GSTR 2002/D3 - Goods and services tax: the GST implications of barter transactions through trade exchanges

There is an Erratum notice for this document.
This document has been finalised.

Australian Taxation Office

Draft Goods and Services Tax Ruling
Goods and services tax: the GST implications of barter transactions through trade exchanges

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Preamble

This document is a draft for industry and professional comment. As such, it represents the preliminary, though considered views of the Australian Taxation Office. This draft may not be relied on by taxation officers, taxpayers and practitioners. When officially released it will be a public ruling for the purposes of section 37 of the ***Taxation Administration Act 1953*** *and may be relied upon by any person to whom it applies.*

What this Ruling is about

1. This Ruling deals with the application of *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act) and A New Tax System (Goods and Services Tax) Regulations 1999 (the GST regulations) to transactions involving barter schemes.

2. This Ruling applies to:

- barter transactions made through barter or trade exchanges;
- supplies made by barter or trade exchanges to their members; and
- acquisition-supplies made by members to the barter or trade exchange.[1]

3. This Ruling gives guidelines on when to attribute goods and services tax (GST) payable and input tax credit (ITC) entitlements with respect to supplies and acquisitions between members of barter or trade exchanges.

4. This Ruling explains whether the supplies provided by barter or trade exchanges are financial supplies and whether they are entitled to ITCs for acquisitions relating to these supplies.

5. This Ruling deals only with:

- those barter schemes which maintain trading accounts on behalf of their members; and

[1] Where we use the expression ‘acquisition-supply’ we refer to the supply which is the acquisition of a financial interest.

- barter transactions which involve trading between members of a barter or trade exchange.

6. The examples in this Ruling relate only to transactions between registered entities that satisfy the other requirements of section 9-5 of the GST Act or regulation 40-5.09 of the GST regulations.

7. The Ruling does not deal with supplies and acquisitions made by way of barter other than those made through trade exchanges.

8. The Ruling does not deal with the circumstances in which Division 100 applies to a voucher or explain how to treat transactions in which supplies are made for consideration in the form of a voucher.

9. All legislative references in this Ruling are to the GST Act or the GST regulations unless otherwise specified.

Date of effect

10. This draft Ruling represents the preliminary, though considered, view of the Australian Taxation Office. This draft may not be relied on by taxation officers, taxpayers or practitioners. When the final Ruling is officially released, it will explain our view of the law as it applied from 1 July 2000. The final ruling will be a public ruling for the purposes of section 37 of the *Taxation Administration Act 1953* and may be relied upon, after it is issued, by any entity to whom it applies. Goods and Services Tax Ruling GSTR 1999/1 explains the GST rulings system and our view of when you can rely on our interpretation of the law in GST public and private rulings.

Context

11. Barter schemes involve entities sometimes referred to as an 'exchange', 'barter exchange' or 'trade exchange' providing services in their own right or through a manager for which the entity is compensated by the members of the scheme by way of fees.

12. The terms 'exchange', 'barter exchange' and 'trade exchange' may be used interchangeably to describe the entity that owns the barter scheme. In this Ruling, the term 'trade exchange' is used to refer to all these terms.

13. Various terms are used to refer to the medium of exchange, such as units, credits, trade dollars or barter dollars. In this Ruling, the term 'credits' is used to refer to all these terms.

14. Barter schemes generally involve a number of entities that have agreed in writing to accept credits to their membership accounts in exchange for goods, services or anything else they may supply.

15. Barter schemes vary in their degree of sophistication, from those which are community-based to larger business-oriented ones.

16. The community-based schemes are usually run on a non-profit basis and their membership may consist of individuals, businesses or other organisations.

17. The business-oriented barter schemes are run for profit and their membership is made up principally of businesses.

18. The price of the supplies that are exchanged between members of a barter scheme is normally expressed in credits. Credits are used as the medium of exchange which normally has, under the rules of the barter scheme, an equivalent value in Australian dollars.

19. The services provided by or on behalf of the trade exchange typically include:

- providing and organising a marketplace;
- matching buyers and sellers; and
- accounting for transactions between members.

20. Trade exchanges provide their members with a trading account for the purpose of recording members' transactions. The trade exchange credits or debits this account each time a member makes a sale or purchase respectively. The account is also debited for fees charged by the trade exchange to its members.

21. Some trade exchanges use electronic systems that include plastic cards held by members and paper dockets that are completed in triplicate to effect the crediting and debiting of accounts and record-keeping generally.

22. These electronic systems are similar to those used in credit card systems. Some systems may also be on-line. Where authorisation for the proposed sale is required, it has to be obtained by the member making the sale. The authorisation is given by the trade exchange after checking the purchaser’s available credit.

23. The rules of some exchanges permit members to issue and redeem ‘script’ or ‘scrip’. This usually has the form of a voucher denominated in the medium of exchange of the trade exchange that entitles the holder to supplies up to that value.

24. The trade exchange may also buy and sell in its own right acting as a member utilising its own 'trading account'.

Ruling with explanations

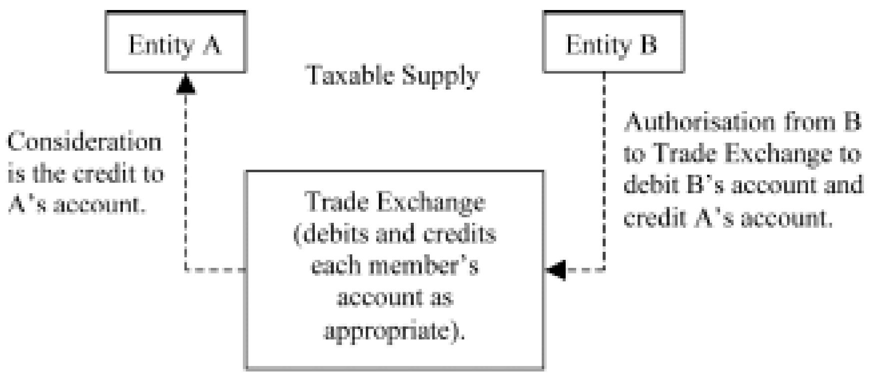
Supplies between members

25. When an entity, which is a member of a trade exchange, makes a supply which satisfies the requirements of section 9-5 to another member, it makes a taxable supply and is liable for GST.[2]

26. One of the requirements of section 9-5 is that there is consideration. That consideration may be in money or in kind or in some instances a combination of these.[3] The consideration paid for supplies made between members of trade exchanges is the debiting of the recipient's account and the consideration received is the crediting of the supplier's account.

