GSTR 2002/2DC1 - Goods and services tax: GST treatment of financial supplies and related supplies and acquisitions

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Goods and Services Tax Ruling
Goods and services tax: GST treatment of financial supplies and related supplies and acquisitions

Relying on this draft Ruling

This is a draft consolidation outlining proposed changes to GSTR 2002/2 to reflect changes in the GST law (for instance, changes to the GST legislation applicable to cross-border supplies and in relation to digital currency), include new references to public guidance released relating to financial supplies, and provide some proposed changes to modernise parts of the Ruling.

This publication is a draft for public comment. It represents the Commissioner's preliminary view on how a relevant provision could apply.

If this draft Ruling applies to you and you rely on it reasonably and in good faith, you will not have to pay any interest or penalties in respect of the matters covered, if this draft Ruling turns out to be incorrect and you underpay your tax as a result. However, you may still have to pay the correct amount of tax.

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What this Ruling is about

1. This Ruling explains and clarifies what is, and what is not, a financial supply under Division 40 of the *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act) and Part 3-1 of the *A New Tax System (Goods and Services Tax) Regulations ~~1999~~2019* (the GST regulations).[A1]

2. This Ruling also provides guidance on the types of acquisitions that are reduced credit acquisitions and entitle a financial supply provider to a reduced input tax credit under Division 70 of the GST Act and Part 4-2 of the GST regulations.

3. This Ruling applies to all entities that are registered or required to be registered that make, or facilitate the making of, financial supplies. Reduced input tax credits are only relevant to an entity making financial supplies if that entity exceeds the financial acquisitions threshold. This is because an entity that is below the financial acquisitions threshold is entitled to full input tax credits for creditable acquisitions made in carrying on its enterprise.

[A1] The GST regulations were remade with effect from 1 April 2019. The *A New Tax System (Goods and Services Tax) Regulations 2019* (the new regulations) repealed redundant provisions, simplified language and restructured provisions for ease of navigation. They do not affect the substantive meaning or operation of the provisions. All references to the GST regulations in this Ruling are to the new regulations.

4. Unless otherwise stated, all legislative references in this Ruling are to the GST Act and GST regulations. In this Ruling, provisions of the GST Act and the GST regulations are referred to as sections, subsections, paragraphs and subparagraphs (as appropriate) in line with current legislative drafting practice. The format of the provision allows you to distinguish between provisions within the GST Act, as opposed to provisions of the GST regulations. For example, section 40-5 refers to a section of the GST Act, whereas section 40-5.09 refers to a section of the GST regulations.

4A.- From 1 July 2015, the term 'Australia' was replaced in nearly all instances within the GST, Luxury Car Tax, and Wine Equalisation Tax legislation with the term 'indirect tax zone'. The scope of the new term, however, remains the same as the now repealed definition of 'Australia' used in those Acts. This change was made for consistency of terminology across the tax legislation, with no change in policy or legal effect. In this Ruling, the 'indirect tax zone' is referred to as 'Australia'.

5. This Ruling adopts interpretations of the GST Act expressed in other GST public rulings. It also refers to a number of other GST public rulings where it is envisaged that further guidance or more detail on a particular issue may be required. Although these rulings may be specifically expressed not to apply to financial supplies, the general principles in these rulings provide guidance that may apply in the financial supplies context. Among others, key relevant public rulings for financial suppliers include:

- Goods and Services Tax Ruling ~~GSTR 2000/24 *Goods and services tax: Division 129 – making adjustments for changes in extent of creditable purpose;*~~
- ~~GSTR 2000/29 *Goods and services tax: attributing GST payable, input tax credits and adjustments and particular attribution rules made under section 29-25;*~~
- ~~GSTR 2000/31 *Goods and services tax: supplies connected with Australia;*~~
- ~~GSTR 2000/37 *Goods and services tax: agency relationships and the application of the law;*~~
- ~~GSTR 2001/6 *Goods and services tax: non-monetary consideration;*~~
- ~~GSTR 2001/8 *Goods and services tax: apportioning the consideration for a supply that includes taxable and non-taxable parts;*~~
- ~~GSTR 2002/5 *Goods and services tax: when is a 'supply of a going concern' GST-free?;*~~

