


GSTR 2003/9A1 - Addendum - Goods and services tax: financial acquisitions threshold

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Addendum

Goods and Services Tax Ruling

Goods and services tax: financial acquisitions threshold

This Addendum amends Goods and Services Tax Ruling GSTR 2003/9 to:

- make the explanation contained in this Ruling consistent with paragraphs 149 to 171 of GSTR 2008/1: Goods and services tax: when do you acquire anything or import goods solely or partly for a creditable purpose?
- update the preamble; and
- update the date of effect clauses.

GSTR 2003/9 is amended as follows:

1. Preamble

Omit 'section 37 of'; substitute 'section 105-60 of Schedule 1 to'.

2. Paragraphs 4 and 5

Omit the paragraphs; substitute:

4. This Ruling explains the Commissioner's view of the law as it applies both before and after its date of issue. You can rely on this Ruling on and from its date of issue for the purposes of section 105-60 of Schedule 1 to the *Taxation Administration Act 1953* (TAA). Goods and Services Tax Ruling GSTR 1999/1 explains the GST rulings system and the Commissioner's view of when you can rely on this interpretation of the law in GST public and private rulings.

5. Changes made to this Ruling by the Addendum that issued on 2 July 2008 have been incorporated into this version of the Ruling.^{1A} You can rely on the changes made to the Ruling by the Addendum for the purposes of section 105-60 of Schedule 1 to the TAA from the date of issue of the Addendum. If the Addendum conflicts with a previous private ruling that you have obtained or a previous public ruling, the Addendum prevails.

^{1A} Refer to the Addendum to see how that Addendum amends this Ruling.

5A. If you have relied on a previous ruling (including the public ruling that the Addendum amends), you are protected in respect of what you have done up to the date of issue of the relevant Addendum or, if there is a change to the legislation, you are protected in respect of what you have done up to the date the legislative change takes effect. This means that if you have relied on the previous ruling and have underpaid an amount of GST, you are not liable for the shortfall prior to either the issue date of the relevant Addendum or the date the legislative change takes effect, as appropriate. Similarly, if you have relied on the previous ruling you are not liable to repay an amount overpaid by the Commissioner as a refund.

3. Paragraph 31

Omit 'GSTR 2000/22'; substitute 'GSTR 2006/3'.

4. Paragraph 34

(a) After 'intends to make', insert 'or is considering making'.

(b) Omit footnote 12; substitute:

¹² See paragraphs 266 to 274 of Goods and Tax Ruling GSTR 2002/2 and Part B of Goods and Services Tax Ruling GSTR 2008/1 for a discussion on when an acquisition relates to making a supply that would be input taxed.

5. Paragraph 35

Omit the paragraph.

6. Paragraph 36

Omit 'An intention to use the acquisition for'; substitute 'For the purposes of Division 189, a relationship between an acquisition and'.

7. Paragraph 37

Omit the heading; substitute:

Example 4 – evidence that a financial supply is being considered

8. Paragraph 39

(a) Omit the first sentence; substitute:

If the board resolves not to proceed with the issue of the shares, the acquisition will no longer be a financial acquisition for the purpose of the calculation of the financial acquisitions threshold.

(b) Omit footnote 13.

9. Paragraph 40

Insert footnote 13 at end of paragraph:

¹³ See paragraph 45 of this Ruling.

10. Paragraph 44

- (a) In the first sentence omit 'intended'.
- (b) In the second sentence omit 'to be made'; substitute 'or under consideration'.

11. Footnote 14

Omit from the footnote '34 to 37 of Goods and Services Tax Ruling GSTR 2000/22'; substitute '57 to 67 of Goods and Services Tax Ruling GSTR 2006/3'.

12. Paragraph 46

- (a) Omit the heading; substitute:
Example 5 – financial supply being considered but the supply does not eventuate
- (b) Omit the first sentence; substitute:
Thunderbolt Enterprises is considering making a rights issue to its shareholders.

13. Paragraph 47

Omit first and second sentences; substitute:

At the time the professional advice was acquired there was a relationship between the acquisition and the making of the proposed financial supply.

14. Paragraph 48

Omit 'change in use of the acquisition'; substitute 'decision not to proceed with the rights issue'.

15. Paragraph 200 (Detailed contents list)

- (a) Omit:
 - Example 4 – evidence of intention to make a financial supply* 37
 - Example 5 – intention to make a financial supply where the supply does not eventuate* 46

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- (b) Insert:
- Example 4 – evidence that a financial supply is being considered* 37
- Example 5 – financial supply being considered but the supply does not eventuate* 47

16. Related Rulings/Determinations:

- (a) Omit
GSTR 2000/22
- (b) Insert:
GSTR 2006/3
GSTR 2008/1

This Addendum explains our view of the law as it applies from the date of issue of this Addendum. You can rely upon this Addendum on and from its date of issue for the purpose of section 105-60 of Schedule 1 to the *Taxation Administration Act 1953*. If this Addendum conflicts with a previous private ruling that you have obtained or a previous public ruling, this Addendum prevails. However, if you have relied on a previous ruling (including the public ruling that the Addendum amends), you are protected in respect of what you have done up to the date of issue of this Addendum or, if there is a change to the legislation, you are protected in respect of what you have done up to the date the legislative change takes effect. This means that if you have relied on the earlier ruling and have underpaid an amount of GST, you are not liable for the shortfall prior to either the issue date of this Addendum or the date the legislative change takes effect, as appropriate. Similarly, if you have relied on the earlier ruling you are not liable to repay an amount overpaid by the Commissioner as a refund.

Commissioner of Taxation

2 July 2008

ATO references

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