GSTR 2001/7 - Goods and services tax: meaning of GST turnover, including the effect of section 188-25 on projected GST turnover

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From 1 July 2015, the term 'Australia' is replaced in nearly all instances within the GST, Luxury Car Tax, and Wine Equalisation Tax legislation with the term 'indirect tax zone' by the *Treasury Legislation Amendment (Repeal Day) Act 2015*. The scope of the new term, however, remains the same as the now repealed definition of 'Australia' used in those Acts. This change was made for consistency of terminology across the tax legislation, with no change in policy or legal effect. For readability and other reasons, where the term 'Australia' is used in this document, it is referring to the 'indirect tax zone' as defined in subsection 195-1 of the GST Act.

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Goods and Services Tax Ruling
Goods and services tax: meaning of GST turnover, including the effect of section 188-25 on projected GST turnover

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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.]

What this Ruling is about

1. This Ruling explains:

- how your GST turnover affects the way the *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act) applies to you;
- how section 188-25 of the GST Act affects the calculation of projected GST turnover;
- the relevance of projected GST turnover to your enterprise;[1] and
- the meaning of the terms 'likely to make', 'likely to be made', 'in connection with', 'transfer of ownership', 'capital asset', 'solely as a consequence of', and 'substantially and permanently' as used in Division 188.

2. This Ruling does not deal with:

- the application of sections 188-22, 188-23, 188-24 or 188-40 to the calculation of current GST turnover or projected GST turnover;
- the value of a supply as affected by sections 188-32 or 188-35;[2]
- the meaning of 'connected with the indirect tax zone' (referred to as 'Australia' in this Ruling;[3] and
- how to calculate your 'aggregated turnover' or 'annual turnover' as defined in sections 328-115 and 328-120 of the *Income Tax Assessment Act 1997* (ITAA 1997).

3. This Ruling does not discuss the application of Division 189.

4. All legislative references in this Ruling are to the GST Act, unless otherwise stated.

Date of effect

5. This Ruling applies [to tax periods commencing] both before and after its date of issue. However, this Ruling 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 Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

5A. [Omitted.]

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[1] Section 188-10.
[2] For the basic rules on the value of taxable supplies, see Subdivision 9-C.
[3] The indirect tax zone is the area that Australia's GST applies to and is defined in section 195-1.
[3A] [Omitted.]

5B. [Omitted.]

Background

6. The application of the GST Act to an entity depends upon the concepts of 'turnover threshold', 'GST turnover', 'current GST turnover' and, in particular, 'projected GST turnover'. Both your 'current GST turnover' and your 'projected GST turnover' are relevant to whether you have a GST turnover that meets, or exceeds a turnover threshold.[3B]

7. If you carry on an enterprise that is also a business[3C], your GST turnover is relevant to whether you[4]:

- are required to register for GST;
- must use monthly tax periods;
- must lodge GST returns electronically; and
- must pay net amounts of GST electronically.

7A. You have additional choices and concessions if you are a 'small business entity' (SBE) under the ITAA 1997.[5A] SBE is a concept from income tax.[5B] which also affects how some thresholds apply in GST. An SBE may:

- elect to account on a cash basis;
- elect to pay GST by instalments;
- elect to make an annual apportionment of creditable purpose, or
- use a simplified accounting method determined by the Commissioner under section 123-5.

7B. To be an SBE, your aggregated turnover must be less than $10 million or if you were above $10 million last year you will still be an SBE if your aggregate turnover is likely to be less than $10 million this year.[5C] This Ruling does not deal with how to calculate aggregated turnover to determine whether you are an SBE, but the

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[3B] Section 188-10.
[3C] For example, a government entity may carry on an enterprise without carrying on a business.
[4] Refer to section 188-5.
[5] [Omitted.]
[5A] However this does not apply if you are an SBE only because your aggregated turnover for the current year is less than $10 million. See subsection 328 110(4) of the ITAA 1997.
[5B] Section 328-110 of the ITAA 1997.
[5C] Section 328-110 of the ITAA 1997.

table in paragraph 8 of this Ruling sets out the relevant turnovers for SBEs as well as other entities.

