


***GSTR 2002/6A3 - Addendum - Goods and services tax: exports of goods, items 1 to 4 of the table in subsection 38-185 (1) of the A New Tax System (Goods and Services Tax) Act 1999***

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## Addendum

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### Goods and Services Tax Ruling

Goods and services tax: Exports of goods, items 1 to 4A of the table in subsection 38-185(1) of the *A New Tax System (Goods and Services Tax) Act 1999*

This Addendum amends Goods and Services Tax Ruling GSTR 2002/6 to reflect amendments to the *A New Tax System (Goods and Services Tax) Act 1999* made by *Tax Laws Amendment (2011 Measures No. 3) Act 2011*.

#### **GSTR 2002/6 is amended as follows:**

**1. Ruling title**

Omit '4'; insert: '4A'

**2. Paragraph 2**

Omit '4'; insert: '4A'.

**3. Paragraph 4**

At the end of the paragraph; insert:

This Ruling also discusses subsections 38-185(5) and (6) which are relevant to item 4A of the table in subsection 38-185(1).

**4. Paragraph 9**

- (a) Omit 'DDP and DDU'; substitute 'and DDP'.
- (b) Omit '2000'; substitute '2010'.

**5. Paragraph 10**

Omit the paragraph; substitute:

- 10. This Ruling explains the Commissioner's view of the law as it applies both before and after its date of issue.

# GSTR 2002/6

Note 1: Changes made to this Ruling by an Addendum that issued on 15 August 2007 have been incorporated into this version of the Ruling.<sup>1A</sup>

Note 2: Changes made to this Ruling by an Addendum that issued on 11 May 2011 have been incorporated into this version of the Ruling.<sup>1B</sup>

Note 3: Changes made to this Ruling by an Addendum that issued on 11 April 2012 have been incorporated into this version of the Ruling.<sup>1C</sup>

## 6. Paragraph 11

Omit the paragraph.

## 7. Paragraph 15

- (a) Omit '4'; substitute '4A'.
- (b) After item 4 in the table; insert:

4A	Export of new recreational boats	<p>a supply of a ship, but only if:</p> <p>(a) the ship is a new recreational boat on the earliest day (the <b>receipt day</b>) on which one or more of the following occurs:</p> <p>(i) the recipient takes physical possession of the ship;</p> <p>(ii) if consideration for the supply is provided in instalments under a contract that requires the ship to be exported- – the supplier receives any of the final instalment;</p> <p>(iii) if consideration for the supply is provided in instalments under a contract that requires the ship to be exported- – the supplier gives an invoice for the final instalment; and</p>
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<sup>1A</sup> Refer to the Addendum to see how it is that the Addendum amends this Ruling.

<sup>1B</sup> Refer to the Addendum to see how it is that the Addendum amends this Ruling.

<sup>1C</sup> Refer to the Addendum to see how it is that the Addendum amends this Ruling.

		<p>(b) the supplier or recipient exports the ship from Australia within 12 months (or such further period as the Commissioner allows) after the receipt day; and</p> <p>(c) subsection (6) does not apply at any time during the period:</p> <p>(i) starting on the receipt day; and</p> <p>(ii) ending when the supplier or recipient exports the ship.</p>
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**8. Paragraph 17**

After the paragraph; insert:

Under item 4A, which deals with the export of new recreational boats, either the supplier or recipient must export the ship.

**9. Paragraph 18**

Omit '4'; substitute '4A'.

**10. Paragraph 23**

Footnotes 5, 6 and 7

Omit '2000'; substitute '2010'.

**11. Paragraph 24**

Footnote 8

Omit '2000'; substitute '2010'.

**12. Paragraph 25**

Footnotes 9 and 10

Omit '2000'; substitute '2010'.