27. In trade exchange transactions, consideration for a supply is provided through a third party (the exchange) on behalf of the recipient and is by way of crediting the membership account of the supplier.

28. The following diagram illustrates a taxable supply made for consideration between members of a trade exchange. Entity B, on signing a docket, provides consideration by authorising the trade exchange to credit Entity A's account on its behalf and to debit its (B's) account.



29. A further requirement of section 9-5 is that the supply is made in the course or furtherance of an enterprise carried on by an entity that is registered or required to be registered.

30. Where a member of a trade exchange makes a supply as part of the member's private recreational pursuits or hobby, or is not registered or required to be registered, then the supply is not a taxable supply.

[2] Section 9-40.
[3] See paragraph 9-5(a), and sections 9-15 and 9-75.

31. To the extent that a member of a trade exchange makes a creditable acquisition it is entitled to an ITC.[4] The consideration for the creditable acquisition is the credit to the supplier member's account by the trade exchange. An acquisition that is made by an unregistered party, or relates to input taxed supplies, or is of a private or domestic nature, has not been made for a creditable purpose.

32. Where the credit to a supplier's account is net of a fee charged by the trade exchange, the consideration for the acquisition is the gross credit before the fee is netted out. Similarly, where the debit to the recipient's account includes a fee to the exchange, the debit is consideration for both the supply from the other member, and a supply by the trade exchange. In the case of those exchanges that permit supplies to be made for a combination of credit to the supplier's account and cash, the consideration is the sum of these.

33. When a trade exchange supplies things to, or acquires things from, its members in its own right through its trading account, those supplies and acquisitions are treated the same as if the supply or acquisition was made between two members.

How to calculate GST payable and input tax credits

34. Price[5] is the sum of the amount of any consideration for a supply expressed as an amount of money, and the GST inclusive market value of any consideration for that supply not expressed as an amount of money.

35. The definition of 'money' in Division 195 of the GST Act includes 'whatever is supplied as payment by way of crediting or debiting an account'.[6] Payment by way of crediting a member's account is consideration expressed as an amount of money for the purposes of the GST Act.

36. The price of a supply made by one member to another is the credit to the member's account, or if cash is also provided, the sum of the credit to the account and the cash.

37. Section 9-70 provides that the GST payable on a taxable supply is 10 per cent of the value of the taxable supply. The value of a taxable supply is $10/11^{th}$ of the price.

38. For the purposes of the GST Act the value of a taxable supply must be expressed in Australian currency,[7] therefore the price must be converted to Australian currency before applying the formula to calculate the value of the supply.

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[4] Sections 11-25 and 11-30.
[5] Subsection 9-75(1).
[6] Subparagraph (e)(ii) of the definition of 'money' in section 195-1.
[7] Subsection 9-85(1).

Example 1 – GST payable on a taxable supply between members of a trade exchange

39. *Harvey is a bookkeeper who is a member of the Better Barter Exchange. He provides bookkeeping services to Tracey who is also a member of the exchange. Harvey's trading account is credited with 440 Better Barter credits (BBs) for the supply of services to Tracey.*

40. *Under the rules of the exchange, one BB equals $1. The price of the supply is 440 BBs. Before calculating the value of the supply the 440 BBs are converted to their Australian dollar equivalent - $440. The value of the taxable supply that Harvey makes is $440 x 10/11, which is $400. The GST on the supply is therefore $40 (i.e., 10% of $400).*

41. The amount of the ITC for a creditable acquisition is an amount equal to the GST payable on the supply of the thing supplied.[8] The amount of the ITC is reduced if the acquisition is only partly creditable.[9]

Example 2 – acquisition that is partly creditable

42. *Harvey uses his Better Barter card to make an acquisition of two bunches of flowers, one for his wife Linda's birthday and one for his office. Harvey's entitlement to an ITC will be reduced because his acquisition is only partly for a creditable purpose.*

Is a document showing the price of a supply in credits a tax invoice?

43. The recipient of a supply made under a trade exchange transaction is not able to claim an ITC in respect of the supply unless it holds a tax invoice.[10]

44. A supplier must, if requested by the recipient, issue a tax invoice for taxable supplies with a GST exclusive value of more than $50, within 28 days of the recipient requesting it.[11]

45. A tax invoice must satisfy the requirements of section 29-70.[12] Paragraph 29-70(1)(c) provides that a tax invoice for a taxable supply must set out the price for the supply.

46. The *price* of supplies made by one member to another is the credit to the member's account, therefore, the amount of the credit to

[8] Section 11-25.
[9] Sections 11-25 and 11-30.
[10] Subsection 29-10(3).
[11] Subsections 29-70(2) and 29-80(1).
[12] For more explanation on the requirements of section 29-70 see GSTR 2000/17 which deals with tax invoices.

the member's account must be shown on the tax invoice. There is no requirement in the GST Act for the *price* on the tax invoice to be shown in Australian currency.

Example 3 – tax invoice

47. *Harvey uses his Better Barter card to make an acquisition of a new computer from Bob for use in his bookkeeping business. Bob issues Harvey with a tax invoice showing the price of the computer in Better Barter credits (BBs). There is no requirement under the GST Act for the tax invoice to show the price in Australian currency. Because under the rules of the exchange, one BB equals $1, Harvey knows the amount of input tax credit that he is entitled to claim in respect of his creditable acquisition.*

How to attribute GST payable and input tax credits

48. Where the supplier and/or recipient of supplies made as members of a trade exchange account for GST on a non-cash basis and no earlier invoice is issued, then any liability for GST or entitlement to ITCs is attributable to the tax period in which any of the consideration is received and provided.[13]

49. If the supplier issues an invoice relating to the supply before any of the consideration for the supply is received and provided, then any liability for GST or entitlement to ITCs will be attributable to the tax period in which the invoice is issued.[14]

50. Where the supplier and/or recipient of supplies made as members of a trade exchange account for GST on a cash basis, any liability for GST and entitlement to ITCs is attributable to the tax period in which the consideration for the supply or acquisition is received and provided, to the extent that the consideration is received and provided in that tax period.[15]

When is the consideration for a supply or acquisition received and provided?