7C. If you carry on an enterprise that is not a business for GST purposes, GST turnover thresholds are relevant to whether you[5D]:

- are required to register for GST;
- must use monthly tax periods;
- can elect to account on a cash basis;
- must lodge GST returns electronically;
- must pay net amounts of GST electronically;
- can elect to pay GST by instalments;
- can elect to make an annual apportionment of creditable purpose; or
- can use a simplified GST accounting method determined by the Commissioner under section 123-5.

8. This table sets out the relevant thresholds for GST turnover.

GST turnover amount	Relevant threshold conditions	Provision
$75,000 or more	**Enterprises** required to register for GST	section 23-15
$150,000 or more	**Non-profit bodies** required to register for GST	section 23-15
$2 million or less	**Non-business** entities:	
	• can account on a cash basis	subsection 29-40(3)
	• can elect to pay GST by instalments	subsection 162-5(2)
	• can elect to make an annual apportionment of creditable purpose	subsection 131-5(2)
	• can use a simplified accounting method determined by the Commissioner	subsection 123-7(2)

[5D] Refer to section 188-5.
[6] [Omitted.]
[7] [Omitted.]
[8] [Omitted.]
[9] [Omitted.]
[10] [Omitted.]
[10A] [Omitted.]
[10B] [Omitted.]

GST turnover amount	Relevant threshold conditions	Provision
$10 million or less	**Small business entities** (SBEs):	
	• can elect to account on a cash basis	subsection 29-40(1)
	• can elect to pay GST by instalments	subsection 162-5(1)
	• can elect to make an annual apportionment of creditable purpose	subsection 131-(1)
	• can use a simplified GST accounting method determined by the Commissioner	subsection 123-7(1)
$20 million or more	All **enterprises** for GST:	
	• must use monthly tax periods	subsection 27-15(3)
	• must lodge GST returns electronically	subsection 31-25(4)
	• must pay net amounts of GST electronically	subsection 33-10(2)

Ruling with explanations

Relevance of 'GST turnover' for determination of turnover threshold

9. Section 188-10 is relevant for working out whether your GST turnover meets, or does not exceed, a turnover threshold. In calculating the electronic lodgment, registration and tax period turnover thresholds, you have a GST turnover that meets a particular turnover threshold under subsection 188-10(1) when:

- your current GST turnover is at or above the turnover threshold, and the Commissioner is not satisfied that your projected GST turnover is below the turnover threshold; or
- your projected GST turnover is at or above the turnover threshold.

10. In calculating the cash accounting, instalment, annual apportionment and small enterprise turnover thresholds for an entity that carries on an enterprise, that is not also a business for GST, you have a GST turnover that does not exceed that particular turnover threshold under subsection 188-10(2) when:

- your current GST turnover is at or below the turnover threshold, and the Commissioner is not satisfied that

your projected GST turnover is above the turnover threshold; or

- your projected GST turnover is at or below the turnover threshold.

Current GST turnover and projected GST turnover

11. Section 188-15 defines 'current GST turnover'. Subject to the exclusions listed in paragraph 14 of this Ruling, 'current GST turnover' at any time during a particular month is the sum of the values of all the supplies that you made, or are likely to make, during the current month and the preceding 11 months.

12. Section 188-20 defines 'projected GST turnover'. Subject to the exclusions listed in paragraph 14 of this Ruling, 'projected GST turnover' at a time during a particular month is the sum of the values of all the supplies that you made, or are likely to make, during that month and the next 11 months.

13. If you are a member of a GST group, in your calculation of current GST turnover and projected GST turnover you must also include the values of supplies made by any member of the group (excluding internal supplies).

