# *GSTR 2014/2DC2 - Goods and services tax: treatment of ATM service fees, credit card surcharges and debit card surcharges*

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# Draft Goods and Services Tax Ruling

## Goods and services tax: treatment of ATM service fees, credit card surcharges and debit card surcharges

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- This is a draft consolidation outlining proposed changes to GSTR 2014/2 with regard to how 'ATM' and 'ATM services' are defined. This is to ensure they are in alignment with the Administrative Appeals Tribunal decision of Banktech Group Pty Ltd and Commissioner of Taxation [2023] AATA 3850. The Addendum which makes these changes, when finalised, will be a public ruling for the purposes of the *Taxation Administration Act 1953*.

This publication is a draft for public comment. It represents the Commissioner's preliminary view on how a relevant provision could apply.

If this draft Ruling 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 Ruling 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.

# What this draft Ruling is about

1. This draft Ruling[AA1] explains the goods and services tax (GST) treatment of:

- a fee payable for ATM services listed in ~~subregulation 40-5.09(4A) of the *A New Tax System (Goods and Services Tax) Regulations 1999*~~ subsection 40-5.09(5) of the *A New Tax System (Goods and Services Tax) Regulations 2019* (GST Regulations)
- a surcharge imposed by a merchant on a customer in respect of a credit card transaction concerning supplies of goods or services by the merchant to the customer
- a surcharge imposed on a customer in respect of a credit card transaction concerning the payment of an Australian tax or an Australian fee or charge subject to Division 81, and
- a surcharge imposed by a merchant in respect of a debit card transaction concerning a supply of goods or services, a cash withdrawal or both a supply of goods or services and a cash withdrawal.

[AA1] For readability, all further references to 'this Ruling' refer to the Ruling as it will read when finalised. Note that this Ruling will not take effect until finalised.

2. In this Ruling, all legislative references are to the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act), unless otherwise indicated.

# Ruling

**ATM services**

3. Under ~~subregulation 40-5.09(4A)~~ subsection 40-5.09(5) of the GST Regulations, a supply by an entity for a fee of not more than $1,000 is a financial supply if it is a supply of one or more of the following ATM services:

- a withdrawal from an account
- a deposit into an account
- an electronic transfer from an account
- advice of the balance of an account.

4. The term 'ATM services' in ~~subregulation 40-5.09(4A)~~subsection 40-5.09(5) of the GST Regulations restricts the listed services to those performed through the use of an automatic teller machine (ATM).

5. [Omitted.]~~The term 'ATM' refers to an automatic teller machine that is used in the payment system designated by the Reserve Bank of Australia (RBA) as the ATM system. It takes its meaning from the following definition set out in the Consumer Electronic Clearing System (CECS) Manual:~~

~~"ATM" or "ATM Terminal" means an approved electronic device capable of automatically dispensing Cash in response to a Cash withdrawal Transaction initiated by a Cardholder. Other Transactions (initiated by a debit card) such as funds transfers, deposits and balance enquiries may also be supported. The device must accept either magnetic stripe Cards or smart (chip) Cards where Transactions are initiated by the Cardholder keying in a Personal Identification Number (PIN). Limited service devices (known as 'Cash dispensers') that only allow for Cash withdrawal are included.~~

***What is an ATM?***

5A. The term 'ATM' is defined in the GST Regulations to mean 'automatic teller machine'. Consistent with the Administrative Appeals Tribunal decision in *Banktech Group Pty Ltd and Commissioner of Taxation* [2023] AATA 3850 (*Banktech*), the term 'ATM' has its ordinary meaning.

5B. The following 3 requirements must be met for a facility, machine or device[A1] to satisfy the ordinary meaning of an ATM:

[A1] For the purposes of this Ruling, any subsequent reference to 'device' should be taken to refer to a facility, machine or device.

- its primary purpose and function is to provide banking facilities to account holders in relation to accounts with authorised deposit-taking institutions (for example, bank or credit unions) or overseas equivalent financial institutions
- it dispenses cash to account holders upon request, and
- it is properly characterised as an ATM.

5C. We consider that the following non-exhaustive list of factors indicate that a device is *more* likely to be properly characterised as an ATM:

- level of automation – a high level of automation to execute transactions (that is, absence of non-cardholder intervention)
- configuration of equipment – the device operates as a single self-contained unit (that is, no additional component(s) are required to enable execution of transactions)
- how the device is objectively characterised by the supplier of the service – the device is characterised as an ATM for commercial purposes including marketing (for example, signage on and around the device, promotional material), commercial documentation (for example, service and operation agreements) and internal purposes
- types of transactions supported – the device is designed or operated to execute transactions limited to one or more of the following: withdrawal from an account[A2], a deposit into an account, an electronic transfer from an account and advice of the balance of an account
- payments for goods and services – the device is not primarily designed or operated to allow a merchant to accept payments from a customer for goods and services
- payment system utilised – the device utilises the payment system designated by the Reserve Bank of Australia as the ATM system (ATM payment system) in order to execute and process relevant transactions.

5E. No one particular factor, viewed in isolation, is determinative. Whether a particular device is properly characterised as an ATM will depend on the facts and circumstances of each case.

[A2] For the purposes of subsection 40-5.09(5), 'Account' is defined in section 196-1.01. It includes ADI accounts and non-ADI accounts that meet the requirements in paragraph (b) of the definition. This is explained at paragraphs 205 to 206 of Goods and Services Tax Ruling GSTR 2002/2 *Goods and services tax: GST treatment of financial supplies and related supplies and acquisitions*.

5F. However, a self-contained device will be characterised as an ATM where the device:

- allows the cardholder to perform the relevant transaction in relation to their account
- doesn't require non-cardholder human intervention, and
- utilises the ATM payment system.

For a self-contained device with these features, the potential absence of the other factors at paragraph 5C of this Ruling is outweighed.

5G. Having regard to the primary purpose and function of the device and the factors in paragraph 5C of this Ruling, it follows that not every device that dispenses cash to the user is properly characterised as an ATM. That is, not all economically equivalent services (such as a withdrawal of cash) are properly characterised as ATM services.[A3]

### *Listed ATM services*

5H. Once it is established that the device is an ATM, the ATM service must be one of the 4 ATM services listed under subsection 40-5.09(5) of the GST Regulations. The listed ATM services specify that they relate to an 'account'. An account includes any monetary account with an ADI or equivalent overseas bank or financial institution, and an account with a non-ADI credit, charge or prepaid card provider.

6. A fee imposed for an ATM service listed under ~~subregulation 40-5.09(4A)~~subsection 40-5.09(5) of the GST Regulations is consideration for an input taxed supply.

7. A ~~facility, machine or~~ device that is used to access a payment system other than the ATM system (for example, the payment system designated by the Reserve Bank of Australia (RBA) as the EFTPOS system) is not, by reason of the payment system alone, precluded from being used to provide an ATM service under ~~subregulation 40-5.09(4A)~~ subsection 40-5.09(5) of the GST Regulations.