51. The consideration for a supply made by one member of a trade exchange to another is the credit to the supplier's trading account by the trade exchange.

52. For the purposes of attribution, the consideration for a supply by a member of the trade exchange is both received and provided

[13] Paragraphs 29-5(1)(a) and 29-10(1)(a).
[14] Paragraphs 29-5(1)(b) and 29-10(1)(b).
[15] Subsections 29-5(2) and 29-10(2).

when the recipient of the supply signs the docket or transaction slip to authorise the exchange to credit the supplier's account and debit its (the recipient's) account.

53. When a payment is made remotely (e.g., by telephone or through the Internet), the consideration is provided and received when the cardholder gives the card number and other required details.[16]

Example 4 – consideration both received and provided when transaction slip is signed

54. *Harvey accounts on the cash basis and supplies his services in preparing a profit and loss statement to Wannee who is also a member of the Better Barter Exchange. Wannee pays for Harvey's services in Better Barter credits. For attribution purposes, the consideration for the supply is both received and provided when Wannee signs the docket authorising the exchange to credit Harvey's account and debit her account.*

55. A supplier, whether accounting on a cash or non-cash basis receives consideration when the recipient signs the docket authorising the exchange to debit its account and credit the supplier's account. GST is payable by the supplier in the tax period in which consideration is received. GST may be payable in an earlier tax period by a supplier that accounts on a non-cash basis if an invoice is issued before the consideration is received.

56. Similarly the recipient, whether accounting on a cash or non-cash basis has provided the consideration for the supply when it signs the docket authorising the exchange to debit its account and credit the account of the supplier. The supplier is entitled to an input tax credit for creditable acquisitions it makes in the tax period in which the consideration is provided. A recipient that accounts on the non-cash basis may be entitled to an input tax credit in an earlier tax period if the supplier issues an invoice before the consideration is provided.

57. Where the supplier's account is not credited in relation to a particular supply (for example, where the recipient has insufficient credit in its account), payment will be taken not to have been made in relation to that supply. This is because, similarly to payment by cheque, consideration provided by way of authorising the crediting of the trade account of the supplier is contingent consideration only.

58. In *Aronis & Aronis Nominees Pty Ltd (trading as Welland Tyre Power) v Hallett Brick Industries, South Australia*, unreported; Supreme Court of South Australia, 11 March 1999; [1999] SASC 92,

[16] Paragraph 24 of GSTR 2000/23.

Debelle J compared payment by way of credit under a barter scheme with payment by way of bill of exchange or cheque. He said:

> *If a bill of exchange or a cheque given in payment for the sale of goods is dishonoured, the seller may sue to recover payment unless the parties have agreed that the receipt of the negotiable instrument is in full satisfaction of the debt. … When Bartercard Limited … informed the plaintiff that payment could not be made in bartercard trade dollars, the position was analogous to that of a bank dishonouring a cheque. As the defendants could not pay in trade dollars and were in breach of the implied terms, the plaintiff was entitled to sue the defendant to recover the balance of the purchase price.*

59. In circumstances where no invoice has issued and the entity making the supply in relation to which the trade exchange does not credit its trading account (in full or in part) accounts for GST on a cash basis, the entity has two options:

- make a correction on its next Business Activity Statement (BAS);[17] or
- revise its previous BAS.

60. In circumstances where no invoice has issued and the entity making the supply in relation to which the trade exchange does not credit its trading account (in full or in part) accounts for GST on a non-cash basis, the entity has three options:

- make a correction on its next BAS;[18]
- revise the previous BAS; or
- make a decreasing adjustment in accordance with Division 21 and Goods and Services Taxation Rulings GSTR 2000/19 and GSTR 2002/2.

Script transactions

61. The supply of ‘script’ or ‘scrip’ by a member is the supply of a voucher within the meaning given in section 100-25. Where an amount expressed in terms of credits (however the particular trade exchange describes them) is stated on the voucher, it may fall for treatment under section 100-5 of the Act. This Ruling does not deal with the circumstances in which Division 100 applies to a voucher or

[17] Subject to the guidelines and limits set out in the fact sheet ‘Correcting GST Mistakes’.
[18] Subject to the guidelines and limits set out in the fact sheet ‘Correcting GST Mistakes’.

explain how to treat transactions in which supplies are made for consideration in the form of a voucher.

Sale of credit

62. If permitted by the rules of the exchange, members of a trade exchange may sell their credit or part of their credit to another entity for cash. The supply of the credit in the member's account is not, in these circumstances, a supply of money, as the credit is not supplied *as payment* by way of crediting or debiting an account. Even if the credit is transferred from the supplier entity's account to the recipient entity's account this is a supply (transfer) of the credit and not a payment for the cash received.

63. The supply of a member's credit is not the supply of an interest in or under a barter scheme, but of a credit that records the extent to which the member is entitled to trade with other members of the scheme. The supply is also not a supply of an interest mentioned in any other item in subregulation 40-5.09(3). Therefore, the supply of the credit is a taxable supply.

Example 5 – sale of credit

64. *Tex is a member of Better Barter Exchange. He has accumulated 1,100 Better Barter credits but is about to move to a location where he will not be able to utilise his credits. The rules of Better Barter Exchange permit Tex to sell his credit to another member of the exchange. Tex sells his 1,100 Better Barter credit to Ernie for $550 cash. The supply of Tex's credit is a taxable supply, the consideration for which is $550.*

What are the GST return requirements?

65. There is no requirement in the GST legislation for the supplier to collect the GST in cash where consideration for a taxable supply is provided by way of a trade exchange crediting the supplier's account on behalf of the recipient.

66. The credit to the supplier's account as consideration for a supply will be GST inclusive. The supplier treats the supply in the same way as any other taxable supply by recording its value in the supplier's GST return (BAS).