**13. Paragraph 34**

Omit footnote 12; substitute:

<sup>12</sup> If a time period ends on a Saturday, Sunday or a holiday, the timing requirement is met if the export occurs on the first day following, which is not a Saturday, Sunday, or a holiday. This is the effect of section 36 of the *Acts Interpretation Act 1901*. Subsection 36(3) of the *Acts Interpretation Act 1901* states: 'In this section: **holiday**, in relation to the time for doing a thing, means:

- (a) a day that is a public holiday in the place in which the thing is to be or may be done; and
- (b) if the thing is to be or may be done at a particular office or other place — a day on which the place or office is closed for the whole day.'

## 14. Paragraph 44

Omit 'Export Clearance Number ('ECN')'; substitute 'Export Declaration Number ('EDN')'.

## 15. Paragraph 64

Omit 'ECN'; substitute 'EDN'.

## 16. Paragraph 66

After the paragraph; insert:

### **Item 4A Export of new recreational boats**

66A. Item 4A applies to supplies of certain types of new ships made under contracts entered into on, or after 1 July 2011. The supplies also must not be made pursuant to rights or options granted before 1 July 2011.

66B. Under this item, a supply of a ship is GST-free if the ship is a 'new recreational boat', and it is exported from Australia by the supplier or the recipient of the boat within 12 months (or such further period as the Commissioner allows) after the 'receipt day' (that is, the 'export period'). Additionally, the new recreational boat must not be used in a disqualifying activity before it is exported (that is, starting on the 'receipt day' and ending when the boat is exported).

66C. The 'receipt day' is the earliest day on which one or more of the following occurs:

- (a) the recipient takes physical possession of the boat;
- (b) if consideration for the supply is provided in instalments under a contract that requires the boat to be exported — the supplier receives any of the final instalment; or
- (c) if consideration for the supply is provided in instalments under a contract that requires the boat to be exported — the supplier gives an invoice for the final instalment.

**Subsection 38-185(5) – New recreational boats**

66D. Under subsection 38-185(5), a 'new recreational boat' is defined as a ship that:

- (a) has not been substantially reconstructed; and
- (b) has not been sold, leased or used since the completion of its construction, except in connection with:
  - (i) the supply or acquisition of the ship as stock held for the purpose of sale or exchange in carrying on an enterprise; or
  - (ii) the supply mentioned in that item, or the acquisition of the ship by the recipient as mentioned in that item; and
- (c) was designed, and is fitted out, principally for use in activities done as private recreational pursuits or hobbies; and
- (d) is not a commercial ship.

**Subsection 38-185(6) – Activities that disqualify the supply of a ship from being GST-free under item 4A**

66E. Under item 4A, for the supply of a new recreational boat to be GST-free, the boat must not be used for certain disqualifying activities during the export period. These activities, with the exception of the use of a boat in connection with a supplier supplying the boat to the recipient, are:

- (a) use of the boat as security for the performance of an obligation (other than an obligation to repay a loan relating to the acquisition of the boat);
- (b) use of the boat in carrying on an enterprise in Australia;
- (c) use of the boat in Australia in carrying on an enterprise outside Australia, other than the boat being used (i) in a way that is private or domestic in nature; or (ii) in one or more activities done as a private recreational pursuit or hobby; and
- (d) use of the boat as consideration, other than as:
  - (i) consideration that consists of the provision of services by an employee of an enterprise carried on outside Australia by the recipient of the boat; or

- (ii) consideration that is in respect of a race or other sporting event in which the recipient of the boat competes.

66F. Where the ship is not GST-free under item 4A, it may be GST-free under another item of the table in subsection 38-185(1).

66G. The supplier must have sufficient evidence to prove that all the requirements for item 4A are met. Provided there is no information to the contrary, a supplier will have sufficient documentary evidence when they have a statement from the recipient that the boat was not used for any of the disqualifying purposes noted above during the export period and they have other documents sufficient to enable a person independent of the transaction to conclude reasonably that:

- (a) there was a supply of a new recreational boat, and
- (b) the boat was exported by the supplier or the recipient within the specified time period.