### *Example A1: Cash dispensing device – an ATM*

7A. *The JLB Shopping Centre (JLB) has a cash dispensing device located in the centre.*

7B. *The device comprises a single freestanding unit. The device is badged with the label 'ATM' and signage around the device states 'ATM Here'. The device is owned and operated by Kash4Kustomers Pty Ltd (K4K). The agreement entered into between JLB and K4K allowing the device to be located at the shopping centre refers to the device as an ATM. The transactions supported by the device are*

[A3] *Banktech* at [113–114].

*limited to cash withdrawals and balance enquiries. K4K uses and complies with the rules of the ATM payment system in order to execute transactions from the device.*

7C. *In order to utilise the cash dispensing device, a cardholder inserts their card into the device, enters their personal identification number (PIN) and follows the prompts on screen. Cash is dispensed directly to the cardholder. Non-cardholder human intervention is not required to complete the transaction.*

7D. *Having regard to the requirements at paragraph 5B and the factors at paragraph 5C of this Ruling, the cash dispensing device is an ATM, within the ordinary meaning of that term.*

### *Example A2: Cash dispensing device – not an ATM*

7E. *The VRB Hotel has a cash dispensing device located inside the venue.*

7F. *The equipment comprises a screen, EFTPOS terminal, cash dispenser and a remote control device. The remote control device is kept behind the concierge desk approximately 10 metres away from the EFTPOS terminal. Signage on and around the equipment states 'Cash Withdrawals Available' while the screen states 'See Staff for access'. The only transaction type supported by the device is cash withdrawals. The device accesses the EFTPOS payment system to execute transactions.*

7G. *To make a cash withdrawal, a cardholder must approach hotel staff and request to withdraw a specified amount. Hotel staff use the remote control device to enable the equipment and enter the requested amount. The cardholder subsequently inserts their card into the EFTPOS terminal and enters their PIN. The cardholder confirms the withdrawal amount and service fee on screen. Cash is dispensed directly to the cardholder. The cash dispensing device accesses the EFTPOS payment system and does not support transaction types other than cash withdrawal.*

7H. *Having regard to the requirements at paragraph 5B and the factors at paragraph 5C of this Ruling, the cash dispensing device is not an ATM, within the ordinary meaning of that term.*

### *Example A3: Withdrawal of cash and no purchase – not an ATM*

7I. *The Tas Supermarket offers a cashout service at its self-service register. The design and primary function of the device is to allow customers to pay for their supermarket purchases. The device also allows customers to obtain a cash withdrawal from their account.*

7J. *The self-service register (or self-service checkout) is a self-contained physical unit comprising a computer screen, scanner, scales, shelving for groceries and shopping bags, cash dispenser, cash acceptor, and EFTPOS terminal. Signage on and above the cash dispenser states 'Cash Out Available'. The transaction types*

*supported by the self-service register are limited to customer purchases (via both the EFTPOS terminal and cash payments) and cash withdrawals. The register accesses the EFTPOS payment system in order to execute cashout transactions.*

7K. *To make a cash withdrawal, a cardholder selects 'Cash Out' on the computer touch screen and inserts their card into the EFTPOS terminal. A purchase is not required to make a cash withdrawal. The cardholder inputs the cash amount required and their PIN into the EFTPOS terminal. Cash is dispensed directly to the cardholder. The self-service register accesses the EFTPOS payment system to execute the cashout transactions it supports. Non-cardholder human intervention is not required to complete the transaction.*

7L. *While the self-service register is automated and doesn't consist of multiple physically separated devices, on balance, it is not an ATM. Consistent with the Tribunal's observations in Banktech*[A4]*, notwithstanding that the cardholder experience may be that a withdrawal of cash through an EFTPOS terminal at a retailer's check out is substantially equivalent to an ATM service, it is not an ATM service. Even though it is self-serve, the overall cardholder experience and the physical characteristics reflect its primary function, being to self-checkout and make payments for supermarket items, rather than being an ATM whose primary purpose and function is to perform non-purchase banking transactions in relation to the cardholder's account.*

7M. *Having regard to the requirements at paragraph 5B and the factors at paragraph 5C of this Ruling, the self-service register is not an ATM, within the ordinary meaning of that term.*

7N. *If Tas Supermarket charges a fee or surcharge for cashout transactions, that fee is consideration for a taxable supply – consistent with paragraph 36 of this Ruling.*

7O. *Examples 8 and 10 of this Ruling are further examples of merchants supplying cash withdrawal services, where those services are not supplies of ATM services.*

**Credit card surcharge – where no ATM service**

7P. Paragraphs 8 to 28 of this Ruling regarding credit card surcharges and paragraphs 29 to 47 regarding debit card surcharges do not relate to ATMs or ATM services. When these paragraphs deal with transactions that involve a withdrawal of cash, they proceed on the basis that the relevant device has been assessed properly as not being an ATM, and the supply is not an ATM service. Paragraphs 3 to 7N of this Ruling address whether a device satisfies the ordinary meaning of ATM (and whether the relevant services constitute ATM services). The only exceptions are Examples 8 and 10 of this Ruling,

[A4] Banktech at [114].

which further illustrate when merchants providing cash withdrawals are not supplying ATM services.

8. A credit card surcharge imposed by a merchant on a customer for a credit card transaction forms part of the consideration for the supply of the goods or services made by the merchant. There is a sufficient nexus between the surcharge and the supply of the goods or services for the surcharge to be paid for the supply.

9. The credit card surcharge forms part of the consideration for a taxable, input taxed or GST-free supply depending on the GST treatment of the supply of the goods or services in question. Where a surcharge is imposed on payment for more than one supply[1], the merchant can use any fair and reasonable method to apportion the surcharge to the respective supplies of goods or services.

10. An entity may act as an agent for a third party that supplies goods or services to the customer, but make a separate supply to the customer of processing the transaction, including accessing the relevant payment system to authorise the transaction. Where the entity imposes a credit card surcharge for the processing service, the surcharge has a sufficient nexus with the supply of the service to be regarded as being paid for that supply. The credit card surcharge does not form part of the consideration for the supply of the goods or services made by the third party.

11. Where a customer uses a credit card to satisfy an outstanding liability for a prior supply of goods or services and incurs a credit card surcharge, the surcharge is additional consideration for the supply of goods or services. The change in consideration is an adjustment event under paragraph 19-10(1)(b), which may cause an increasing adjustment under section 19-50 to the merchant and a decreasing adjustment under section 19-85 to the customer in certain circumstances.[2]

12. Where an amount is required to be paid by a specified date, and an additional fee or charge becomes payable if the amount is not paid by that date, the additional fee or charge is consideration for the supply of an interest in or under a credit arrangement. It is therefore consideration for an input taxed financial supply.[3]

13. Where the customer incurs a credit card surcharge when paying for both the goods or services and the additional fee or charge under the credit arrangement, the merchant can use any fair and reasonable method to apportion the surcharge between the supplies.

