GSTR 2019/D1 - Goods and services tax: determining the creditable purpose of acquisitions in relation to transaction accounts

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Draft Goods and Services Tax Ruling

Goods and services tax: determining the creditable purpose of acquisitions in relation to transaction accounts

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Relying on this draft Ruling

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.

Summary – what this draft Ruling is about

1. This draft Ruling[1] provides advice on the application of paragraph 11-15(2)(a) of the *A New Tax System (Goods and Services) Tax Act 1999* (GST Act)[2] to acquisitions made in relation to certain accounts provided by a financial supply provider.[3]

2. This Ruling applies to you if you are an Australian authorised deposit-taking institution, such as a bank, credit union or building society, that supplies an interest in or under an account covered by item 1 of the table in subsection 40-5.09(3) of the *A New Tax System (Goods and Services Tax) Regulations 2019* (GST Regulations). In this Ruling, you will be referred to as an 'account provider'.

3. The supply of an interest in or under an account that this Ruling applies to will be referred to as the supply of a 'transaction account'. This includes accounts such as everyday, savings, cheque, deposit, or transaction accounts, including accounts that also have overdraft facilities or that have become overdrawn, and online savings and term deposit accounts.[4] These transaction accounts may be supplied to account holders who are consumers or businesses.

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[1] 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] All legislative references in this Ruling are to the GST Act unless otherwise indicated.

[3] This Ruling assumes that acquisitions have otherwise satisfied section 11-15, and does not address the application of subsections 11-15(3), (4) and (5), or entitlement to reduced input tax credits under Division 70.

[4] This includes where such accounts are used as a loan or mortgage offset account.

4. This Ruling does not apply to the following accounts that are covered by item 1 of the table in subsection 40-5.09(3) of the GST Regulations:

- accounts that are primarily also a supply of a credit arrangement or right to credit by the account provider, which are covered by item 2 of the table in subsection 40-5.09(3) of the GST Regulations, such as a credit card account[5] or loan account
- purchased payment facilities including prepaid cards or facilities that use the scheme debit or EFTPOS payment system, including prepaid gift cards, prepaid travel cards or similar cards loaded with foreign currency, or
- accounts denominated in foreign currencies.

5. The Commissioner's views on determining the extent of creditable purpose for financial supply providers are set out in:

- Goods and Services Tax Ruling GSTR 2008/1 *Goods and services tax: when do you acquire anything or import goods solely or partly for a creditable purpose?*
- Goods and Services Tax Ruling GSTR 2006/3 *Goods and services tax*: *determining the extent of creditable purpose for providers of financial supplies.*[6]

6. This Ruling considers the application of these views in the specific context of acquisitions made in a transaction accounts business, focusing on the analysis required to determine whether acquisitions are made solely or partly for a creditable purpose.

7. This Ruling provides examples to illustrate how paragraph 11-15(2)(a) applies to acquisitions in a transaction accounts business.

8. The examples do not address whether GST is payable on acquisitions by the account provider, as the recipient of a supply under the reverse charge provisions in Division 84. However, these provisions should be considered where the supply to the account provider is not connected with Australia. If some acquisitions of the same type are subject to reverse charging, and others are not as they are acquired solely for a creditable purpose, this will need to be taken into account in applying paragraph 11-15(2)(a) to the acquisitions that are subject to reverse charging.

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[5] See draft Goods and Services Tax Determination GSTD 2018/D1 *Goods and services tax*: *determining the creditable purpose of acquisitions in a credit card issuing business* for the Commissioner's preliminary views on the application of paragraph 11-15(2)(a) of the GST Act to acquisitions in a credit card issuing business.

[6] Practical Compliance Guideline PCG 2017/15 *GST and Customer Owned Banking Institutions* explains the Commissioner's practical administration approach to apportionment by customer-owned banking institutions.

9. Any reference to 'acquisitions' applies equally to importations under paragraph 15-10(2)(a). The indirect tax zone is referred to as 'Australia'.

Background

Supplies made by account providers

10. The supply of a **transaction account** is an **input taxed** financial supply, except to the extent it is GST-free.[7]

11. As explained further at paragraphs 13 and 14 of this Ruling, an account provider may make a **taxable** supply of **interchange services** to a participant in a payment system in relation to some transactions initiated by account holders.[8]