- GSTR 2003/9 *Goods and Services Tax: financial acquisitions threshold*
- Goods and Services Tax Ruling GSTR 2004/1 *Goods and services tax: reduced credit acquisitions*
- Goods and Services Tax Ruling GSTR 2006/3 *Goods and services tax: determining the extent of creditable purpose for providers of financial supplies*
- Goods and Services Tax Ruling GSTR ~~2006/4 *Goods and services tax: determining the extent of creditable purpose for claiming input tax credits and for making adjustments for changes in extent of creditable purpose;*~~
- ~~GSTR 2012/12 *Goods and services tax: financial assistance payments*; and~~
- ~~GSTR 2013~~ 2008/1 *Goods and services tax: ~~tax invoices.~~when do you acquire anything or import goods solely or partly for a creditable purpose?*

Date of effect

6. This Ruling applies both before and after its date of issue, subject to the commencement and application provisions of each Act or Regulation to which it refers. However, this Ruling will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10 *Public Rulings*).

6A. Changes made to this Ruling by addenda that issued since its original publication have been incorporated into this version of the Ruling. Refer to each addendum for details of how that addendum amended the Ruling, including the date of effect of the amendments.

6B. [Omitted.]

Background

7. The GST Act provides that financial supplies are input taxed.[1] Not only financial institutions make financial supplies. You may make financial supplies in the course of carrying on your

[1A] [Omitted.]
[1] Subsection 40-5(1).

enterprise if you provide, acquire or dispose of an interest listed in the GST regulations in circumstances that satisfy the requirements for a financial supply under those regulations. No GST is payable on input taxed supplies.

8. You acquire or import something for a creditable purpose to the extent that you acquire or import it in carrying on your enterprise. However, you do not acquire or import it for a creditable purpose to the extent that it relates to making input taxed supplies (such as financial supplies) or is of a private or domestic nature. This means that you are not entitled to input tax credits for an acquisition or importation in those circumstances.

9. There are several exceptions to this general rule for acquisitions or importations that relate to making input taxed supplies. These exceptions include circumstances where:

- the acquisition or importation is not treated as relating to supplies that would be input taxed; or
- the acquisition is specified as a reduced credit acquisition within the meaning of Division 70 of the GST Act.

10. An acquisition or an importation is not treated as relating to supplies that would be input taxed to the extent that the supply you make is through an enterprise or a part of an enterprise that you carry on outside Australia.[2]

10A. An acquisition is not treated as relating to making supplies that would be input taxed to the extent that:

- the acquisition relates to making a financial supply consisting of a borrowing (except, in the case of an acquisition made on or after 1 July 2012, a borrowing through a deposit account you make available); and
- the borrowing relates to you making supplies that are not input taxed.[3]

10B. An importation is not treated as related to making supplies that would be input taxed to the extent that:

- the importation relates to making a financial supply consisting of a borrowing; and
- the borrowing relates to you making supplies that are not input taxed.[4]

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[2] Subsections 11-15(3) and 15-10(3).
[3] Subsection 11-15(5).
[4] Subsection 15-10(5).

11. Furthermore, an acquisition or an importation is not treated as relating to making supplies that would be input taxed if the only reason it would be treated as input taxed is because it relates to making financial supplies and you do not exceed the financial acquisitions threshold.[5] (The financial acquisitions threshold is described at paragraph 14 of this Ruling.)

12. If you do not exceed the financial acquisitions threshold, anything you acquire or import may be for a creditable purpose to the extent you import or acquire it in carrying on your enterprise. However, you do not acquire or import a thing for a creditable purpose to the extent it relates to making other[6] input taxed supplies or the acquisition or importation is of a private or domestic nature.[6AA]

13. In addition, Division 70 of the GST Act provides that specified acquisitions (reduced credit acquisitions) that relate to making financial supplies give rise to an entitlement to a reduced input tax credit. The GST regulations specify the acquisitions that are reduced credit acquisitions, and that the reduced input tax credit is an amount equal to either 75% or 55% of the GST payable on the supply of the acquisition.[6A]

