GSTR 2006/3A3 - Addendum - Goods and services tax: determining the extent of creditable purpose for providers of financial supplies

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Addendum

Goods and Services Tax Ruling

Goods and services tax: determining the extent of creditable purpose for providers of financial supplies

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Goods and Services Tax Ruling GSTR 2006/3 to clarify existing principles set out in the Ruling, including clarifying how a direct estimation system operates as part of an apportionment method, re-emphasising that apportionment methods must be fair and reasonable, and make other minor updates.

GSTR 2006/3 is amended as follows:

1. Preamble

Omit the preamble; substitute:

> **Relying on this Ruling**
>
> This publication is a public ruling for the purposes of the *Taxation Administration Act 1953*.
>
> If this Ruling applies to you, and you correctly rely on it, we will apply the law to you in the way set out in this Ruling. That is, you will not pay any more tax or penalties or interest in respect of the matters covered by this Ruling.
>
> Further, if we think that this Ruling disadvantages you, we may apply the law in a way that is more favourable to you.

2. Paragraph 1

After 'Divisions 11, 15', insert ', 72, 84'.

3. Paragraph 2

After the sentence, insert 'The indirect tax zone, as defined in subsection 195-1 of the GST Act, is referred to as 'Australia'.'

4. Paragraph 20

Omit 'regulation 70-5.02 of the *A New Tax System (Goods and Service Tax) Regulations 1999* (GST regulations)'; substitute 'section 70-5.02 of the *A New Tax System (Goods and Services Tax) Regulations 2019* (GST Regulations)'.

5. Paragraph 33

At the end of the first dot point, insert footnote 8A:

> [8A] Confirmed in the GST context in *Commissioner of Taxation v American Express Wholesale Currency Services Pty Limited* [2010] FCAFC 122 at [197] and *Rio Tinto Services Limited v Commissioner of Taxation* [2015] FCAFC 117 at [7].

6. Paragraph 35

Omit 'see paragraphs 92 to 101'; substitute 'see paragraphs 92 to 101A'.

7. Paragraph 36

Omit 'paragraph 34 of this Ruling'; substitute 'paragraph 33 of this Ruling. You should only choose a method discussed in the Explanation part of this Ruling if it is fair and reasonable in your circumstances.'.

8. Paragraph 38

After the paragraph, insert new paragraph 38A:

> 38A. Where acquisitions are made by a business area of the enterprise that makes both input taxed and taxable or GST-free supplies, you must ensure that the method gives a fair and reasonable reflection of the extent of the relationships between the relevant acquisitions and the different types of supplies. For example, you will need to have regard to whether some of the acquisitions only relate to making financial supplies. Conversely, you will need to have regard to whether some of the acquisitions only relate to making taxable or GST-free supplies.

9. Paragraph 41

Omit 'as specified in regulation 70-5.02 of the GST regulations'; substitute 'as specified in section 70-5.02 of the GST Regulations'.

10. Paragraph 43

Omit the wording of footnote 9; substitute:

> [9] Subsection 11-30(3). Subsections 70-20(2), 72-45(1), section 84-13 and subsection 131-40(2) contain similar methods.

11. Paragraph 46

At the end of footnote 12, insert:

> References to subsection 11-30(3) 'extent of creditable purpose' can be taken to refer to extent of creditable purpose in subsections 70-20(2), 72-45(1) and section 84-13.

12. Paragraphs 76 and 77

Omit the paragraphs, including footnote 35.

13. Paragraph 81

(a) Omit 'see paragraphs 92 to 101'; substitute 'see paragraphs 92 to 101A'.

(b) After 'see paragraph 73'; insert 'of this Ruling'.

14. Paragraph 88

After the paragraph, insert new paragraph 88A:

> 88A. When the method you use includes factors or characteristics that change over time, those factors or characteristics must be periodically updated and applied to the method to determine intended use. The frequency of these updates will have regard to the frequency with which that source data is refreshed or recalculated within the enterprise. For example, if a method uses an input where updated data is readily available on an annual basis (such as transaction count or revenue data), we would expect the input used in the method to be updated annually.

15. Paragraph 89

In footnote 36, omit 'GST Groups'; substitute 'GST groups'.

