



***GSTA TPP 096 - Goods and services tax: Is there an increasing adjustment under Division 138 of the GST Act if an entity carrying on a farming business undertakes improvements to its farm land and subsequently cancels its GST registration?***

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 This document has changed over time. This is a consolidated version of the ruling which was published on 1 February 2006



## Goods and Services Tax Advice

### **Goods and services tax:** Is there an increasing adjustment under Division 138 of the GST Act if an entity carrying on a farming business undertakes improvements to its farm land and subsequently cancels its GST registration?

#### **Preamble**

*This document is a ruling for the purposes of section 37 of the Taxation Administration Act 1953. You can rely on the information presented in this document, which provides advice on the operation of the GST system.*

#### **Answer**

Yes. There is an increasing adjustment under Division 138 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) if an entity carrying on a farming business undertakes improvements to its farm land and subsequently cancels its GST registration. Division 138 of the GST Act applies in determining the amount of the increasing adjustment for each improvement to the property.

#### **Background**

A farmer purchases a property that is GST-free under Subdivision 38-O of the GST Act, which deals with GST-free supplies of farmland. He undertakes extensive fencing of the property as well as the construction of a dam. The farmland cost \$500,000, the fencing \$25,000, and the dam \$5,000. The farmer claimed input tax credits on the acquisition of the fencing and the dam. There was no change in creditable purpose relating to the fencing and the dam. As a result, there are no adjustment periods relating to the improvements.

Fifteen years elapses and the farmer retires but remains on the land. The farming business ceases and GST registration is cancelled.

#### **Explanation**

Subsection 138-5(1) of the GST Act provides that an entity has an increasing adjustment if its registration is cancelled and, immediately before the cancellation, its assets include anything for which it was, or is, entitled to input tax credits.

The farmland, fencing, and dam are assets of the entity immediately before the cancellation of registration takes effect.

However, there is no entitlement to an input tax credit in relation to the acquisition of the farmland as it was a GST-free acquisition. Therefore, Division 138 of the GST Act does not apply in relation to the farmland.

The fencing and dam are separate acquisitions for which the entity had an entitlement to input tax credits. They are separate things for the purposes of calculating an increasing adjustment under Division 138 of the GST Act. The entity should use a reasonable method to work out the GST inclusive market value of each of these acquisitions. Once these values have been calculated, the applicable values can be determined and applied in the formula contained in subsection 138-5(2) of the GST Act to calculate the amounts of the increasing adjustments.

*Note: GSTA TPP 094 provides a formula that is a reasonable method to determine the value of an improvement reflected in the value of the property immediately before cessation of registration.*

#### **Application of this GST Advice**

This Advice explains our view of the law as it applied from 1 July 2000. You can rely on this Advice on and from its date of issue for the purposes of section 37 of the *Taxation Administration Act 1953*. 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.

If this Advice conflicts with a previous ruling that you have obtained, this public ruling prevails. However, if you have relied on a previous ruling, you are protected in respect of what you have done up to the date of issue of this public ruling. This means that if you have underpaid an amount of GST, you are not liable for the shortfall prior to the date of issue of this later ruling. Similarly, you are not liable to repay an amount overpaid by the Commissioner as a refund.

***Related Rulings/Determinations/GST Advice:***

GSTA TPP 094  
GSTA TPP 095

***Subject references:***

asset  
increasing adjustment  
GST farm land  
GST registration  
registration cancellation

***Legislative references:***

ANTS(GST)A 1999 Subdiv 38-O  
ANTS(GST)A 1999 Div 138  
ANTS(GST)A 1999 138-5(1)  
ANTS(GST)A 1999 138-5(2)  
TAA 1953 37

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**ATO references**

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