14. The following supplies are excluded from the calculation of current GST turnover and projected GST turnover:

- supplies that are input taxed;
- supplies that are not for consideration (and are not taxable supplies under section 72-5);
- supplies not made in connection with an enterprise that you carry on;
- supplies that are not connected with Australia;
- supplies of rights or options that are connected with Australia because of paragraph 9-25(5)(c) (unless the right or option is supplied to an Australian consumer, is not GST-free and relates to the acquisition of an intangible);[10BA]

[10BA] The term 'intangible' refers to something other than goods or real property. These types of supplies are excluded from GST turnover in working out net amounts for tax periods starting on or after 1 July 2017. Prior to this date all supplies of rights or options that are connected with Australia because of paragraph 9-25(5)(c) were excluded. See Example 4 of this Ruling.

- supplies (other than those mentioned in the immediately preceding two dot points) of a right or option to use commercial accommodation in Australia where the supplies are not made in Australia and are made through an enterprise that the supplier does not carry on in Australia;
- supplies made from one member of a GST group to another member of that GST group; and
- GST-free supplies made by a non-resident supplier that are not made through an enterprise they carry on in Australia.[10D]

Paragraph 29 of this Ruling covers further supplies that will be disregarded in calculating projected GST turnover.

15. The term 'supplies' in section 188-15 and 188-20 refers to all supplies as defined in section 9-10 and is not limited to taxable supplies as defined in section 9-5. Current GST turnover and projected GST turnover are the sum of the respective values (excluding GST) for the 12 months.

Whether your GST turnover meets, or does not exceed, a turnover threshold

16. Whether you have a GST turnover that meets or does not exceed a particular turnover threshold depends on an objective assessment of your projected GST turnover and current GST turnover. An 'objective assessment' is one that a reasonable person could be expected to arrive at having regard to the facts and circumstances which apply to your enterprise at the relevant time. The Commissioner will accept your assessment of these turnovers unless he has reason to believe that your assessment was not reasonable.

17. Under subsection 188-10(1), you meet a particular turnover threshold if your projected GST turnover is at or above the threshold. You also meet a turnover threshold if your current GST turnover is at or above the turnover threshold and it is not possible to conclude that your projected GST turnover is below the threshold. This will occur if your projected GST turnover is also above the relevant threshold, or if your circumstances are such that it is not possible to calculate a projected GST turnover. In either of these situations, the Commissioner cannot be satisfied that your projected GST turnover is below the turnover threshold.

[10C] [Omitted.]

[10D] See Law Companion Ruling LCR 2016/1 *GST and carrying on an enterprise in the indirect tax zone (Australia)* for further guidance. This is applicable to net amounts for tax periods starting on or after 1 October 2016.

18. Similarly, under subsection 188-10(2), you have a GST turnover that does not exceed a particular turnover threshold if your projected GST turnover is at or below that threshold. You also do not exceed a turnover threshold if your current GST turnover is at or below the turnover threshold and it is not possible to conclude that your projected GST turnover is above the threshold. This will occur if your projected GST turnover is at or below the relevant threshold or your circumstances are such that it is not possible to calculate a projected GST turnover. In either of these situations, the Commissioner cannot be satisfied that your projected GST turnover is above the turnover threshold.

19. Although your current GST turnover and your projected GST turnover may be capable of being determined on every day during a month, there is no requirement for continuous recalculation. However, under the GST Act there are obligations if you meet or exceed a particular threshold and there is an opportunity for you to make certain elections if you do not exceed a particular threshold. Therefore, you should be aware of the relevant thresholds likely to affect you and consider whether your turnover may be sufficiently close to the relevant thresholds to make a review prudent. For example, Entity A conducts an enterprise with a GST turnover of $70,000 and is not registered for GST. Because Entity A is aware that a $5,000 increase in its GST turnover will result in the $75,000 registration turnover threshold being met, it should monitor changes in its turnover. Entity B by contrast, is registered for GST, conducts an enterprise with a GST turnover of $600,000 and accounts on a cash basis. The nearest relevant threshold is the cash accounting turnover threshold ($2,000,000). Entity B may decide to review its current GST turnover and projected GST turnover on an annual basis whilst being aware that a significant change in turnover may require a further review.

