



Status: **draft only – for comment**

Draft Goods and Services Tax Determination

Goods and services tax: supplies of combination food

❗ Relying on this draft Consolidation

This is a draft Consolidation outlining proposed changes to Goods and Services Tax Determination GSTD 2024/1 *Goods and services tax: supplies of combination food* to set out an administrative compliance approach for certain breakfast cereal products (see Appendix 1 to this draft Consolidation).

If this draft Consolidation applies to you and you rely on it reasonably and in good faith, you will not have to pay any interest or penalties in respect of the matters covered if this draft Consolidation turns out to be incorrect and you underpay your tax as a result. However, you may still have to pay the correct amount of tax.

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1. This draft Consolidation^{A1} provides the Commissioner's view on when, under paragraph 38-3(1)(c) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act), a supply is a supply of food that is a combination of one or more foods at least one of which is food of a kind specified in the third column of the table in clause 1 of Schedule 1 to the GST Act.

2. In this Determination:

- All legislative references are to the GST Act, unless otherwise indicated.
- The phrase 'food of a kind specified in the third column of the table in clause 1 of Schedule 1 to the GST Act' from paragraph 38-3(1)(c) will be referred to as 'taxable food'.
- Food, the supply of which is taxable under paragraph 38-3(1)(c), because it is a 'combination of one or more foods' at least one of which is a taxable food, will be referred to as 'combination food'.

3. This Determination considers what is a combination food for paragraph 38-3(1)(c) purposes by reference to the decision of the Administrative Appeals Tribunal (AAT) in *Chobani Pty Ltd and Commissioner of Taxation* [2023] AATA 1664 (*Chobani*). It does not otherwise consider what is a taxable food, or the extent to which a supply of food is a taxable supply.

4. Goods and Services Tax Ruling GSTR 2001/8 *Goods and services tax: Apportioning the consideration for a supply that includes taxable and non-taxable parts* deals with identifying supplies that include taxable and non-taxable parts. This includes how to distinguish mixed supplies from supplies that are in substance the supply of one thing – composite supplies. GSTR 2001/8 has no application to supplies of combination food, as supplies of combination food are wholly taxable and have no non-taxable parts. The supply of a combination food is not a mixed supply.

5. If a supply is not a supply of a combination food, it may be necessary to determine if the supply is a mixed or composite supply. This is explained in GSTR 2001/8 and is not further considered in this Determination. Even though there may be some similarity in the language used in GSTR 2001/8 and this Determination respectively, the principles that apply in determining whether food is a combination food are different to those that apply in determining whether a supply is a mixed or composite supply.

The decision in *Chobani*

6. *Chobani* considered whether Chobani Flip Strawberry Shortcake flavoured yoghurt (product) was a combination food. The product comprised flavoured yoghurt in a plastic tub compartment with dry inclusions (cookie pieces and chocolate chips)¹ in a smaller compartment of the tub. Each of the dry inclusions was a taxable food. It was expected that the dry inclusions would be flipped into the yoghurt before consumption.

7. The AAT accepted that, having no trade meaning, 'combination' takes its ordinary meaning, as the 'product or outcome of joining two or more things together in some way'.² The AAT noted that a product whose taxable food ingredients 'have lost their separate

^{A1} For readability, all further references to 'this Determination' refer to the draft Consolidation as it will read when finalised. Note that this draft Consolidation will not take effect until finalised.

¹ See *Chobani* at [101–132] for details of the product, including ingredients, composition, packaging and appearance, instore display, and marketing.

² *Chobani* at [32].

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identity may, in one sense, be regarded as food that is a combination'.³ It was accepted by the AAT, however, that a 'combination of that kind is not intended to be excluded by [paragraph] 38-3(1)(c)'.⁴ The AAT rejected the position that product components had to be 'practically, economically and commercially distinct'. The AAT stated that⁵:

... the exclusion in s 38-3(1)(c) applies at least when a product meets the description: food that is a combination of foods that includes separately identifiable food or foods excluded by the table in clause 1 of Schedule [16] or foods of that kind. There may be cases where excluded items remain separately identifiable but nevertheless are so integrated into the overall product, or so insignificant, that they would not affect the characterisation.

