTD 2006/1](#) - *Goods and services tax: is a payment from a non-resident car manufacturer to an Australian distributor under an offshore warranty chargeback arrangement subject to GST?*

No. It is not a taxable supply as no consideration is provided by the customer to the dealer.

15.d. Is warranty work carried out by a dealer that is invoiced to the manufacturer/importer a taxable supply?

Non-interpretative - other references: refer to general principles in:

- [GSTR 2003/7](#) - *Goods and services tax: what do the expressions 'directly connected with goods or real property' and 'a supply of work physically*

performed on goods' mean for the purposes of subsection 38-190(1) of the A New Tax System (Goods and Services Tax) Act 1999?

- [GSTR 2004/7](#) - *Goods and services tax: in the application of items 2 and 3 and paragraph (b) of item 4 in the table in subsection 38-190(1) of the A New Tax System (Goods and Services Tax) Act 1999*
 - when is a 'non-resident' or other 'recipient' of a supply 'not in Australia when the thing supplied is done'?
 - when is 'an entity that is not an Australian resident' 'outside Australia when the thing supplied is done'?
- [GSTD 2006/1](#) - *Goods and services tax: is a payment from a non-resident car manufacturer to an Australian distributor under an offshore warranty chargeback arrangement subject to GST?*

Yes. The work carried out by the dealer is in return for consideration from the manufacturer/importer, therefore the supply by the dealer is a taxable supply.

15.e. Is a warranty claim made by a manufacturer/importer on an overseas manufacturer a taxable supply?

For source of ATO view, refer to:

- paragraphs 56 - 69 of [GSTR 2003/7](#) - *Goods and services tax: what do the expressions 'directly connected with goods or real property' and 'a supply of work physically performed on goods' mean for the purposes of subsection 38-190(1) of the A New Tax System (Goods and Services Tax) Act 1999?*
- [GSTR 2005/6](#) - *Goods and services tax: the scope of subsection 38-190(3) and its application to supplies of things (other than goods or real property) made to non-residents that are GST-free under item 2 in the table in subsection 38-190(1) of the A New Tax System (Goods and Services Tax) Act 1999.*

Where the manufacturer/importer makes a claim under a warranty provided by an overseas manufacturer it may not be a taxable supply, depending on the factual circumstances if:

- no consideration is provided
- there is no supply
- the supply is not connected with Australia, or
- the supply would be GST-free.

A supply is not GST-free if it is made to a non-resident but that supply is provided, or the agreement requires it to be provided, to another entity in Australia.

Refer to [GSTR 2005/6](#) – *Goods and services tax: the scope of subsection 38-190(3) and its application to supplies of things (other than real property) made to non-residents that are otherwise GST-free under item 2 of the table in subsection 38-190(1) of the A New Tax System (Goods and Services Tax) Act 1999*, see paragraphs 484-491 - (Example 21).

15.f. Is a warranty claim made by a local car manufacturer or distributor on a local component manufacturer a taxable supply?

Non-interpretative - other references: refer to general principles in [GSTR 2003/7](#) - *Goods and services tax: what do the expressions 'directly connected with goods or real property'*

and 'a supply of work physically performed on goods' mean for the purposes of subsection 38-190(1) of the A New Tax System (Goods and Services Tax) Act 1999?

[GSTR 2004/7](#) - *Goods and services tax: in the application of items 2 and 3 and paragraph (b) of item 4 in the table in subsection 38-190(1) of the A New Tax System (Goods and Services Tax) Act 1999:*

- when is a 'non-resident' or other 'recipient' of a supply 'not in Australia when the thing supplied is done'?
- when is 'an entity that is not an Australian resident' 'outside Australia when the thing supplied is done'?

[GSTD 2006/1](#) - *Goods and services tax: is a payment from a non-resident car manufacturer to an Australian distributor under an offshore warranty chargeback arrangement subject to GST?*

No. It is not a taxable supply as no consideration is provided by the local car manufacturer or distributor.

15.g. Is GST payable on refunds from overseas suppliers where the goods have been rejected by the importer?

Non-interpretative - other references: refer to general principles in [GSTR 2003/7](#) - *Goods and services tax: what do the expressions 'directly connected with goods or real property' and 'a supply of work physically performed on goods' mean for the purposes of subsection 38-190(1) of the A New Tax System (Goods and Services Tax) Act 1999?*

[GSTR 2004/7](#) - *Goods and services tax: in the application of items 2 and 3 and paragraph (b) of item 4 in the table in subsection 38-190(1) of the A New Tax System (Goods and Services Tax) Act 1999:*

- when is a 'non-resident' or other 'recipient' of a supply 'not in Australia when the thing supplied is done'?
- when is 'an entity that is not an Australian resident' 'outside Australia when the thing supplied is done'?