20. If you have elected to pay GST by instalments, this election has effect for the whole of the financial year in question even if, after making the election, you cease being an SBE for an income year, or[10E] if you carry on an enterprise, but not a business, you exceed the instalment turnover threshold at any time. [11] Therefore, it is not necessary to review your GST turnover, for this purpose, for the financial year in which your election has effect.

Meaning of 'likely to make' or 'likely to be made'

21. The phrase 'likely to make' appears in sections 188-15 and 188-20. The phrase 'likely to be made' appears in section 188-25. Both phrases refer to a similar level of expectancy, although the

[10E] Subsection 162-30(5).
[11] Subsection 162-30(3).

GST Act defines neither. The words retain their ordinary meaning in the context of the legislation.

22. In *Australian Telecommunications Commission v. Krieg Enterprises Pty Ltd* (1976) 14 SASR 303, Bray CJ considered the meaning of 'likely' in the phrase 'likely to interfere with or damage property'. His Honour said at pages 312-313:

> 'Here we are concerned with the word "likely" in a statute. As I have said, the ordinary and natural meaning of the word is synonymous with the ordinary and natural meaning of the word "probable" and both words mean,… that there is an odds-on chance of the thing happening. That is the way in which statutes containing the words have usually been construed. …I think that "likely" in the sub-section means "probable" and I think that that means that there is a more than fifty per cent chance of the thing happening.'

23. For the purposes of sections 188-15, 188-20 and 188-25, the expressions, 'likely to make', and 'likely to be made', mean that on the balance of probabilities, it can be predicated that the supply is more likely than not to be made.

24. When a supply is made, is determined in each case by reference to the terms of the particular contract, if applicable, and the nature of the supply. For the purpose of calculating supplies likely to be made, we will accept a calculation based on a bona fide business plan, accounting budget or some other reasonable estimate.

Meaning of 'in connection with'

25. The words 'in connection with', as used in sections 188-15 and 188-20, are not defined in the GST Act. Such wide formulas are context related and courts have insisted that the words be interpreted in accordance with the intent of the relevant statute. In *Hatfield v. Health Insurance Commission* (1987) 15 FCR 487 at page 491 Davies J stated:

> 'Expressions such as "relating to", "in relation to", "in connection with" and "in respect of" are commonly found in legislation but invariably raise problems of statutory interpretation. They are terms that fluctuate in operation from statute to statute… The terms may have a very wide operation but they do not usually carry the widest possible ambit, for they are subject to the context in which they are used, to the words with which they are associated and to the object or purpose of the statutory provision in which they appear.'

26. This passage was approved by the Full Federal Court in *Burswood Management Ltd v. Attorney-General* (1990) 23 FCR 144. At page 146 their Honours concluded that reference to reported cases is of little assistance in determining the meaning of the words 'in connection with', because they take their meaning from the particular statute in which they appear.[12]

27. The requirements in sections 188-15 and 188-20 largely mirror the requirements of paragraph 9-5(b) of the GST Act. The words 'in connection with an enterprise that you carry on', should therefore be read as having the same meaning as the words 'in the course or furtherance of an enterprise that you carry on' in paragraph 9-5(b) of the GST Act. A supply of a private commodity, such as when a plumber sells his classic car privately, will not be a supply 'in connection with' an enterprise he carries on.

28. A supply which you make in the course of commencing or terminating an enterprise is a supply which is made in the course or furtherance of the enterprise which you carry on.[13]

Supplies to be disregarded under section 188-25

29. Section 188-25 modifies the effect of section 188-20 by excluding certain supplies made when working out your projected GST turnover. Section 188-25 requires you to disregard the following when calculating your projected GST turnover:

- any supply made, or likely to be made, by you by way of transfer of ownership of a capital asset of yours; and
- any supply made, or likely to be made, by you solely as a consequence of:
  - ceasing to carry on an enterprise; or
  - substantially and permanently reducing the size or scale of an enterprise.

30. Your projected GST turnover does not include supplies that fall within the description in either paragraph 188-25(a) or paragraph 188-25(b) listed above. Your supply does not have to satisfy the descriptions in both paragraph (a) and paragraph (b). When you make a supply that is capable of satisfying the description in both paragraphs, the supply is excluded only once. (See example 3 at paragraph 53 of this Ruling.)