66H. One example of evidence sufficient to demonstrate to an independent party that the new recreational boat was exported is:

- (a) a clear EDN in respect of an export entry for the boat; and
- (b) a copy of the final certificate of clearance issued by Customs which shows a destination outside Australia,

provided there is no other information to indicate that the boat was not exported.

66I. A supplier may be able to demonstrate that the requirements under item 4A are satisfied with a combination of documents listed in Tables 1 and 2 of Appendix B together with a statement from the recipient that the boat was not used for any of the disqualifying purposes noted above. The statement should contain explicit confirmation in relation to each of the disqualifying activities. Aside from this statement, and the fact that the boat has to be a new recreational boat within the meaning set out in subsection 38-185(5), the documentary evidence required under item 4A is essentially the same as the documentary evidence required for the export of ships under items 3 and 4. Refer to paragraphs 62 to 65.

66J. If a supplier, having supplied a new recreational boat GST-free, subsequently becomes aware that the boat was not exported; or not exported within the specified time; or was used for a disqualifying activity, this gives rise to an adjustment event (see paragraphs 46 to 50).

66K. Further explanation of item 4A and of documentary evidence is provided in the Explanations section of the Ruling at paragraphs 235A to 235ZB and 313 to 317 respectively.

**17. Paragraph 84**

- (a) In the first sentence of footnote 18; Omit 'Sections'; insert 'Section'.
- (b) In the first sentence of footnote 18; after '70'; insert 'and Subdivision 382-A'.
- (c) In the last sentence, omit 'were exported and within'; substitute 'were (i) exported, and (ii) this occurred within'.

**18. Paragraph 87**

- (a) In the first sentence, omit 'seven'; substitute 'nine'.
- (b) In the second sentence, omit '4'; substitute '4A'.

**19. Paragraph 100**

Omit the paragraph; substitute:

100. The *Acts Interpretation Act 1901* provides that:

- **Australia** means the Commonwealth of Australia and, when used in a geographical sense, includes the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands, but does not include any other external Territory.
- **external Territory** means a Territory, other than an internal Territory, where an Act makes provision for the government of the Territory as a Territory.
- **internal Territory** means the Australian Capital Territory, the Northern Territory or the Jervis Bay Territory.<sup>24A</sup>

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<sup>24A</sup> Section 2B of the *Acts Interpretation Act 1901*.

## 20. Paragraph 101

Omit the paragraph; substitute:

101. In addition, the *Acts Interpretation Act 1901* provides that 'Australia' includes the coastal seas and that Acts have effect in relation to coastal seas as if they were part of Australia.<sup>25</sup> **Coastal sea**, in relation to Australia, means:<sup>26</sup>

- the territorial sea of Australia; and
- the sea on the landward side of the territorial sea of Australia and not within the limits of a State or internal Territory;

and includes the airspace over, and the sea-bed and subsoil beneath, any such sea.

## 21. Paragraph 103

In the first sentence, after 'Australia'; insert 'for the purposes of the GST Act'.

## 22. Paragraph 113

After '4'; insert 'and 4A'.

## 23. Paragraphs 114, 131 and 159

Omit 2000; substitute 2010.

## 24. Paragraph 234

- (a) In the last sentence, omit 'the supplier must be made aware'.
- (b) After the paragraph, insert 'the recipient must inform the supplier of the extension'.

## 25. Paragraph 235

After the paragraph; insert:

### **Item 4A- Export of new recreational boats**

235A. Item 4A applies to supplies of certain types of new ships made under contracts entered into on, or after 1 July 2011. The supplies also must not be made pursuant to rights or options granted before 1 July 2011.

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<sup>25</sup> Subsections 15B(1) and (2) of the *Acts Interpretation Act 1901*.

<sup>26</sup> Subsection 15B(4) of the *Acts Interpretation Act 1901*.