Transactions which involve taxable supplies of interchange services

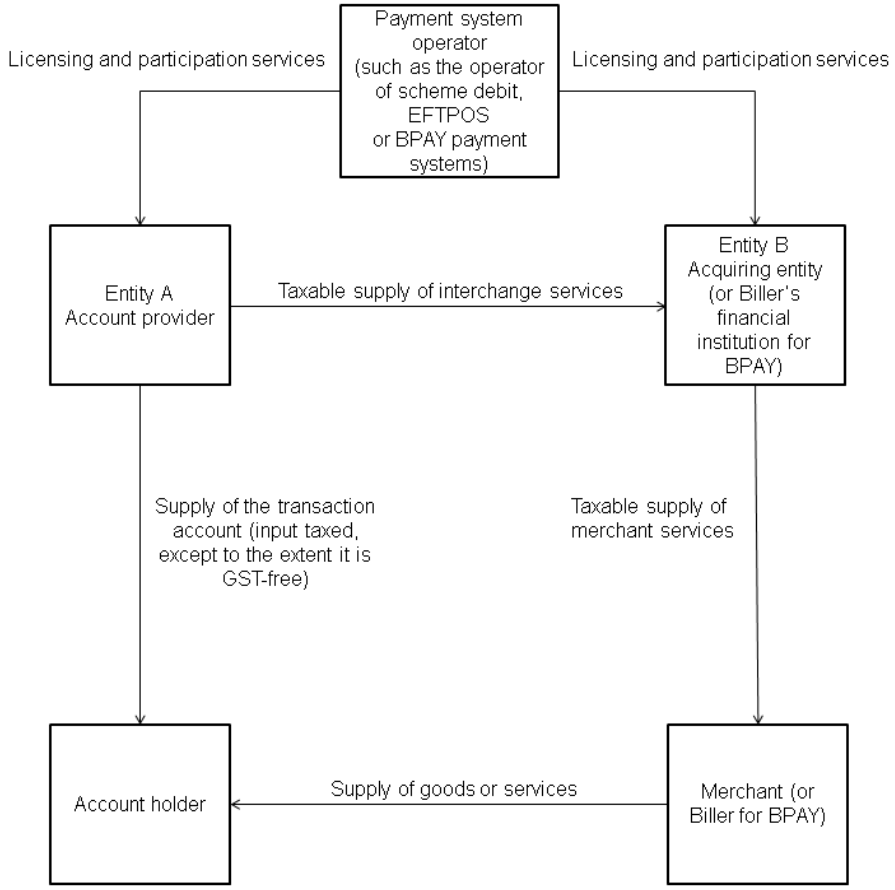
12. The account provider may make a taxable supply of interchange services to:

- acquiring entities in authorising, clearing and settling of purchase transactions that the account holder initiates using a scheme debit card or EFTPOS, or
- a Biller's financial institution when the account holder initiates a BPAY transaction.[9]

[7] This Ruling doesn't address the extent to which the supply of a transaction account is GST-free.
[8] Item 4 of the table in section 40-5.12 of the GST Regulations. This Ruling doesn't address when the supply of interchange services is GST-free.
[9] There may also be situations where an account provider does not make a taxable supply of interchange services, because the supply is not made for consideration. An example is where the payment system rules provide that there is no interchange fee for a particular type of transaction.

13. Table 1 summarises these supplies.

Table 1: supplies of interchange services that may be made by account providers



14. When there is a transaction in relation to a financial supply of the transaction account that takes place via the scheme debit, EFTPOS[10] or BPAY payment systems, the completion of the transaction also requires the account provider to make a supply of interchange services (except for where the transactions are 'on-us' transactions, as described at paragraph 17 of this Ruling). This reflects the interrelated way in which these payment systems operate, so that the account provider cannot complete the particular transaction on the account without also supplying taxable interchange services, and that the taxable supply of interchange services can only be performed if there is a related transaction.

[10] Except for cash-out withdrawals via EFTPOS, as explained further at paragraphs 18 and 19 of this Ruling.

Transactions which do not involve taxable supplies of interchange services

15. Some of the ways in which an account holder can access a transaction account, or that a third party can make deposits into or withdrawals from a transaction account, do not involve the account provider making a taxable supply of interchange services to another entity.

16. For example, the following transactions do not involve the account provider making taxable supplies of interchange services:

- deposits or withdrawals at a branch or ATM
- cash-out withdrawals via EFTPOS at a participating merchant (see paragraphs 18 and 19 of this Ruling)
- transfers between linked accounts with the same account provider
- direct debit or direct credit transactions
- payments to other accounts that do not involve supplies of interchange services (such as 'Pay Anyone' payments or payments via the New Payments Platform).

17. There may also be 'on-us' transactions where an account provider does not make a taxable supply of interchange services, because:

- the account provider is also the acquiring entity for a scheme debit card or EFTPOS purchase transaction
- the account provider is also the Biller's financial institution for a BPAY transaction.[11]