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[12] The term 'in connection with' imports a wider meaning in the context of section 9-15; refer GSTR 2012/2 and GSTR 2001/4.
[13] Section 195-1.

Meaning of 'capital assets'

31. The GST Act does not define the term 'capital assets'. Generally, the term 'capital assets' refers to those assets that make up 'the profit yielding subject'[14] of an enterprise. They are often referred to as 'structural assets' and may be described as 'the business entity, structure or organisation set up or established for the earning of profits'.[15]

32. 'Capital assets' can include tangible assets such as your factory, shop or office, your land on which they stand, fixtures and fittings, plant, furniture, machinery and motor vehicles that are retained by you to produce income. 'Capital assets' can also include intangible assets, such as your goodwill.

33. Capital assets are 'radically different from assets which are turned over and bought and sold in the course of trading operations'.[16] An asset which is acquired and used for resale in the course of carrying on an enterprise (for example, trading stock[17]) is not a 'capital asset' for the purposes of paragraph 188-25(a).

34. 'Capital assets' are to be distinguished from 'revenue assets'. A 'revenue asset' is 'an asset whose realisation is inherent in, or incidental to, the carrying on of a business'.[18]

35. If the means by which you derive income is through the disposal of an asset, the asset will be of a revenue nature rather than a capital asset even if such a disposal is an occasional or one-off transaction. Isolated transactions are discussed further at paragraphs 46 and 47 of this Ruling.

36. Over the period that an asset is held by an entity, its character may change from capital to revenue or from revenue to capital. For the purposes of section 188-25 the character of an asset must be determined at the time of expected supply.

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[14] *United Collieries Ltd v. Inland Revenue Commissioners* (1930) SC 215 at 220 per Blackburn J.
[15] *Sun Newspaper Ltd v. FC of T* (1938) 61 CLR 337 at 359 per Dixon J.
[16] *Sun Newspaper Ltd v. FC of T* (1938) 61 CLR 337 at 356 per Latham CJ.
[17] See *FC of T v. Raymor (NSW) Pty Ltd* 90 ATC 4461 at 4471; (1990) 21 ATR 458 at 468.
[18] R W Parsons, *Income Taxation in Australia,* The Law Book Company Limited, 1985, at 155.

Meaning of 'transfer of ownership'

37. The GST Act does not define the concept, 'transfer of ownership'. The words retain their ordinary meaning in context, and mean a transfer of the whole of your beneficial interest in the asset with or without legal title. A transfer of an interest in property that is less than your full interest will not be captured by these words. For example, if you merely grant a lease or licence over an asset that you own, the supply of that lease or licence will not be a 'transfer of ownership'. However, if you assign your full interest in that lease or licence it will be a 'transfer of ownership'.

Meaning of 'solely as a consequence'

38. The GST Act does not define the term 'solely as a consequence of'. In the case of *Reseck v. FC of T (1975) 133 CLR 45; 75 ATC 4213; (1975) 5 ATR 538* the meaning of 'in consequence of' in the context of the phrase 'in consequence of termination of employment' was examined. His Honour Gibbs J at CLR 51; ATC 4216; ATR 541 interpreted the words to mean that an event follows as an effect or result of some primary event. However, Jacobs J at CLR 56; ATC 4219, ATR 545 expressed a different view that a 'consequence' in this context is not the same as a 'result'. It does not import causation but rather a 'following on'. Both judges dismissed the argument the termination of service had to be the dominant cause of the payment.

39. Although the words 'in consequence' may mean a result (i.e., cause) or a following on, the addition of the word 'solely' in our view requires that in this context there be a causal connection which is exclusive.