67. All taxable supplies and creditable acquisitions made by members of a trade exchange must be included in their GST return (BAS).

68. One of the GST return (BAS) requirements is that all the amounts on the form are to be shown in Australian currency. The Commissioner considers that the phrase 'shown in Australian currency' is akin to the phrase 'expressed in terms of Australian currency'.[19] The 'net amount', if any, payable for the period must be paid to the ATO in Australian currency.

Record Keeping

69. Members of trade exchanges must keep records that record and explain all transactions and other acts they engage in that are relevant to a particular supply importation, acquisition, dealing or entitlement for five years after the completion of the transaction or acts to which they relate.[20] In addition to ordinary accounting documents, this may include copies of invoices and receipts as well as purchase orders, delivery dockets, contracts, barter scheme statements, and any other relevant documents.

70. The other relevant documents may include the application for membership of the barter scheme, the rules of the scheme and any other documents governing the relationships between members themselves and between members and the exchange company.

Supplies by the Trade Exchange

Are services provided by trade exchanges financial supplies?

71. Trade exchanges supply a range of services to their members as part of administering their barter schemes and providing a mechanism for reciprocal trading between members. The details of the services vary between barter schemes.

72. Where what is supplied by a trade exchange as part of its obligations under the contract with its members, is necessary to, or contributes to the supply of an interest in or under a barter scheme, those things supplied will, provided the other requirements of subregulation 40-5.09(1) are satisfied, be a financial supply.

An interest in or under a barter scheme

73. The supply of an interest in or under the matter mentioned in any of the items listed in the table under subregulation 40-5.09(3) is a financial supply provided the conditions in subregulation 40-5.09(1) are also satisfied.

[19] See paragraph 14 of GSTR 2001/2 which deals with foreign exchange conversions.
[20] Section 70(1) of the *Taxation Administration Act 1953*.

74. Item 10 paragraph (c) of subregulation 40-5.09(3) includes as securities:

> a scheme described in paragraph (e), (i), (k) or (m) of the definition of ***managed investment scheme*** in section 9 of the *Corporations Law*; ...

75. A scheme described in paragraph (k) of the definition of managed investment scheme in section 9 of the *Corporations Act 2001* is:

> a barter scheme under which each participant may obtain goods or services from another participant for consideration that is wholly or substantially in kind rather than in cash.

76. A barter scheme under this definition is characterised according to the way in which the participants (the members) are entitled to deal with each other under the scheme. Where the scheme is one under which the members *may* obtain goods or services from each other for consideration that is wholly or substantially in kind rather than in cash, it is a barter scheme. Whether in fact the members do obtain goods or services for such consideration will not determine the nature of the arrangement.

77. A managed investment scheme as defined in section 9 of the *Corporations Act 2001* is a scheme that has the following three features:

(i) people contribute money or money's worth as consideration to acquire rights (interests) to benefits produced by the scheme (whether the rights are actual, prospective or contingent, and whether they are enforceable or not);

(ii) any of the contributions are to be pooled, or used in a common enterprise, to produce financial benefits, or benefits consisting of rights or interests in property, for the people (the members) who hold interests in the scheme (whether as contributors to the scheme or as people who have acquired interests from holders); and

(iii) the members do not have day-to-day control over the operation of the scheme (whether or not they have the right to be consulted or to give directions).

78. A barter scheme exhibits these features and, except for the specific exclusion from the definition of managed investment scheme in section 9 of the *Corporations Act 2001*, would be a managed investment scheme for the purposes of that Act.

79. Item 10(c) in subregulation 40-5.09(3) specifically includes (as a security) schemes that, except for the exclusion in section 9 of the

Corporations Act 2001 would be managed investment schemes. The term 'scheme' encompasses the entire arrangement under which members of the scheme are entitled to benefits. It is not restricted to the initial contribution, and includes all of those things that together comprise the scheme itself.

80. Things supplied otherwise than as a part of the scheme, by the trade exchange to its members are not the supply of an interest in a barter scheme. This is so even if the constituent documents of the scheme permit the exchange to make supplies other than those that are part of the scheme itself.

Provision, acquisition or disposal

81. Subregulation 40-5.09(1) states that the provision, acquisition or disposal of an interest mentioned in subregulation (3) or (4) is a financial supply if:

(a) the provision, acquisition or disposal is:

(i) for consideration;

(ii) in the course or furtherance of an enterprise; and

(iii) connected with Australia; and

(b) the supplier is:

(i) registered or required to be registered; and

(ii) a financial supply provider in relation to supply of the interest.

Under section 40-5 of the GST Act, a financial supply is input taxed and has the meaning given by the GST regulations.

Consideration

82. The acquisition of an interest in or under a barter scheme is for consideration. The consideration is the amount paid for a share in the exchange company (where applicable) plus the amount paid by way of fee for membership however this is described. Amounts paid for supplies essential to the conduct of the barter scheme are also consideration for the supply of an interest in the barter scheme.

Course or furtherance of an enterprise

83. The trade exchange supplies the interest in the barter scheme in the course of conducting its enterprise.

Connected with Australia

84. In almost every case of the operation of a trade exchange within Australia the supply will be connected with Australia as there will be a resident supplier and recipient. For the purposes of this Ruling we assume the condition will be satisfied.

Registration

85. Whether the entity making a financial supply is registered or required to be registered is a matter of fact in each case.

86. The registration provisions of the GST Act apply to financial supply providers. This means that an entity that makes a financial supply is required to register if its annual turnover meets the registration turnover threshold.[21] However, an entity that is below the turnover threshold may still choose to register.

87. An entity that makes only financial supplies is not required to register, because input taxed supplies are not taken into account in calculating the annual turnover thresholds.[22] This may be the case where a trade exchange makes no, or few, taxable supplies.

Financial supply provider

88. An entity is a financial supply provider of an interest if the interest was the entity's property immediately before the supply, the entity created the interest in making the supply, or the entity acquires the interest supplied.[23] The trade exchange owns the trading program. It creates the interest in the program in supplying it to a member. It is a financial supply provider in relation to the interest in the barter scheme.