8. Following *Lansell House Pty Ltd v Commissioner of Taxation* [2010] FCA 329⁷, the AAT accepted that classification of a food product involves questions of fact and degree, objectively taking all factors into account⁸, to arrive at an answer by way of 'overall impression'.⁹ The AAT found it 'inescapable' that the product was a combination of flavoured yoghurt, cookie pieces and chocolate chips, within which the latter components were 'not insignificant; remain readily identifiable; and are not subsumed into a separate product'.¹⁰ The dry inclusions, it was found, were not integrated into the yoghurt and were significant, as indicated by their physical separation in the product as sold, their relative weight and cost, and the marketing and consumer experience.¹¹

9. The AAT noted that the product was to be classified at the point of supply. The AAT also noted that the policy to exempt 'basic food', comparisons to the older sales tax provisions, the Explanatory Memorandum¹² and the fact GST was a 'practical business tax'¹³ were each of limited assistance in the context of this matter.

Ruling

10. The Commissioner's view about the meaning of combination food in paragraph 38-3(1)(c) is:

- A supply of a combination food involves the supply of food that includes at least one separately identifiable taxable food.
- A food is *separately identifiable* when it can be individually perceived by ordinary visual inspection. Being listed as an ingredient in a food alone is not sufficient to establish that a food is separately identifiable.
- The word 'combination' in paragraph 38-3(1)(c) takes its ordinary meaning, as the 'product or outcome of joining two or more things together in some way'.¹⁴
- Whether separately identifiable foods are *sufficiently joined together* so that they form a combination food is a matter of overall impression, having

³ *Chobani* at [61]. The definition of food includes 'ingredients for food for human consumption' – paragraph 38-4(1)(d).

⁴ *Chobani* at [62].

⁵ *Chobani* at [74].

⁶ The reference to 'Schedule 2' in this regard by the AAT appears to be a typographical error.

⁷ Upheld in *Lansell House Pty Ltd v Commissioner of Taxation* [2011] FCAFC 6.

⁸ These include appearance, taste, ingredients, process of manufacture, marketing and packaging.

⁹ *Chobani* at [80].

¹⁰ *Chobani* at [144].

¹¹ *Chobani* at [74].

¹² Further Supplementary Explanatory Memorandum to the A New Tax System (Goods and Services Tax) Bill 1998 (GST Bill).

¹³ *Chobani* at [64].

¹⁴ *Chobani* at [32].

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regard to factors including physical appearance and packaging, labelling, marketing, product design, manner of sale and consumer experience.

- A separately identifiable taxable food may be so *integrated* into the overall product, or be so *insignificant* within that product, that it has no effect on its characterisation.
- Whether food is a combination food must be determined at the point of supply. An expectation or likelihood that the combination food may be later separated, mixed or blended does not prevent it from being a combination food.

11. Accordingly, it is the Commissioner's view that the following 3 principles apply when determining whether there is a supply of a combination food:

- There must be at least one separately identifiable taxable food.
- The separately identifiable taxable food must be sufficiently joined together with the other components of the overall product at the time of sale.
- The separately identifiable taxable food must not be so integrated into the overall product, or be so insignificant within that product, that it has no effect on its characterisation.

Principle 1 – at least one separately identifiable taxable food

12. A supply of a combination food involves the supply of food that includes at least one separately identifiable taxable food.¹⁵ A food is separately identifiable when it can be individually perceived by ordinary visual inspection.

13. To be capable of being individually perceived by ordinary visual inspection, the taxable food must be capable of being seen by a person looking carefully at the food. This may involve some interaction with the food, including removing packaging and moving components to view different aspects of the food. This does not extend to taxable food that can only be seen or detected with the use of special equipment.

14. The taxable food does not need to be physically separated from the other components (for example, in separate compartments) to be separately identifiable, nor does it need to be capable of being eaten separately.

15. Food is not a combination food solely because it is made from ingredients, at least one of which is a taxable food.¹⁶ Being listed as an ingredient in a food alone is not sufficient to establish that a food is separately identifiable for these purposes.

16. Example 1 of this Determination illustrates circumstances where food does not include at least one separately identifiable taxable food.¹⁷

Example 1 – food that is not a combination food – blended foods

17. *Squirrel Ltd manufactures and sells a chocolate-hazelnut spread. The spread contains roasted hazelnuts that are completely blended with the other ingredients. While*

¹⁵ *Chobani* at [74–144].

