


CR 2013/25A2 - Addendum - Goods and services tax: the GST treatment of fees and charges imposed by NSW councils in relation to cemeteries, facilities, leases, legal services, libraries and sales

 This cover sheet is provided for information only. It does not form part of *CR 2013/25A2 - Addendum - Goods and services tax: the GST treatment of fees and charges imposed by NSW councils in relation to cemeteries, facilities, leases, legal services, libraries and sales*

 View the [consolidated version](#) for this notice.



Addendum

Class Ruling

Goods and services tax: the GST treatment of fees and charges imposed by NSW councils in relation to cemeteries, facilities, leases, legal services, libraries and sales

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Class Ruling CR 2013/25 to change the taxable status of 'Interment right fee' from taxable to exempt under subsections 81-10(1) and (4) of the *A New Tax System (Goods and Services Tax) Act 1999*, reflecting the view in the Goods and Services Tax Determination GSTD 2024/2 *Goods and services tax: is the supply of a burial right in respect of a public cemetery subject to GST?*. Editorial changes have also been made in the Ruling to allow it to meet modern publishing accessibility requirements.

CR 2013/25 is amended as follows:

1. Preamble

Omit the Preamble; substitute:

This publication (excluding appendixes) 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.

2. Paragraph 1

Omit 'provision(s)'; substitute 'provisions'.

3. Paragraph 2

(a) Omit 'Section 9-5'; substitute 'section 9-5'.

(b) Omit the last dot point; substitute:

- Division 81 of the *A New Tax System (Goods and Services Tax) Regulations 2019* (GST Regulations).

4. Paragraph 9

Omit the paragraph.

5. Paragraph 15

After 'Local Government Act NSW 1993', insert '(NSW)'.

6. Paragraph 17

In footnote 1, at the end of the footnote, insert 'of this Ruling'.

7. Paragraph 18

Omit 'The following table sets out the GST treatment'.

8. Paragraph 19

- (a) In the second dot point, omit 'When'; substitute 'when'.
- (b) Omit the tables titled 'Cemeteries', 'Facilities', 'Leases', "Legal fees", 'Library' and 'Sales'.
- (c) After the paragraph, insert new paragraphs 19A to 19F, including headings and Tables 1 to 6.

Cemeteries

19A. Table 1 outlines the GST treatment that applies to the fees and charges related to management and control of cemeteries.

Table 1: GST treatment that applies to the fees and charges related to management and control of cemeteries

| Fees and charges | Description | GST treatment |
|---|--|--|
| Accessories fee | Provision of an additional vase etc. | Taxable – section 9-5 |
| Administration fee for burial on private land | Includes inspection fees. | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Council buyback of plot | Includes grave plot, wall niche or garden niche. | This is an acquisition from the entity that holds the right to a plot. This is not a fee or charge imposed by Council. |
| Private cemetery fee | Application for private cemetery. Includes inspection fee and fee for signing of linen plan, private plot. | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Cremation fee | Cremation charge or chapel hire (or both). | Taxable – section 9-5 |
| Fee for safe custody of ashes | Not applicable. | Taxable – section 9-5 |
| Digging and backfilling fee | Not applicable. | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |
| Minor disturbance fee | Minor disturbance fee. | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |

| Fees and charges | Description | GST treatment |
|--|--|---|
| Subsequent interment excavation fee | Fee applicable for excavation for additional interments. | Taxable – section 9-5 |
| Exhumation fee | A fee for exhumation of a body. Exhumation includes reopening and closing of the grave. May include a fee for the removal and replacement of the monument and an administration fee. | Taxable – section 9-5 |
| Exhumation permit fee | A fee for permit for approved exhumation. | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Fee collected from funeral director for incorrect burial | Not applicable. | Taxable – section 9-5 |
| Grave investigation fee | Grave investigation (probing, records search, computer records, grave registration). Search information for family trees. | Exempt – subsection 81-10(5) information |
| Interment fee | A grave is a place of interment. Interment generally means the sinking of the grave, the placement of the coffin or ashes therein, backfilling of the grave and removal of debris. Includes single, double and triple depth graves with work being performed during normal working hours, when late notice given, overtime fee for weekend work. Also includes reopening for second interment fees and fees for removal and replacement of headstone or monument for a second or subsequent interment, as well as fees for adding a new inscription after a second interment. May include a fee for plaque where Council combines the fee for a plaque with the interment fee. | Taxable – section 9-5 Relates to the supply of services rather than the supply of a permission |
| Interment of ashes fee | Interment of ashes. Interment of ashes in columbarium (a vault or room with niches for urns containing ashes). Includes fee for disinterment of ashes. Includes deposits to reserve niche. Includes ashes relocation. May also include fee for provision and affixing of inscribed plaque and perpetual maintenance when Council charges a combined fee for all services. | Taxable – section 9-5 |

| Fees and charges | Description | GST treatment |
|---|---|---|
| | Includes fee for scattering of ashes. | |
| Fee for late arrival at cemetery for funeral | Where Council charges a fee when the funeral party fails to arrive at the scheduled time for the funeral, also includes extended service. | Taxable – section 9-5 |
| Lawn cemetery – burial fee, plaque and vase | The comprehensive fee to be buried in the lawn section of the cemetery. | Taxable – section 9-5 |
| Grave maintenance charge | Maintenance charges, ceramic photo, refurbish or replace plaque, additional motifs or emblem, cast bronze vase, vase holder. | Taxable – section 9-5 |
| On site cemetery meeting fee | Where the purpose of the meeting is to plan details of the burial and not merely to convey information. | Taxable – section 9-5 |
| Supply of monument fee | A charge for the supply and installation of a monument. | Taxable – section 9-5 |
| Fee for wall niche | Wall niche or section of memorial wall without an actual niche. Also includes the fee for a wall niche reservation. | Taxable – section 9-5 |
| Burial permit fee | Burial permit fee. Fee for burial permit outside hours of 9:00am to 5:00pm weekdays or on Saturday or Sunday. Burial permit fee for second interments. This charge is essentially an administration fee. | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Monument or headstone permit fee | Monumental or headstone permit. Includes permit fee for the erection of foot stones, tombs, or other monuments such as stone or concrete slabs over graves, concrete kerbing, etc. Includes single and double graves. Includes fee for permit to perform work on cemetery grounds. Includes application fee for a war grave. | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Fee for permit to carry out works in a cemetery | Permit fee for grave diggers, masons, funeral directors, etc. to perform works associated with funeral services in a cemetery. | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Fee for permit to install a plaque | Permit for permission to install or affix a plaque. | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Fee for the supply of a plaque | Fee for plaques or additional plaque and plaque upgrades, memorial trees or shrubs, ceramic photos of deceased, etc. | Taxable – section 9-5 |