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[1] References in this Ruling to a surcharge being imposed on more than one supply also include a surcharge being imposed on separately identifiable components of a mixed supply.

[2] This will depend on whether the supply made by the merchant was a taxable supply under section 9-5 with GST being attributed to an earlier tax period and whether the acquisition by the customer was a creditable acquisition under section 11-5 with an input tax credit being attributed to an earlier tax period.

[3] Pursuant to section 40-5 of the GST Act and subsection 40-5.09(1)~~subregulation 40-5.09(1)~~ and table item 2 of subsection 40-5.09(3)~~subregulation 40-5.09(3)~~ of the GST Regulations.

***Example 1: Credit card surcharge – taxable supply***

14. *Anna purchases a shirt with a displayed price of $55. A sign at the store's counter states that a surcharge of 3% of the price will be imposed if payment is made by credit card.*

15. *When Anna pays for the shirt using her credit card, the merchant imposes a surcharge of $1.65 on the sale. The price of the shirt to Anna is $56.65, as the $1.65 surcharge forms part of the consideration for the shirt. The surcharge has a sufficient nexus with the supply of the shirt to be regarded as being paid for the supply. The supply of the shirt is a taxable supply under section 9-5. The GST payable in respect of the sale is $5.15, being one eleventh of the GST-inclusive price of $56.65.*

***Example 2: Credit card surcharge – agent***

16. *John purchases a concert ticket from a ticket agent over the internet using his credit card. John pays $110 for the ticket, with an additional $11 credit card surcharge. Under the terms of the arrangement, the ticket agent acts as an agent for the concert promoter when supplying the ticket to John. The ticket agent also makes a separate supply of processing services to John which includes accessing the relevant payment system to authorise the payment. The $11 credit card surcharge is consideration for the taxable supply of processing services the ticket agent makes to John.*

***Example 3: Credit card surcharge – GST-free supply***

17. *Chris, a fruit and vegetable retailer, purchases $1,100 of produce for his store from a wholesaler using his credit card. The wholesaler imposes a surcharge of 2% on the price if payment is made by credit card.*

18. *When Chris pays the wholesaler using his credit card, the wholesaler imposes a surcharge of $22. The price of the fruit and vegetables is $1,122, as the $22 surcharge forms part of the consideration for the fruit and vegetables. The surcharge has a sufficient nexus with the supply of the fruit and vegetables to be regarded as being paid for the supply. No GST is imposed because the supply of the fruit and vegetables is GST-free under section 38-2.*

***Example 4: Credit card surcharge – apportionment***

19. *Ben enrols in 3 college subjects. One of the subjects is a taxable supply under section 9-5 and the other 2 subjects are GST-free under section 38-85. The college charges $1,000 (inclusive of GST) for the taxable subject, $800 for one GST-free subject and $700 for the other. The total amount payable by Ben is $2,500.*

20. *The college imposes a surcharge of 4% if payment is made using a credit card. Ben pays for the subjects using his credit card and the college imposes a surcharge of $100. The $100 forms part of the consideration for the mixed supply, increasing the price of the supply to $2,600. The surcharge has a sufficient nexus with the supply of the subjects to be regarded as being paid for the supply.*

21. *The college is required to allocate part of the $100 surcharge to the taxable supply. It would be fair and reasonable for the college to allocate $40 from the $100 surcharge to the taxable supply on the following basis:*

$$\frac{1{,}000}{2{,}500} \times 100 = 40$$

***Example 5: Credit card surcharge – incurred after supply***

22. *Stephanie acquires $220 worth of paper supplies for her business from her newsagent, who allows Stephanie 30 days to pay her account before imposing late payment fees. The supply of the paper by the newsagent is a taxable supply under section 9-5 and the acquisition by Stephanie is a creditable acquisition under section 11-5. The newsagent imposes a surcharge of 2% of the price if payment is made using a credit card.*

23. *Ten days later, Stephanie pays her account with her newsagent using her credit card. The newsagent imposes a surcharge of $4.40, being 2% of $220. The surcharge has a sufficient nexus with the supply of the paper to be regarded as being paid for the supply.*

24. *As the total consideration for the supply of the paper is $224.40, the newsagent has a GST liability of $20.40 and Stephanie is entitled to an input tax credit of $20.40.*[4]

25. *However, if Stephanie had paid her account after the 30-day period had expired and incurred a late payment fee, the newsagent would have made an input taxed supply of an interest in or under a credit arrangement to Stephanie.*[5] *If Stephanie paid both the $220 and the additional late payment fee using her credit card and incurred the credit card surcharge, a portion of the surcharge will also have a sufficient nexus to be regarded as being paid for the input taxed supply of the interest in or under the credit arrangement. The newsagent can use any fair and reasonable method to apportion the surcharge between the supplies.*

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[4] The change in consideration would result in an increasing adjustment to the newsagent under section 19-50 if the newsagent had attributed the GST to an earlier tax period. It would have also resulted in a decreasing adjustment under section 19-85 to Stephanie if she had attributed the input tax credit to an earlier tax period.

[5] Under section 40-5 of the GST Act, and subsection 40-5.09(1) ~~subregulation 40-5.09(1)~~and table item 2 of subsection 40-5.09(3)~~subregulation 40-5.09(3)~~ of the GST Regulations.

### Credit card surcharge on payment of taxes, fees or charges subject to Division 81

26. A credit card surcharge imposed on a customer in respect of a credit card transaction used for the payment, or the discharging of a liability to make a payment, of an Australian tax or an Australian fee or charge subject to Division 81 has the same treatment under Division 81 as the payment of the tax, fee or charge in question.

#### *Example 6: Payment for an Australian fee or charge subject to Division 81*

27. *Jenny obtains a drivers licence from the relevant State government agency for a fee of $100. The agency also imposes an additional 2% credit card surcharge for customers who pay using a credit card. When Jenny uses her credit card to pay for the licence, the agency charges Jenny $102.*

28. *Under subsections 81-10(1) and (4), the fee for the drivers licence is an Australian fee or charge that is not the provision of consideration. As the credit card surcharge of $2 was incurred in paying, or discharging the liability to make a payment of, an Australian fee or charge, it has the same treatment under Division 81 as the payment of the fee or charge and is therefore also not consideration for a supply.*

### Debit card surcharge – where no ATM service

#### *Debit card surcharge – purchase of goods or services*

29. A debit card surcharge imposed by the merchant on a customer for a debit card transaction forms part of the consideration for the supply of goods or services made by the merchant. There is a sufficient nexus between the surcharge paid by the customer and the supply of goods or services made by the merchant for the surcharge to be regarded as being paid for the supply in question.