¹⁶ *Chobani* at [61–62].

¹⁷ Refer to Examples 2 to 8 of this Determination for contrasting examples of food that include at least one separately identifiable taxable food. Refer to Example 3 of this Determination which explains how the principles would apply if the chocolate-hazelnut spread in Example 1 of this Determination was sold in both 'smooth' and 'crunchy' varieties.

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one of the ingredients is a taxable food (roasted hazelnuts), the product is not a combination food. The roasted hazelnuts are not separately identifiable as they are blended with the other ingredients and cannot be individually perceived by ordinary visual inspection.

Principle 2 – sufficiently joined together

18. The word ‘combination’ in paragraph 38-3(1)(c) takes its ordinary meaning as the ‘product or outcome of *joining* two or more things together in some way’.¹⁸

19. To be a supply of a combination food, the separately identifiable taxable food must be sufficiently joined together with the other components of the overall product at the time of sale. To be sufficiently joined together, the components must be supplied as a single item for consumption, as opposed to 2 or more distinct supplies of food made at the same time. The mere fact that items of food are purchased at the same time does not make those items a combination food, even if the purchaser eats or intends to eat them together. Most obviously, this includes a person purchasing milk and chocolate biscuits in the same transaction.

20. Another example of 2 or more distinct items supplied together is a hamper. A hamper containing a range of individual commercially packaged food products that remain distinct is not a combination food.¹⁹ The common packaging does not change the fact that the items in the hamper remain distinct items and are not supplied as a single item for consumption.

21. The components of the combination food do not need to be physically mixed, whether at the time of sale or afterwards, for the taxable food to be sufficiently joined together with the other components of the overall product.²⁰

22. Whether or not separately identifiable foods are joined together so that they are a combination food is a matter of overall impression determined at the time of sale. Relevant factors include physical appearance and packaging, labelling, marketing, product design, manner of sale and consumer experience. No one factor is necessarily determinative, and the individual weighting of each factor will depend on the circumstances of each case.

23. Example 2 of this Determination illustrates that whether separately identifiable foods are sufficiently joined together, so that they are a combination food, is a matter of overall impression taking into account various factors.²¹

Example 2 – food that is not a combination food – meal preparation kits

24. *Meal Box Ltd supplies meal preparation kits, which involve a box containing a range of ingredients and a recipe for a meal. The ingredients are in the correct quantity for*

¹⁸ *Chobani* at [32].

¹⁹ The supply of a hamper is a mixed supply. This is consistent with paragraph 1.18 of the Further Supplementary Explanatory Memorandum to the GST Bill. See also the Goods and Services Tax Industry Issue GSTII FL1 *Detailed Food List* entry on ‘hampers’ and GSTR 2001/8.

²⁰ *Chobani* at [130–134]. See Example 7 and Example 8 of this Determination regarding separate containers and layered foods.

²¹ No single factor, including the name given to the product, is determinative. For example, food may be labelled as a ‘meal kit’ or ‘meal preparation kit’ in circumstances where an assessment of the relevant factors leads to a conclusion that the components are sufficiently joined together with the other components of the food. Refer to Examples 3 to 8 of this Determination for contrasting examples of food where the separately identifiable taxable food is sufficiently joined together with the other components of the overall product.

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making the meal but require various preparation steps under the recipe to make that meal. One of the kits, the Nutty Chicken Pasta Kit, includes a package of roasted peanuts (taxable food).

25. *The Nutty Chicken Pasta Kit is not a combination food. While the roasted peanuts are separately identifiable, they are not sufficiently joined together with the other components of the kit at the time of sale, considering the factors stated in paragraph 21 of this Determination. That is, the meal kit's physical appearance and packaging, labelling, marketing and product design give the overall impression that it is an assortment of distinct ingredients packaged together for convenience. There is little difference between the supply of these boxed ingredients by Meal Box Ltd and the supply of similar ingredients ordered online or purchased from a supermarket in a single transaction.*

26. *As a matter of overall impression, evaluated at the time of sale, the food items are not supplied as a single item for consumption. While they may ultimately be consumed together, several steps must still be undertaken to make the meal, including chopping the ingredients and cooking the chicken. Further, some required ingredients are not supplied, like water, oil and seasoning. The fact that the food items are supplied together with a recipe in the one box does not for that reason alone make them a combination food.*

Principle 3 – so integrated into or insignificant within the overall product

27. There will be cases where, even though Principles 1 and 2 are satisfied, the separately identifiable taxable food is so integrated into the overall product, or is so insignificant within that product, that it would not affect its characterisation.²² For example, food may be so insignificant where it is merely an incidental accompaniment to the product.