235B. A supply of such a ship is GST-free if:

- (a) the ship is a new recreational boat on the earliest day (receipt day) on which one or more of the following occurs:
  - (i) the recipient takes physical possession of the boat;
  - (ii) if consideration for the supply is provided in instalments under a contract that requires the boat to be exported - the supplier receives any of the final instalment; or
  - (iii) if consideration for the supply is provided in instalments under a contract that requires the boat to be exported - the supplier gives an invoice for the final instalment.
- (b) the boat is exported from Australia by the supplier or the recipient of the boat within 12 months after the receipt day (or such further period as the Commissioner allows); and
- (c) the boat is not used in a disqualifying activity before it is exported.

***New recreational boat***

235C. Section 195-1 provides that new recreational boat has the meaning given by subsection 38-185(5).

***Subsection 38-185(5)***

235D. A new recreational boat is a boat that has not been substantially reconstructed. In addition, the boat must not have been previously sold, leased or used since the completion of its construction except where these activities are (i) in connection with the supply or acquisition of the boat as stock held for the purpose of sale or exchange in carrying on an enterprise; or (ii) where they are in connection with the supply or acquisition of the boat (as mentioned in item 4A) by the recipient. Furthermore, the boat must be designed and fitted out principally for use in activities done as private recreational pursuits or hobbies. The boat must not be a commercial ship.

235E. These requirements align with the policy intent of ensuring the 12-month export period is available only for newly constructed recreational purpose boats and not for the supply of second-hand boats or boats that are substantially reconstructed. The supply of other boats may be GST-free under another export item within subsection 38-185(1).

235F. A boat that is newly constructed and subsequently modified to meet the requirements of a customer may still be a GST-free supply under item 4A. The modification must not amount to a substantial reconstruction of the boat.

***Example 15A– modifications made to boat prior to purchase***

*235G. Dandy Boats operates a business on the Gold Coast selling new luxury motor boats. Benjamin, a non-resident agrees to purchase one of these luxury motor boats for his and his family's recreational activities. However, prior to purchasing the boat, Benjamin asks Dandy Boats to refit the galley with a double sink and repaint the walls to a different colour. These minor modifications do not amount to a substantial reconstruction of the boat. As the boat meets all the other requirements under subsection 38-185(5), it is still considered to be a new recreational boat.*

235H. The second requirement in the definition of new recreational boat is that the boat has not been sold, leased or used before its sale (subject to two exceptions). This supports the policy intent that only suppliers and purchasers of new or unused boats can take advantage of the 12-month export period, while allowing existing boats that have not been used to qualify.

***Example 15B– recipient hires and subsequently purchases a yacht***

*235I. Using the same facts from Example 15, the yacht exported by Antonio from Darwin will not qualify as a GST-free export of a new recreational boat under item 4A. This yacht has been used and rented out by Sails & Sales Marine as part of its business operations. Consequently, the yacht cannot satisfy the requirement under paragraph 38-185(5)(b).*

235J. As noted in paragraph 235D, a boat that has been sold, leased or acquired as stock held for the purpose of sale or exchange by an entity in carrying on an enterprise may still qualify as a new recreational boat. For example, where a boat builder disposes of its stock of boats as stock to various dealers and financiers who then on-supply the boats to other dealers or end purchasers, these boats remain as new recreational boats throughout the supply chain.

235K. Also as noted in paragraph 235D, a boat that has been sold by the supplier to the recipient before the receipt day will not be treated as a sold or used boat and may still qualify as a new recreational boat. Such sales are excluded from the requirement that the boat must not have been sold since completion of its construction.

235L. The other requirements in the definition of new recreational boat specify that the design and fit-out of the boat are principally for use in private recreational activities or hobbies and that the boat is not a commercial ship. These requirements ensure that the 12-month export period is only available for supplies of recreational boats such as sailing boats, motorised pleasure craft and similarly designed and fitted out vessels that support private use by individuals rather than commercial use.