30. The debit card surcharge forms part of the consideration for a taxable, input taxed or GST-free supply depending on the GST treatment of the supply of the goods or services in question. Where a surcharge is imposed on payment for more than one supply, the merchant can use any fair and reasonable method to apportion the surcharge to the respective supplies of goods or services.

31. Where a customer uses a debit card to satisfy an outstanding liability for a supply of goods or services and incurs a debit card surcharge, the surcharge is additional consideration for the supply of goods or services. The change in consideration is an adjustment event under paragraph 19-10(1)(b), which may cause an increasing adjustment under section 19-50 to the merchant and a decreasing

adjustment under section 19-85 to the customer in certain circumstances.[6]

32. Where an amount is required to be paid by a specified date, and an additional fee or charge becomes payable if the amount is not paid by that date, the additional charge is consideration for the supply of an interest in or under a credit arrangement. It therefore forms consideration for an input taxed financial supply.[7]

33. Where the customer incurs a debit card surcharge when paying both the liability for the goods or services and the additional fee or charge ~~under~~ for the credit arrangement, the merchant can use any fair and reasonable method to apportion the surcharge between the supplies.

33A. For the purposes of this Ruling, any reference to debit card surcharges also applies to prepaid card surcharges.[7A]

***Example 7: Debit card surcharge and purchase of goods***

34. *Grace purchases a toaster using her debit card. The price tag states that the toaster is $88 (GST inclusive). A sign at the store's counter states that all debit card transactions incur a $2 surcharge.*

35. *When Grace pays for the toaster using her debit card, the merchant imposes a surcharge of $2 for the sale. The price of the toaster is $90, as the $2 surcharge forms part of the consideration for the toaster. The surcharge has a sufficient nexus with the supply of the toaster to be regarded as being paid for the supply. The supply of the toaster is a taxable supply under section 9-5. The GST payable in respect of the sale is $8.18, being one-eleventh of the GST-inclusive price of $90.*

***Debit card surcharge – withdrawal of cash***

36. A merchant who imposes a surcharge on a customer for withdrawing cash through a debit card transaction, where that is not an ATM service, makes a taxable supply under section 9-5. The merchant is supplying the customer with the service of accessing the

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[6] This will depend on whether the supply made by the merchant was a taxable supply under section 9-5 with GST being attributed to an earlier tax period and whether the acquisition by the customer was a creditable acquisition under section 11-5 with an input tax credit being attributed to an earlier tax period.

[7] Under section 40-5 of the GST Act and subsection 40-5.09(1) ~~subregulation 40-5.09(1)~~ and table item 2 of subsection 40-5.09(3)~~subregulation 40-5.09(3)~~ of the GST Regulations.

[7A] The RBA has separately designated prepaid card payment systems, for example, EFTPOS, Mastercard and Visa Prepaid. See Designation No 3 of 2015, Designation No 4 of 2015 and Designation No 5 of 2015, made under subsection 11(1) of the *Payment Systems (Regulation) Act 1998*. The same surcharging rules that apply to debit cards apply to prepaid cards – see Standard No. 3 of 2016 Scheme Rules Relating to Merchant Pricing for Credit, Debit and Prepaid Card Transactions, made under section 18 of *the Payment Systems (Regulation) Act 1998*.

relevant payment system through the use of the terminal to authorise the transaction.[8]

***Example 8: Debit card surcharge and withdrawal of cash***

37. *Steve withdraws $100 from his savings account using his debit card at a bar. Steve must request a staff member to initiate and process the cash withdrawal transaction. To process the request, the bar staff member uses an EFTPOS device that is primarily used to process payments for purchases made at the bar. Once the transaction is authorised, the staff member removes the $100 from the cash register and hands it over the bar to Steve. The EFTPOS device and cash register are not an ATM and the supply of the service is not an ATM service. The merchant advises Steve that there is a $2 surcharge to use the debit card facility. The surcharge has a sufficient nexus with the service supplied to Steve of accessing the relevant payment system to be regarded as being paid for the supply. The merchant makes a taxable supply for which it is liable for GST of $0.18.*

***Debit card surcharge – purchase and withdrawal of cash***

38. A fixed debit card surcharge imposed by a merchant on a customer in respect of a debit card transaction that includes both a supply of goods or services and a cash withdrawal forms part of the consideration for the supply of the goods or services.

39. The surcharge has a sufficient nexus with the supply of the goods or services to be regarded as being paid for that supply. It does not have a sufficient nexus with the supply of the service to access the relevant payment system through the use of the terminal to authorise the transaction. This is because the surcharge is not increased if the customer exercises the option to make a cash withdrawal at the time of acquiring the goods or services.

40. A debit card surcharge forms part of the consideration for both the supply of goods or services and the service of accessing the relevant payment system where the surcharge is calculated as a percentage of the listed price[9] of the goods or services and the amount of cash withdrawn. This is because the surcharge has a sufficient nexus with all of the supplies made by the merchant to the customer. The merchant may allocate the debit card surcharge to the different supplies using any fair and reasonable method of apportionment.

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[8] This service of accessing the relevant payment system is not a supply covered by table item 6(b) of ~~the table in subregulation 70-5.02(2)~~ subsection 70-5.02(2) of the GST Regulations concerning reduced credit acquisitions. See paragraphs 244 to 254 of Goods and Services Tax Ruling GSTR 2004/1 *Goods and services tax: reduced credit acquisitions*.

[9] In this context, the listed price of the goods or services excludes the debit card surcharge.

***Example 9: Debit card surcharge – fixed amount***

41. *Joanne purchases meat from a shop with a displayed price of $20. A sign at the store's counter states that all debit card transactions incur a flat $2 surcharge.*

42. *While paying for the meat using her debit card, the merchant offers Joanne an option to also withdraw cash as part of the transaction. Joanne chooses to withdraw $50.*

43. *When Joanne pays for the meat and withdraws $50 cash using her debit card the merchant imposes a surcharge of $2.*

44. *The price of the meat is $22, as the $2 surcharge forms part of the consideration for the supply. The surcharge has a sufficient nexus with the supply of the meat to be regarded as being paid for ~~the~~ that supply alone. It does not have a sufficient nexus with the supply of the service to access the relevant payment system, as the surcharge remains the same regardless of whether Joanne exercises the option to make a cash withdrawal. No GST is imposed because the supply of the meat is GST-free under section 38-2.*

***Example 10: Debit card surcharge – percentage***

45. *Assume the same facts as for Example 9 of this Ruling, except that the merchant charges a surcharge calculated as 1.5% of the combined price of the meat and amount of the cash withdrawal. In addition, Joanne must request a staff member to initiate and process the payment and cash withdrawal transaction. To process the request, the staff member uses an EFTPOS device that is primarily used to process payments for purchases made at the shop. Once the transaction is authorised, the staff member removes the cash from the cash register and hands it over the counter to Joanne. The EFTPOS device and cash register are not an ATM and the supply of the service is not an ATM service.*

46. *When Joanne pays for the meat and withdraws $50 cash using her debit card, the merchant imposes a surcharge of $1.05 (being 1.5% of $70).The surcharge has a sufficient nexus with both the supply of the meat and the supply of the service to access the relevant payment system as, under the arrangement, the calculation of the surcharge is directly impacted by both the price of the meat and the amount of the cash withdrawal.*

47. *It would be fair and reasonable for the merchant to allocate $0.75 from the $1.05 debit card surcharge to the taxable supply of the service of accessing the relevant payment system through the use of the terminal to make a cash withdrawal on the following basis:*

$$\frac{50}{70} \times 1.05 = 0.75$$

## Date of effect

48. When the final Ruling is issued, it is proposed to apply both before and after its date of issue. However, this Ruling will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10 *Public Rulings*).