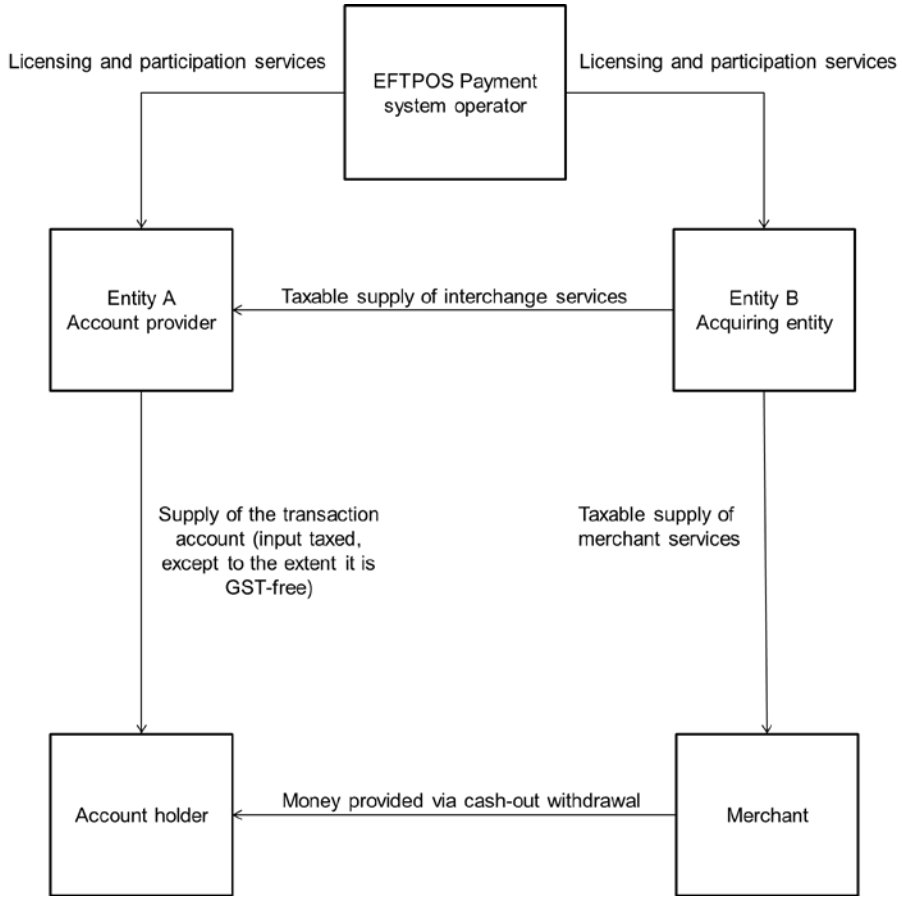
18. An account provider will make taxable supplies of interchange services for some types of EFTPOS transactions as explained in paragraph 12 of this Ruling. However, for certain EFTPOS transactions (for example, cash-out withdrawals) the taxable supply of interchange services is made by the acquiring entity not by the account provider, and the account provider must pay consideration to the acquiring entity. These types of EFTPOS transactions do not involve the account provider making taxable supplies of interchange services. The taxable interchange supply for these EFTPOS transactions goes in the 'opposite direction' to other taxable supplies of interchange services in relation to EFTPOS transactions, scheme debit and BPAY.

19. Table 2 summarises how in some cases EFTPOS taxable supplies of interchange services are made by the acquiring entity.[12]

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[11] This Ruling does not address acquisitions in acquiring business or by a Biller's financial institution for BPAY transactions.

Table 2: supplies of interchange services made by the acquiring entity for certain EFTPOS transactions



20. It is not possible for this Ruling to address all of the possible account transactions or functions or features of transaction accounts.[13]

[12] Table 2 does not include supplies made by the merchant to the account holder. The GST treatment of debit card surcharges charged by merchants is explained in Goods and Services Tax Ruling GSTR 2014/2 *Goods and services tax: treatment of ATM service fees, credit card surcharges and debit card surcharges*.

[13] See Table A of Schedule 2 of Goods and Services Tax Ruling GSTR 2002/2 *Goods and services tax: GST treatment of financial supplies and related supplies and acquisitions* which provides a summary of fees and services in relation to transaction banking & cash management for further examples.

Ruling

Determining the extent to which an acquisition relates to the making of input taxed supplies

21. Paragraph 11-15(2)(a) specifically precludes an acquisition from being for a creditable purpose to the extent that it relates to the making of supplies that would be input taxed. This analysis necessarily involves an enquiry as to whether there is a relevant connection between an acquisition and an input taxed supply.

22. GSTR 2008/1 sets out the principles for establishing a relevant connection to supplies for these purposes. The connection may be direct, or indirect, substantial or real. It must be relevant and usually a remote connection would not suffice.[14] The required connection has also been described as 'sufficient and material', which would include a 'direct and immediate' connection.[15] In this Ruling, we refer to the required connection as a 'real and substantial connection' or a 'relevant connection' interchangeably.

23. Determining whether there is a relevant connection between an acquisition and the making of supplies that would be input taxed requires an objective assessment of the surrounding facts and circumstances to determine whether the acquisition is intended to be used in making those supplies.[16]

24. If an acquisition only has a relevant connection to the making of input taxed supplies, paragraph 11-15(2)(a) precludes the acquisition from being for a creditable purpose. If an acquisition does not have a relevant connection to the making of input taxed supplies, it is solely for a creditable purpose.[17]

25. If an acquisition has a relevant connection to both making input taxed supplies and to making taxable or GST-free supplies, it is partly for a creditable purpose.[18]

26. The Commissioner's view in GSTR 2008/1 is that applying paragraph 11-15(2)(a) requires an objective assessment.[19] This objective assessment can be contrasted with an enquiry into the moving cause or principal purpose behind the acquisition, or the relationship between the acquisition and the broader enterprise.[20]