| Fees and charges | Description | GST treatment |
|---|--|---|
| | Service and maintenance of graves, plaques, vases, ceramic photos etc. wall of remembrance plaque, plaque installation. Includes additional inscriptions on existing plaques or the provision of a cross. | |
| Interment right fee | Grant and renewal of interment rights (burial right) in a public cemetery. The fees or charges payable to a public cemetery operator or other Australian government agency in relation to the operator or other agency recording the granting or transfer of a burial right in a public cemetery. | Exempt – under subsections 81-10(1) and 81-10(4) |
| Charge for plot – single, double, child | Plot – single, double, triple, child. Includes an ‘exclusive rights’ certificate and the fee for a replacement ‘exclusive rights’ certificate. Also includes fees for perpetual maintenance of the plot when Council combines the two fees. Includes fee for family estate plots. | Taxable – section 9-5 |
| Charge for plot reservation and interment | Reservation fee plus first interment. | Taxable – section 9-5 |
| Fee to re-identify a burial plot | Investigate and identify a burial plot occupant. | Exempt – subsection 81-10(5) information |
| Fee for cemetery register | A fee for the provision of information contained in the cemetery register. | Exempt – subsection 81-10(5) information |
| Funeral services weekend or public holiday surcharge. | Where Council charges an additional fee for funeral services generally on weekends or public holidays. | Taxable – section 9-5 |
| Admission fee – tours | Tours – cemetery tours, guided city bus or walking tours, Chinatown food and cultural tours, Chinese New Year parade ticket, tickets for town hall concert series events, etc. Also includes fee for a tour guide, where applicable. | Taxable – section 9-5 and paragraph 81-10.01(1)(c) of the GST Regulations |
| Fee for transfer burial right. | Transfer of burial right within family or outside of the family. A fee to cover Council’s costs in updating the information contained on its cemetery register or otherwise kept by Council when the | Exempt – subsection 81-10(5) information and record-keeping |

| Fees and charges | Description | GST treatment |
|---|--|---|
| | owner of a burial right transfers that right to another person. | |
| Fee for conveyance of body | Fee for conveyance or transportation of a body. | Taxable – section 9-5 |
| Fee for internal vehicle access for monumental work | Internal vehicle access for monumental work. Associated with permit to perform works in a cemetery (monument or headstone permit). | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Funeral services package fee | Fee for funeral services. Where Council charges a flat fee for various funeral services including preparing the chapel or outdoor funeral area, land for the grave plot, first interment, community centre hall hire, supply and fixing of plaque, marquees at cemetery and a possible discount for pre-purchase. Where Council offers any combination of the above as a package deal including other supplies not specified herein. | Taxable – section 9-5 Where Council offers any combination of the services as a package deal including other supplies not specified herein that are exempt from GST (such as an interment right (burial right)) this will be a mixed supply. Mixed supplies of taxable supplies and GST-free or exempt supplies will need to be apportioned as provided in Goods and Services Tax Ruling GSTR 2001/8 <i>Goods and services tax: Apportioning the consideration for a supply that includes taxable and non-taxable parts</i> . |
| Fee for utilisation of Council staff for various activities within a cemetery | Charge for work performed by Council staff. | Taxable – section 9-5 |

Facilities

19B. Table 2 of this Ruling outlines the GST treatment that applies to the fees and charges related to the use of facilities.

Table 2: GST treatment that applies to the fees and charges related to the use of facilities

| Fees and charges | Description | GST treatment |
|-----------------------------|---|---|
| Use of facilities – airport | Landing fees (aircraft or helicopter), landing rights, site, hangar or clubhouse rental. Commercial operators, flying schools, car parking charges in terminal car park and car park charges from car hire operators. Hire of runway. Avdata exemption fee. Commercial charter service. | Taxable – section 9-5 and paragraph 81-10.01(1)(c) of the GST Regulations |

| Fees and charges | Description | GST treatment |
|---|---|---|
| | Commercial terminal fee. Use of terminal. Fee for closure and use of airport for commercial organisations, recreational, volunteering & sporting organisations. Hire of airport hangars. Terminal after hours opening fees, apron parking fees, pavement concession processing fees. | |
| Use of facilities – camping grounds and caravan parks | Fees payable for permit to camp on camping grounds, caravan park sites, fees for caravans at caravan parks and sites, and on-site facilities at these venues, cabin hire. Lighting, electricity, water or gas charge for using facility. Includes fees for hiring facilities at holiday parks. Includes occupation agreements for holiday vans. | Taxable – section 9-5 and paragraph 81-10.01(1)(c) of the GST Regulations |
| Use of facilities – civic centre | Use of Council offices, halls and community centres. Use of theatres, rehearsal room, stage, sound and lighting hire and use of technicians, auditorium, vestibule, entertainment theatre, theatrette, studio, kitchen facilities, use of lobby. Includes call out fees. Includes cleaning fees where applicable and security provided by Council. | Taxable – section 9-5 and paragraph 81-10.01(1)(c) of the GST Regulations |
| Use of general equipment fee – civic | General equipment hire fees for the use of equipment such as lecterns, public address system trolleys, white board, display board, television, video, overhead projector and screen, public address system, overhead projector, television, videocassette recorder, projectors, portable sound system, barbeque, kiln, plastic chairs, professional sound systems, microphones, mixers, miscellaneous audio and visual equipment, internet connection, grand piano, electronic whiteboard, arts screens, tables, chairs, specialist equipment. Also includes the cost associated with repairing or replacing damaged, lost, or stolen equipment. | Taxable – section 9-5 and paragraph 81-10.01(1)(c) of the GST Regulations |

| Fees and charges | Description | GST treatment |
|--|---|---|
| Use of general equipment fee – other | <p>Equipment hire fees.</p> <p>Hire of child restraint equipment such as baby capsules.</p> <p>Hire of Council's mobile food van or street stall caravan.</p> <p>Fee for use and hire of equipment in connection with the use of Council footpath or mall.</p> <p>The hire of equipment may include complementary delivery of the equipment to a designated location or otherwise. Also includes surcharge for equipment to be picked up or delivered out of normal business hours.</p> <p>Fee for use of photocopying equipment at Council office or at a location owned by Council such as a visitor centre or library.</p> <p>Fee for the use of wireless access cards to access internet (charged by time increment).</p> <p>Fee for rental and hire of Sydney's New Years Eve operational assets including stage hire.</p> | Taxable – section 9-5 and paragraph 81-10.01(1)(c) of the GST Regulations |
| Use of general equipment fee – library | <p>Fees and charges for cleaning compact disc and digital video disk, word processing, use of equipment such as a photocopier, photocopying charge, microfilm, scanner, binder, laminator, facsimile and fax machine, paper reproduction, genealogy printers, facsimile, email, wi-fi, wireless (hotspots) access to internet, purchase a photocopy and printing credit or use card, use of a public telephone.</p> <p>Payment of costs associated with repairing or replacing damaged, lost, or stolen equipment.</p> | Taxable – section 9-5 and paragraph 81-10.01(1)(c) of the GST Regulations |
| Use of general equipment fee – sport | <p>Fees and charges for the installation of goal posts supplies of line marking equipment and stadium naming rights and other advertising fees in sports facilities.</p> <p>Includes the cost associated with repairing or replacing damaged, lost, or stolen equipment.</p> | Taxable – section 9-5 and paragraph 81-10.01(1)(c) of the GST Regulations |
| Fee for inspection of facility | Includes fee for inspection of an airport or other facility. | Taxable – section 9-5 |