235M. Activities such as deriving income from paying passengers or for the movement of cargo or commercial fishing would be considered to be commercial activities. A boat that is constructed and fitted out for commercial activities would be regarded as a commercial ship, even though the boat may support private recreational activities.

235N. Whether a particular boat satisfies the requirement of being designed and fitted out principally for use in activities done as private recreational pursuits or hobbies and whether or not the boat is a commercial ship is a question of fact to be determined on an objective basis.

### ***Export within 12 months***

235O. The recipient or supplier must export the boat within 12 months after the receipt day (the export period), or within such further period provided by the Commissioner. Where the boat is exported by the recipient, the supplier is required to obtain documentary evidence of the export from the recipient to satisfy themselves that the export of the boat occurred within 12 months after the receipt day.

### ***Earliest (receipt) day***

235P. The receipt day is defined as the earliest day on which one or more of the following activities occur:

- the recipient taking physical possession of the boat; or
- if the consideration for the boat is in instalments under a contract that requires the boat to be exported, either:
  - the supplier receives any of the final instalment; or

- the supplier gives an invoice for the final instalment.

235Q. These activities help establish the receipt day for item 4A. They are the same or similar to the activities used to determine the commencement day used for the 'export before or within 60 days' test that applies in the other items listed in the table in subsection 38-185(1).

### **Extension of time to export new recreational boat**

235R. If a new recreational boat cannot be exported within the 12-month export period, the supplier or recipient may apply to the Commissioner seeking an extension of time for the export to occur. The application should be in writing clearly setting out details of the supplier, the recipient, the circumstances explaining why an extension beyond the 12-month export period is required and an expected date of export. If an extension of time is granted at the recipient's request, the recipient must inform the supplier of the extension.

### **Disqualifying activity**

#### ***Subsection 38-185(6) – Activities that disqualify the supply of a ship from being GST-free under item 4A***

235S. For the supply of a new recreational boat to be GST-free under item 4A, the boat must not be used for certain disqualifying activities during the 12-month export period. These activities, with the exception of the use of a boat in connection with the supplier supplying the boat to the recipient, are:

- (a) use of the boat as security for the performance of an obligation (other than an obligation to repay a loan relating to the acquisition of the boat);
- (b) use of the boat in carrying on an enterprise in Australia;
- (c) use of the boat in Australia in carrying on an enterprise outside Australia, other than the boat being used in way that is private or domestic in nature or in a series of activities done as a private recreational pursuit or hobby; and

- (d) use of the boat for obtaining consideration, other than consideration that consists of the provision of services by an employee of an enterprise carried on outside Australia by the recipient of the boat or consideration that is in respect of a race or other sporting event in which the recipient of the boat competes.

235T. These disqualifying activities in relation to the use of a boat within the 12-month export period apply to the use of the boat by the recipient. Use of the boat by the supplier connected with the supply of the boat to the recipient does not prevent the supply of the boat being GST-free if that use occurs after the receipt day.

***Use of the boat as security for the performance of an obligation***

235U. The supply is not GST-free if the recipient, or anybody else, uses the boat, within the 12-month export period, in financial dealings that have little or nothing to do with the purchase of the boat and its subsequent export from Australia.

235V. However, the recipient is not disqualified from accessing the extended export period if the boat is used by the recipient as security for a loan used to purchase the boat itself or if the supplier under the contract of sale retains the boat as security until final payment for the boat is made or the boat is exported.

***Use of the boat in carrying on an enterprise in Australia***

235W. The supply is not GST-free if the recipient, or anybody else, uses the boat to carry on an enterprise in Australia within the 12-month export period. For example, a recipient cannot access the 12-month export period if the recipient lends the boat to another person who uses it in their enterprise.

***Use of the boat in Australia in carrying on an enterprise outside Australia***

235X. The supply is not GST-free if the boat is used, within the 12-month export period, in Australia in an enterprise that is being carried on outside Australia. For example, the 12-month export period will not be available if the boat is used to advertise a business outside Australia or to entertain the business' overseas clients.