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[14] *HP Mercantile Pty Limited v Commissioner of Taxation* [2005] FCAFC 126 (*HP Mercantile*) at [35]; paragraphs 113 and 118 of GSTR 2008/1.
[15] *Rio Tinto Services Ltd v Commissioner of Taxation* [2015] FCA 94 (*Rio Tinto – first instance*) at [26] and [33].
[16] Paragraph 119 of GSTR 2008/1.
[17] Subject to the other requirements in section 11-15 being satisfied.
[18] *Rio Tinto Services Ltd v Commissioner of Taxation* [2015] FCAFC 117 (*Rio Tinto – appeal*) at [7]; *HP Mercantile* at [37].
[19] As confirmed in *Axa Asia Pacific Holdings Ltd v Commissioner of Taxation* [2008] FCA 1834 (*Axa*) at [124]; *RioTinto – first instance* at [26] and *Rio Tinto – appeal* at [7].
[20] *Rio Tinto – appeal* at [7], *Rio Tinto – first instance* at [26].

27. The identification of the relevant connection does not turn upon a characterisation of the purpose, or the occasion of the purpose, of the supplier in the sense of a broader commercial objective of the enterprise.[21] If an objective assessment shows that an acquisition only has a relevant connection to the making of input taxed supplies, the acquisition is not to be apportioned merely because those supplies may also serve a broader commercial objective.[22]

Determining the creditable purpose for acquisitions made by account providers

28. The application of paragraph 11-15(2)(a) requires the precise identification of the relevant acquisition and a factual enquiry into the connection between the acquisition and the making of supplies that would be input taxed.[23]

29. In the absence of any other potential supplies, an acquisition that has a relevant connection to the supply of a transaction account will either:

- only have a relevant connection to the financial supply of the transaction account. If so, the acquisition is for a creditable purpose only to the extent the supply of the transaction account is GST-free
- have a relevant connection to both the financial supply of the transaction account and the taxable supply of interchange services. These acquisitions are partly for a creditable purpose. This includes acquisitions that have a direct connection to making both supplies (including acquisitions with distinct and severable parts that are devoted to particular uses, and which can be allocated between these uses), as well as acquisitions that have an indirect connection to all supplies made in the transaction accounts business.

Transaction accounts where the account provider does not make supplies of interchange services

30. For some transaction accounts, none of the ways in which the account holder can access the account involve the account provider making supplies of interchange services.

31. To the extent that an account provider makes acquisitions to supply these types of transaction accounts, there is no relevant connection to supplies of interchange services. These acquisitions

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[21] *Rio Tinto – appeal* at [8].
[22] *Rio Tinto – appeal* at [7].
[23] *Rio Tinto – appeal* at [7].

will only have a relevant connection to financial supplies of transaction accounts.

Example 1 – acquisitions in relation to a transaction account that does not involve the supply of interchange services

32. *Latrice Bank provides a transaction account which is an online savings account. The account is not linked to a debit card, so it cannot be used for scheme debit or EFTPOS purchase transactions. The account also cannot be used for BPAY payments.*

33. *The account holder can access the online savings account via a linked everyday account, which can be either provided by Latrice Bank or another account provider.*

34. *Given the ways in which the account holder can access the online savings account, Latrice Bank does not make supplies of interchange services in relation to this transaction account.*

35. *To the extent that Latrice Bank makes acquisitions to supply the online savings account, the acquisitions will only have a relevant connection to the financial supply of the transaction account.*

36. *The fact that Latrice Bank may supply interchange services to other entities when an account holder accesses the linked everyday account in some ways is not sufficient to establish a relevant connection between acquisitions made to supply the online savings account and the supply of interchange services.*

Transaction accounts where you do make supplies of interchange services

37. For other accounts, some of the ways in which the account holder can access the transaction account involve the account provider making supplies of interchange services. An example is a transaction account which is linked to a debit card that can be used to initiate scheme debit or EFTPOS purchase transactions, and that can be used to make BPAY payments.

38. To determine how paragraph 11-15(2)(a) applies to acquisitions made to supply these types of transaction accounts, the acquisition must be considered objectively to determine whether it has a relevant connection to the financial supply of the transaction account, the taxable supply of interchange services, or both.

39. Where the acquisition has a relevant connection to both types of supplies, in determining how paragraph 11-15(2)(a) applies, it will be relevant to consider the extent of the connection to interchange supplies. For example, so far as the acquisition relates to 'on-us' transactions, these transactions do not involve making supplies of interchange services (see paragraph 17 of this Ruling). Similarly, so far as the acquisition relates to some extent to ATM withdrawals and other transactions such as those at paragraph 16 of this Ruling, these also do not involve interchange supplies.

Examples

40. Each of the account providers in Examples 2 to 13 supplies a transaction account to which this Ruling applies. Each transaction account can be accessed by the account holder in ways which involve the account provider making interchange supplies. As in paragraph 29 of this Ruling, where an acquisition only has a relevant connection to the financial supply of an account, the extent of creditable purpose is limited to the extent to which this supply is GST-free.

41. The examples do not address how paragraph 11-15(2)(a) applies when an acquisition may also have a relevant connection to other supplies outside of the transaction accounts business. For example, in Example 11, a mobile application may also relate to financial supplies of credit cards and home loans.