| Fees and charges | Description | GST treatment |
|---------------------------|--|--|
| Replacement key fee | Fees for providing keys and or altering locks. | Taxable – section 9-5 |
| Mooring licence fee | Fees related to a licence to moor a boat. Includes additional fee charged per person for occupation of a mooring over a 90-day period. | Exempt – subsection 81-10(4) permission, authority or licence to moor a vessel |
| Mooring fee | Fees related to mooring a boat at a pier, wharf or jetty. | Taxable – section 9-5 and paragraph 81-10.01(1)(c) of the GST Regulations |
| Use of facilities – other | Recovery of operational and other costs for cleaning and consumables required as a result of the use of Council facilities such as halls, parks, etc. Non-return fee of Council keys. Fees for providing barricading. Fee for revenue forgone, security and waste management etc. May include recovery of costs incurred by virtue of using electricity or water supply in connection with the use of facilities, particularly where Council may be simply passing on the usage costs to the user, rather than charging a flat rate. Fee for street sweeping or footpath cleaning for events or emergency response. Weddings on Council lands, reserves, property etc. Meeting rooms. Canine training facilities including ancillary services. Fee to use parks by personal trainers or fitness groups (where organisers charge a fee for entry). Access through reserves for construction or occupation of public space. Gate fee or gate opening service fee to parks and facilities. Council may allow its land to be used for storage or as a car park. May allow for residents or non-residents to hire storage space for dinghies. Any associated inspection fees for use of facilities for such access purposes and any fees applicable | Taxable – section 9-5 and paragraph 81-10.01(1)(c) of the GST Regulations |

| Fees and charges | Description | GST treatment |
|--|--|---|
| | <p>for restoration works required (that is, to landscaped and turfed areas). Storage fees for a range of items. Security call outs. Reimbursement of cost of goods damaged. Also includes fees collected by Council for agistment of cattle and other animals. Weddings on Council lands, reserves, property etc. Cafe hire including use of sink, chairs, tables and urn, microwave and fridge. Track and stable fees including horse training fees. Application fee to be a commoner and associated fee for assignment of sheep or other animals in relation to being a commoner. Includes access to private property via public land. Hire of Council-owned cruise boat for functions. Admission fees for natural areas such as caves where tours are offered. Fee for the use of central business district space, closed roads, malls and footpaths for market stalls and other vending and entertainment activities when conducted during a large-scale, city-wide festival such as the Tamworth Country Music Festival.</p> | |
| Licence to operate surf or paddle board schools | Fee for licences to operate surf or paddle board schools on beaches as well as hire and drive licences on beaches or water reserves. | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Recovery of costs in connection with usage of facilities | <p>Recovery of operational and other costs for cleaning and consumables required as a result of the use of Council facilities such as halls, parks, etc. Non-return fee of Council keys. Fees for providing barricading, revenue forgone, security and waste management etc. May include recovery of costs incurred by virtue of using electricity or water supply in connection with the use of facilities, particularly where Council may be simply</p> | Taxable – section 9-5 and paragraph 81-10.01(1)(c) of the GST Regulations |

| Fees and charges | Description | GST treatment |
|----------------------------------|--|---|
| | <p>passing on the usage costs to the user, rather than charging a flat rate.</p> <p>Fee for street sweeping or footpath cleaning for events or emergency response.</p> | |
| Saleyard fees | <p>Saleyard dues or fees.</p> <p>Fees can be charged per animal (e.g. cattle, sheep, and pigs).</p> <p>Advertising panel fee.</p> <p>Animal weighing, truck or vehicle washing.</p> <p>National Vendor Declaration form microchip tag, includes scanning.</p> <p>Saleyard agent fees and marshalling charges.</p> <p>Scale weighing and private weighing, after hour call-out fees, etc.</p> <p>Fee for advertising signs at saleyards. Includes National Livestock Identification System scanning fee.</p> <p>Fee for office rental and other miscellaneous fees associated with the saleyard including use of truck wash facilities, telephone charges, removal of dead animals.</p> | Taxable – section 9-5 and paragraph 81-10.01(1)(c) of the GST Regulations |
| Beach access permit for vehicles | <p>Application for vehicle to access Council-controlled beaches, other than life-saver vehicles, emergency rescue vehicles etc.</p> | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Use of facilities – sport | <p>Fees and season charges for access to a park or facility including 'gated' or 'locked'.</p> <p>Annual fee for maintenance of various sporting facilities on behalf of sports council.</p> <p>Fees for issuing of access key to facility or replacement key.</p> <p>Court hire fees.</p> <p>Hire fees for sport fields for cricket football, soccer, basketball, netball, hockey, touch football or oz tag.</p> <p>Golf course fees, golf driving range or bay hire.</p> <p>Fee for skate parks.</p> <p>Race track fees with use of grandstand also trotting track including fee per horse, rodeo park, stables.</p> | Taxable – section 9-5 and paragraph 81-10.01(1)(c) of the GST Regulations |

