


***GSTD 2000/D1 - Goods and Services Tax: what does the word 'premises' mean in the expression, 'a supply of food for consumption on the premises from which it is supplied'?***

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This document has been finalised.

## Draft Goods and Services Tax Determination

### **Goods and Services Tax: what does the word ‘premises’ mean in the expression, ‘a supply of food for consumption on the premises from which it is supplied’?**

#### *Preamble*

*Draft Goods and Services Taxation Determinations (DGSTDs) present the preliminary, though considered, views of the Australian Taxation Office. DGSTDs should not be relied on; only final Goods and Services Taxation Determinations represent authoritative statements by the Australian Taxation Office.*

1. The ordinary meaning of the word ‘premises’ is widened by the definition in section 38-5 of the *A New Tax System (Goods and Services Tax) Act 1999*. Section 38-5 defines ‘premises’, in relation to a supply of food to include:

- the place where the supply takes place – for example restaurants, cafes, snack bars, hotels, clubs, reception lounges, aircraft, boats, trains, venues for catered functions or food courts where tables are supplied for customers of food retailers;
- the grounds surrounding restaurants, cafes, snack bars, hotels, clubs, reception lounges and venues for catered functions; and
- any venues, associated with leisure, sport or entertainment, with clear boundaries or limits.

2. However, premises do not include public thoroughfares unless an area has been designated for use in connection with the food supply outlet.

3. The following venues associated with leisure, sport or entertainment fit within the definition of ‘premises’ in the context of ‘a supply of food for consumption on the premises from which it is supplied’:

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|-------------------------|--------------------|
| • football grounds      | • exhibition halls |
| • other sports grounds  | • theme parks      |
| • golf courses          | • showgrounds      |
| • gyms                  | • aquariums        |
| • ice-skating rinks     | • galleries        |
| • motor racing circuits | • gardens          |

- racecourses
- swimming pools
- tennis centres
- ten pin bowling alleys
- air-show venues
- amusement parks/arcades
- museums
- zoos
- cinemas
- concert halls
- entertainment centres
- theatres.

4. The above venues may be used for other purposes – for example, business or trade conventions. However, the manner in which a venue is used will not affect its status as ‘premises’. If used for other purposes, the above venues are still considered to be ‘premises’.

5. With some venues it is important to determine what are the relevant premises. Some suppliers’ premises sit within larger general purpose sites. As long as the larger sites are not venues associated with leisure, sport or entertainment, it is only the suppliers’ premises that are relevant. At the following venues, the relevant premises are limited to the food supply outlet (together with any associated surrounding areas connected with the outlet):

- shops in caravan parks or camping grounds - the ‘premises’ is the shop and not the caravan park or camping ground;
- school tuckshops – the ‘premises’ is the tuckshop and not the school;
- canteens in hospitals, offices or factories – the ‘premises’ is the canteen and not the hospital, office or factory;
- cafes in shopping centres, universities or airports – the ‘premises’ is the cafe and not the shopping centre, university or airport.

### **Example 1**

6. *Megan and Scott are celebrating their 25th wedding anniversary with a party at their residence. They have hired caterers for the occasion. The residence is the premises at which food is supplied for consumption on the premises.*

### **Example 2**

7. *Jessica has a cafe and she provides seating on the footpath for her customers. The footpath is a public thoroughfare but it has a designated area connected with the cafe. The cafe, including the seating area on the footpath, is the premises at which food is supplied for consumption on the premises.*

### **Example 3**

8. *Kevin has a takeaway food shop which does not have any seating. However, there is a bus shelter on the footpath just outside his shop. Some of his customers eat their food in the bus shelter. The bus shelter is on a public thoroughfare and it is not designated for use in connection with Kevin's shop. It does not form part of the shop premises.*

### **Example 4**

9. *Andy sells cold drinks, including bottled water and fruit juice, from a portable cooler at the footy. The football ground is an enclosed sporting venue so the whole football ground is the premises at which food is supplied for consumption on the premises.*

## **Example 5**

10. Sue operates a kiosk located within the botanical gardens. The kiosk does not have its own seating area. The gardens are an enclosed leisure venue so the gardens are the premises at which food is supplied for consumption on the premises.

## **Example 6**

11. The Briscoast State School P & C Association runs a tuckshop at the school. The tuckshop does not have a designated seating area for the consumption of food. Neither the tuckshop nor the school grounds are premises at which food is supplied for consumption on the premises.

## **Example 7**

12. The Goldbane Private School P & C Association runs a tuckshop. Within the tuckshop, there is a seating area for the students to eat their lunch. The tuckshop is premises at which food is supplied for consumption on the premises.

## **Your comments**

13. We invite you to comment on this Draft GST Determination. We are allowing 2 weeks for comments before we finalise the Determination. If you want your comments considered, please provide them to us within this period.

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## **Commissioner of Taxation**

10 May 2000

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### *Previous draft:*

Not previously issued in draft form.

### *Subject references:*

- food
- food premises
- goods & services tax
- GST food
- GST free
- GST supply
- premises
- taxable supply
- taxation determinations

### *Legislative references:*

- ANTS(GST)A99 38-5
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### ATO references:

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