

***GSTD 2000/4 - Goods and services tax: what does the word 'premises' mean in the expression, 'a supply of food for consumption on the premises from which it is supplied'?***

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! This document has changed over time. This is a consolidated version of the ruling which was published on *31 October 2012*

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## Goods and Services Tax Determination

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

#### *Preamble*

*This document was published prior to 1 July 2010 and was a public ruling for the purposes of former section 37 of the **Taxation Administration Act 1953** and former section 105-60 of Schedule 1 to the **Taxation Administration Act 1953**.*

*From 1 July 2010, this document is taken to be a public ruling under Division 358 of Schedule 1 to the **Taxation Administration Act 1953**.*

*A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.*

*If you rely on this ruling, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you - provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.*

*[Note: This is a consolidated version of this document. Refer to the Legal Database (<http://law.ato.gov.au>) to check its currency and to view the details of all changes.]*

#### *Date of Effect*

*This Determination applies [to tax periods commencing] both before and after its date of issue. However, this Determination will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Determination (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).*

1. The ordinary meaning of the word ‘premises’ is widened by the definition in section 38-5 of the *A New Tax System (Goods and Services Tax) Act 1999*. Premises falling within the section 38-5 definition include:

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

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

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

- football grounds
- other sports grounds
- golf courses
- gyms
- ice-skating rinks
- motor racing circuits
- racecourses
- swimming pools
- tennis centres
- ten pin bowling alleys
- air-show venues
- amusement parks/arcades
- exhibition halls
- theme parks
- showgrounds
- aquariums
- galleries
- gardens
- museums
- zoos
- cinemas
- concert halls
- entertainment centres
- theatres.

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

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

- kiosks or similar stores located within caravan parks, camping grounds, or hotel/resort complexes - the 'premises' is the kiosk and not the caravan park, camping ground or hotel/resort complex;
- school tuckshops – the 'premises' is the tuckshop and not the school;
- canteens and dining areas in hospitals, offices, factories, university halls of residence or colleges – the 'premises' is the canteen or dining area and not the hospital, office, factory, university hall of residence or college;
- cafes in shopping centres, universities, airports, bus depots or railway stations – the 'premises' is the cafe and not the shopping centre, university, airport, bus depot or railway station.

6. In some situations it is important to consider from which premises the supply of food is made. Where food is provided under catering arrangements the food may be prepared in a commercial kitchen and transported to a location where it is to be consumed. In these circumstances food is supplied from the premises where the catered event takes place. In contrast food that is home delivered (for example, milk, water, pre-ordered takeaway food and supermarket items) is not a supply of food for consumption on the premises from which it is supplied. In these circumstances the delivery service is a separate supply from the supply of food which may be consumed at any location.

## **Example 1**

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

## **Example 2**

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

## **Example 3**

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

## **Example 4**

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

## **Example 5**

11. Sue operates a kiosk which is located within a swimming pool complex. The swimming pool complex is situated within a public park. Although the kiosk sells mainly to pool customers, there is also a window which faces out onto the park. It is the swimming pool complex that is the relevant premises. Food supplied and eaten inside the pool complex is supplied for consumption on the premises. The public park is a public thoroughfare and does not form part of the premises. Food sold through the window to customers in the park is not supplied for consumption on the premises.

## **Example 6**

12. Nick has a magnificent flower garden on his land. Nick's garden wins awards and at certain times of the year Nick allows visitors to access his garden. Nick sells refreshments at these times. The garden is a leisure venue with a clear boundary and is premises at which food is supplied for consumption on the premises.

## **Example 7**

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

## *Example 8*

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

## **Commissioner of Taxation**

21 June 2000

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### *Previous draft:*

Previously released as GSTD 2000/D1.

### *Related Rulings/Determinations:*

TR 2006/10; GSTD 2000/5

### *Subject references:*

- food
- food premises
- goods & services tax
- GST food

- GST free

- GST supply

- premises

- taxable supply

- taxation determinations

### *Legislative references:*

- ANTS(GST)A99 38-5

- TAA 1953 Sch 1 Div 358

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### ATO references:

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