16. Paragraph 92

After the paragraph, insert new paragraphs 92A and 92B:

> 92A. Depending on the business unit or product that costs are allocated to, a direct estimation method may either provide the relevant apportionment method by itself, or it may be one of several steps in an apportionment method. Paragraphs 92 to 101A of this Ruling are to be read as being subject to the following propositions:
>
> - no further apportionment method is required where a direct estimation method allocates costs to business units and products that make only one type of supply (for example, where costs are allocated to a business unit that makes only input taxed supplies); and
> - further apportionment methods are required to determine the extent of creditable purpose where a direct estimation method allocates costs to business units and products that make a mix of supplies (for example, where costs are allocated to a business unit that makes a combination of input taxed and taxable or GST-free supplies). As explained at paragraph 38A of this Ruling, you must ensure that the method used gives a fair and reasonable reflection of the extent of the relationships between the relevant acquisitions and the different types of supplies. For example, you will need to have regard to whether some of the acquisitions only relate to making financial supplies. The method you choose should not by default assume that all acquisitions allocated to a business unit or product relate to all the supplies in that business unit or product.

92B. Therefore, when these paragraphs refer to a direct estimation method reflecting the intended or actual use of your acquisitions, this may, depending on your circumstances, refer only to the use of the acquisition having been allocated to a business unit or product on a fair and reasonable basis, and other apportionment methods (including combinations of direct and indirect methods) may then need to be used to determine the extent of creditable purpose.

17. Paragraph 95

(a) In the first sentence, after 'considers that the', insert 'use of a'.

(b) At the end of the second sentence, after 'achieving a particular income flow', insert 'for accounting purposes'.

18. Paragraph 99

In the second sentence, omit 'interest charged for'.

19. Paragraph 100

In the first sentence, omit 'Commissioner considers this'; substitute 'Commissioner considers its use'.

20. Paragraph 101

(a) Omit 'revenue streams'; substitute 'supplies via their direct estimation systems'.

(b) After the paragraph, insert new paragraph 101A:

101A. Where direct methods are available to you for use in combination with your direct estimation system, the Commissioner's view is that they will best reflect the intended use of your acquisitions. Whichever method you use, it must provide a fair and reasonable reflection of the extent of the relationships between your acquisitions and supplies.

21. Paragraph 108

Omit 'paragraphs 92 to 101'; substitute 'paragraphs 92 to 101A'.

22. Paragraph 114

At the end of the paragraph, insert new footnote 37AA:

[37AA] Refer to paragraphs 92 to 101A of this Ruling for further guidance.

23. Paragraph 115

Omit the second sentence, substitute:

For example, some entities may be able to use direct estimation down to an individual supply or activity level while other entities will only be able to directly allocate to particular business units and products.

24. Paragraph 134

(a) Omit 'are set out in regulation 70-5.02 of the GST regulations', substitute 'are set out in section 70-5.02 of the GST Regulations'.

(b) Omit the wording of footnote 37A; substitute 'Subsection 70-15(1) of the GST Act and section 70-5.03 of the GST Regulations.'

25. Paragraph 136

Omit 'listed in regulation 70-5.02 of the GST regulations'; substitute 'listed in section 70-5.02 of the GST Regulations'.

26. Paragraph 137

(a) At the end of footnote 38, insert 'of this Ruling'.

(b) At the end of footnote 39, insert 'of this Ruling'.

27. Paragraph 141

Omit '*prescribed in the regulations';* substitute *'prescribed in the GST Regulations*'.

28. Paragraph 142

Omit the last sentence; substitute '*The percentage credit reduction prescribed in the GST Regulations is 75%.*'

29. Paragraph 144

Omit 'Section'; substitute 'section'.

30. Paragraph 150

In the second sentence, omit 'review of these process'; substitute 'review of this process'.

31. Paragraphs 157, 159, 208 and 210

Omit all instances of 'GST free'; substitute 'GST-free'.

32. Paragraph 182

At the end of footnote 45, insert 'of this Ruling'.

33. Paragraph 193

Omit all instances of 'subregulation 40-5-09 of the GST regulations'; substitute 'subsection 40-5.09 of the GST Regulations'.

34. Paragraphs 194, 195 and 205

(a) Omit all instances of 'regulation'; substitute 'section'.

(b) Omit all instances of 'GST regulations'; substitute 'GST Regulations'.

35. Paragraphs 196 and 204

Omit all instances of 'GST regulations'; substitute 'GST Regulations'.

36. Paragraph 197

Omit the paragraph, including the heading.

37. Paragraph 204

Omit 'Subregulation 70-5.02(2)'; substitute 'Subsection 70-5.02(1)'.

38. Paragraph 212

Omit:

GST Regulations	197

This Addendum applies both before and after its date of issue, subject to the commencement and application provisions of each amending Act or Regulation to which it refers.

Commissioner of Taxation
18 December 2019

ATO references

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