28. The questions of integration and significance require a qualitative assessment and are a matter of overall impression. There is no bright-line test (for example, no minimum weight or volume, or percentage quantity) for determining when a taxable food will be so integrated or so insignificant that the overall product does not have the character of being a combination food. Where a percentage quantity is provided in any examples in this Determination, this is just one relevant factor. This should not be taken to indicate that there is a bright-line test for determining whether a product is a combination of food.

29. In *Chobani*, relevant factors were not limited to quantitative factors like physical separation, weight and cost of the product. They also included factors like marketing, consumer experience and the labelling of the product as a 'flip' product.

[29A. Appendix 1 to this Determination sets out an administrative compliance approach to assist you in applying Principle 3 to determine whether a particular breakfast cereal product is a combination food.](#)

Example 3 – food that is not a combination food – integrated foods

30. *The food manufacturer from Example 1 of this Determination, Squirrel Ltd, makes its chocolate-hazelnut spread in 'smooth' and 'crunchy' varieties. The roasted hazelnuts in the crunchy variety are not blended smooth. Small pieces of roasted hazelnuts are visible throughout the spread.*

²² *Chobani* at [74].

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31. *The crunchy variety of the chocolate-hazelnut spread is not a combination food.*

32. *While the roasted hazelnuts are separately identifiable and are sufficiently joined together with the other ingredients of the spread, the roasted hazelnuts are so integrated into the overall product that they do not affect its characterisation. While the roasted hazelnuts contribute to certain characteristics of the product, including the flavour and crunchy texture, they are so integrated into the overall product that, as a matter of overall impression, the product does not have the character of being a combination food.*

Example 4 – food that is not a combination food – integrated foods

33. *A supermarket sells a peanut satay stir-fry sauce with chopped roasted peanuts. The roasted peanuts are a taxable food and can be seen as chunks throughout the sauce at the time of sale.*

34. *This product is not a combination food.*

35. *While the roasted nuts are separately identifiable and are sufficiently joined together with the other ingredients at the time of sale, the roasted peanuts are so integrated into the overall product that they do not affect its characterisation. While the roasted peanuts contribute to certain characteristics of the product, including the flavour and texture of the stir-fry sauce, they are so integrated into the overall product that, as a matter of overall impression, the product does not have the character of being a combination food.*

Example 5 – food that is not a combination food – insignificant foods

36. *Bakery Ltd sells loaves of bread with a sprinkling of roasted sesame or poppy seeds on top of each loaf of bread. The roasted seeds are a taxable food.*

37. *This product is not a combination food.*

38. *While the roasted seeds are separately identifiable and are sufficiently joined together with the other ingredients of the bread at the time of sale, the roasted seeds are so insignificant within the overall product that they do not affect its characterisation. The roasted seeds contribute to certain characteristics of the bread, including flavour and texture, but are so insignificant within the overall product that, as a matter of overall impression, the product does not have the character of being a combination food.*

Example 6 – food that is not a combination food – insignificant foods

39. *Cereal Ltd sells a muesli breakfast product containing rolled oats, sultanas, small pieces of dried apricots, flakes of dried coconut and whole roasted almonds. The roasted almonds are a taxable food and make up approximately 5% of the product by weight. The packaging contains a picture of the muesli in a bowl in which the roasted almonds are visible. The roasted almonds are mentioned in the description of the product but do not feature prominently on the packaging and are not mentioned in the name of the product.*

40. *This product is not a combination food.*

41. *While the roasted almonds are separately identifiable and are sufficiently joined together with the other components of the muesli at the time of sale, the roasted almonds are so insignificant within the overall product that they do not affect its characterisation. The roasted almonds contribute to certain characteristics of the muesli, including flavour*

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and texture, but are so insignificant within the overall product that, as a matter of overall impression, the product does not have the character of being a combination food.