Financial acquisitions threshold

14. Under sections 189-5 and 189-10, an entity exceeds the financial acquisitions threshold at a time in a particular month if, assuming that all the financial acquisitions [7] it has made, or is likely to make, during the 12 months ending at the end of that month, or during that month and the next 11 months, were made solely for a creditable purpose, either or both of the following would apply:

- the amount of all the input tax credits to which the entity would be entitled for its financial acquisitions would exceed $150,000 or such other amount specified in the GST regulations; and
- the amount of the input tax credits to which the entity would be entitled for its financial acquisitions would be more than 10% of the total amount of the input tax

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[5] Subsections 11-15(4) and 15-10(4).
[6] That is, input taxed supplies other than financial supplies covered by the exceptions discussed in paragraphs 9 and 10 of this Ruling.
[6AA] See GSTRs 2008/1 and ~~GSTR~~ 2006/3 for further explanation.
[6A] Subsection 70-15(1) and ~~regulation~~section 70-5.03.
[7] Section 189-15 defines 'financial acquisition' as 'an acquisition that relates to the making of a financial supply (other than a financial supply consisting of a borrowing)'.
[8] [Omitted.]

credits to which the entity would be entitled for all its acquisitions and importations (including the financial acquisitions) during either of the periods referred to in this paragraph.[9]

Reduced input tax credits (RITCs)

15. If you do not exceed the financial acquisitions threshold, you cannot claim reduced input tax credits. You may however, be entitled to input tax credits under Division 11. If you exceed the financial acquisitions threshold, a reduced input tax credit is available for reduced credit acquisitions to the extent that the acquisition is for a creditable purpose. You are not entitled to a reduced input tax credit for an acquisition to the extent you are entitled to an input tax credit (or you are denied an input tax credit) for that acquisition under another provision of the GST Act.[10]

16. Other jurisdictions input tax services that are not directly financial supplies but involve arranging financial supplies. This is done partly to address a self-supply bias that arises where a financial service provider uses inputs that would normally be taxable. Reduced input tax credits were introduced in the Australian context to overcome this self-supply bias.

17. According to the Explanatory Statement to the original GST regulations, 'the RITC was designed to reduce the bias to insource and limit any pressure to extend input taxation up the supply chain...'. Where a financial institution purchases a service that is taxable and eligible for an RITC, the tax effect is similar to where the purchased service is input taxed.[11]

Extent of creditable purpose and changes in creditable purpose

18. Determining the extent of your creditable purpose and making adjustments when your creditable purpose changes is dealt with in Goods and Services Tax Rulings GSTR 2000/24 *Goods and services tax: Division 129 – making adjustments for changes in extent of creditable purpose*, GSTR 2006/3 and GSTR ~~2006/4~~ 2008/1. You should refer to those rulings for guidance on how to work out your entitlement to input tax credits and how to make adjustments when your actual use is different to your intended use.

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[9] See GSTR 2003/9. For members of a GST group, the financial acquisitions threshold is calculated in accordance with subsections 189-5(2) and 189-10(2).
[10] Subsection 70-5(1A).
[11] Explanatory Statement to the A New Tax System (Goods and Services Tax) Regulations 1999, Attachment E, page 1.

18A. We have also issued guidance to assist you in determining the extent of your creditable purpose where you make various financial supplies of credit cards, transaction accounts and home loans:

- Goods and Services Tax Ruling GSTR 2004/4 *Goods and services tax: assignment of payment streams including under a typical securitisation arrangement* (see paragraphs 109A to 109BW);
- Goods and Services Tax Determination GSTD 2017/1 *Goods and services tax: when is the supply of a credit card facility GST-free under paragraph (a) of Item 4 in subsection 38-190(1) of the A New Tax System (Goods and Services Tax) Act 1999 (GST Act)?*
- Goods and Services Tax Ruling GSTR 2019/2 *Goods and services tax: determining the creditable purpose of acquisitions in a credit card issuing business*
- Goods and Services Tax Ruling GSTR 2020/1 *Goods and services tax: determining the creditable purpose of acquisitions in relation to transaction accounts*
- Goods and Services Tax Determination GSTD 2020/1 *Goods and services tax: when is the supply of a transaction account GST-free under table item 3 or table item 4(a) of subsection 38-190(1) of the A New Tax System (Goods and Services Tax) Act 1999?*

18B. The guidance listed in paragraph 18A of this Ruling can be read in conjunction with Practical Compliance Guideline PCG -2019/8 *ATO compliance approach to GST apportionment of acquisitions that relate to certain financial supplies*, which outlines our compliance approach and sets out the framework we use to assess the risk associated with methods to determine extent of creditable purpose of acquisitions relating to certain types of financial supplies.