49. [Omitted.] ~~However, taxpayers can rely on the former description of an 'Automatic Teller Machine (ATM)' contained in the Glossary of Terms set out in Schedule 1 of Goods and Services Tax Ruling GSTR 2002/2 *Goods and services tax: GST treatment of financial supplies and related supplies and acquisitions* for the purposes of this Ruling for periods prior to its date of issue.~~

49A. Changes made to this Ruling by the addendum that issues will be incorporated into the consolidated version of the Ruling.

**Commissioner of Taxation**
4 September 2024

# Appendix 1 – Explanation

- ***This Appendix is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the proposed binding public ruling.***

### ATM services

50. ~~Subregulation 40-5.09(4A)~~Subsection 40-5.09(5) of the GST Regulations provides that a supply by an entity for a fee of not more than $1,000 is a financial supply if it is a supply of one or more of the following ATM services:

- a withdrawal from an account
- a deposit into an account
- an electronic transfer from an account
- advice of the balance of an account.

51. The term 'ATM services' in ~~subregulation 40-5.09(4A)~~subsection 40-5.09(5) of the GST Regulations is not defined. Combining the term 'ATM' with the word 'services' restricts the listed services to those performed through the use of an ATM.

51A. The term 'ATM' is defined in the GST Regulations to mean 'automatic teller machine'. Consistent with *Banktech,* 'ATM' has its ordinary meaning.

52. [Omitted.] ~~Under section 11 of the *Payment Systems (Regulation) Act 1998*, the RBA has designated the ATM system as a payment system operated within Australia. The ATM system is a funds transfer system utilising automatic teller machines and is governed by the set of rules set out in the CECS Manual. The ATM system allows a person to use an ATM card to withdraw cash or obtain other services from automatic teller machines.~~

53. [Omitted.] ~~The terms 'ATM' and 'ATM transaction' are defined in the CECS Manual as:"~~**ATM**~~" means an approved electronic device capable of automatically dispensing Cash in response to a *Cash withdrawal* Transaction initiated by a Cardholder. Other Transactions (initiated by a debit card) such as funds transfers, deposits and balance enquiries may also be supported. The device must accept either magnetic stripe Cards or smart (chip) Cards where Transactions are initiated by the Cardholder keying in a Personal Identification Number (PIN). Limited service devices (known as 'Cash dispensers') that only allow for Cash withdrawal are included.~~

54. [Omitted.] ~~As the term 'ATM services' is not defined in the GST Regulations, it takes the industry meaning of the term 'ATM' as set out in the CECS Manual.~~

[10] [Omitted.]~~See Designation No 1 of 2008 under the *Payment Systems (Regulation) Act 1998*.~~

55. [Omitted.] In *Customs, Collector of v Agfa-Gevaert Ltd*, the High Court observed that, when construing revenue statutes that use trade or technical terms, the law generally favours interpretation of the terms as they are understood in the trade to which the statute applies. This was applied in *P & N Beverages Australia v. Federal Commissioner of Taxation*, where the Supreme Court stated at [10] that:Since *A New Tax System (Goods and Services Tax) Act 1999* (Cth) is directed to persons who supply goods and services in the course of commerce, many exemption items employ technical terms that are framed by reference to trade usage, as Hill J observed in *Pepsi Seven-Up Bottlers Perth Pty Ltd v Federal Commissioner of Taxation* [1995] FCA 1655; (1995) 62 FCR 289 at 295. An interpretation of such terms as they are understood in the relevant trade is to be preferred, as was observed by the High Court in *Collector of Customs v Agfa-Gevaert Ltd* (1995-1996) 186 CLR 389 at 398

56. [Omitted.] The industry meaning of the term 'ATM' is consistent with statements made in the Explanatory Statement to the *A New Tax System (Goods and Services Tax) Amendment Regulations 2009 (No. 1)*, which discusses the introduction of what is now subregulation 40-5.09(4A) of the GST Regulations. The Explanatory Statement refers to the need for the amendment arising from the RBA introducing rules permitting ATM providers to charge users directly when they make use of the providers' ATMs. The reference in the Explanatory Statement to the rules introduced by the RBA supports 'ATM' in subsection 40-5.09(5)subregulation 40-5.09(4A) taking its industry meaning.

57. [Omitted.] This approach is broadly consistent with comments by Rares J in *Westpac Banking Corporation v. Australian Securities & Investments Commission* . In considering differences between particular types of debit cards, the judge discussed ATMs by reference to the Australian ATM system and the regulatory and standards framework administered by the Australian Payments Clearing Association Ltd.

58. Accordingly, a fee imposed for an ATM service listed in subsection 40-5.09(5)subregulation 40-5.09(4A) of the GST Regulations is consideration for an input taxed supply.

59. A facility, machine or device used to access a payment system other than the ATM system (for example, the payment system designated by the RBA as the EFTPOS system) is not, by reason of the payment system alone, precluded from being used to provide an ATM service under subsection 40-5.09(5)subregulation 40-5.09(4A).

59A. In *Banktech*, the Administrative Appeals Tribunal considered whether the term 'ATM services' possesses a specialist, technical or trade meaning or has its ordinary meaning.

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[11] [Omitted.][1996] HCA 36(1996) 186 CLR 389; (1996) 35 ATR 249; 96 ATC 5240.
[12] [Omitted.](1996) 186 CLR 389 at [398].
[13] [Omitted.][2007] NSWSC 338; 2007 ATC 4481; (2007) 65 ATR 391.
[14] [Omitted.][2009] FCA 1506 at [2 – 13].
[15] [Omitted.]The Australian Payments Clearing Association Limited administers the CECS Manual.