235Y. However, a boat may be used in Australia in a limited way without affecting the GST-free treatment of the supply of the boat. A boat may be used in a way that is private or domestic in nature or used in activities done as a private recreational pursuit or hobby. For example, a person acquires a boat as part of their enterprise carried on outside Australia. The boat is held for a short period in Australia where it is used by the person to undertake a holiday within Australia. This non-enterprise or non-commercial use will not disqualify the supply of the boat from being a GST-free supply.

### ***Use of the boat for obtaining consideration***

235Z. The supply is not GST-free if the boat is used within the 12-month export period for consideration. For example, the recipient, for consideration, disposes of a boat that is not used for carrying on an enterprise within the 12-month export period.

235ZA. However, the supply of a boat will not be disqualified from being GST-free if, within the export period, the consideration derived by the recipient for the use of the boat is represented by the supply of services of an employee of an enterprise carried on by the recipient of the boat outside Australia. For example, an employee travels to Australia to use an employer's boat in Australia for a holiday within the 12-month export period. The employee may use the boat in return for the employee's services that have, or will be, performed for the employer. This will not prevent the supply of the boat to the recipient who is the employer from being a GST-free supply.

235ZB. The supply of a boat will also not be disqualified from being GST-free if the consideration for the use of the boat within the 12-month export period arises from the recipient competing in a race or other sporting event with the boat where prizes are offered to successful competitors.

## **26. Paragraph 269**

- (a) In the first sentence, omit 'Export Clearance Number (ECN)'; substitute 'Export Declaration Number (EDN)'.
- (b) In second and last sentence, omit 'ECN'; substitute 'EDN'.

## **27. Paragraph 292**

- (a) In the first and second sentences omit 'or 38-185(4)'; substitute ', 38-185(4) or 38-185(5)'.
- (b) In the second sentence omit 'or 2A'; substitute ', 2A or 4A'.

**28. Paragraph 295**

- (a) After the second sentence; insert:

For record keeping requirements occurring before 1 July 2006, refer to section 70 of the TAA 1953.

- (b) After the paragraph; insert:

295A. For record keeping requirements occurring on or after 1 July 2006, refer to subsection 382-5(1) of the TAA 1953.

Subsection 382-5(1) of the TAA 1953 provides:

**Keeping records of indirect tax transactions**

*Records of transactions*

You must:

- (a) keep records that record and explain all transactions and other acts you engage in that are relevant to a supply, importation, acquisition, dealing, manufacture or entitlement to which this subsection applies; and
- (b) retain those records for at least 5 years after the completion of the transactions or acts to which they relate.

**29. Paragraph 297**

Omit '4'; insert '4A'.

**30. Paragraph 313**

- (a) In the heading and first sentence, omit 'and 4'; substitute ', 4 and 4A'.
- (b) At the end of the first sentence, insert 'as relevant'.

**31. Paragraph 314**

After the paragraph; insert:

314A. Additionally for item 4A, the supplier of the ship should obtain evidence to confirm that the new recreational boat while waiting to be exported out of Australia was not used for any disqualifying activities. In the absence of contrary information, this may take the form of a statement from the recipient to the supplier confirming that the boat was not used for any disqualifying activities while waiting to be exported. The statement should contain explicit confirmation in relation to each of the disqualifying activities. A general statement that the boat 'was not used for any disqualifying activities' would not be sufficient. Disqualifying activities are discussed in paragraphs 235S to 235ZB.