Ruling with Explanations

40-5.09 – When is something a financial supply?

19. The GST Act provides that financial supplies are input taxed[12] and that *financial supply* has the meaning given by the GST

[12] Subsection 40-5(1).

regulations.[13] 'Supply' has the meaning given by section 9-10[14] and includes a financial supply.[15]

20. The GST regulations identify those supplies that are financial supplies by inclusion and exclusion.[16] Something is a financial supply only if it is mentioned as a financial supply in ~~regulation~~section 40-5.09 or is an incidental financial supply under ~~regulation~~section 40-5.10.[17] ~~Regulation~~Section ~~-~~40-5.12 has the effect of excluding things that might otherwise have been included as a financial supply by ~~regulation~~section ~~-~~40~~-~~5.09~~.~~ ~~Regulation~~ Section 40-5.12 does not exclude from being a financial supply something that is also an incidental financial supply.[18]

20A. Subsection 40-5.09(1) provides that the provision, acquisition or disposal of an interest mentioned in the table in subsection ~~-~~40~~-~~5.09(3) is a financial supply if certain conditions are met.

20B. Subsections 40-5.09(4) and (5) also specifically provide that certain supplies are financial supplies, separate from the requirements of subsection 40-5.09(1). These subsections include certain supplies ~~-~~by an ADI and certain supplies of ATM services where the fee is not more than $1,000.

21. We acknowledge that in interpreting whether the requirements in ~~subregulation~~subsection 40-5.09(1) are satisfied the regulations can either be read literally or more purposively. If the provisions are interpreted literally, something that is intended to be a financial supply might not be a financial supply. Where a literal reading would have such a result, we read the regulations more purposively to give effect to what we believe was intended. Instances where a literal reading of the provisions would have unintended consequences are discussed at paragraphs 22 to 27 of this Ruling.

Supply includes acquisition

22. The provision, acquisition or disposal of something is a financial supply where it satisfies the requirements of the GST regulations. Subsection 9-10(1) provides that a supply is any form of supply whatsoever. Subsection 9-10(2) then lists some examples of supplies, and includes a financial supply at paragraph 9-10(2)(f). While the provision and/or disposal of an

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[13] Subsection 40-5(2).
[14] ~~Regulation~~Section 40-5.01, note 1.
[15] Paragraph 9-10(2)(f).
[16] ~~Regulation~~Section 40-5.01 states that the object of Subdivision 40-A is to identify a supply that is or is not a financial supply.
[17] ~~Regulation~~Section 40-5.08.
[18] ~~Regulation~~Section 40-5.10.

interest may be a supply within the ordinary meaning of supply, the word 'supply' does not ordinarily contemplate the acquisition of something. For the purposes of the GST regulations and the GST Act, a supply includes a financial supply and a financial supply includes the acquisition of an interest in or under a table item of subsection 40-5.09(3)~~a financial interest~~.

23. Where the term 'supply' is used in Part 3-1 of the GST regulations[19], we consider that it generally applies to all financial supplies, including the acquisition of a financial interest. 'Supply', in these instances, is read to cover both the supply (provision and disposal) and the acquisition of a financial interest.[20] This reading is a more purposive interpretation under the rules of statutory interpretation.[21]

24. In this Ruling, we have used the term 'financial interest' where the thing supplied, or the thing acquired, is mentioned as being a financial supply in the GST regulations. The term 'financial interest' is used to describe a supply that may be a financial supply because it is mentioned in a table item ~~subregulation~~of subsection 40-5.09(3) and is capable of satisfying the tests in ~~subregulation~~subsection 40-5.09(1). The provision, acquisition or disposal of a financial interest is a financial supply once it satisfies those requirements.