Example 2 – acquisitions to prepare account statements

42. *Borzoi Bank acquires services from Sapsaree Limited, which prints and posts statements to Borzoi Bank's account holders.*

43. *The statements include information about:*

- *the account balance and the transactions on the account*
- *the account holder's obligations to pay amounts to Borzoi Bank, such as any fees associated with the transaction account.*

44. *Borzoi Bank has statutory obligations to ensure periodic statements are issued to account holders that contain particular information.*

45. *Borzoi Bank acquires the services from Sasparee to help manage their relationship with account holders. The acquisitions have a real and substantial connection to the supply of the transaction account.*

46. *Borzoi Bank supplies interchange services to other entities in relation to some transactions (such as scheme debit card and EFTPOS purchase transactions or BPAY transactions) that are recorded on the statements. However, this fact is not of itself sufficient to establish a real and substantial connection between the acquisition from Sasparee and the supply of interchange services by Borzoi Bank. The relationship between the acquisitions to prepare account statements and the supply of interchange services is too remote. Objectively, the statements are produced to provide a record of those transactions to the account holder and relate to the financial supply of the transaction account.*

47. *Borzoi Bank's acquisitions to prepare account statements only have a relevant connection to the financial supply of the transaction account.*

Example 3 – acquisition of interchange services for cash-out via EFTPOS

48. *Under the payment system operator rules, when Visage Bank's account holders make cash-out transactions at certain merchants via EFTPOS, Visage Bank does not make a taxable supply of interchange services, and instead it acquires interchange services supplied by an acquiring entity.*[24]

49. *These transactions occur when an account holder withdraws cash from their transaction account at these merchants via EFTPOS, either as a standalone transaction, or in combination with a purchase transaction.*

50. *The acquisitions of interchange services by Visage Bank for EFTPOS cash-out withdrawals enable the account holder to access their transaction account. As there is no taxable supply of interchange services by Visage Bank as the account provider for these transactions, there is no relevant connection between the acquisitions and a taxable supply made by Visage Bank.*

51. *Visage Bank's acquisitions of interchange services only have a relevant connection to the financial supply of the transaction account.*

52. *The same analysis applies when Visage Bank acquires scheme services from a payment system operator to facilitate the EFTPOS cash-out withdrawal.*

Example 4 – acquisition of branch network costs

53. *Saluki Bank makes acquisitions to maintain its network of branches, including for rent, electricity, repairs and maintenance, cleaning and office equipment. Saluki Bank also acquires labour hire services to meet temporary staffing needs in its branches.*

54. *The branch network is customer-facing, providing a customer service channel for customers of Saluki Bank's retail and business banking products.*

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[24] See paragraphs 18 and 19 of this Ruling for explanation of EFTPOS interchange services supplied by the acquiring entity, not by the account provider.

55. *To reflect the activities of the branch staff, Saluki Bank allocates a proportion of its branch network costs to its transaction accounts business. The activities of the branch staff in relation to Saluki Bank's transaction accounts include:*

- *assisting with applications for new transaction accounts*
- *providing customer service and assisting with enquiries from account holders.*

56. *These activities of the branch staff help to manage Saluki Bank's relationship with account holders. Any relationship between the acquisitions to undertake these activities that provide customer service to account holders, and taxable supplies of interchange services is too remote.*

57. *The proportion of the branch network costs allocated to the transaction accounts area has a real and substantial connection to the supply of the transaction accounts. There is no real and substantial connection to the supply of interchange services.*

58. *These costs only have a relevant connection to the financial supply of the transaction account.*

Example 5 – acquisition of call centre services

59. *Lowchen Credit Union outsources its account enquiries to a call centre operated by Vizsla Operations Limited.*

60. *Under the agreement, Vizsla Operations must provide customer support within a specified service window. Lowchen Credit Union provides access to its systems so Vizsla Operations staff can process new transaction account applications, and resolve account holders' enquiries.*

61. *Similar to a branch, the call centre is customer-facing and its activities help Lowchen Credit Union to manage their relationship with account holders. Any relationship between the acquisitions to undertake these activities that provide customer service to account holders, and taxable supplies of interchange services is too remote.*

62. *The acquisition of call centre services has a real and substantial connection to the financial supply of the transaction accounts. There is no real and substantial connection to the supply of interchange services.*

63. *Lowchen Credit Union's acquisition of call centre services only has a relevant connection to the financial supply of the transaction account.*

Example 6 – acquisition of advertising services from a product comparison website

64. *Product Spotter Limited provides a product comparison website that compares the features of financial products. Teacup Bank has an agreement with Product Spotter where its transaction accounts are included on the website.*

65. *The website compares the features of these transaction accounts with those of similar products, including the relevant interest rates, fees and any introductory offers for new account holders.*

66. *Teacup Bank pays a referral commission to Product Spotter when a new account holder applies for a transaction account after clicking through to Teacup Bank's website. Teacup Bank also pays for sponsored listings, where its products appear at the top of the results for the relevant category of financial product.*