89. Regulation 40-5.06 gives an acquirer of a financial interest[24] the status of a financial supply provider, so that the member, in acquiring the interest in the barter scheme, is also a financial supply provider of the interest. The supply of an interest by an acquirer of a financial interest is only a financial supply if the other conditions of subregulation 40-5.09(1) are met.

[21] Section 23-15.
[22] Paragraph 188-15(1)(a).
[23] Regulation 40-5.06.
[24] 'Financial interest' is used to describe a supply that may be a financial supply because it is mentioned in an item in the table in subregulation 40-5.09(3) and is capable of satisfying the tests in subregulation 40-5.09(1).

Supplies made as part of a barter scheme

90. Membership of a barter scheme may be attained in a variety of ways. Some schemes require that the prospective member purchases a share (security) in the trade exchange. In the most common scheme of this type, the share is given only a nominal value (e.g., 1 cent) but the constituent documents clearly attach all of the rights to benefits under the scheme to ownership of the share. At the same time as acquiring the share, the potential member enters the membership agreement and pays a commercial sum for membership.

91. Alternatively, the share may have only some of the rights to the benefits under the scheme attached to it by the constituent documents, while the rest of the rights derive directly from the membership agreement. The share may be given a value separate from the membership fee, but this is usually a nominal amount (e.g., 1 cent).

92. Other schemes do not require potential members to purchase shares, and entry into the membership agreement is accompanied by the payment of a membership fee.

93. Irrespective of the means by which membership of the barter scheme is attained, what the member acquires is an interest in or under a barter scheme. The benefits, rights and obligations of membership are not determined by the method of entry into the scheme, but arise from the terms and conditions of the contract entered into by the member and the trade exchange.

94. Membership of a barter scheme entitles members to obtain goods or services from other members for consideration being the crediting of an account with the trade exchange, that is, they are entitled to participate in the trading program. Membership also entitles the member to a number of supplies from the trade exchange, some of which are supplied for additional consideration and some of which are supplied for no further consideration. Where these supplies are essential to participation in the trading program and consequently to the barter scheme, each is the supply of an interest in the scheme.

95. The supply of an interest in the barter scheme extends beyond the initial transaction and encompasses all the elements that make up the scheme, being all of those things supplied by the exchange that are essential to the operation of the trading program.

96. Under the terms and conditions of a typical trade exchange, the entitlement of a member may include:

- participation in the trading program;
- a line of credit in trade dollars;
- a membership card;

- an account in which credits or debits are recorded;
- the recording of transactions in its account by the trade exchange;
- access to a procedure for authorisation of trades;
- monthly statements of activity in the trade account and fees;
- stationery for the conduct of trades;
- enforcement of the rules; and
- maintenance of the integrity of the exchange (including maintenance of a debt reserve).

Some exchanges may not offer all of the listed items or may offer different things as part of the membership. What is supplied and described as 'membership' is a bundle of benefits, rights and obligations. Provided the things supplied are essential to participation in the trading program, they are the supply of an interest in a barter scheme.

Alternative view

97. We have also considered an alternative view that only the initial supply of the bundle of membership rights is the supply of an interest in the barter scheme, and each of the supplies made for separate consideration is a separate supply. Whether these supplies are taxable, input taxed or GST-free will depend upon the character of the supply itself. However, we consider that the better view is the one expressed in paragraph 95.

Payments that are consideration for an interest in a barter scheme

98. Members of a barter scheme are required to make a number of payments that are consideration for a supply of an interest in or under a barter scheme, but are described in terms that do not suggest that this is their character. Once it is established that the arrangement is a barter scheme, any payments relating to the provision of the interest in the scheme are consideration for the interest in the scheme.

99. Service fees may be levied for administration services such as production and distribution of monthly statements, the updating and distribution of membership lists and the dissemination of current information on the scheme. The fees are consideration for the supply of an interest in the barter scheme as they relate to the provision of the trading program.

100. Transaction fees may be levied on all purchases and/or sales. These fees are for services relating to the promotion of trading including encouraging higher levels of activity among members, credit assessment, debt collection and training. These fees may also be partially for the actual debiting and crediting of member accounts. All of these services are the provision, maintenance and promotion of the trading program, and the fees are consideration for the supply of an interest in a barter scheme.

101. An amount described as 'interest' may be levied by the exchange when an account is in debit or above its credit limit, or when the member ceases membership while in debit. The amount relates to the provision of the scheme, as it contributes to the maintenance of the integrity of the scheme and is therefore consideration for the supply of an interest in the scheme.

102. A member ceasing membership with a credit balance is normally not entitled to a cash payment in lieu of its credit, however, it is common for a member ceasing membership with a debit balance to be required to pay the equivalent of its debit in dollars to the exchange. This payment also contributes to the maintenance of the integrity of the scheme and is consideration for the supply of an interest in the scheme.

103. A typical trade exchange maintains a debt reserve the purpose of which is to ensure the integrity of the trading program. Each member is required to contribute to the reserve in the amounts and at the times specified by the exchange. Members' contributions to the debt reserve are consideration for the supply of an interest in the barter scheme.

104. Other fees such as those for overdue payments to the exchange, for replacement of a lost card, or extension of a member's credit limit are related to provision of the trading program and are also consideration for an interest in the trade exchange.

Payments that are not consideration for an interest in a barter scheme

105. Members of a barter scheme may also make payments to the trade exchange that are not consideration for an interest in or under a barter scheme. The supplies for which this consideration is provided are not essential to the operation of the trading program. The member may be required by the rules of the trading program to make the payments, or the supply may be optional but provided for under the rules of the program.

Example 6 – supplies not essential to the trading program - compulsory

106. *The rules of Better Barter Exchange require members to make a monthly payment to have an advertisement for their business included in the newspaper produced by the exchange. The newspaper is distributed free to the public. The advertisement for each member contains the Better Barter symbol, but advertises the business of the member, rather than the exchange itself. The supply of advertising is not essential to the trading program and is not the supply of an interest in the barter scheme. It is a taxable supply made by the exchange to the member.*

107. The fact that a supply provided under the rules of a trade exchange is optional to the member, and no payment is required if the member does not choose to acquire the supply, indicates that the supply is not essential to the trading program, and is not the supply of an interest in the barter scheme. Whether the supply is taxable, GST-free, or input taxed under another provision will be a matter of fact in each case.