| Fees and charges | Description | GST treatment |
|------------------------------------|---|---|
| | Any type of Council arena or field used for athletics carnival, triathlon, fun run, cross country, commercial sporting activities, biathlons, etc. Includes kiosk hire fees, control room, canteen etc. Hire for any non-sport activity by group. | |
| Use of facilities – sport | Field or facility lighting, line marking, parking fees, charges applied to use of special facilities requiring extra maintenance or set-up procedures, such as clay cricket pitches, athletics track and associated line markings of tracks, charges incurred for amendments to bookings made for use of park and facilities. Charges for ground site clean-up, provision of bins and skips and removal of waste. | Taxable – section 9-5 and paragraph 81-10.01(1)(c) of the GST Regulations |
| Use of facilities – aquatic centre | Admission and usage fees per session, yearly, monthly, swim pass, multi-use pass, season pass, pay by instalments for adults, children, families (including additional persons), concessions, schools and non-swimmer, swimming club members for use of pool, gym, sauna, water slide, showers, lockers, fitness centre, gym, diving boards, swim lane and pool lane reservation and hire fees, reciprocal usage fee to allow use of all centres diving board, token for showers, a massage, water polo. May include general practitioner assessment consultation with fitness pass. Includes ancillary items, such as the cost of issuing and replacing a key or pass to access a facility out of season and out of hours, season tickets for residents of village area where pool located. Preprinted passes for players, participants, coaches, trainers, officials. Includes access to ancillary facilities or classes, such as yoga. Hire of rooms within the aquatic centre. Commercial activities. | Taxable – section 9-5 and paragraph 81-10.01(1)(c) of the GST Regulations |

| Fees and charges | Description | GST treatment |
|---|--|---|
| | Pool parties. Out of open hours booking fee. | |
| Processing fees associated with use of airport facilities | Fees payable to Council by individuals for use of hangars and other airport facilities. | Taxable – section 9-5 and paragraph 81-10.01(1)(c) of the GST Regulations |
| Racecourse statutory fees | Fees payable to Council by the Miners Race Club, the Rodeo Association, pony club and other commercial sites to conduct business or otherwise operate at the racecourse. | Taxable – section 9-5 and paragraph 81-10.01(1)(c) of the GST Regulations |
| Assessment fee | Application to use land or a building as a place of public entertainment. Relates to the grant of permission for use of private land. | Exempt – paragraph 81-15.01(f) of the GST Regulations |

Leases

19C. Table 3 of this Ruling outlines the GST treatment that applies to the fees and charges related to leases of land.

Table 3: GST treatment that applies to the fees and charges related to leases of land

| Fees and charges | Description | GST treatment |
|---|---|--|
| Annual charges under section 611 of LG Act | A Council may make an annual charge on the person for the time being in possession, occupation or enjoyment of a rail, pipe, wire, pole, cable, tunnel or structure laid, erected, suspended, constructed or placed on, under or over a public place. Includes licences and permits for underground conduit or cable for a road crossing or occupation of Council land by cable or conduit. Gas and oil companies, Australia Post, street advertisers and other persons, including owners of clothing collection bins without current licences, and restaurants on footpaths without current licences, who possess, occupy or enjoy structures located on, under or over public land in the local government area. Includes fees for petrol, gas or diesel pump on a footpath. | Exempt – paragraph 81-15.01(1)(f) of the GST Regulations |
| Application fee for a new lease of Council land | Applications for leases of Council land or public road reserve. | Taxable – section 9-5 |

| Fees and charges | Description | GST treatment |
|--|---|-----------------------|
| | <p>Applications to formalise an existing encroachment on Council land by creation of an easement, positive covenant, lease or licence.</p> <p>Applications for a covenant variation.</p> <p>Includes costs of the preparation by Council of the lease, stamp duties and costs associated with investigating the applications or preliminary investigations and reports to Council upon an application to purchase Council land.</p> | |
| Application fee and lease of Council property other than land | <p>Any application to lease, licence or purchase Council property.</p> <p>Leases of Council-owned vehicles to Council employees for private use.</p> | Taxable – section 9-5 |
| Application to assign a lease or licence | Application to assign a lease or licence. | Taxable – section 9-5 |
| Land leasing fee | <p>Lease of Council land – commercial or residential – including land rental and sewerage or water usage charges.</p> <p>Renewal of lease including preparation of lease, survey and valuation fees associated with leases.</p> <p>Includes provision of keys and additional sets of keys.</p> <p>(Note: A lease or rental of residential dwellings that are owned by Council will be input taxed under section 40-35.)</p> | Taxable – section 9-5 |
| Fee for lease of air space over road | <p>Rental for an airspace licence for the construction of a veranda or balcony above Council land.</p> <p>Under section 149 of the <i>Roads Act 1993</i> (NSW) a roads authority may lease the air space above, or land below the surface of, any public road (other than a Crown road) that is owned by the authority.</p> | Taxable – section 9-5 |
| Fee for lease of unused public road to owner or lessee of adjoining land | <p>Leases of unused public roads.</p> <p>Under section 153 of the <i>Roads Act 1993</i> (NSW) a roads authority may lease land comprising a public road (other than a Crown road) to the owner or lessee of land adjoining the public road if, in its opinion, the road is not being used by the public.</p> | Taxable – section 9-5 |

| Fees and charges | Description | GST treatment |
|---|---|---|
| Fee for consent to erect a structure on a public road under section 139A of the <i>Roads Act 1993</i> (NSW) | Council may grant a permit or consent to erect a structure or carry out work in, on or over a public road. Under section 139A of the <i>Roads Act 1993</i> (NSW), Council may impose conditions on the consent such as permitting the use of the structure for the purpose of selling any article or service and requiring payments in the nature of rent. Includes consents to erect bus shelters, bollards or other structures in, on or over a public road. The fee may be a flat fee or it may be calculated over time or per advertising panel on the structure or by other means. | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Footpath hoarding fee | Application fees for permission to erect a temporary fence enclosing a building during construction or to erect a large billboard on which notices or advertisements are displayed. | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Fee for occupying Council footpaths | Application fees for a licence to use Council footpaths such as a licence for a restaurant allowing patrons to occupy and be served on the footpath Under section 125 of the <i>Roads Act 1993</i> (NSW), a Council may grant an approval that allows a person who conducts a restaurant adjacent to a footway of a public road to use part of the footway for the purposes of the restaurant. | Exempt – paragraph 81-15.01(f) of the GST Regulations |

Legal services

19D. Table 4 of this Ruling outlines the GST treatment that applies to the fees and charges related to legal services

