

# ***GSTR 2006/9A5 - Addendum - Goods and services tax: supplies***

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## Addendum

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### Goods and Services Tax Ruling

#### Goods and services tax: supplies

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Goods and Services Tax Ruling GSTR 2006/9 to reflect amendments made to the *A New Tax System (Goods and Services Tax) Act 1999* by the *Tax and Superannuation Laws Amendment (2012 Measures No. 1) Act 2012*.

This Addendum also makes other minor amendments.

#### **GSTR 2006/9 is amended as follows:**

##### **1. Paragraphs 8**

After the third dot point contained in the note; insert:

- The Addendum to this Ruling that issued on 10 July 2013 explains the Commissioner's view of the law as it applied on and from 1 July 2013. You can rely on this Addendum from its date of issue for the purposes of section 357-60 of Schedule 1 to the *Taxation Administration Act 1953*.

##### **2. Paragraph 9C**

Omit the paragraph; substitute:

- 9C. From 1 July 2012, some of the supplies referred to in paragraph 9A are GST-free under section 38-60.<sup>A2</sup>

##### **3. Paragraph 9D**

Omit the paragraph.

##### **4. Paragraph 36**

(a) Omit the last sentence of the first dot point; substitute:

- See also paragraphs 24 to 27 of GSTR 2012/2 (*Goods and services tax: financial assistance payments*).

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<sup>A2</sup> Section 38-60 was inserted by *Tax and Superannuation Laws Amendment (2012 Measures No. 1) Act 2012*. See paragraphs 156A to 156E and 176A to 176H of this Ruling.

- (b) Omit the last sentence of the fourth dot point; substitute:  
See paragraphs 28 to 31 and 44 to 56 of GSTR 2012/2  
(*Goods and services tax: financial assistance payments*).

## 5. Paragraph 47

In the seventh row of the table; omit: 'section 81-5'. Substitute:  
'subsections 81-5(3) and 81-10(3)'.

## 6. Paragraph 55

Omit footnote 21.

## 7. Paragraph 59

Omit footnote 22B; substitute:

22B. This paragraph refers to Division 81 after amendment by *Tax Laws Amendment (2011 Measures No. 2) Act 2011*. The amended law applies to the payment, or the discharging of a liability to make a payment, relating to an Australian tax, or an Australian fee or charge, imposed on or after 1 July 2011. However, the amended law is subject to a transitional measure that provides continued exemption from GST for Australian taxes, and Australian fees and charges imposed before 1 July 2012 which are of a kind specified by the Division 81 legislative determination that was in force immediately before the commencement of the amendment to Division 81. In addition, paragraph 81-15.01(1)(h) of the GST Regulations extends the exemption from GST of Australian fees and charges specified by the Division 81 legislative determination that were imposed before 1 July 2013.

## 8. Paragraph 107

Omit the first sentence, including the definition; substitute:

107. The definition of consideration in section 195-1<sup>41AA</sup> states:

**consideration**, for a supply or acquisition, means any consideration within the meaning given by sections 9-15 and 9-17, in connection with the supply or acquisition.

## 9. Paragraph 108

Omit footnote 42; substitute:

42. See GSTR 2012/2 at paragraphs 56 and 120.

## 10. Paragraph 137

Omit footnote 50; substitute:

50. See paragraphs 84 to 85 of GSTR 2001/6.

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<sup>41AA</sup> As amended by *Tax and Superannuation Laws Amendment (2012 Measures No. 1) Act 2012*.

**11. Paragraph 155**

Omit the paragraph; substitute:

155. Under the GST health provisions in Subdivision 38-B, subject to certain exceptions<sup>51A</sup>, the supply is only GST-free where an individual receiving that service or specific health treatment is the recipient of that supply. This outcome results from the specific wording in some health provisions, whilst in other provisions it is due to the nature of the services themselves. Where this requirement is imposed, a GST-free supply of a health service cannot be made to a business entity or a non-profit body.

**12. Paragraph 156**

After the paragraph, insert:

156A. Under certain multi-party arrangements, an entity may make a GST-free supply of goods or services to an individual which results in the supplier making a further supply to a third party.<sup>51B</sup> The supply made to the third party will not be GST-free under provisions within Subdivision 38-B that require the individual receiving the relevant goods or services to be the recipient of the supply. However, in some cases the supply will be GST-free under section 38-60.

156B. Where an entity makes a supply to an insured person and that supply is either wholly or partly GST-free under Subdivision 38-B (the underlying supply), a supply of the service of making the underlying supply by the entity to an insurer, in the course of settling insurance claims under an insurance policy (including private health insurance policies and taxable insurance policies) of which the insurer is an insurer, is GST-free under subsection 38-60(1) to the extent that the underlying supply is GST-free. For the purposes of subsection 38-60(1), an operator of a statutory compensation scheme is treated as an insurer and a claim for compensation under the statutory compensation scheme is treated as a claim under an insurance policy.<sup>51C</sup>

156C. Where an entity makes a supply to an individual and that supply is either wholly or partly GST-free under Subdivision 38-B (the underlying supply), a supply of the service of making the underlying supply by the entity to an operator of a compulsory third party scheme is GST-free under subsection 38-60(2) to the same extent as the underlying supply.

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<sup>51A</sup> See sections 38-45, 38-47, 38-55 and 38-60.

<sup>51B</sup> See paragraphs 217 to 221S of this Ruling which discuss when two or more supplies may arise from the one set of activities.

<sup>51C</sup> See subsections 78-100(1) and 78-100(2).