59B. The Tribunal determined that the expression 'ATM services' was a composite expression to be construed in accordance with its ordinary meaning.[15A]

59C. In considering the ordinary meaning of 'ATM service', the Tribunal had regard to the Tribunal Member's personal experience of ATMs, the dictionary meaning of 'ATM service', the definition of 'ATM' and 'ATM transactions' submitted by the applicant, the function of the equipment and the description of the equipment used by the applicant.[15B]

59D. The Tribunal concluded that the expression 'automatic teller machine service' itself suggests its ordinary meaning: services that a teller might have provided but which are provided in an automated way through a machine.[15C] That is, an ATM provides those services automatically, without any human intervention other than that of the cardholder.

59E. Though not the focus of the Tribunal because of the particular facts, a threshold requirement for a device to meet the ordinary meaning of ATM is that its primary purpose and function is to provide banking facilities. This is consistent with *Banktech* where the Tribunal observed at [115] that an ATM provides services in an automated way, without human intervention other than by the account holder, that a bank *teller* might have provided. This is also consistent with the dictionary meaning of ATM considered by the Tribunal, which refers to 'basic banking facilities', (see [116] and [117]) and the Tribunal's references to bank accounts and bank systems (for example, see [61], [87] and [90]).

59F. In determining that the supplies made through the cash dispensing equipment did not constitute 'ATM services', the Tribunal noted the following characteristics of the equipment[15D]:

- Venue staff intervention was required to operate the equipment, contrary to the 'automatic' dimension of ATMs.
- The equipment comprised multiple components, some located up to 25 metres apart, contrary to the common understanding that an ATM is operated as a single unit.
- The equipment was not marketed as an ATM.

59G. The cash dispensing equipment in *Banktech* utilised the EFTPOS payment system, not the ATM payment system, to execute cardholder transactions. The Tribunal observed at [94] that there was an undisputed distinction between the ATM and EFTPOS payment systems, but this didn't mean that 'ATMs' were restricted to devices operating on the ATM payment system for the purposes of the GST Regulations. The Tribunal at [112] considered that none of the

[15A] *Banktech* at [99] and [109].
[15B] *Banktech* at [110–111].
[15C] *Banktech* at [115].
[15D] *Banktech* at [21].

following features of a cash withdrawal, in isolation, prevented the cash withdrawal service from being characterised as an ATM service:

- unavailability of other services, such as account balances
- use of the term 'surcharge' for the fee
- use of the EFTPOS network
- messaging format
- description of the service as an EFTPOS cashout service.

59H. It follows that while 'ATM' does not take on a technical meaning, we consider the ordinary meaning is materially influenced by how the requirements of the respective payment systems give rise to the type of differences that the Tribunal referred to in characterising the particular arrangement in *Banktech*. For example, key features such as levels of automation, physical characteristics, marketing and cardholders' experience (*Banktech* at [114]) of what type of devices they are using are influenced by the underlying payment system. Further, while the description of the service as an EFTPOS cashout service was considered in isolation not to be determinative, this description by the supplier and its marketing of the service as an EFTPOS cashout was relevant to the marketing factor set out by the Tribunal.

59I. As such, while the factors in paragraph 59G of this Ruling which distinguish devices that use the EFTPOS system from those that use the ATM payment system are not of themselves determinative, they remain facts and circumstances to be taken into account when weighing the various factors.

59J. While the Tribunal observations in *Banktech* at [94] and [112] make it clear that a device using the EFTPOS payment system doesn't prevent a device being an ATM, the Tribunal didn't directly address if a device that was using the ATM payment system might not be an ATM. Having regard to the factors in paragraph 59G of this Ruling, we accept that a self-contained device will be characterised as an ATM where the device:

- allows the cardholder to perform the relevant transaction in relation to their account
- doesn't require non-cardholder human intervention, and
- utilises the ATM payment system.

**Credit card surcharge – where no ATM service**

60A. Paragraphs 60 to 91 of this Ruling regarding credit card surcharges and debit card surcharges does not relate to ATMs or ATM services. When this part of this Ruling deals with transactions that involve a withdrawal of cash, it proceeds on the basis that the relevant device has been assessed and determined to not be an ATM, and the supply is not an ATM service. Whether a device satisfies the ordinary meaning of ATM (and whether the relevant services constitute ATM services) is determined with regard to paragraphs 3 to 7N of this Ruling.

60. A customer acquiring goods or services from a merchant provides consideration for the acquisition by tendering their credit card to the merchant, or providing their credit card details to the merchant, and having the transaction authorised.[16]

61. Merchants who accept credit cards as payment of goods or services are able to charge a surcharge to recover certain credit card acceptance costs.[17]

62. For a credit card surcharge to be consideration for a supply[18], there must be a sufficient nexus between the surcharge paid by the customer and a supply made by the merchant. A credit card surcharge is consideration for a supply if the payment is 'in connection with', 'in response to' or 'for the inducement of' a supply. The test is an objective one.[19]

63. Further, in identifying the character of the connection, the word 'for' ensures that not every connection between supply and consideration meets the requirements for a taxable supply. That is, merely having any form of connection of any character between a supply and payment of consideration may not be sufficient to constitute a taxable supply[20].

64. In *Waverley Council and Commissioner of Taxation*[21] *(Waverley Council),* the Administrative Appeals Tribunal considered the GST treatment of an administration fee payable by a customer to the Waverley Council when the customer used a credit card to pay fees or charges to the Council. The Tribunal stated at [42]:

> The question comes down to one of characterising the credit card administration fee – either as a stand-alone fee in itself, or as part of the "underlying" tax, fee or charge that the credit card is being used to pay. We think that the fee is correctly characterised as part of the

[16] See paragraphs 30 to 31 of Goods and Services Tax Ruling GSTR 2003/12 *Goods and services tax: when consideration is provided and received for various payment instruments and other methods of payment*.
[17] See Standard No. 3 of 2016 Scheme Rules Relating to Merchant Pricing for Credit, Debit and Prepaid Card Transactions~~Standard No. 2, Merchant Pricing for Credit Card Purchases (MasterCard System) and Standard No. 2, Merchant Pricing for Credit Card Purchases (VISA System)~~, made under section 18 of the *Payment Systems (Regulation) Act 1998*.
[18] Paragraph 9-5(a).
[19] See also Goods and Services Tax Ruling GSTR 2012/2 *Goods and services tax: financial assistance payments* and Goods and Services Tax Ruling GSTR 2001/8 *Goods and services tax: non-monetary consideration*.
[20] *AP Group Limited v. Commissioner of Taxation* [2013] FCAFC 105 at [33].
[21] [2009] AATA 442.

fee for the underlying supply. The person procuring the supply is buying, for example, a parking permit. There is one payment. In a practical sense there is one supply.

65. A credit card surcharge imposed by a merchant on a customer for a credit card transaction forms part of the consideration for the supply of the goods or services made by the merchant. There is a sufficient nexus between the surcharge paid by the customer and the supply made by the merchant for the surcharge to be regarded as being paid for the supply.