[GSTD 2006/1](#) - *Goods and services tax: is a payment from a non-resident car manufacturer to an Australian distributor under an offshore warranty chargeback arrangement subject to GST?*

No. The amount received by the importer is the return of the money paid for inferior goods. The importer being the person to whom the money is refunded is not making a supply therefore no GST is payable.

15.h Withdrawn 29 January 2004

Issue 16 – PAYG withholding

16.a. Are spotters' fees subject to PAYG withholding?

Non-interpretative - straight application of the law.

The general rule for the payer is that they should withhold if an ABN has not been quoted, unless they are satisfied that the payment to the payee meets one of the exclusions from PAYG withholding.

In the absence of any other indicators that an enterprise is being carried on, the receipt of small infrequent amounts by individuals would not amount to carrying on an enterprise.

Where the entity receiving the fee is not carrying on an enterprise, the payer should get a statement from the payee indicating the nature of the payment eg the supply is not in the course or furtherance of an enterprise. The ATO form [Statement by a supplier](#) (NAT 3346) is appropriate.

Where the entity receiving the payment is carrying on an enterprise the ABN should be quoted.

16.b. Is the amount of the special credit for sales tax required to be included as instalment income at label T1?

Refer to 'view history' link in index.

Issue 17 – Motor vehicles for the diplomatic community

17.a. Can embassies, consulates, international organisations, diplomatic and consular staff purchase vehicles GST and LCT free?

Non-interpretative - other references (see [TR 92/14](#) - *Income tax: taxation privileges and immunities of prescribed International Organisations and their staff*).

No. Diplomatic missions, consular posts, international organisations and privileged individuals from these bodies are required to pay GST on all taxable goods and services purchased in Australia. These bodies and individuals are also required to pay LCT on all luxury cars purchased in Australia. This applies to locally manufactured vehicles and imported vehicles.

17.b. Can these organisations and individuals receive a refund of GST and LCT which they pay?

Non-interpretative - other references (see [TR 92/14](#) - *Income tax: taxation privileges and immunities of prescribed International Organisations and their staff*).

Yes. Generally speaking, refunds can be claimed under the Indirect Tax Concession Scheme (ITCS) administered by the ATO.

17.c. Are all entitlements the same?

Non-interpretative - straight application of the law.

No. The various Diplomatic Privileges and Immunities Acts administered by the Department of Foreign Affairs and Trade (DFAT) detail the entitlements of the various countries and organisations. Each country's entitlement is based on a broadly reciprocal arrangement with the concessions offered to Australian diplomats in the home country. All missions, posts and organisations have been advised of their individual entitlements by DFAT.

17.d. Are there different entitlements for locally manufactured and imported vehicles?

Non-interpretative - straight application of the law.

Yes. All organisations and individuals are entitled to a refund of GST and any LCT on locally manufactured vehicles. However, entitlements to refunds of GST and LCT under the ITCS in relation to imported vehicles vary widely from country to country.

17.e. What about imported vehicles?

Non-interpretative - straight application of the law.

While entitlements in relation to the purchase of imported vehicles in Australia vary from country to country, all individuals and organisations are able to **directly import** a vehicle duty free, although individuals classified as Administrative and Technical staff or Consular employees can only directly import within the first 6 months of their posting. In any case, with a direct import the individual or organisation needs to have title in the vehicle before it is entered for home consumption in Australia. The direct importation can happen in two ways:

3. The diplomat can import a vehicle they owned along with their other personal effects, or

4. The mission, post or individual can engage an Australian car dealer to facilitate the purchase of the vehicle while the vehicle is still outside Australia. Provided the supply is not connected with Australia it will not be a taxable supply. The vehicle is shipped to Australia, imported and entered for home consumption in the name of the diplomat through the completion of a Customs Nature 10 entry form. The importation is a taxable importation, but the Vienna Convention allows a diplomat to import personal effects free of taxes and duties. Accordingly no duty is payable nor is GST and any LCT payable in the case of a directly imported vehicle.

17.f. What is the situation concerning imported vehicles which are purchased in Australia from bond?

Non-interpretative - straight application of the law.

In this case GST and, if applicable, LCT must be charged. Whether or not the individual or organisation is entitled to a refund under the ITCS will depend on the entitlement of the particular country.

17.g. Where can I obtain further information?

Either from the Protocol Branch of the Department of Foreign Affairs and Trade or from the ITCS Processing team, by email at itcs@ato.gov.au.

For more information refer to the [Indirect Tax Concession Scheme](#).

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