

GSTD 2001/1 - Goods and services tax: what is the GST treatment of the administration levy paid by parents and carers to a Family Day Care Scheme and Child Care Subsidy paid to an approved Family Day Care Service Provider to be passed on to parents as a fee reduction?

 This cover sheet is provided for information only. It does not form part of *GSTD 2001/1 - Goods and services tax: what is the GST treatment of the administration levy paid by parents and carers to a Family Day Care Scheme and Child Care Subsidy paid to an approved Family Day Care Service Provider to be passed on to parents as a fee reduction?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *27 March 2019*

Goods and Services Tax Determination

Goods and services tax: what is the GST treatment of the administration levy paid by parents and carers to a Family Day Care Scheme and Child Care Subsidy paid to an approved Family Day Care Service Provider to be passed on to parents as a fee reduction?

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://ato.gov.au/law>) to check its currency and to view the details of all changes.]

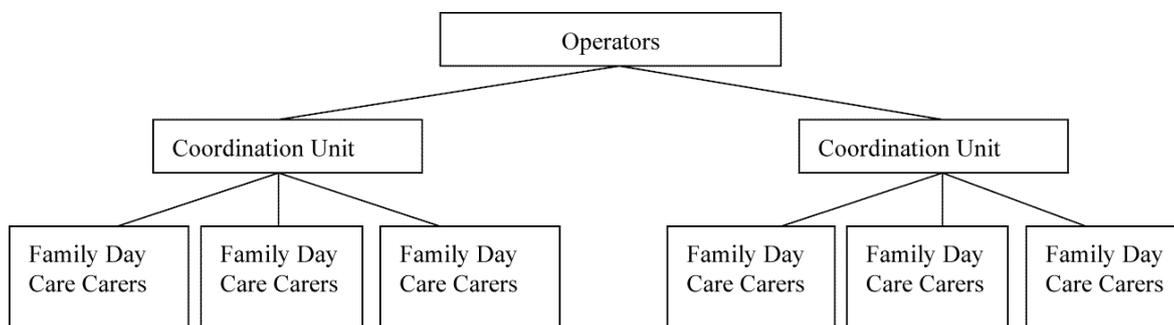
Date of Effect

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).

Operation of a Family Day Care Program

1. A Family Day Care Program is a Commonwealth funded, community based child care service which offers professional and supervised care for children up to 12 years of age in the private homes of approved Family Day Care Carers.
2. ***Family Day Care Carers*** are individuals providing child care and developmental activities in their own homes for other people's children.

3. A **Family Day Care Scheme** is a network of carers supported and organised by a **central coordination unit**. The unit: resources carers, arranges the placement of children, monitors the care provided and undertakes the necessary administrative responsibilities.



4. The central coordination unit is generally administered by one of several types of operators such as: a local government (i.e., councils), a church or community group or an incorporated entity in its own right. For example, the coordination unit for Family Day Care in South Australia is the State Government.

GST-free child care services

5. Child care is GST-free under section 38-145 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) if it is a supply of child care by an approved child care service. The term ‘approved child care service’ is defined in section 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999* (Family Administration Act) to have the meaning given by section 194G of that Act. An ‘approved child care service’ includes a family day care service if an approved provider is approved in respect of that service under the Family Administration Act.

6. A supply of child care will also be GST-free where the supplier of the child care is eligible for funding from the Commonwealth in respect of the kind of child care specified in a determination made by the Child Care Minister.³

7. The GST Act also provides that a supply is GST-free if it is a supply that is directly related to child care that is:

- (a) GST-free because of section 38-145 or 38-150 of the GST Act as explained in paragraphs 5 and 6 of this Determination; and
- (b) supplied by, or on behalf of, the supplier of the child care.

Administration Levies

8. The coordination units currently charge administration levies to both the carers and parents. This levy supports the provision of services such as:

- toy library for Carers to utilise for the children in their care;
- handouts, newsletters and updates for both Carers and parents;
- processing of attendance sheets which record children in care; and

¹ [Omitted.]

² [Omitted.]

³ Section 38-150 of the GST Act.

- calculation and administration of Child Care Subsidy (CCS) entitlements.

9. The administration levy charged to the parents enables the Family Day Care Scheme to provide services that are directly related to the supply of GST-free child care. Therefore, the levy charged by the central coordination unit to the parents is consideration for a GST-free supply.

10. If the administration levy consists of a charge or charges that are not directly related to the supply of GST-free child care, then those components of the levy must be apportioned and are subject to GST⁴. For example, if part of the levy represents a membership fee which entitles the parent to be a member of the Family Day Care Scheme that membership fee is taxable.

11. The administration levy charged to the Family Day Care Carers enables the administrator of the Family Day Care Scheme to provide services that are directly related to the supply of GST-free child care. This levy is also GST-free.

12. To the extent that the levy consists of charges for services, which are not directly related to the supply of GST-free child care, the levy will be taxable. For example if the levy consists of components relating to the registration or training of the carer those components of the levy are taxable.

Child Care Subsidy

13. An eligible parent or guardian whose child is attending an approved child care service will be entitled to the CCS in relation to the child care services supplied.

14. Where the CCS is paid directly to the approved child care service provider it is passed on to parents or guardians as a fee reduction. The approved child care service provider submits session reports to the relevant Department that calculates and pays the CCS entitlements to the approved child care service provider.

15. The CCS is a payment for child care services and reduces the child care fees payable by the parent or guardian. The CCS payment is considered to be a co-payment for GST purposes, as the payment is made to the approved child care service provider on behalf of an identifiable third party (i.e., parent or guardian) even though the parent or guardian does not make the payment of CCS. Families make a co-contribution to their child care fees and pay the child care service provider the difference between the fee charged and the CCS amount. Accordingly, if the child care service supplied to the parent is GST-free⁵, the CCS payment will be consideration for a GST-free supply and the payment will not include a GST component.

Commissioner of Taxation

10 January 2001

⁴ Section 9-80 of the GST Act.

⁵ Subdivision 38-D of the GST Act.

GSTD 2001/1

Page 4 of 4

Page status: **legally binding**

Previous draft:

Not previously issued in draft form.

Related Rulings/Determinations:

TR 2006/10

Legislative references:

- ANTS(GST)A1999

- ANTS(GST)A 1999 9-80
- ANTS(GST)A 1999 38-145
- ANTS(GST)A 1999 38-150
- ANTS(GST)A 1999 38-155
- A New Tax System (Family Assistance)
(Administration) Act 1999 3
- TAA 1953 Sch 1 Div 358

ATO references:

NO T2000/15153

BO

FOI No.: I 1021973

ISSN: 1443 – 5179

© AUSTRALIAN TAXATION OFFICE FOR THE COMMONWEALTH OF AUSTRALIA

You are free to copy, adapt, modify, transmit and distribute this material as you wish (but not in any way that suggests the ATO or the Commonwealth endorses you or any of your services or products).