Example 7 – supplies not essential to the trading program - optional

108. *Under the rules of YourCard Trade Exchange a member may make a monthly payment for which the exchange will provide accountancy and/or taxation services. The supply of the services is not essential to the trading program and is not the supply of an interest in the barter scheme. It is a taxable supply made by the trade exchange to the member.*

Example 8 – a trade exchange making supplies as a member in its own right

109. *The constituent documents of Better Barter Exchange permit the exchange to make supplies to, and acquire supplies from, its members by trading in its own right, using its trading account. The exchange acquires a bulk shipment of video recorders and sells them to members at better than retail prices.*

110. *Although this type of transaction is envisaged and permitted by the constituent documents of the barter scheme, the supply of a video recorder is not the supply of an interest in the barter scheme. The right or benefit which is an interest in the barter scheme is the right of the member to trade with any other member, including the exchange in its role as a member. The supplies made between members take their character for GST from the nature of the supplies.*

Regulation 40-5.12

111. The supply of an interest in or under a security that satisfies subregulation 40-5.09(1) will be a financial supply unless one of the items in the table in regulation 40-5.12 also applies.[25]

112. Regulation 40-5.12 states that for subsection 40-5(2) of the Act, the supply of something, or an interest in or under something, that is mentioned in an item in the table is not a financial supply. The table lists 18 items the supply of which or an interest in which, is not a financial supply.

113. It has been argued that an interest in or under a barter scheme is an interest in or under a 'payment system' under item 4 of regulation 40-5.12. However, the Commissioner does not accept that this is the case.

114. The term 'payment system' is defined in the GST regulations as a funds transfer system that facilitates the circulation of money, including any procedures that relate to the system.[26] Barter schemes are schemes under which each participant may obtain goods or services from another participant for consideration that is wholly or substantially in kind rather than in cash. These schemes are designed to facilitate the exchange of goods or services rather than the circulation of money.

115. It has been suggested that the activities of the trade exchange are similar to those of the operator of a payment system, in that the exchange credits and debits the accounts of members, without itself having an interest in those accounts (except the accounts it operates on its own behalf). We do not accept that this similarity is sufficient to characterise barter schemes as payment systems.

116. Amendments to subdivision 40-A of the GST regulations together with complementary changes to Division 70 were made by Statutory Rules 2000 No 77, A New Tax System (Goods and Services Tax) Amendment Regulations 2000 (No 2). The amendments altered table item 4 from 'the supply of payment facilities for transaction cards for account holders' to 'the supply of an interest in or under a payment system'. A definition of a payment system was added to the dictionary to the GST regulations.

117. As a consequence of these amendments item 11 in the former regulation 40-16 was deleted as it was no longer required. Former item 11 specifically listed two examples of payment systems namely, an approved RTGS[27] for the purposes of the *Payment System and*

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[25] Regulation 40-5.09 applies subject to regulation 40-5.12. (Note 1 to regulation 40-5.12.) If a supply is mentioned in regulations 40-5.09 and 40-5.12, the supply is not a financial supply: subregulation 40-5.08(2).

[26] Regulation 3.

[27] Real time gross settlement system.

Netting Act 1998 and the SWIFT[28] Payment Delivery System. These examples are indicative of the type of systems that are payment systems for the purposes of the new item and are given as examples for item 4 of regulation 40-5.12 in Part 2 of Schedule 8.

118. Related changes were made to Division 70 of the GST regulations to amend items 6, 7, and 8 (under the heading of 'Payment and fund transfer services'). In determining what was intended to be included as a payment system under the regulations, the explanation for the amendments contained in the Explanatory Statement is relevant. The Explanatory Statement clarifies the type of system intended to be included as a payment system (and eligible as a reduced credit acquisition) as follows:

> Reduced acquisitions under this item are:
>
> - Fees charged by the operator of a payment system to a participant in the system;
> - Fees charged by a participant in a payment system to a third party (such as a merchant) in relation to access to the system; and
> - Fees charged between participants in a payment system.
>
> A third party will generally be a party such as a merchant and does not refer to a consumer.

119. The payment system described by the Explanatory Statement is comprised of an operator, participants (usually banks or other financial institutions), and third parties (merchants). Consumers are not part of the payment system. We conclude that the systems referred to in the GST regulations are payment systems comprised of the entities described above, set up for the purposes of transferring funds between participants through a process of clearing and settlement, and do not include schemes which merely provide recording systems for transactions between members.

Alternative view

120. An alternative view is that, the part of the interest in a barter scheme that directly relates to the debiting and crediting of a member's account is a payment system for the purposes of item 4 of regulation 40-5.12. Support for this position is to be found in the examples for item 4 of regulation 40-5.12 in Part 2 of Schedule 8. Item 4(b) of the examples relates to processing, settling, clearing and switching transactions and deals with 'other debit and credit transactions'.

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[28] Society for Worldwide Interbank Financial Telecommunications.

121. The supply of the service of debiting and crediting accounts is not a financial supply by the trade exchange, but is a taxable supply. The fee charged by the exchange that relates directly to that supply is consideration for a taxable supply. If the fee charged by the exchange is for other supplies including the debiting and crediting of accounts, the consideration will need to be apportioned between the taxable and input taxed parts.

122. As the supply of the service of debiting and crediting accounts is a taxable supply, the trade exchange will have a creditable purpose in relation to acquisitions that relate solely to making those supplies (e.g., computer software). Also, there may be acquisitions that relate to making both taxable and input taxed supplies. The ITCs for these acquisitions will need to be apportioned accordingly. Although it is possible to find support for the alternative view, we consider that the term 'payment system' as defined in the dictionary to the GST regulations is not intended to apply to barter schemes, for the reasons provided in paragraphs 114 to 119 above.

Exceeding the financial acquisitions threshold

123. An acquisition is not treated as relating to making supplies that would be input taxed if the acquisitions made by the entity relating to financial supplies are below the financial acquisitions threshold.[29] The acquisitions are then for a creditable purpose and are creditable acquisitions.

