


***GSTR 2007/2A1 - Addendum - Goods and services tax: in the application of paragraph (b) of item 3 in the table in subsection 38-190(1) of the A New Tax System (Goods and Services Tax) Act 1999 to a supply, when does 'effective use or enjoyment' of the supply 'take place outside Australia'?***

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## Addendum

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### Goods and Services Tax Ruling

Goods and services tax: in the application of paragraph (b) of item 3 in the table in subsection 38-190(1) of the *A New Tax System (Goods and Services Tax) Act 1999* to a supply, when does 'effective use or enjoyment' of the supply 'take place outside Australia'?

This Addendum amends Goods and Services Tax Ruling GSTR 2007/2 to take account of amendments to the *A New Tax System (Goods and Services Tax) Act 1999* made by *Tax Laws Amendment (2010 GST Administration Measure No.3) Act 2010 (91 of 2010)*.

The amendments apply to supplies that are made on or after 1 July 2010, but not to supplies of services to the extent that the supplies relate to a taxable importation made before 1 July 2010.

#### **GSTR 2007/2 is amended as follows:**

##### **1. Paragraph 7**

In the first sentence, omit 'subsection 38-190(4)'; substitute 'subsections 38-190(4) and 38-190(5)'.

##### **2. Paragraph 31**

Omit the last sentence; substitute 'If the requirements of one of those items are met, the supply is GST-free, provided subsection 38-190(2), (2A), (3) or (5) does not negate that GST-free status.'

### 3. Paragraph 35

After paragraph 35, insert

35A. Subsection 38-190(5)<sup>6A</sup> limits the scope of subsection 38-190(4). Subsection 38-190(5) provides that subsection (4) does not apply to any of the following supplies:

- (a) a transport of goods within Australia that is part of, or is connected with, the international transport of the goods;
- (b) a loading or handling of goods within Australia that is part of, or is connected with, the international transport of the goods;
- (c) a service, done within Australia, in relation to the goods that facilitates the international transport of the goods;
- (d) insuring transport covered by paragraph (a);
- (e) arranging transport covered by paragraph (a), or insurance covered by paragraph (d).

### 4. Paragraph 47

In the second sentence, omit: 'and (4),'; substitute: 'and (4),<sup>9A</sup>'.

### 5. Paragraph 48

In the second sentence omit: '38-190(4)'; substitute: '38-190(4)<sup>10A</sup>'.

### 6. Footnote 48

At the end of the last sentence, insert: 'In addition subsection 38-190(5) must not apply to the supply.'

### 7. Paragraph 188

At the end of the last sentence, omit 'accordingly.' substitute 'accordingly.<sup>51A</sup>'.

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<sup>6A</sup> Subsection 38-190(5) applies to supplies of specified services that are made on or after 1 July 2010, but not to supplies to the extent that the supplies relate to a taxable importation made before 1 July 2010.

<sup>9A</sup> Subsection 38-190(5) limits the application of subsection 38-190(4) for specific types of supplies.

<sup>10A</sup> Subsection 38-190(4) is subject to the application of subsection 38-190(5).

<sup>51A</sup> Subsection 38-190(5) limits the application of subsection 38-190(4) for specific types of supplies.

**8. Paragraph 343**

Omit the last sentence.

**9. Paragraph 353**

After paragraph 353, insert:

*353A. From 1 July 2010, supplies of transport of goods within Australia that is connected with, or part of, the international transport of the goods is not GST-free under item 3 due to the operation of subsection 38-190(5). Therefore as the supply of transport services supplied by Aus Transport to Aus Air Freight is done in Australia in connection with the international transport of the goods, the supply will not be GST-free under item 3. Additionally, the supply by Aus Transport to Aus Air Freight, a resident entity, will not be GST-free under item 5 in subsection 38-355(1) as neither paragraph 38-355(2)(a) or (b) applies.*

**10. Paragraph 445**

Omit the second sentence.

**11. Paragraph 458**

After paragraph 458, insert:

*458A. From 1 July 2010, supplies of transport of goods within Australia that is connected with, or part of, the international transport of the goods is not GST-free under item 3 due to the operation of subsection 38-190(5). Therefore as the supply of transport services supplied by Oz Carriers to Aus Trans Co is done in Australia in connection with the international transport of the goods, the supply will not be GST-free under item 3. Additionally, the supply by Oz Carriers to Aus Trans Co, a resident entity, will not be GST-free under item 5 in subsection 38-355(1) as neither paragraph 38-355(2)(a) or (b) applies.*

**12. Paragraph 469 - Table 2**

At dot point three in column 2 of example 53 in Table 2, omit: 'in Australia.' substitute 'in Australia.<sup>106A</sup>'

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<sup>106A</sup> From 1 July 2010, the supply may be a GST-free supply of international transport of goods under subsection 38-355(1).

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## 13. Legislative references:

Omit:

- ANTS (GST)A 1999 38-355

Insert:

- ANTS(GST)A 1999 38-190(5)
- ANTS(GST)A 1999 38-355(1)

This Addendum applies on and from 1 July 2010.

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## Commissioner of Taxation

3 April 2013

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ATO references

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supplies from non-residents  
Goods and Services Tax ~~ International services ~~ other