67. *Considered objectively, this acquisition is made to promote Teacup Bank's transaction accounts, and is intended for originating these supplies. The acquisition has a real and substantial connection to the supply of the transaction account.*[25]

68. *The acquisitions from Product Spotter do not have a real and substantial connection to any interchange services that Teacup Bank supplies when the new account holder accesses their transaction account in certain ways (such as scheme debit card and EFTPOS purchase transactions or BPAY transactions). This is because the acquisition of the services from Product Spotter Limited is only intended to induce new account holders to apply for a transaction account, in order for Teacup Bank to make the supply of the transaction account.*

69. *Teacup Bank's acquisition of services from Product Spotter only has a real and substantial connection to the financial supply of the transaction account.*

Example 7 – acquisition of scheme services

70. *Chachki Bank pays scheme fees to an operator to participate in a payment system for scheme debit cards. The system operator facilitates the authorisation, clearing and settlement of transactions on behalf of the participants in the system.*[26]

71. *These acquisitions are separate from acquisitions of acquirer scheme services where the fees are paid to the payment system operator by acquiring entities.*

72. *There is a complex fee structure for the payment system operator's services, including card service fees, data processing fees*

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[25] See also paragraph 126 of GSTR 2008/1.
[26] *Visa International Service Association v Reserve Bank of Australia* [2003] FCA 977 (*Visa*) at [92].

and transaction dispute fees. Most of these fees are charged by the transaction.

73. *The payment system operator provides services in facilitating the authorisation, clearing and settlement of each scheme debit card transaction. Chachki Bank must participate in the payment system and acquire these scheme services to complete a scheme debit card transaction. The scheme debit card transaction results in Chachki Bank providing the account holder with access to their transaction account, and supplying interchange services to acquiring entities in that payment system.*

74. *Chachki Bank's acquisitions of scheme services have a real and substantial connection to both the supply of the transaction account and the supply of interchange services.*

75. *In determining the extent of the relevant connection to each supply, Chachki Bank must have regard to the extent to which the acquisitions of scheme services relate to transactions where it does not make taxable supplies of interchange services (such as any 'on-us' transactions).*

76. *The same analysis applies when Chachki Bank acquires equivalent scheme services from other payment system operators, such as for EFTPOS purchase transactions and BPAY.*

Example 8 – acquisitions of cheque printing, processing and clearing services

77. *Artois Bank acquires services for cheque printing (including to ensure the cheques meet particular technical specifications to facilitate processing), and services for cheque processing and clearing.*

78. *These acquisitions enable account holders to access their transaction account by drawing and depositing cheques.*

79. *Artois Bank does not make supplies of interchange services in the cheque clearing process. There is no relevant connection between the acquisitions and the supply of interchange services.*

80. *As Artois Bank acquires cheque printing, processing and clearing services to enable account holders to access their transaction accounts by using cheques, these acquisitions only have a relevant connection to the financial supply of the transaction account.*

Example 9 – acquisition of card production services

81. *Basenji Bank acquires card production services so it can provide plastic debit cards to its account holders.*

82. *The cards are multi-network cards which have built-in features and technology so that account holders can access their transaction account in a number of ways. Some of the access methods involve*

Basenji Bank making supplies of interchange services (for example, EFTPOS and scheme debit purchase transactions) and others do not (for example, withdrawals or deposits using the card at ATMs or branches and EFTPOS cash-out transactions).

83. *To operate in each payment system, the card must have the built-in features and technology specified by the relevant payment system operator. Basenji Bank's agreements with the operators make these features a condition of their participation in each payment system.*

84. *One way of the account holder accessing their transaction account using the debit card is to present the debit card to a merchant for a scheme debit or EFTPOS purchase transaction. The presentation of the debit card initiates the account holder's access to their transaction account, and also initiates the operation of the payment system, including the Basenji Bank's supply of interchange services to acquiring entities in authorising, clearing and settling these transactions.*

85. *As the plastic debit card is used to initiate transactions that involve the supply of interchange services, the acquisition of card production services has a relevant connection to both the financial supply of the transaction account and the supply of interchange services. This is because the plastic debit cards need built-in technology to perform their function in initiating both the account holder's access to the transaction account and the supply of interchange services.*

86. *In determining the extent of the relevant connection to each supply, Basenji Bank must have regard to the extent to which the acquisitions of card production services relate to transactions where it does not make taxable supplies of interchange services. This would include any 'on-us' transactions, or other transactions where Basenji Bank does not make supplies of interchange, such as withdrawals or deposits at ATMs or branches and EFTPOS cash-out transactions.*

Example 10 – acquisition of mobile payment services

87. *Paisley Pay provides a digital wallet application for use on certain mobile devices, including mobile phones and wearable devices. Strawberry Bank acquires mobile payment services from Paisley Pay, which enable its account holders to use the digital wallet application to make certain transactions on their transaction accounts. Under the agreement with Paisley Pay, Strawberry Bank remains solely responsible for managing the relationship with its account holders.*

88. *The digital wallet application performs functions that are equivalent to a plastic debit card, as it enables account holders to initiate account transactions in a number of ways. Some of the access methods involve Strawberry Bank making supplies of interchange services (for example, EFTPOS and scheme debit purchase*

transactions), and others do not (for example, withdrawals or deposits at ATMs and EFTPOS cash-out transactions).

