

# ***GSTR 2002/3A5 - Addendum - Goods and services tax: prizes***

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## Addendum

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### Goods and Services Tax Ruling

#### Goods and services tax: prizes

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Goods and Services Tax Ruling GSTR 2002/3 to reflect the decision of the Federal Court in *International All Sports v. Commissioner of Taxation* [2011] FCA 824; 2011 ATC 20-268; (2011) 81 ATR 607.

The Addendum amends GSTR 2002/3 to clarify the treatment of monetary prizes paid in relation to supplies that are GST-free. In particular, it provides advice on the application of legislative amendments made in 2010 in relation to the calculation of 'total monetary prizes' under the GST global accounting system for gambling supplies.

#### **GSTR 2002/3 is amended as follows:**

**1. Paragraph 8A**

Omit 'and 31 October 2012; substitute ', 31 October 2012 and 8 May 2013

**2. Paragraph 175**

Omit 'entities'; substitute 'entity's'

**3. Paragraph 181**

Omit 'Section 126-10'; substitute: 'Subsection 126-10(1)'

**4. Paragraphs 188B to 188F**

Omit the paragraphs; substitute:

188B. The consideration for a supply that is a GST-free supply is excluded from the calculation of the global GST amount.<sup>65E</sup> Similarly, monetary prizes payable in relation to certain GST-free supplies are excluded from 'total monetary prizes' by subsection 126-10(3).

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<sup>65E</sup> 'total amounts wagered' only takes into account gambling supplies: subsection 126-10(1). Gambling supplies are by definition taxable supplies: subsection 126-35(1).

# GSTR 2002/3

188C. Subsection 126-10(3) was amended in 2010 to ensure that monetary prizes payable in relation to all GST-free supplies are excluded from 'total monetary prizes'.<sup>65F</sup> The amendment omitted the words 'under section 38-270' from the end of the provision, and applies in relation to monetary prizes that you become liable to pay on or after 1 April 2010.<sup>65G</sup>

188D. Subsection 126-10(3), as amended, states:

In working out your total monetary prizes for a tax period, disregard any \*monetary prizes you are liable to pay, during the tax period, that relate to supplies that are \*GST-free.

188E. Prior to the Federal Court decision in *International All Sports v. Commissioner of Taxation* [2011] FCA 824; 2011 ATC 20-268; (2011) 81 ATR 607 (*International All Sports*), the Commissioner's view was that the monetary prizes in relation to GST-free supplies were always excluded from 'total monetary prizes' and that the amendment merely confirmed that view.<sup>65H</sup>

188F. In *International All Sports*, Jessup J considered the application of subsection 126-10(3) prior to its amendment and held that, for the relevant tax periods, only monetary prizes paid in relation to supplies that were GST-free under section 38-270 were excluded by subsection 126-10(3). Monetary prizes paid in relation to supplies that were GST-free under other provisions were included in 'total monetary prizes'.

188FA. Accordingly, where the liability to pay a monetary prize arises prior to 1 April 2010, that prize is only excluded from 'total monetary prizes' if it relates to a supply that is GST-free under section 38-270.

188FB. Where you become liable to pay a monetary prize on or after 1 April 2010, the prize is excluded from 'total monetary prizes' if it relates to a supply that is GST-free.

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<sup>65F</sup> Schedule 4 to the *Tax Laws Amendment (2009 GST Administration Measures) Act 2010*. Prior to this amendment, subsection 126-10(3) made express provision only in relation to supplies that are GST-free under section 38-270.

<sup>65G</sup> Under item 2 of Schedule 4 to the *Tax Laws Amendment (2009 GST Administration Measures) Act 2010*, the amendment applies to monetary prizes that you become liable to pay on or after the first day of the first quarterly tax period starting on or after 24 March 2010. The application provision also provides that it does not matter whether quarterly tax periods are the tax periods that apply to you.

<sup>65H</sup> Under item 2 of Schedule 4 to the *Tax Laws Amendment (2009 GST Administration Measures) Act 2010*, the amendment applies to monetary prizes that you become liable to pay on or after the first day of the first quarterly tax period starting on or after 24 March 2010. The application provision also provides that it does not matter whether quarterly tax periods are the tax periods that apply to you.

**5. Paragraph 188I**

In the last sentence, omit 'amount.'; substitute 'amount.<sup>65J</sup>'

**6. Case references**

Insert:

- International All Sports v. Commissioner of Taxation [2011] FCA 824; 2011 ATC 20-268; (2011) 81 ATR 607

**7. Other references**

Omit:

- Australian Taxation Office fact sheet 'GST & gambling' (NAT 3018)

This Addendum applies both before and after its date of issue.

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**Commissioner of Taxation**

8 May 2013

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ATO references

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prizes

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<sup>65J</sup> Where you become liable to pay the prize on or after 1 April 2010. Refer to paragraphs 188FA and 188FB of this Ruling.