Table 4: GST treatment that applies to the fees and charges related to legal services

| Fees and charges | Description | GST treatment |
|--|---|---|
| Legal fees recouped in the recovery of rates | The LG Act provides that these costs can be recovered. | Out of scope – No supply |
| Legal fees related to a regulatory function | Legal fees recovered in the pursuit of a regulatory function by Council, such as under the <i>Food Act 2003</i> | Exempt – section 81-15 and paragraph 81-15.01(c) of the GST Regulations |

| | | |
|---|--|---|
| | (NSW) or <i>Public Health Act 2010</i> (NSW). These collections are a fee or charge to compensate an Australian government agency for costs incurred by the agency in undertaking regulatory activities. | |
| Court fees and Sheriff's fees | Fees collected by Councils as agents for a court, tribunal or Sheriff's office. Where Council accepts fees on behalf of the courts in the case of service of process on behalf of the sheriff. | Exempt – section 81-15 and paragraph 81-15.01(e) of the GST Regulations |
| Fee for service of subpoenas | Fees for the service or attempted service of a subpoena. | Taxable – section 9-5 |
| Conduct money in relation to a subpoena or notice | Where Council is required to supply information on subpoena in proceedings in which it is not itself directly involved. An entity must pay conduct money when it requires Council or its officers to attend to give evidence or to produce documents, data or information. The conduct money must be reasonable to cover the cost of travel of a witness to the court and the reasonable costs of locating information and preparing the required evidence, documents, etc. The requirement to pay conduct money is explain under the <i>Uniform Civil Procedures Rules 2005</i> (NSW). Council may apply to the court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena. | Exempt – subsection 81-10(5) information |
| Payments relating to requests to supply information to a court or other judicial entity which is not subpoenaed | Where Council is required to supply information in proceedings in which it is not itself directly involved. An entity must pay conduct money when it requires Council or its officers to attend to give evidence or to produce documents, data or information. | Exempt – subsection 81-10(5) information |

Library services

19E. Table 5 of this Ruling outlines the GST treatment that applies to the fees and charges related to operating libraries.

Table 5: GST treatment that applies to the fees and charges related to operating libraries

| Fees and charges | Description | GST treatment |
|---|--|---|
| Combined library lost or damaged book cost and processing fee | Also includes combined fee for overdue items that will be replaced and charged an administration and processing fee. Includes any ancillary fees, such as processing fees imposed by lending libraries for inter-loans. | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Overdue charges and late return fees –library fines | Charges relating to the late return of library material and overdue notice fees. Also referred to as library fines. The prescribed fee for the late return of library material is the fee determined by the local authority for the library, being a fee that (whether calculated on a daily, weekly or other basis) does not exceed \$50 per item of library material. Part 4 of the <i>Library Act 1939</i> (NSW) provides for the making of regulations to give effect to the Act including the making of charges in prescribed cases for the use of a library, library service or information service. The <i>Library Regulation 2018</i> does not authorise the imposition of taxes, fines or penalties of any kind other than the charges detailed in clauses 7 and 8. | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Library – book repair and damage – processing charge | Includes any ancillary fees, such as processing fees imposed by lending libraries for inter-loans. | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Library damage repair charge | Includes any ancillary fees, such as processing fees imposed by lending libraries for inter-loans. | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Library – lost library book – processing charge | Includes any ancillary fees, such as processing fees imposed by lending libraries for inter-loans. | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Library inter-library loan processing fee | Handling fee for material obtained from other than library's resources including internet). The recommended national inter-lending charges as per Inter-Library Resource Sharing (ILRS) Code will be passed on to the | Taxable – section 9-5 |

| | | |
|---|--|---|
| | <p>borrower only if the lending library charges our library for the service. Includes fees associated with inter-library services, such as fees for items provided by facsimile, like journal articles, also includes ancillary charges, like courier or postal fees for delivery of items from other libraries and processing charges imposed by lending libraries.</p> <p>May also charge express service fee. Includes fee for non-collection of items ordered.</p> | |
| Lost or damaged library item replacement or repair cost | Replacement cost for an item such as a lost book, cassette, video, compact disc and digital video disk case, toy bag, etc. Includes processing fee. | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Laminating fee | Laminating | Taxable – section 9-5 |
| Fee for access to records belonging to library | Local history research or search of records. | Exempt – subsection 81-10(5) information |
| Library – lost library book – cost of book | Includes any ancillary fees, such as processing fees imposed by lending libraries for inter-loans. | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Replacement membership card fee – library or toy library | Replacement membership card where original card is lost or destroyed. | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Membership fee – library or toy library | <p>Membership to library or toy library. Includes charge to non-residents of the shire and area.</p> <p>Temporary borrower fee.</p> | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Library charge for collection of overdue material | Fee for library staff visiting borrower's premises to collect material. | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Library printing cost | Printing of items using library equipment. Could be printing of documents from a computer or other information technology device. Also production of a hard copy from a microfilm. | Taxable – section 9-5 |
| Book reservation fee | Includes bulk book reservation fees. | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Fee for sale of merchandise | Sale of library material other than information. | Taxable – section 9-5 |
| Fee for utilisation of library staff for various activities | Could include exam supervision. | Taxable – section 9-5 |

Sales

19F. Table 6 of this Ruling outlines the GST treatment that applies to the fees and charges related to sales of goods.

Table 6: GST treatment that applies to the fees and charges related to sales of goods

| Fees and charges | Description | GST treatment |
|--|---|---|
| Admission fee – festival, gallery, exhibition, etc. | Includes fees for attendance of delegates and Council-organised events. Includes Australasian Performing Right Association (APRA) fees and Phonographic Performance Company of Australia (PPCA) fees collected by Council upon admission to a music event. These fees are passed on to the APRA and PPCA based upon a percentage of gross box office receipts or a set amount per head. | Taxable – section 9-5 and paragraph 81-10.01(1)(c) of the GST Regulations |
| Admission fee – museum | Fee for admission into the museum. May include admission benefits, such as complementary refreshments, tours etc. Includes fees associated with special museum tours not on the regular program. | Taxable – section 9-5 and paragraph 81-10.01(1)(c) of the GST Regulations |
| Symphony orchestra and choir admission fee | Concert tickets for admission to performance by symphony orchestra or choir, or concert performance. | Taxable – section 9-5 and paragraph 81-10.01(1)(c) of the GST Regulations |
| Fee for phone boxes with third party advertising | Where Council charges an additional fee for phone boxes and booths on Council property (Telstra) that display third party advertisements. | Taxable – section 9-5 |
| Fee for advertising of public notices (not direct advertising) | Advertising of public notices relating to a range of activities. May be charged on a cost plus basis. | Taxable – section 9-5 |
| Fee for advertising of visitor or tourism information | Where Council charges a fee for displaying brochures for third parties on Council property (for example, a visitor or tourism centre). Includes attaching a hyperlink to a third party's business on Council website and web advertising. Generally applicable where Council enters into an agreement to promote a particular trade or business establishment. Generally an annual fee paid to Council. | Taxable – section 9-5 |