Example 7 – food that is a combination food – separate containers

42. *Ranchero sells a Tuna Lunch Pack consisting of a tub containing a mixture of tuna and vegetables with dressing, and a separate tub of biscuits (taxable food), packaged together by cardboard wrapping with the product label. The design and marketing of the product reflects an expectation that the contents of the 2 tubs will be mixed and consumed together.*

43. *The Tuna Lunch Pack is a combination food.*

44. *The biscuits are separately identifiable as they can be individually perceived by ordinary visual inspection of the product at the time of sale.*

45. *Considering the factors stated in paragraph 21 of this Determination, the biscuits are sufficiently joined together with the tuna at the time of sale. While the biscuits are not physically mixed with the tuna, the marketing, consumer experience and labelling of the product give the overall impression that the biscuits and tuna are supplied as a single item for consumption.*

46. *The biscuits are neither so integrated into the overall product, nor so insignificant within that product, that they do not affect the product's characterisation. The biscuits are significant to the taste, texture and intended manner of consumption of the product, and form a key part of the marketing and design of the product. The overall impression of the product is that it is a combination of biscuits and tuna.*

Example 8 – food that is a combination food – layered foods

47. *Supermarket Co sells a ready-to-eat snack product, Crunchy Custard, consisting of a fruit-flavoured custard topped with a layer of roasted pistachios and almonds. The roasted pistachios and almonds are pictured prominently on the packaging. The roasted pistachios and almonds are taxable foods and make up approximately 10% of the product by weight.*

48. *This product is a combination food.*

49. *The roasted nuts are separately identifiable as they can be individually perceived by ordinary visual inspection of the product. It does not matter that the taxable food is not physically separated in a separate compartment.*

50. *Considering the factors stated in paragraph 22 of this Determination, the roasted nuts are sufficiently joined together with the custard at the time of sale. While the roasted nuts are not physically mixed through the custard, the physical presentation, marketing, consumer experience and labelling of the product give the overall impression that the roasted nuts and custard are supplied as a single item for consumption.*

51. *The roasted nuts are neither so integrated into the overall product, nor so insignificant within that product, that they do not affect the product's characterisation. While the roasted nuts constitute a smaller proportion by weight than the custard, they are significant to the taste and texture of the product and form a key part of the marketing, labelling and design of the product. The overall impression of the product is that it is a combination of roasted nuts and custard.*

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Example 9 – food that is a combination food – mixed foods

52. *Snack Ltd sells a range of snack products, including Tall Tales Trail Mix. This consists of a mix of unprocessed raw nuts and seeds, roasted nuts and seeds and confectionery pieces in roughly equal proportions. The roasted nuts and confectionery are taxable foods.*

53. *This product is a combination food.*

54. *Despite being mixed together in one package at the time of sale, the roasted nuts and confectionery are separately identifiable as they can be individually perceived by ordinary visual inspection of the product.*

55. *Considering the factors stated in paragraph 22 of this Determination, the roasted nuts and confectionery are sufficiently joined together with the other components of the trail mix and are supplied as a single item for consumption.*

56. *The roasted nuts and confectionery are neither so integrated into the overall product, nor so insignificant within that product, that they do not affect the product's characterisation. The taxable foods are significant to the taste and texture of the product, they form the bulk of the overall product by weight and volume and are a key part of the product design. The overall impression of the product is that it is a combination of unprocessed raw nuts and seeds, roasted nuts and seeds, and confectionery.*

Date of effect

57. The updates that are the subject of this draft Consolidation are proposed to apply from the date of publication of the addendum which finalises this draft Consolidation. Our view set out in previous versions of this Determination will continue to apply as outlined in that version.

58. The Commissioner will continue to act in accordance with Law Administration Practice Statement PS LA 2011/27 *Determining whether the ATO's views of the law should be applied prospectively only* and Law Administration Practice Statement PS LA 2012/2 (GA) *GST classification of food and beverage items*.