66. The credit card surcharge forms part of the consideration for a taxable, input taxed or GST-free supply depending on the GST treatment of the supply of the goods or services in question. Where a surcharge is imposed on payment for more than one supply, the merchant can use any fair and reasonable method to apportion the surcharge to the respective supplies of goods or services.[22]

67. Practical issues may arise where a merchant needs to apportion a credit card surcharge between supplies of different characters. These issues can similarly concern a merchant seeking to apportion debit card surcharges (see paragraphs 88 to 91 of this Ruling). We will consider any fair and reasonable approaches ~~that reduce compliance costs~~.

68. An entity may act as an agent for a third party that supplies goods or services to the customer, but make a separate supply to the customer of processing the transaction including accessing the relevant payment system to authorise the transaction. Where the entity imposes a credit card surcharge for the processing service, the surcharge has a sufficient nexus with the supply of the service to be regarded as being paid for that supply. The credit card surcharge does not form part of the consideration for the supply of the goods or services made by the third party.

69. Where a customer uses a credit card to satisfy an outstanding liability for a prior supply of goods or services and incurs a credit card surcharge, the surcharge is additional consideration for the supply of goods or services. The change in consideration is an adjustment event under paragraph 19-10(1)(b), which may cause an increasing adjustment under section 19-50 to the merchant and a decreasing adjustment under section 19-85 to the customer in certain circumstances.[23]

70. Where an amount is required to be paid by a specified date, and an additional fee or charge becomes payable if the amount is not paid by that date, the additional fee or charge is consideration for the

[22] See GSTR 2001/8.

[23] This will depend on whether the supply made by the merchant was a taxable supply under section 9-5 with GST being attributed to an earlier tax period and whether the acquisition by the customer was a creditable acquisition under section 11-5 with an input tax credit being attributed to an earlier tax period.

supply of an interest in or under a credit arrangement. It is therefore consideration for an input taxed financial supply.[24]

71. Where the customer incurs a credit card surcharge when paying for both the goods or services and the additional fee or charge under the credit arrangement, the merchant can use any fair and reasonable method to apportion the surcharge between the supplies.

### *Credit card surcharge on payment of taxes, fees or charges subject to Division 81*

72. Division 81 provides rules as to when a payment, or the discharging of a liability, is consideration for a supply to the extent that the payment is an Australian tax, or an Australian fee or charge.

73. When a person pays an Australian tax, or an Australian fee or charge by credit card and incurs a credit card surcharge, the surcharge is a payment incurred by the person in discharging the liability to pay the Australian tax, or Australian fee or charge. Depending on the facts, the credit card surcharge may be characterised as forming part of an Australian fee or charge.

74. Consistent with the approach taken in *Waverley Council*, a credit card surcharge imposed on a person in both circumstances has the same treatment under Division 81 as the payment of the tax, fee or charge.

## Debit card surcharge – where no ATM service

75. Merchants who accept debit cards as payment of goods or services are able to charge a surcharge to recover debit card acceptance costs. The debit card payment systems include the EFTPOS system, the Visa Debit system and the MasterCard Debit system.

### *EFTPOS system*

76. Under section 11 of the *Payment Systems (Regulation) Act 1998*, the RBA has designated the EFTPOS system as a payment system operated within Australia.[25] The EFTPOS system is the electronic funds transfer system governed by the EFTPOS Scheme Rules[26] promulgated under the constitution of EFTPOS Payments Australia Limited and any schedule, document, specification or rule published by EFTPOS Payments Australia Limited pursuant to those EFTPOS Scheme Rules.[27]

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[24] Under section 40-5, ~~subregulation~~ subsection 40-5.09(1) and table item 2 of ~~subregulation~~ subsection 40-5.09(3) of the GST Regulations. See paragraphs 29 to 32 of Goods and Services Tax Ruling GSTR 2000/19 *Goods and services tax: making adjustments under Division 19 for adjustment events*.

[25] See Designation No 1 of 2012 under the *Payment Systems (Regulation) Act 1998*.

[26] EFTPOS Scheme Rules version ~~2.0~~V3.11 (effective ~~14 April 2013~~27 April 2021).

[27] Designation No 1 of 2012 under the *Payment Systems (Regulation) Act 1998*.

77. The EFTPOS Scheme Rules provide that an EFTPOS transaction is an electronic funds transfer that:

- involves an EFTPOS issuer and an EFTPOS acquirer
- is processed via an Interchange Link or processing infrastructure owned or operated by, or on behalf of, EFTPOS Payments Limited Australia, or a combination of both of these, and
- is one of the transaction types described in ~~clause 20.1~~clause 22.1 of the EFTPOS Scheme Rules.[28]

78. ~~Clause 20.1~~Clause 22.1 of the EFTPOS Scheme Rules includes what is called a cashout transaction. In a transaction of this kind, the Acquirer Member[29] (on behalf of the merchant) obtains authorisation from the Issuer Member[30] to complete an EFTPOS ~~Cardholder~~ consumer-initiated cashout request at an EFTPOS terminal.[31]

79. Under ~~clause 22.3~~clause 24.3 of the EFTPOS Scheme Rules, a merchant is permitted to surcharge an EFTPOS transaction. Merchants who accept EFTPOS debit cards as payment of goods or services are able to charge a surcharge to recover certain debit card acceptance costs.[31A]

### *Visa Debit system and Debit MasterCard system*

80. Under section 11 of the *Payment Systems (Regulation) Act 1998*, the RBA has designated both the Visa Debit system and Debit MasterCard as payment systems operated within Australia.[32] Merchants who accept Visa Debit or Debit MasterCard debit cards as payment of goods or services are able to charge a surcharge to recover ~~A merchant is not prohibited from charging a surcharge to recover part or **all** of the reasonable cost~~certain ~~of it accepting a~~ debit ~~Visa Debit~~ card acceptance costs.[33]

81. [Omitted.]

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[28] Schedule 1 of the EFTPOS Scheme Rules.
[29] The entity that acquires the EFTPOS transactions – see Schedule 1 of the EFTPOS Scheme Rules.
[30] The entity which gives the EFTPOS cardholder the ability to initiate the EFTPOS transactions – see Schedule 1 of the EFTPOS Scheme Rules.
[31] See the definition of 'cashout' in Schedule 1 of the EFTPOS Scheme Rules.
[31A] See Standard No. 3 of 2016 Scheme Rules Relation to Merchant Pricing for Credit, Debit and Prepaid Card Transactions, made under section 18 of the *Payment Systems (Regulation) Act 1998*.
[32] See Designation of Payment Systems dated 18 February 2004 for Visa debit and Designation No. 2 of 2015 for Debit MasterCard, made under subsection 11(1) of the *Payment Systems (Regulation) Act 1998*.
[33] Under Standard No. 3 of 2016 Scheme Rules Relating to Merchant Pricing for Credit, Debit and Prepaid Card Transactions ~~paragraph 9 of The 'Honour All Cards' Rule in the Visa Debit and Visa Credit Systems and the 'No Surcharge' Rule in the Visa Debit System Standard~~, made by the RBA under section 18 of the *Payment Systems (Regulation) Act 1998*.
[34] [Omitted.]