| Fees and charges | Description | GST treatment |
|---|--|--|
| Advertising in publication fee | Fee or charge per advertisement in Council publications such as <i>School Holiday Guide</i> , <i>Council Newsletter</i> , etc. Also includes fee charged by Council when advertising a development application in the newspaper. | Taxable – section 9-5 |
| Fee for provision of written advice | Includes a response to a written request for clarification. | Exempt – subsection 81-10(5) information |
| Archiving fee | Fee for archiving, scanning or recording documents, generally in relation to development applications, certificate applications etc. Storage fees, retrieval fees, archival search and delivery fees included. Could also include a service provided by Council such as an e-lodgement service where Council scans documents required as part of the service instead of the applicant. Includes fee charged by Council for documents being transferred to CD-ROM. Includes scanning paper plans into Council's records system. Includes archiving interment information. | Exempt – subsection 81-10(5) store or record information |
| Fee for swimming pool lifesaving certificates | Includes resuscitation, bronze medallion, pool lifeguard award, senior first aid, oxygen resuscitation certificates. | Taxable – section 9-5 |
| Fee to attend a class, lesson, program, seminar or workshop | Fees for full or half day public programs, classes, workshops or seminars which may be conducted at all centres, libraries, venues, facilities, Council beaches, parks, halls, etc. Fees for services such as squad or stroke correction, private swimming lessons, aquarobics. Group fitness, boot camps, surf awareness program, surf survival program at beaches and fee to provide lifeguards (extra lifeguard required if class exceeds 20), FitKid class, Kidz holiday program, other school holiday program for children. Personal trainer session, personal fitness assessment, fitness | Taxable – section 9-5 |

| Fees and charges | Description | GST treatment |
|---|---|---|
| | <p>assessment, by general practitioner or other person, naturopath or nutrition consultant.</p> <p>Body fat test, massage or any centre-initiated programs, short courses, weekend courses, youth programs.</p> <p>May be easy pay facility to allow payment over instalments, payroll deduction.</p> <p>Food safe costs, food handler's course, cost to attend, cost of kit (food safe) original version.</p> <p>Book clubs and educational tours.</p> <p>First aid class.</p> <p>Includes aged day care programs, computer class.</p> <p>Booking fees.</p> <p>Internet training, cost of providing activities or programs for children, word processing tuition, information provision on services program.</p> | |
| Fee for engaging Council in a collaborative campaign for business, tourism or community development | <p>Price negotiated upon application. Where Council and individual businesses work together to grow and better the community, improve local businesses, etc.</p> <p>Includes subscription fee for city or Council partnerships with individuals, students, families, businesses, organisations etc.</p> <p>Includes sponsorship packages purchased by businesses or organisations.</p> | Taxable – section 9-5 |
| Commission and booking fee on tourism tours, hotel bookings etc. | Accommodation, tour, tickets or bookings. | Taxable – section 9-5 |
| Commission on sale of goods | Often related to a use of facilities. | Taxable – section 9-5 |
| Competition fee | Fee for entry to or participation in a competition. | Taxable – section 9-5 |
| Fire hazard reduction service fee | <p>Fee for slashing service by consent or after notice, concerned with bushfire control.</p> <p>Clearing of land by contractor.</p> <p>Includes administration fee – sections 13 and 14 of the <i>Bushfire Act 1949</i> (NSW).</p> | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| General equipment hire fee | Fee for use of fitness equipment. | Taxable – section 9-5 |

| Fees and charges | Description | GST treatment |
|--|--|-----------------------|
| | Fee for use of general equipment – sport. | |
| Fee for supply of ancillary services associated with use of facilities | Not applicable | Taxable – section 9-5 |
| Ferry fees | Carrying all vehicles including commercial trucks, caravans, trailers, semi-trailers, motorcycles, etc. Includes application fee for water transport vessels and registration fees for vessels based on vessel capacity. | Taxable – section 9-5 |
| Fee for general food services | Catering charges for meals, tea or coffee, snacks, sandwiches and other refreshments. Includes the costs received from the sale of any food stuffs from cafeterias, cafés, restaurants or food halls that form part of any community facility operated or owned by Council. | Taxable – section 9-5 |
| Fee for public liability Insurance | Public liability Insurance premiums to all eligible users of a Council-owned or controlled facility. Permanent user of a Council facilities, casual hire of a Council facility for a party or function, casual hirer of a Council facility other than a party or function, use of a Council facility for a meeting. | Taxable – section 9-5 |
| Sale of land | Proceeds from the sale of Council land. Council land that is sold out of a development project. Note: Residential land with an existing residence may be input taxed under section 40-65. | Taxable – section 9-5 |
| Administration or processing fee for sale of land | Includes all associated fees such as administration fees, investigation fees, legal fees, survey costs, processing fees and valuation fees. | Taxable – section 9-5 |
| Charge to supply street sign | Supply and installation of a directional sign on a standard street sign blade or plate. <i>Roads Act 1993 (NSW) section 217</i> <i>LG Act section 608.</i> | Taxable – section 9-5 |
| Fee for provision of road number plaque | Provide rural road number plaque, rural addressing marker. Includes | Taxable – section 9-5 |

| Fees and charges | Description | GST treatment |
|--|--|---|
| | fee for supply of post and fee for individual numbers. | |
| Fee for supply of services related to traffic control barriers | <p>Fees for signs, barriers, warning lights, and signposting disabled parking.</p> <p>Installation of community signs.</p> <p>Includes vehicular crossing, design services and associated inspections.</p> <p>May include delivery of such items or fees charged to collect the item once no longer required. Includes regulatory signs and road markings. Includes temporary bus zone signs.</p> <p>Also includes lamp hire.</p> <p>Also includes signposting of driveways (for example, no parking).</p> | <p>Exempt – paragraph 81--15.01(f) of the GST Regulations</p> <p>The ES provides that fees and charges associated with erecting a stock crossing sign on the side of a road that a farmer has stock regularly crossing for example is not the provision of consideration.</p> |
| Fee for supply of services related to traffic information | Payments received for traffic information and studies by traffic classifiers and traffic counters, including establishment fee. | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |
| Fee to issue traffic control badges | Issue of traffic control authorisation badge by Council – each badge. | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |
| Graffiti removal kit charge | <p>Graffiti removal kit.</p> <p>May also include fees for Council to remove graffiti from private property.</p> | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |
| Sale of natural cleaning kit | Natural cleaning kit. | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |
| Sale or supply of building materials | <p>Includes gravel, road base, virgin excavated material, aggregate, cracker dust, top soil, mulch.</p> <p>Includes loading of materials on to transport vehicle.</p> <p>Includes access fee to depot or quarry site (may be singular or annual).</p> <p>Where quarry or gravel pit is located on privately owned land, the sale may include a royalty to be paid to the private landowner.</p> <p>Also includes compost.</p> | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |
| Supply of materials at cost | For recovery of costs in relation to supply of materials for matters such as those connected with labour hire for handiwork, gardening, carpenters' work etc. | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |

| Fees and charges | Description | GST treatment |
|---|---|---|
| Membership fees | Membership fees for: golf clubs, community centre, friends of the church annual subscription, friends of the arts centre, aquatic centre, fitness centre, gym, friends of the museum, theatre, choir membership fee. Includes membership transfer fee and renewal fees. | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |
| Fee for delivery of merchandise | Pots, plants and gardening equipment. | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |
| Fee for sale of merchandise | Supply of miscellaneous items (some available from other merchants) e.g. flags, dog bag and dog bag dispensers and refills, promotional or historical memorabilia (such as anniversary magazines, books, videos, digital video disks), calico bags, sharps containers and historical photographs of shire and buildings. Sale of recycling or recycled material bags and other 'eco-friendly' merchandise. Sale of recycled stormwater to external organisations. Bike loan fees. Cost of tree plaque and perpetual maintenance in Council parks or reserves, street trees, woodchip sales, plant pots, young plants or trees sold in pots etc. | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |
| Fee for supply of infringement evidence | Fee to supply photographs of infringement of parking or loading laws. | Exempt – subsection 81-10(5) information |
| Sales of photos other than by the library | Sales of photos in tourism centres etc. | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |
| Plant and machinery hire fee | Rate for hire of plant, plant operator and supervisor, labour fee, for example, water jet, scaffolding, gurney, generator etc. Beach cleaning machine hire, diggers, rollers etc. Includes fee for travel cost per km. | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |
| Annual fee for Australia Post boxes | Not applicable | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |

| Fees and charges | Description | GST treatment |
|---|--|---|
| Postage fee | Postage and handling. Includes handling and postage of ashes. | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |
| Rent | Rent paid for Council property. Rent paid to Council for placing equipment on Council's telecommunications tower. | Taxable – section 9-5 Note: Rent of council residential premises is input taxed. |
| Roads and Traffic Authority (RTA) fees | Fees for pink slips, written-off vehicles, design check, adjustment of records, imported vehicles, gas inspections, police referrals, defect clearance, etc. | Exempt – paragraph 81-15.01(f) of the GST Regulations |
| Fee associated with acquisition of Council land | Includes Council fee to RTA for acquisition of Council land for RTA purposes. | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |
| Fee for sale of merchandise | Sale of items from library – withdrawn material, merchandise such as library bags, artworks on display, exhibition or otherwise, universal serial bus drives or other data storage media, local history books, local history database compact disc, sale of local history books or other publications, whether in hard copy form (that is, a paper book) or in electronic form (that is, on compact disc, digital video disk or a universal serial bus stick), sale of old library books. May also include library bags. | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |
| Fee for sale of merchandise | Charges for brochures, books, or other media related to tourism or visitor information and associated merchandise. Includes sale of nursery stock such as seeds, tube stock, flowers etc. | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |
| Breath testing service – application and service fee | Not applicable. | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |
| Fee for signs | Industrial estate signs, erecting, rental. Commercial signs. Swimming pool safety signs, swimming pool chart, resuscitation charts. Soil and water management warning signs. | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |
| Fee for supply of development-related signage or notice | Signage or notices could include principal certifying authority signs or development application site notice. | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |

| Fees and charges | Description | GST treatment |
|---|--|---|
| | Principal certifying authority site signage. | |
| Sponsorship fees | Fees charged to businesses or organisations to sponsor special events, conferences, conventions, exhibitions, etc. | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |
| Fee for testing of building materials | Fee for testing of soil and aggregate materials for moisture content, liquid limit, plastic limit, linear shrinkage, particle size distribution, etc. Includes fees for travel, laboratory costs, and the test report. | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |
| Community transport fee | Fees charged for access to community transport services. Fees for hire of any community transport vehicles and services provide by Council, such as a community bus or minibus. Includes fees associated with running costs for vehicles or related transport equipment and fees charged for cleaning community transport vehicles. Also includes sale of taxi vouchers and care car contributions. | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |
| Fee for transport or relocation of building | Transportation or relocation of a building. Includes fee for relocation on weekends or public holiday. | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |
| Usage of vehicle fee | Private use of Council vehicles. | Taxable – section 9-5 and paragraph 81-10.01(1)(g) of the GST Regulations |

9. Paragraph 27

Omit 'table commencing on page 5 of'; substitute 'tables in'.

10. Paragraph 33 to 38

Omit the paragraphs, including headings.

11. Paragraph 39

(a) Omit the paragraph.

- (b) After the paragraph, insert new paragraphs 39A to 39E, including heading:

Division 81 of the GST Act and Division 81 of the GST Regulations

39A. Subsection 81-10(1) of the GST Act excludes from consideration certain Australian fees or charges if they are covered by subsections 81-10(4) or 81-10(5) of the GST Act. Section 81-15 of the GST Act also enables the GST Regulations to prescribe that kinds of Australian fees or charges are excluded from being consideration.

39B. If these exclusions apply, the supply to which the fees or charges relate is not subject to GST, because the supply is not made for consideration.

39C. The exclusions from GST cover the following kinds of fees or charges imposed by and payable to Australian government agencies under state or territory legislation:

- a fee or charge paid in relation to (or in relation to an application for) the provision, retention or amendment under state or territory legislation, of a permission, exemption authority or licence however described – see subsection 81-10(4) of the GST Act;
- a fee or charge paid in relation to the agency recording, copying, modifying, allowing access to, receiving, processing or searching for information – see subsection 81-10(5) of the GST Act;
- a fee or charge paid for a supply of a regulatory nature made by an Australian government agency – see paragraph 81-15.01(f) of the GST Regulations;
- a fee or charge imposed on an industry to finance regulatory or other government activities connected with the industry; or
- a fee or charge imposed in relation to court, tribunal, commission of inquiry or sheriff's office.

39D. As an exception to these exclusions from GST, subsection 81-10(2) of the GST Act permits the GST Regulations to prescribe that certain payments of Australian fees or charges are to be treated as consideration. The prescribed fees or charges that are treated as consideration include a fee or charge paid to an Australian government agency:

- for a supply of a non-regulatory nature - see paragraph 81-10.01(1)(g) of the GST Regulations;
- for a supply that may also be made by a supplier that is not an Australian government agency – see paragraph 81-10.01(1)(h) of the GST Regulations; or
- a fee for the hire, use of, or entry to a facility, other than an entry to a national park – see paragraph 81-10.01(c).

39E. When these regulations apply, the fee or charge is deemed to be consideration for a supply made by the Australian government agency. Consequently, that fee or charge becomes subject to GST if the other requirements for making a taxable supply are met.

12. Paragraph 40

- (a) In the heading, omit 'regulations'; substitute 'sections'.
- (b) Omit the first instance of 'regulations'; substitute 'sections'.
- (c) Omit all instances of 'regulation'; substitute 'section'.
- (d) Omit 'subregulation'; substitute 'subsection'.