124. Trade exchanges that make financial supplies can be entitled to ITCs for their financial acquisitions, when the financial acquisitions threshold is not exceeded.[30] Financial acquisitions are acquisitions that relate to the making of financial supplies, other than financial supplies consisting of a borrowing.[31]

125. The financial acquisitions threshold is based on a calculation of the amount of ITCs to which a trade exchange would be entitled for its financial acquisitions. A trade exchange is entitled to ITCs for acquisitions that relate to making financial supplies if the total amount of credits that relate to those acquisitions do not exceed the lesser of:

- $50,000 or such other amount specified in the regulations;
- 10% of the total ITCs of the entity.[32]

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[29] Subsection 11-15(4).
[30] Section 189-1.
[31] Section 189-15.
[32] Division 189.

126. If either or both of these levels are met, a trade exchange exceeds the financial acquisitions threshold and accordingly, it is not entitled to ITCs in relation to financial supplies that it makes.

Financial Supply Facilitator

127. A financial supply facilitator is an entity that facilitates the supply of an interest without being the financial supply provider of the interest.[33] The supply of a service by a financial supply facilitator to the financial supply provider is not a financial supply.[34]

128. Services provided by a financial supply facilitator to the financial supply provider are taxable supplies, unless they are GST-free, input taxed or non-taxable under another provision of the GST Act. Services supplied to the members by the financial supply facilitator on behalf of the financial supply provider are financial supplies.

129. Where a trade exchange operates through a structure such that the exchange makes financial supplies to its members through another entity (e.g., a management company), that other entity will be a financial supply facilitator. The trade exchange will be the financial supply provider, and the fees paid to the other entity (financial supply facilitator) by the exchange will be for a taxable supply, being the supply of services to the exchange.

Example 9 – financial supply facilitator

130. *YourCard Trade Exchange supplies account-keeping services to its members through its associated company YourCard Limited. The fee for the services provided by YourCard Limited is the amount of the fees from the members in respect of those services.*

131. *The fees charged to the members are consideration for an input taxed supply by the Exchange.*

132. *The fee charged by the associated company to the Exchange is consideration for a taxable supply of account-keeping services.*

133. Trade exchanges may utilise franchisees in conducting their enterprises. The franchisees recruit members, and supply a variety of services to those members. The consideration received by the franchisee is commonly in the nature of commissions.

134. The contract of membership entered into by the member is with the trade exchange, not the franchisee. The supplies made by the franchisee are taxable supplies. It will be a matter of fact whether the

[33] Regulation 40-5.07.
[34] Paragraph 40-5.09(1)(b)(ii).

franchisee is making supplies directly to the exchange, or to a management entity. If the supply is being made directly to the trade exchange, the franchisee is a financial supply facilitator in relation to any financial supplies it makes on behalf of the exchange. If the supplies are made to the manager, the franchisee is not a financial supply facilitator.

Entitlement to reduced input tax credits (RITCs) for acquisitions

135. A trade exchange is entitled to an RITC for acquisitions of a kind specified in the GST regulations[35] that relate to making financial supplies. The fact that a reduced credit acquisition relates to making financial supplies does not stop it being for a creditable purpose to the extent that it relates to the making of financial supplies.[36]

136. The acquisitions in respect of which reduced credits may be available are listed in the items in subregulation 70-5.02(2).

137. Item 9 includes the arrangement by a financial supply facilitator of the provision, acquisition or disposal of an interest in a security. Where the trade exchange acquires services from a financial supply facilitator that are the arrangement of the provision of the interest in the barter scheme (a security), the service will be a reduced credit acquisition to the trade exchange.

Example 10 – reduced credit acquisition - Item 9

138. *YourCard Limited undertakes the administration services for the YourCard Trade Exchange under the terms of the management agreement. This includes the ongoing reporting to members, issuing of statements, monitoring member accounts and promoting trade among the members. The consideration for this supply is the administration fees withheld by YourCard Limited under the management agreement. The service directly relates to the supply of the interest in the barter scheme and is the arrangement of the supply of the interest for the trade exchange.*

139. *YourCard Trade Exchange is entitled to a reduced input tax credit for the GST paid on the supply of the arrangement of the provision of an interest in the barter scheme.*

140. Item 27 includes as a reduced credit acquisition, supplies for which financial supply facilitators are paid commission by financial supply providers. Where the trade exchange acquires services from financial supply facilitators for consideration in the form of

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[35] Subregulation 70-5.02(2).
[36] Subsection 70-10(1).

commission, the services will be reduced credit acquisitions to the trade exchange.

Example 11 – reduced credit acquisitions - Item 27

141. *YourCard Trade Exchange enters into a franchise agreement with YourCard South Coast under which the franchisee recruits new members for the exchange. Under the agreement, YourCard South Coast receives a commission for each new member it recruits.*

142. *YourCard Trade Exchange is a financial supply provider of each interest in the barter scheme, and YourCard South Coast is the financial supply facilitator of those interests supplied to members it recruits. The acquisition of the recruitment services from YourCard South Coast is a reduced credit acquisition to the exchange under item 27 of subregulation 70-5.02(2).*

143. Item 28 includes as a reduced credit acquisition, supplies provided by a financial supply facilitator to a franchisor, where the facilitator is paid a franchise fee. Where the trade exchange acquires services from a financial supply facilitator under a franchise arrangement for consideration in the form of a franchise fee, the services will be reduced credit acquisitions to the trade exchange.

Example 12 – reduced credit acquisitions - Item 28

144. *YourCard Trade Exchange also enters into a franchise agreement with YourCard North Coast under which the franchisee recruits new members for the exchange. Under the agreement, YourCard North Coast is paid a franchise fee for each new member it recruits.*

145. *YourCard Trade Exchange is a financial supply provider of each interest in the barter scheme, and YourCard North Coast is the financial supply facilitator of those interests supplied to members it recruits. The acquisition of the recruitment services from YourCard North Coast is a reduced credit acquisition to the exchange under item 28 of subregulation 70-5.02(2).*

146. The percentage to which the credit is reduced is 75 per cent.[37] The amount of such an ITC is further reduced if the acquisition is only partly creditable.[38]

147. ITCs are not available to the trade exchange for acquisitions which relate to the making of financial supplies other than those in respect of which RITCs are available. The trade exchange is not

[37] Subsections 70-5(2) and regulation 70-5.03.
[38] Subsection 70-15(2).

entitled to reduced tax credits to the extent that credit is available under another provision.[39]

The effects of grouping

148. Where a barter scheme consists of two or more entities that conduct the scheme, the entities can apply to the Commissioner for approval as a GST group.