89. *When the account holder presents the digital wallet application on their mobile device to a merchant for a scheme debit or EFTPOS purchase transaction, this initiates the account holder's access to their transaction account, and also initiates the operation of the payment system, including Strawberry Bank's supply of interchange services to acquiring entities in authorising, clearing and settling these transactions.*

90. *As the digital wallet application is used to initiate transactions that involve Strawberry Bank making a supply of interchange services (for example, EFTPOS and scheme debit purchase transactions), the acquisition of mobile payment services from Paisley Pay has a relevant connection to both the financial supply of the transaction account and the supply of interchange services. This is because the digital wallet application has the built-in technology to perform its function in initiating both the account holder's access to the transaction account and the supply of interchange services.*

91. *In determining the extent of the relevant connection to each supply, Strawberry Bank must have regard to the extent to which the acquisitions of mobile payment services relate to transactions where it does not make taxable supplies of interchange services. This would include any 'on-us' transactions, or other transactions where Strawberry does not make supplies of interchange, such as withdrawals or deposits at ATMs or branches and EFTPOS cash-out transactions.*

Example 11 – acquisition of information technology services to maintain a mobile application for online banking

92. *Lando Bank acquires information technology services to maintain a mobile phone application that allows account holders to do online banking.*

93. *Lando Bank allocates a proportion of these costs to its transaction accounts business.* [27]

94. *The mobile application enables account holders to:*

- *view their account balance and the details of their transactions*
- *take actions to manage their account (for example, to change their daily payment limit or notify the account provider that they are travelling overseas)*

[27] This application may also provide features in relation to other products such as home loans and credit cards, and a proportion of costs would therefore relate to those other supplies made by Lando Bank.

- *initiate transactions on the account that do not involve Lando Bank making supplies of interchange services – such as where the account holder transfers funds between linked accounts, makes payments to other accounts (such as 'Pay Anyone' payments or payments via the New Payments Platform), or initiates a 'cardless' withdrawal from an ATM*
- *initiate transactions on the account that do involve Lando Bank making supplies of interchange services – such as where the account holder initiates BPAY transactions on their account.*

95. *The mobile phone application helps to manage Lando Bank's relationship with account holders. Some of the functions allow the account holder to provide 'self-service' in managing their account, and in that way are analogous to the customer service offered at a branch or call centre.*

96. *Some functions enable the account holder to view their balance and view a record of the transactions on their account, and in that way are analogous to the provision of an account statement.*

97. *Lando Bank supplies interchange services to other entities in relation to some transactions (such as scheme debit card and EFTPOS purchase transactions or BPAY transactions) that account holders can view using the application. However, this fact is not of itself sufficient to establish a real and substantial connection between these parts of the acquisitions and the supply of interchange services by Lando Bank.*

98. *Other functions of the application enable the account holder to use the application to initiate transactions on their account. Depending on the type of transaction, this may involve the account provider making supplies of interchange services.*

99. *As the application is used to initiate BPAY transactions that involve Lando Bank making a supply of interchange services, the acquisitions have a relevant connection to both the financial supply of the transaction account and the supply of interchange services. This is because the application is used by the account holder to both initiate access to their transaction account, and to initiate the operation of the BPAY payment system, through which the account provider makes supplies of interchange services to the Biller's financial institution.*

100. *In determining the extent of the relevant connection to each supply, Lando Bank must have regard to the extent to which the acquisitions relate to providing customer service to account holders and to initiating transactions that do not involve Lando Bank making a taxable supply of interchange services. This would include any 'on-us' transactions, and other transactions where Lando Bank does not make supplies of interchange services, such as transfers between linked bank accounts.*

Example 12 – acquisition of processing services in managing and operating the transaction account

101. *Havanese Mutual Bank makes acquisitions of processing services that support the operation of its transaction accounts.*

102. *Havanese Mutual Bank undertakes an objective assessment of the processing services it acquires by identifying the specific functions performed by the relevant software applications.*

103. *Havanese Mutual Bank determines that the acquisitions of processing services involve applications and functions that are only intended to manage and operate the account holders' account. For example, this includes posting debits and credits to the account holder's account, calculating and posting fees to the account, and extracting transaction information from the account for use in preparing account statements or to support the display of transactions on an internet banking application.*

104. *These acquisitions relate to managing the account, the relationship with the account holder and to recording the transactions that occur when the account holder accesses their transaction account. There is no real and substantial relationship between these parts of the services acquired and the supply of interchange services made to other participants in the payment systems for some of the account holder's transactions.*

105. *The acquisitions made by Havanese Mutual Bank only have a real and substantial connection to the supply of the transaction account.*

Example 13 – acquisition of payment switching services

106. *Havanese Mutual Bank acquires outsourced payment switching services from Monsoon Payment Solutions.*

107. *The function of the payment switch is to act as a gateway to the relevant payment system, as it sends and receives transaction instructions from Havanese Mutual Bank's systems to other participants via the payment system.*