### *Debit card surcharge – purchase of goods or services*

82. A debit card surcharge imposed by the merchant on a customer for a debit card transaction forms part of the consideration for the supply of goods or services made by the merchant. There is a sufficient nexus between the surcharge paid by the customer and the supply made by the merchant for the surcharge to be regarded as being paid for the supply in question. This view is consistent with the approach taken in *Waverley Council*.[35]

83. The debit card surcharge forms part of the consideration for the taxable, GST-free or input taxed supply depending on the GST treatment of the supply of the goods or services in question. Where a surcharge is imposed on payment for more than one supply, the merchant can use any fair and reasonable method to apportion the surcharge to the respective supplies of goods or services.[36]

84. Where a customer uses a debit card to satisfy an outstanding liability for a supply of goods or services and incurs a debit card surcharge, the surcharge is additional consideration for the supply of goods or services. The change in consideration is an adjustment event under paragraph 19-10(1)(b) which may cause an increasing adjustment under section 19-50 to the merchant and a decreasing adjustment under section 19-85 to the customer in certain circumstances.[37]

85. Where an amount is required to be paid by a specified date, and an additional fee or charge becomes payable if the amount is not paid by that date, the additional fee or charge is consideration for the supply of an interest in or under a credit arrangement. It therefore forms consideration for an input taxed financial supply.[38]

86. Where the customer incurs a debit card surcharge when paying for both the goods or services and the additional fee or charge under the credit arrangement, the merchant can use any fair and reasonable method to apportion the surcharge between the supplies.

### *Debit card surcharge – withdrawal of cash*

87. A merchant who imposes a surcharge on a customer for withdrawing cash under a debit card transaction makes a taxable supply under section 9-5. The merchant is supplying the customer with the service of accessing the relevant payment system through the use of the terminal to authorise the transaction.[39]

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[35] See paragraph 64 of this Ruling.
[36] See GSTR 2001/8.
[37] This will depend on whether the supply made by the merchant was a taxable supply under section 9-5 with GST being attributed to an earlier tax period and whether the acquisition by the customer was a creditable acquisition under section 11-5 with an input tax credit being attributed to an earlier tax period.
[38] Under section 40-5 of the GST Act and ~~subregulation~~ subsection 40-5.09(1) and table item 2 of ~~subregulation~~ subsection 40-5.09(3) of the GST Regulations.
[39] This service of accessing the relevant payment system is not a supply covered by table item 6(b) of ~~the table in subregulation~~ subsection 70-5.02(2) of the GST Regulations concerning the reduced credit acquisitions. See paragraphs 244 to 254 of GSTR 2004/1.

### *Debit card surcharge – purchase and withdrawal of cash*

88. A fixed debit card surcharge imposed by a merchant on a customer in respect of a debit card transaction that includes both a supply of goods or services and a cash withdrawal forms part of the consideration for the supply of the goods or services.

89. The surcharge has a sufficient nexus with the supply of the goods or services to be regarded as being paid for that supply. It does not have a sufficient nexus with the supply of the service to access the relevant payment system through the use of the terminal to authorise the transaction. This is because the surcharge is not increased if the customer exercises the option to make a cash withdrawal at the time of acquiring the goods or services.

90. A debit card surcharge forms part of the consideration for both the supply of goods or services and the service of accessing the relevant payment system through the use of the terminal to make a cash withdrawal where the surcharge is calculated as a percentage of the listed price[40] of the goods or services and the amount of cash withdrawn. This is because the surcharge has a sufficient nexus with all of the supplies made by the merchant to the customer.

91. The merchant may allocate the debit card surcharge to the different supplies using any fair and reasonable method of apportionment.[41]

[40] In this context, the listed price of the goods or services excludes the debit card surcharge.
[41] See GSTR 2001/8.

# Appendix 2 – Detailed contents list

92. The following is a detailed contents list for this Ruling:

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# Appendix 3 – Your comments

93. You are invited to comment on this draft update including the proposed date of effect of changes. Please forward your comments to the contact officer by the due date.

94. A compendium of comments is prepared when finalising this Ruling, and an edited version (names and identifying information removed) is published to the Legal database on ato.gov.au

Please advise if you do not want your comments included in the edited version of the compendium.

Due date: 18 October 2024

Contact officer details have been removed following publication of the final ruling.

# References

*Previous draft:*

GSTR 2014/D2
GSTR 2014/2DC1

*Related Rulings/Determinations:*

TR 2006/10; GSTR 2000/19; GSTR 2001/8; GSTR 2002/2; GSTR 2003/12; GSTR 2004/1; GSTR 2012/2

*Legislative references:*

- ANTS(GST)A 9-5
- ANTS(GST)A 9-5(a)
- ANTS(GST)A 11-5
- ANTS(GST)A 19-10(1)(b)
- ANTS(GST)A 19-50
- ANTS(GST)A 19-85
- ANTS(GST)A 38-2
- ANTS(GST)A 38-85
- ANTS(GST)A 40-5
- ANTS(GST)A Div 81
- ANTS(GST)A 81-10(1)
- ANTS(GST)A 81-10(4)
- ANTS(GST)R 2019 40-5.09(1)
- ANTS(GST)R 2019 40-5.09(3)
- ANTS(GST)R 2019 40-5.09(5)
- ANTS(GST)R 2019 70-5.02(2)
- Payment Systems (Regulation) Act 1998 11
- Payment Systems (Regulation) Act 1998 18

*Case references:*

- AP Group Limited v Commissioner of Taxation [2013] FCAFC 105; 214 FCR 301; 2013 ATC 20-417
- Banktech Group Pty Ltd and Commissioner of Taxation [2023] AATA 3850; 2023 ATC 10-697
- Waverley Council and Commissioner of Taxation [2009] AATA 442; 2009 ATC 10-095; 73 ATR 243

*Other references:*

- Designation of Payments Systems dated 18 February 2004
- Designation No. 1 of 2012 under the Payment Systems (Regulation) Act 1998
- Designation No. 2 of 2015 under the Payment Systems (Regulation) Act 1998
- Designation No. 3 of 2015 under the Payment Systems (Regulation) Act 1998
- Designation No. 4 of 2015 under the Payment Systems (Regulation) Act 1998
- Designation No. 5 of 2015 under the Payment Systems (Regulation) Act 1998
- EFTPOS Scheme Rules
- Standard No. 3 of 2016 Scheme Rules Relating to Merchant Pricing for Credit, Debit and Prepaid Card Transactions

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