149. Division 48 of the Act contains the rules relating to GST groups.

150. The effect of grouping on trade exchanges is that:

- the total amount of input tax credits for acquisitions made by the entire group (e.g., in a two entity structure both the trade exchange and the manager) is taken into account in determining whether the financial acquisitions threshold has been exceeded;
- where the exchange manager makes acquisitions that would normally be for a creditable purpose (e.g., because they are made for the purpose of making taxable supplies to the trade exchange) there will be no entitlement to ITCs because supplies between members of a group are not taxable; and
- there is no entitlement to reduced input tax credits ('RITCs') where a trade exchange makes acquisitions of services from another member of the group (e.g., the exchange manager) because there is no GST payable on supplies between members of the group.

Effect of grouping on entitlements to ITCs and RITCs

151. Under subsection 70-5(1), a trade exchange is entitled to RITCs for any reduced credit acquisitions it makes that relate to making financial supplies.

152. Division 48 of the Act deals with the consequences of approval as a GST group. The effect of subsection 48-40(2) is that supplies that are made between members of the same GST group are in most cases treated as if they are not taxable supplies.[40] The effect of subsection 48-45(3) is that acquisitions made by one member of a

[39] Subsection 70-5(1A).
[40] The exceptions are where Division 84 applies, or where a joint venture participant acquires the thing supplied from the joint venture operator for the joint venture – subparagraphs 48-40(2)(a)(i) and (ii).

GST group from other members of the same group are not creditable acquisitions.[41]

153. This means that where the structure of a barter scheme consists of two entities (e.g., a trade exchange and an exchange manager) and those two entities are members of the same GST group, any services provided by either entity to the other are not taxable supplies or creditable acquisitions. Therefore, there is no liability to GST nor any entitlement to ITCs or RITCs.

Effect of grouping on Financial Acquisitions Threshold[42]

154. Barter schemes that have been approved as a group for GST purposes are entitled to input tax credits for acquisitions that relate to making financial supplies if the group does not exceed the financial acquisitions threshold.[43]

155. A barter scheme that has grouped for GST purposes can obtain ITCs for acquisitions that relate to making financial supplies if the total amount of input tax credits that relate to those acquisitions do not exceed the lesser of:

- $50,000 or such other amount specified in the regulations;
- 10% of the total input tax credits of the group.[44]

156. If the total amount of input tax credits for financial acquisitions made by the group does not exceed these amounts, then it is the representative member of the group that is entitled to input tax credits for acquisitions made by any members of the group.[45]

Your comments

157. If you wish to comment on this draft Ruling, please send your comments promptly by **1 November 2002** to:

Contact Officers:	**Wendy Armstrong, Jana Popovsky or Sue Stewart**
Telephone:	**(07) 3213 5773, (07) 3213 6700 or (07) 3213 6652**
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[41] Unless Division 84 applies – subsection 48-45(3).
[42] Subsections 189-5(2) and 189-10(2).
[43] Subsection 11-15(4).
[44] Division 189; sections 189-5(2) and 189-10(2).
[45] Section 48-45.

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Detailed contents list

158. Below is a detailed content list for this draft Goods and Services Tax Ruling:

Commissioner of Taxation
14 August 2002

Previous draft:
Not previously released in draft form

Related Rulings/Determinations:
GSTR 1999/1; GSTR 2000/19; GSTR 2000/23; GSTR 2001/2; GSTR 2001/6; GSTR 2002/2

Subject references:
- adjustments
- barter dollars
- barter exchanges
- barter schemes
- barter credits
- creditable acquisition
- creditable purpose
- financial acquisitions threshold
- financial supplies
- financial supply facilitator
- financial supply provider
- GST group
- GST return
- input tax credits
- partly creditable
- payment system
- record keeping
- reduced credit acquisitions
- security
- trade dollars
- trade exchanges

Legislative references:
- ANTS(GST)A99 9-5
- ANTS(GST)A99 9-5(a)
- ANTS(GST)A99 9-15
- ANTS(GST)A99 9-40
- ANTS(GST)A99 9-70
- ANTS(GST)A99 9-75
- ANTS(GST)A99 9-75(1)
- ANTS(GST)A99 9-85(1)
- ANTS(GST)A99 11-15(4)
- ANTS(GST)A99 11-25
- ANTS(GST)A99 11-30
- ANTS(GST)A99 23-15
- ANTS(GST)A99 29-5(1)(a)
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- ANTS(GST)A99 29-70
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- ANTS(GST)A99 Div 48
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- ANTS(GST)A99 Div 84
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- ANTS(GST)A99 100-5
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- ANTS(GST)A99 Div 189
- ANTS(GST)A99 189-1
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- ANTS(GST)A99 189-15
- ANTS(GST)A99 195-1
- Corporations Act 2001 9
- Payment System and Netting Act 1998

Regulations:
- ANTS(GST)R99 3
- ANTS(GST)R99 40-5.06
- ANTS(GST)R99 40-5.07
- ANTS(GST)R99 40-5.08(2)
- ANTS(GST)R99 40-5.09
- ANTS(GST)R99 40-5.09(1)
- ANTS(GST)R99 40-5.09(1)(b)(ii)
- ANTS(GST)R99 40-5.09(3)
- ANTS(GST)R99 40-5.09(4)
- ANTS(GST)R99 40-5.12
- ANTS(GST)R99 70-5.02(2)
- ANTS(GST)R99 70-5.03

Case references:
- Aronis & Aronis Nominees Pty Ltd (trading as Welland Tyre Power) v. Hallett Brick Industries, South Australia, unreported; Supreme Court

of South Australia, 11 March 1999; [1999] SASC 92

Other references:

- GST Fact sheet 'Correcting GST Mistakes' - Revised Fact Sheet (03/2002)

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