108. *Monsoon Payment Solutions provides payment switch services for transactions via scheme debit cards, EFTPOS, BPAY, direct entry (which includes direct debit, direct credit and 'Pay Anyone' transactions) and the New Payments Platform.*

109. *The acquisitions of payment switch services have a real and substantial connection to both the supply of the transaction account and the supply of interchange services. This is because the payment switch services are integral to both receiving account holder's requests for access to their transaction account via the relevant payment systems, and to making taxable supplies of interchange services in relation to scheme debit, EFTPOS and BPAY transactions.*

110. *In determining the extent of the relevant connection to each supply, Havanese Mutual Bank must have regard to the extent to which the acquisitions relate to transactions that do not involve it making a taxable supply of interchange services. This would include any 'on-us' transactions, and other transactions where Havanese Mutual Bank does not make supplies of interchange services, such as transactions via the payment systems for direct entry or the New Payments Platform.*

Date of effect

111. When the final Ruling is issued, it is proposed to apply from the start of the tax period commencing after its date of issue.

Commissioner of Taxation
26 June 2019

Appendix 1 – Alternative view

112. An alternative view is that, as a matter of objective fact, all acquisitions made in a transaction accounts business have a relevant connection to both the supply of the transaction account and the supply of interchange services.

113. One aspect of this view is that the transaction accounts business (specifically, each account transaction which involves the supply of interchange services) generates two simultaneous interrelated supplies. It is said that the commercial reality is that the revenues in the transaction accounts business are generated in parallel through these interrelated supplies, and all of the acquisitions relate to derivation of both input taxed and non-input taxed revenue streams.

114. When an acquisition is made that has a relevant connection with an input taxed supply, the Commissioner does not accept that the acquisition must be partly creditable merely because there is also a taxable supply made, which is inter-dependent from a commercial perspective. Such dependency arguments were raised and rejected albeit in different factual contexts, in *AXA, Rio Tinto – first instance* and *Rio Tinto – appeal.* In particular, *Rio Tinto – appeal* establishes that the identification of the relevant connection does not turn upon a characterisation of the purpose, or the occasion of the purpose, of the supplier in the sense of a broader commercial objective of the enterprise.[28]

115. The above cases establish that it is not sufficient to simply identify that there are two supplies made in the same integrated business activity, to establish a relevant connection with all acquisitions in that activity. However, this does not mean that some acquisitions, as a matter of objective fact, cannot have a relevant connection to both supplies.

116. The alternative view also emphasises that as a matter of objective fact taking into account the underlying assumptions, facts and surrounding circumstances associated with the operation of a four-party payment systems, the relevant acquisitions have a relevant connection with both the supply of the transaction account and the supply of interchange services.

117. The Commissioner accepts, as explained at paragraph 14 of this Ruling, the interrelated way in which these payment systems operate. However, this does not, in itself, give rise to a conclusion that all acquisitions in the transaction accounts business area will have a relevant connection to both the supply of the transaction account and the supply of interchange services.

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[28] *Rio Tinto – appeal* at [7].

Appendix 2 – Your comments

118. You are invited to comment on this draft Ruling, including the proposed date of effect. Please forward your comments to the contact officer by the due date.

119. A compendium of comments is prepared for the consideration of the relevant Public Advice and Guidance Panel or relevant tax officers. An edited version (names and identifying information removed) of the compendium of comments will also be prepared to:

- provide responses to persons providing comments
- be published on **ato.gov.au**.

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

Due date: **9 August 2019**

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

Appendix 3 – Detailed contents list

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

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References

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

TR 2006/10; GSTR 2003/8; GSTR 2006/3; GSTR 2008/1; GSTR 2014/2; GSTD 2002/2; GSTD 2018/D1

Legislative references:

- ANTS(GST)A 1999
- ANTS(GST)A 1999 11-15
- ANTS(GST)A 1999 11-15(2)(a)
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- ANTS(GST)A 1999 Div 70
- ANTS(GST)A 1999 Div 84
- ANTS(GST)R 2019
- ANTS(GST)R 2019 40-5.09(3)
- ANTS(GST)R 2019 40-5.12

Cases relied on:

- Axa Asia Pacific Holdings Ltd v Commissioner of Taxation [2008] FCA 1834; (2008) 173 FCR 500; 2008 ATC 20-074; (2008) 71 ATR 1
- HP Mercantile Pty Limited v Commissioner of Taxation [2005] FCAFC 126, (2005) 143 FCR 553; 2005 ATC 4571; (2005) 60 ATR 106
- Rio Tinto Services Ltd v Commissioner of Taxation [2015] FCA 94; 2015 ATC 20-489; (2015) 98 ATR 390
- Rio Tinto Services Ltd v Commissioner of Taxation [2015] FCAFC 117; (2015) 235 FCR 159; 2015 ATC 20-525; (2015) 101 ATR 546
- Visa International Service Association v Reserve Bank of Australia [2003] FCA 977; (2003) 131 FCR 300

Other references:

- PCG 2017/15

ATO references

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