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## 32. Detailed contents list

(a)	Omit:	
	<i>Items 3 and 4</i>	313
(b)	Substitute:	
	<i>Items 3, 4 and 4A</i>	313
(c)	Insert:	
	<b>Item 4A Export of new recreational boats</b>	<b>66A</b>
	<b>Item 4A Export of new recreational boats</b>	<b>235A</b>
	<i>New recreational boat</i>	235C
	<i>Subsection 38-185(5)</i>	235D
	<i>Example 15A— modifications made to boat prior to purchase</i>	235G
	<i>Example 15B— recipient hires and subsequently purchases a yacht</i>	235I
	<i>Export within 12 months</i>	235O
	<i>Earliest (receipt) day</i>	235P
	<i>Extension of time to export new recreational boat</i>	235R
	<i>Disqualifying activity</i>	235S
	<i>Subsection 38-185(6) – Activities that disqualify the supply of a ship from being GST-free under item 4A</i>	235S
	<i>Use of the boat as security for the performance of an obligation</i>	235U
	<i>Use of the boat in carrying on an enterprise in Australia</i>	235W
	<i>Use of the boat in Australia in carrying on an enterprise outside Australia</i>	235X
	<i>Use of the boat for obtaining consideration</i>	235Z

## 33. Legislative references

Insert:

- AI 1901 2B
- AI 1901 15B(2)
- ANTS(GST)A 1999 38-185(5)
- ANTS(GST)A 1999 38-185(6)
- TAA 1953 70
- TAA 1953 382-A
- TAA 1953 382-5(1)

**34. Appendix B**

- (a) After the heading **TRANSPORT DOCUMENTS** to Table 1 insert:

Note: Where goods exported are new recreational boats made under contracts entered into on, or after 1 July 2011, reference to the 60 day rule should be read as the 12 month rule.

- (b) In Table 2, omit 'Export Clearance Number (ECN)'; substitute 'Export Declaration Number (EDN)'.

**35. Appendix C**

Omit the appendix; substitute:

**'TERMS OF TRADE' OR 'INCOTERMS'*****Introduction***

- (i) Terms of trade or 'Incoterms' are a set of uniform rules codifying the interpretation of trade terms used in international trade. Incoterms are drafted by the International Chamber of Commerce and a new set of rules were published as Incoterms 2010 which came into effect on 1 January 2011. Incoterms 2000 that were in effect from 1 January 2000 to 31 December 2010 are also included below. A brief summary of each term is provided in the tables below.
- (ii) The Incoterms only deal with the relation between sellers and buyers under the contract of sale. The scope of the Incoterms is limited to matters relating to the rights and obligations of the seller and buyer with respect to delivery of goods sold. The terms 'are designed to arrange for the transfer of risk from Seller to Buyer at an unambiguous convenient place where goods can be inspected.'<sup>63</sup> Incoterms do not cover, amongst other matters, transfer of ownership – that is, they do not relate to when or where title changes.
- (iii) Note that the terms are divided into 2 categories.
- Rules for any mode or modes of transport; and
  - Rules for sea and inland waterway transport.

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<sup>63</sup> The Merchants Guide P&O Nedlloyd December 1999 at page 14.

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## INCOTERMS 2000

<b>EXW</b>	<b>Ex works</b> The seller places the goods at the disposal of the buyer at the seller's premises.
<b>FCA</b>	<b>Free Carrier</b> The seller delivers the goods to the carrier nominated by the buyer. The seller also clears the goods for export.
<b>FAS</b>	<b>Free Alongside Ship</b> The seller places the goods alongside the vessel nominated by the buyer. The seller also clears the goods for export.
<b>FOB</b>	<b>Free On Board</b> The seller delivers the goods over the ship's rail at the port of shipment. The seller also clears the goods for export.
<b>CFR</b>	<b>Cost and Freight</b> The seller delivers goods over the ship's rail and pays costs and freight to bring the goods to the port of destination. The seller also clears the goods for export. However, the buyer is responsible for loss or damage to the goods.
<b>CIF</b>	<b>Cost Insurance and Freight</b> The seller delivers goods over the ship's rail and pays costs and freight to bring the goods to the port of destination. The seller also clears the goods for export and obtains marine insurance against the buyer's loss or damage to the goods during the carriage.
<b>CPT</b>	<b>Carriage Paid To</b> The seller delivers the goods to the carrier nominated by him and pays the cost of carriage to bring the goods to the named destination.
<b>CIP</b>	<b>Carriage and Insurance Paid To</b> The seller delivers the goods to the carrier nominated by himself, and pays the cost of carriage to bring the goods to the named destination, and procures insurance against the buyer's loss or damage to the goods during the carriage.