156D. Where an entity makes a supply to an individual and that supply is either wholly or partly GST-free under Subdivision 38-B (the underlying supply), a supply of the service of making the underlying supply by the entity to an Australian government agency is GST-free under subsection 38-60(3) to the same extent as the underlying supply.

156E. However, the supplier and the recipient of the supply may agree for a supply not to be treated as GST-free under section 38-60.<sup>51D</sup>

### 13. Paragraph 157

After the first sentence, insert: '*B is not an Australian government agency.*'

### 14. Paragraph 160

At the end of the paragraph insert footnote 51E:

51E. The supply to B is not GST-free under subsection 38-60 as the requirements within the section are not satisfied.

### 15. Paragraph 163

At the end of the paragraph insert footnote 51F:

51F. The supply to B is not GST-free under subsection 38-60 as the requirements within the section are not satisfied.

### 16. Paragraph 173

At the end of the paragraph, insert: '*B is not the recipient of funding under the Home and Community Care Act 1985.*'

### 17. Paragraph 176

(a) At the end of the first sentence, insert footnote 51G:

51G. The supply B makes to A is not GST-free under section 38-60. If A is an Australian government agency, the supply will not be GST-free under subsection 38-60(3) as the supply B provides to C (that is, the lawn mowing service) is not GST-free under Subdivision 38-B.

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<sup>51D</sup> See subsection 38-60(4).

(b) After the paragraph insert:

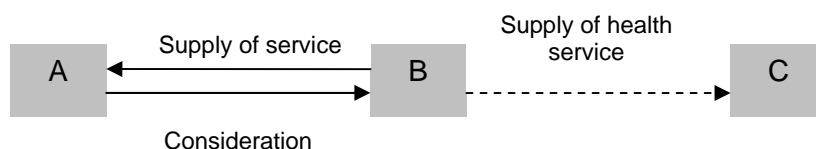
*Example 8: GST-free health related supply*

176A. A, an insurer, enters into an agreement with B, a dentist, for B to provide dental services to insured individuals for the purposes of settling claims under insurance policies that A issues. The agreement between the parties outlines that A will pay B if B provides services to identified individuals. A and B have not entered into an agreement to treat supplies B makes to A as not being GST-free.<sup>52A</sup>

176B. C, an insured individual, advises A on 1 May 2013 that they require dental treatment. A refers them to B, and B provides the treatment to C. A pays B under the terms of the pre-existing agreement.

176C. Under this arrangement, B supplies dental services to C, while also supplying a service to A (being the service of making the supply to C). The supply of the dental services is made to settle C's claim under an insurance policy A issued to C.

176D. The supply of the dental service B makes to C is GST-free under subsection 38-10(1). The supply of the service B makes to A is GST-free under subsection 38-60(1).



*Note: the outcome in this example would be the same if A and B did not have a pre-existing agreement but instead A contracted with B for B to provide the dental services to C.*

*Example 9: GST-free health related supply*

176E. A, an Australian government agency, implements a program to fund supplies of hearing aids to individuals who satisfy specified criteria. As part of the program, A forms an agreement with B, an audiologist, for B to supply hearing aids to eligible individuals, for which A is liable to pay. A and B have not entered into an agreement to treat supplies B makes to A as not being GST-free.<sup>52AA</sup>

176F. C, an eligible individual, attends an appointment with B on 1 March 2013 and receives a hearing aid. B then notifies A that they have made a supply of the hearing aid to C. A pays B in accordance with the pre-existing agreement.

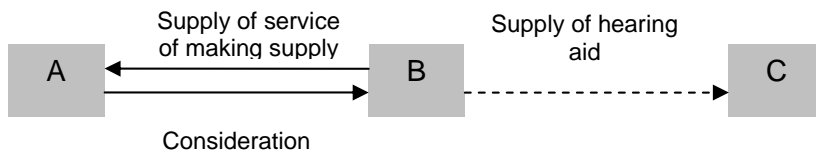
<sup>52A</sup> See subsection 38-60(4).

<sup>52AA</sup> See subsection 38-60(4).

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176G. Under the arrangement, B supplies the hearing aid to C while also supplying a service to A (being the service of making the supply to C).

176H. The supply of the hearing aid by B to C is GST-free under subsection 38-45(1).<sup>52AAA</sup> The supply of the service B makes to A is GST-free under subsection 38-60(3).



## 18. Paragraph 263 main heading

Omit footnote 78; substitute:

78. Some of the propositions that are relevant in this case study are also discussed in GSTR 2012/2.

## 19. Paragraph 263

In the second sentence after the words 'Bus Company', insert footnote 78A:

78A. In this case study, the Bus Company is not a government related entity and therefore subsection 9-17(3) does not apply.

## 20. Detailed contents list

After:

*Example 7: community care* 171

Insert:

*Example 8: GST-free health related supply* 176A

*Example 9: GST-free health related supply* 176E

## 21. Related rulings/determinations

Omit:

- GSTR 2000/11

Insert:

- GSTR 2012/2

<sup>52AAA</sup> See item 43 of Schedule 3 to the GST Act.

**22. Legislative references**

Insert:

- ANTS(GST)A 1999 9-17
- ANTS(GST)A 1999 9-17(3)
- ANTS(GST)A 1999 38-60
- ANTS(GST)A 1999 38-60(1)
- ANTS(GST)A 1999 38-60(2)
- ANTS(GST)A 1999 38-60(3)
- ANTS(GST)A 1999 38-60(4)
- ANTS(GST)A 1999 Sch 3
- Home and Community Care Act 1985
- Tax and Superannuation Laws Amendment (2012 Measures No. 1) Act 2012

This Addendum applies on and from 1 July 2012.

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**Commissioner of Taxation**

10 July 2013

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ATO references

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