13. Paragraph 41

- (a) Omit the heading; substitute 'Cemeteries, facilities, leases, library services, legal services, sales'.
- (b) Omit 'the table on pages 5 to 26'; substitute 'Tables 1 to 6'.

14. Paragraph 42

Omit the wording of the paragraph; substitute:

Cemetery fees and charges are generally considered to be consideration for taxable supplies for purposes of section 9-5. However, subsections 81-10(1) and 81-10(4) of the GST Act exclude from consideration, a legislatively imposed fee or charge paid to an Australian government agency that relates to, or relates to an application for; the provision, retention, or amendment, under an Australian law, of a permission, exemption, authority or licence (however described). Subsections 81-10(1) and 81-10(5) excludes from consideration, a legislatively imposed fee or charge paid to an Australian government agency if the fee or charge relates to the agency receiving, recording, modifying, or processing information.

15. Paragraph 43

- (a) Omit the wording of the paragraph; substitute:

The fees or charges payable to a public cemetery operator for the supply of other goods and services made in relation to a burial or cremation, including memorial plaques and gravedigging services are consideration for a supply.

- (b) After the paragraph, insert new paragraphs 43A to 43C, including heading:

43A. The following supplies made by an Australian government agency are not subject to GST:

- the supply of an interment right (burial right) in a public cemetery;
- the renewal of a burial right in a public cemetery; and
- the supply of any permission that must be obtained under state or territory legislation to exercise a burial right by physically burying human remains or creating a memorial at the location covered by the burial right.

43B. The fees or charges payable to an Australian government agency in relation to the agency recording the granting or transfer of a burial right in a public cemetery are not consideration for a supply.

Apportionment of mixed supplies

43C. An Australian government agency that supplies a burial right in a public cemetery (which is not subject to GST), together with other supplies that are subject to GST, such as gravedigging services, memorial plaques and hiring of a hall, must therefore ensure that GST is not included in the fee or charge that relates to the supply of a burial right. They are separate supplies that have different GST treatment. It is not a single supply of a funeral service.

16. Paragraph 45

- (a) Omit 'GST Regulation 81-10-01'; substitute 'Section 81-10-01'.
- (b) Omit '81-10(2) ,'; substitute '81-10(2),'.

17. Paragraph 46

Omit 'of the GST Act'.

18. Paragraph 49

- (a) Omit the heading; substitute 'Library services'.
- (b) Omit 'Library Regulation 2010'; substitute '*Library Regulation 2018 (NSW)*'.
- (c) Omit '81-15.01(1)(f)'; substitute '81-15.01(f)'.

19. Paragraph 50

Omit the heading; substitute 'Legal services'.

20. Paragraph 51

- (a) Omit 'Local Government Act'; substitute 'LG Act'.
- (b) Omit 'Legal fees'; substitute 'legal fees'.

21. Paragraph 55

- (a) Omit 'ruling'; substitute 'Ruling'.
- (b) Omit '*Library Regulation 2010 (NSW)*'; substitute '*Library Regulation 2018 (NSW)*'.

22. Paragraph 57

Omit the quotation of section 608 of the LG Act; substitute:

608 Council fees for services

- (1) A council may charge and recover an approved fee for any service it provides, other than a service provided, or proposed to be provided, on an annual basis for which it is authorised or required to make an annual

- charge under section 496 [domestic waste management services] or 501 [water supply, sewerage, drainage services etc.].
- (2) The services for which an approved fee may be charged include the following services provided under this Act or any other Act or the regulations by the council—
- supplying a service, product or commodity
 - giving information
 - providing a service in connection with the exercise of the council's regulatory functions-including receiving an application for approval, granting an approval, making an inspection and issuing a certificate
 - allowing admission to any building or enclosure.
- (3) In particular, a council may charge an approved fee for inspecting premises that are reasonably required to be inspected in the exercise of the council's functions, whether or not the inspection is requested or agreed to by the owner or occupier of the premises.
- (4) However, a council may not charge an approved fee for the inspection of premises that are not used for a commercial activity, except where it is necessary to inspect the premises in connection with an application for an approval concerning the premises or in connection with any inspection that is reasonably necessary to determine if an approval has been complied with.
- ...
- (6) If inspections of premises are reasonably necessary to determine if an approval has been complied with—
- (a) an approved fee may be charged for such an inspection only if the charging of the fee has been included as a condition of the approval, and
 - (b) an approved fee may not be charged for such an inspection before the approval is granted, and
 - (c) an approved fee may not be charged for the inspection of any thing for which the council relies on a certificate under section 93 that the thing has been done in compliance with the approval.
- (7) An approved fee charged for inspecting premises must be repaid to the person who paid it if the inspection is not carried out.
- (8) An approved fee charged in connection with a service provided at an airport established and maintained by the council may be recovered from the holder of the certificate of registration issued under the Civil Aviation Regulations of the Commonwealth for the aircraft in respect of which the service was provided. This subsection applies whether or not the holder is the person to whom the service is actually provided.

23. Paragraph 58

Insert a heading 'Roads Act 1993 (NSW)'.

24. Paragraph 59

- (a) Omit the following entries from the Detailed Contents List:

| | |
|--|-----|
| GST Regulations | 33 |
| Australian fees and charges that constitute consideration | 34 |
| Australian fees and charges that do not constitute consideration | 37 |
| Australian fees and charges covered by both regulations 81-10.01 and 81-15.01 of the GST Regulations | 40 |
| Cemeteries, facilities, leases, legal, library, sales | 41 |
| Library | 49 |
| Legal | 50 |
| Appendix 2 – Legislative References | 55 |
| (b) Insert the following entries into the Detailed Contents List, in the relevant paragraph order: | |
| Division 81 of the GST Act and Division 81 of the GST Regulations | 39A |
| Australian fees and charges covered by both sections 81-10.01 and 81-15.01 of the GST Regulations | 40 |
| Cemeteries, facilities, leases, library services, legal services, sales | 41 |
| <i>Apportionment of mixed supplies</i> | 43C |
| <i>Approval to occupy footway</i> | 48 |
| Library services | 49 |
| Legal services | 50 |
| Appendix 2 – Legislative references | 55 |

This Addendum applies from 4 December 2024.

Commissioner of Taxation
4 December 2024

ATO references

NO: 1-14PXYTU1
ISSN: 2205-5517
BSL: ISP

© AUSTRALIAN TAXATION OFFICE FOR THE COMMONWEALTH OF AUSTRALIA

CR 2013/25

You are free to copy, adapt, modify, transmit and distribute this material as you wish (but not in any way that suggests the ATO or the Commonwealth endorses you or any of your services or products).