40. In *Perpetual Trustee Company Ltd v. Commissioner of State Revenue* (2000) 44 ATR 273, Hansen J considered the phrase 'solely in consequence' within Exemption 23 of the *Stamps Act 1958 (Vic)*. After discussing the purpose of the exemption, (that being to provide an exemption from stamp duty in specific cases), Hansen J said at pages 286-287:

> 'In its common understanding in its present context the word "solely" in conjunction with the words "in consequence of" means that the exemption will apply only if the instruments of transfer were executed in consequence of the change in trustee and in order to vest the real property of the trust in the name of the new trustee and not in consequence of any other factor.'

41. For the purposes of section 188-25 a supply is made, or is likely to be made, 'solely as a consequence' where the supply is made only as a result of the ceasing of an enterprise (see example 1 of this Ruling), or the substantial and permanent reduction in size or scale of an enterprise (see example 2 of this Ruling).

The meaning of 'substantially and permanently'

42. The GST Act does not define the term 'substantially and permanently' as used in subparagraph 188-25(b)(ii). The word 'substantial' will vary according to context. In *Terry's Motors Ltd v. Rinder* [1948] SASR 167 at page 180, Mayo J noted that the word 'substantial' is not a word with a fixed meaning. The word 'substantial' is commonly used to refer to something real or of substance, as distinct from ephemeral or nominal, when, for example, describing 'substantial loss or damage'. However the word 'substantial' can also be used to describe something that is 'large, weighty or big'.[19]

43. In the context of section 188-25, we consider that the term 'substantially' refers to a reduction in size which is greater than merely nominal and does not necessarily require a reduction which is proportionately large. We will accept that, in the context of section 188-25, a 10% reduction in the size or scale is substantial in the case of most enterprises. Size or scale in this context means something measurable in terms other than turnover, for example, number of divisions within a company or number of stores operated (see example 2 of this Ruling). In some enterprises a reduction of less than 10% may be substantial. This will depend on the facts and circumstances of each enterprise.

44. The concept of 'permanently' requires that the reduction in size and scale of an enterprise is enduring or is reasonably expected to be enduring. A reduction resulting from circumstances that have a foreseeable end is not permanent, for example a change that foreseeably affects only one or two years. Provided the basis of the expectation of endurance is reasonable it is not relevant that the expectation is proved inaccurate by subsequent events.

45. The substantial and permanent reduction applies to each enterprise operated by the entity, rather than the entity which may be required to be registered for GST.

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[19] *Tillmanns Butcheries Pty Ltd v. Australasian Meat Industry Employees' Union* (1979) 27 ALR 367; (1979) 42 FLR 331.

Isolated Transactions

46. An enterprise may consist of an isolated transaction or a dealing with a single asset. For example, an enterprise may consist solely of the acquisition and refurbishment of a suburban shop for resale at a profit. Where an entity engages in acquiring a single asset for resale at a profit, the activity will be an enterprise under paragraph 9-20(1)(b), because it is an activity in the form of an adventure in the nature of trade.[20] As discussed in paragraph 35 of this Ruling, the disposal of that single asset is not the transfer of a capital asset. Consequently, that supply is not excluded from your projected GST turnover.

47. The disposal of that single asset, or the completion of that isolated transaction, is also not a transfer solely as a consequence of ceasing to carry on an enterprise. In such circumstances the enterprise ceases as a consequence of the disposal of the single asset, rather than the single asset being disposed of in consequence of the ceasing to carry on the enterprise.

Examples

Example 1: Ceasing to carry on an enterprise

48. James, a grazier, aged seventy, decides to retire from his farm. He holds a clearing sale and sells all his livestock, machinery and implements to various buyers. He receives $80,000 from the sale that will be included in his current GST turnover. He is not registered for GST, as his GST turnover from selling livestock is usually around $35,000.

49. If James has a GST turnover of $75,000 or more he is required to be registered for GST. Although he normally would have sold some of this livestock in his day to day operations, the whole herd has been sold at this time solely as a consequence of ceasing to carry on his enterprise. The effect of subparagraph 188-25(b)(i) is that the $80,000 is excluded from his projected GST turnover.

50. An objective assessment of James' projected GST turnover is below $75,000 taking into account his age and the permanent nature of his decision. His current GST turnover is above $75,000 but because his projected GST turnover is below $75,000, his GST turnover does not meet the registration turnover threshold. Thus, James is not required to register for GST.