<b>DAF</b>	<b>Delivered at Frontier</b> The seller places the goods at the disposal of the buyer at a named frontier (e.g., country of export). The goods are not unloaded and are before the Customs border of the adjoining country. (This is used when there are land frontiers).
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<b>DES</b>	<b>Delivered Ex Ship</b> The seller places the goods at the disposal of the buyer at a named port of destination. The goods are not unloaded. (This is used when the goods are delivered by sea or inland waterway).
<b>DEQ</b>	<b>Delivered Ex Quay</b> The seller places the goods at the disposal of the buyer on the quay (wharf) at a named port of destination. The goods are discharged on the quay (wharf). The buyer clears the goods for import.
<b>DDU</b>	<b>Delivered Duty Unpaid</b> The seller delivers the goods to a named place of destination. The goods are not unloaded. The buyer pays any duty (including taxes).
<b>DDP</b>	<b>Delivered Duty Paid</b> The seller delivers the goods to a named place of destination. The goods are not unloaded. The seller also pays any duty (including taxes).

### References

Incoterms 2000, The International Chamber of Commerce official rules for the interpretation of trade terms.

### INCOTERMS 2010

#### RULES FOR ANY MODE OF TRANSPORT

<b>EXW</b>	<b>Ex works</b> The seller places the goods at the disposal of the buyer at the seller's premises.
<b>FCA</b>	<b>Free Carrier</b> The seller delivers the goods to the carrier nominated by the buyer. The seller also clears the goods for export.

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<b>CPT</b>	<b>Carriage Paid To</b> The seller delivers the goods to the carrier nominated by him and pays the cost of carriage to bring the goods to the named destination.
<b>CIP</b>	<b>Carriage and Insurance Paid To</b> The seller delivers the goods to the carrier nominated by himself, and pays the cost of carriage to bring the goods to the named destination, and procures insurance against the buyer's loss or damage to the goods during the carriage.
<b>DAT</b>	<b>Delivered at Terminal</b> The seller places the goods at the disposal of the buyer at a named destination. The buyer clears the goods for import.
<b>DAP</b>	<b>Delivered at Place</b> The seller places the goods at the disposal of the buyer at a named destination. The goods are not unloaded.
<b>DDP</b>	<b>Delivered Duty Paid</b> The seller delivers the goods to a named place of destination. The goods are not unloaded. The seller also pays any duty (including taxes).

**RULES FOR SEA AND INLAND WATERWAY TRANSPORT**

<b>FAS</b>	<b>Free Alongside Ship</b> The seller places the goods alongside the vessel nominated by the buyer. The seller also clears the goods for export.
<b>FOB</b>	<b>Free On Board</b> The seller delivers the goods when they are on board at the port of shipment. The seller also clears the goods for export.
<b>CFR</b>	<b>Cost and Freight</b> The seller delivers goods when they are on board and pays costs and freight to bring the goods to the port of destination. The seller also clears the goods for export. However, the buyer is responsible for loss or damage to the goods.
<b>CIF</b>	<b>Cost Insurance and Freight</b> The seller delivers goods when they are on board and pays costs and freight to bring the goods to the port of destination. The seller also clears the goods for export and obtains marine insurance against the buyer's loss or damage to the goods during the carriage.

**References**

Incoterms 2010, The International Chamber of Commerce official rules for the interpretation of trade terms.

This Addendum applies on and from 1 July 2011.

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**Commissioner of Taxation**18 April 2012

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## ATO references

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