Commissioner of Taxation

7 October 2026

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Appendix 1 – Compliance approach

1 *This Appendix sets out a proposed practical administration approach to assist taxpayers in complying with relevant tax laws. When this draft Consolidation is finalised, provided you follow the advice in this Appendix in good faith and consistently with the Ruling section, the Commissioner will administer the law in accordance with this approach.*

Background

59. We recognise that practical difficulties may arise in determining whether a particular breakfast cereal product is a combination food for the purposes of paragraph 38-3(1)(c). We are aware of misclassification occurring in practice. To assist you, a compliance approach is set out at paragraphs 63 to 66 of this Determination.

60. The principles in this Determination apply in determining whether a breakfast cereal product is a combination food (as illustrated by Example 6 of this Determination).

61. Breakfast cereal products that consist of a loose mix of different dry ingredients (for example, cereal, muesli and granola) commonly contain varying amounts of separately identifiable taxable food (for example, roasted nuts and seeds, coconut and banana chips, compound yoghurt drops and chocolate pieces).

62. There will generally be little difficulty in determining whether such products contain separately identifiable taxable food (Principle 1) that is sufficiently joined together with the other components of the product (Principle 2). However, the application of Principle 3 may be less certain. Whether the separately identifiable taxable food is so integrated into, or so insignificant within, the overall product that it does not affect the product's characterisation is a matter of overall impression.

Our compliance approach

63. Our compliance approach applies to breakfast cereal products which:

- are a loose mix of different dry ingredients (for example, cereal, muesli and granola), even if some of those ingredients are clustered together²³, and
- contain separately identifiable taxable food that comprises 15% or less of the total product by weight (excluding packaging).

64. We consider there to be a low risk that a breakfast cereal product covered by this compliance approach will be taxable as a combination food under paragraph 38-3(1)(c).

65. We will not have cause to apply compliance resources to review whether the breakfast cereal product is a combination food. However, we may verify whether the product satisfies the conditions of this approach. You must keep records of information or evidence sufficient to support your assessment that the breakfast cereal product is covered by this approach, including your calculation of the percentage of separately identifiable taxable food.

66. Our compliance approach does not apply to breakfast cereal products which contain separately identifiable taxable food comprising more than 15% of the total product by weight (excluding packaging). Such a breakfast cereal product is highly likely to be taxable as a combination food under paragraph 38-3(1)(c). The fact that a product falls

²³ Some breakfast cereal products use coating ingredients (like honey, syrups, oils or fruit purees) to bind ingredients together to form clusters. These products are still considered to satisfy the requirement that the breakfast cereal product be a loose mix of different dry ingredients.

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[outside this compliance approach does not, of itself, determine its GST treatment. Whether the product is a combination food must be determined by applying the principles in this Determination.](#)

67. [It is proposed that this compliance approach will apply from the date of publication of the addendum which finalises this draft Consolidation.](#)

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Appendix 2 – Your comments

68. You are invited to comment only in respect of the proposed compliance approach outlined in Appendix 1 of this draft Consolidation. Forward your comments to the contact officer by the due date.

69. A compendium of comments is prepared as part of the finalisation of this Ruling. An edited version of the compendium (with names and identifying information removed) is published to the ATO Legal database on ato.gov.au.

70. Advise the contact officer if you do not wish for your comments to be included in the edited compendium.

Due date: 20 November 2026
Contact officer: Barry Chen
Email: Barry.Chen@ato.gov.au

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References

Previous draft:

GSTD 2023/D1

Related rulings and determinations:

GSTR 2001/8; GSTII FL1

Legislative references:

- ANTS(GST)A 1999 38-3(1)(c)
- ANTS(GST)A 1999 38-4(1)(d)
- TAA 1953 Sch 1 357-75(1A)

Cases relied on:

- Chobani Pty Ltd and Commissioner of Taxation [2023] AATA 1664; 2023 ATC 10-669
- Lansell House Pty Ltd v Commissioner of Taxation [2010] FCA 329; 2010 ATC 20-173; 76 ATR 19

- Lansell House Pty Ltd v Commissioner of Taxation [2011] FCAFC 6; 190 FCR 354; 79 ATR 221

Other references:

- Further Supplementary Explanatory Memorandum to the A New Tax System (Goods and Services Tax) Bill 1998
- PS LA 2012/2 (GA)
- PS LA 2011/27

ATO references

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Goods and services tax ~~ Food ~~ Food classification ~~ Savoury snacks
Goods and services tax ~~ Food ~~ Food classification ~~ Other

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