[20] For guidance on 'an adventure or concern in the nature of a trade' see Miscellaneous Taxation Ruling MT 2006/1. Goods and Services Tax Determination GSTD 2006/6 explains that MT 2006/1 has equal application for GST purposes.

Example 2: Substantially and permanently reducing the size and scale of an enterprise

51. Property Developer Pty Ltd develops tourist resorts in each of the six states in Australia. Its business in each state is approximately the same size, and overall it has a GST turnover of approximately $18.0M. The company is in the process of updating its accounting and payment system to facilitate electronic lodgment and payment of GST. This process is not expected to be completed for another 6 months, at which time the company intends to elect to lodge and pay electronically.

52. The board of directors decides to permanently close its operations in one State, reducing the size of its total operations by approximately 17%. As a consequence of this decision, it sells its offices, offers staff redundancies and cancels its state licences. Property Developer Pty Ltd then sells its stock of land holdings in that State to another developer for $2.75M. The supply made in disposing of the trading stock is made solely as a consequence of a substantial and permanent reduction in the size and scale of the company's enterprise. Therefore, the $2.75M is excluded from the calculation of its projected GST turnover. As a result, the GST turnover of Property Developer Pty Ltd does not meet or exceed the electronic lodgment turnover threshold, and it is not required to lodge and pay electronically. (However, Property Developer could voluntarily choose to do so.)

Example 3: Sample calculation of current GST turnover and projected GST turnover

53. Alan, a retiree, owns all three shops located next to a suburban railway station. Each of the shops is rented to tenants whose weekly tenancies are to terminate on 14 December 2001. The rent payable for each of the three shops is $200 per week. The railway department is planning an expansion of the station. Alan sells the shops with vacant possession to the railway department for $200,000. Alan's only enterprise is renting the shops. He is not registered for GST. He is not intending to carry on any other enterprise in the next 12 months. Settlement is to take place on 20 December 2001.

54. Alan's current GST turnover as calculated in December 2001 is the sum of the values of all the supplies that he has made or is likely to make during the 12 months ending on 31 December 2001. Alan has no supplies that are excluded under sections 188-15 or 188-20 (such as input taxed supplies).

55. Alan's current GST turnover is 50 weeks rent of $600 per week (up to 14 December 2001) plus the $200,000 from the sale of the shops. That is, a total of $230,000. Alan's current GST turnover is above the registration turnover threshold.

56. Alan's projected GST turnover is the sum of the values of all the supplies that Alan has made or is likely to make in December 2001 and up to 30 November 2002. Alan has made or will make supplies of 2 weeks rent of $600 per week (up to 14 December 2001) plus the $200,000 from the sale of the shops. His projected GST turnover calculated under section 188-20 is $201,200.

57. In selling the shops, Alan will dispose of a capital asset in addition to ceasing to carry on his enterprise. Although the supply satisfies the conditions under both paragraph 188-25(a) and 188-25(b), those proceeds are excluded only once when calculating projected GST turnover. (Refer to paragraph 30 of this Ruling.) Alan can disregard the $200,000 from the sale of the shops. Alan calculates his projected GST turnover as $1200. As Alan has calculated his projected GST turnover on a reasonable basis to be below the registration turnover threshold, his GST turnover does not meet that particular turnover threshold. He is not required to register for GST.

Example 4: Determining if an offshore freight forwarder is required to register

57A. Global Transporters, a non-resident freight forwarder that has no presence in Australia, is contracted by an Australian consumer to transport bicycle frames to a place of consignment in Australia.

57B. Although Global Transporters services are partly connected with Australia they are GST-free.[21] Therefore, the value of these supplies does not count towards Global Transporter's GST registration turnover threshold and they do not need to register for GST as a result of these supplies.[22]

[21] Table item 5 in subsection 38-355(1).
[22] See paragraph 188-15(3)(d).

Detailed contents list

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Related Rulings/Determinations:

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