Supply

25. The term 'supply' is used throughout the GST Act and GST regulations both as a noun and as a verb. In some instances in Part 3-1 of the GST regulations, the verb 'supply' is used when we consider the expression 'provision, acquisition or disposal' is intended.[22] In other instances, 'supply' is used in its more natural sense.

26. In this Ruling, where we use the expression 'supply' we refer to the provision or disposal of a financial interest[22A] and where we use the expression 'acquisition-supply', we refer to the supply which

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[19] See ~~regulations~~subsections 40-5.01, 40-5.07, 40-5.08, 40-5.10 and~~,~~ ~~subregulation subsection~~ 40-5.09(4), and subparagraph 40-5.09(1)(b)(ii).

[20] ~~Regulation~~Section 40-5.06 is an exception to this as it distinguishes between a supply and an acquisition to make it clear that the acquirer of a financial interest is a financial supply provider.

[21] See for example *A-G v. Carlton Bank* [1899] 2 QB 158 at p 164; *Gartside v. IR Comr* [1968] AC 553 at 612; *Cooper Brookes (Wollongong) Pty Ltd v. Federal Commissioner of Taxation* (1981) 147 CLR 297.

[22] ~~Regulation~~Section 40-5.06.

[22A] A financial supply may also include a supply that is designated as such and does not involve the supply of an interest, such as a supply of specified ATM services in ~~subregulation~~subsection 40-5.09(4A). The expression 'supply' used in this R~~r~~uling also applies to such financial supplies.

is the acquisition of a financial interest. On the other hand, when we use the expression 'acquisition' we refer to the receipt of a supply (whether or not the supply is a financial supply).

Supplier

27. Where the term 'supplier' is used in paragraph 40-5.09(1)(b), it could be substituted with the expression 'provider, acquirer or disposer'.

Provision, acquisition or disposal

28. The provision, acquisition or disposal of an interest mentioned in ~~subregulation~~subsection 40-5.09(3) ~~or (4)~~ is a financial supply where it satisfies the requirements of ~~subregulation~~subsection 40-5.09(1).

29. The allotment, creation, grant or issue of an interest is regarded as provision[23] of the interest. Disposal[24] of an interest includes assignment, transfer and surrender of the interest. Acquisition[25] in relation to the provision or disposal of an interest includes acceptance and receipt of the interest.

30. The provision, acquisition or disposal of the interest mentioned in ~~subregulation~~subsection 40-5.09(3~~) or (4)~~) must be:

- for consideration;
- in the course or furtherance of an enterprise; and
- connected with Australia.[26]

31. Furthermore, the financial supplier[27] must be registered or required to be registered and a financial supply provider in relation to the provision, acquisition or disposal of the interest.[28] The acquisition of a financial interest from an unregistered supplier may be a financial supply if the acquirer is registered.

32. The connected with Australia requirement poses a difficulty in the context of the acquisition of a financial interest. This is discussed at paragraphs 45 to 77 of this Ruling. The term financial supply provider is explained at paragraphs 104 to ~~106~~106A of this Ruling.

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[23] ~~Regulation 40-5.03.~~ Section 196-1.01.
[24] ~~Regulation 40-5.04.~~ Section 196-1.01.
[25] ~~Regulation~~Section 40-5.05.
[26] Subparagraphs 40-5.09(1)(a)(i) to (iii).
[27] The expression 'financial supplier' used in the Ruling means the provider, acquirer or disposer (as the case may be) of a financial interest.
[28] Subparagraphs 40-5.09(1)(b)(i) to (ii).

Consideration

33. The provision, acquisition or disposal of an interest in or under a table item of subsection 40-5.09(3) is a financial supply if it is for consideration and it meets the other requirements of ~~regulation~~section 40-5.09. Thus, a single transaction between two parties can involve two financial supplies – the provision or disposal of an interest for consideration and the acquisition of an interest for consideration.

34. 'Consideration' as used in the GST regulations has the same meaning as in the GST Act. Consideration is defined in section 195-1 to mean 'any consideration, within the meaning given by sections 9-15 and 9-17, in connection with the supply or acquisition'. For there to be a provision, acquisition or disposal of the interest 'for consideration', there must be sufficient nexus between the consideration and the particular supply.

34A. The Commissioner has expressed views on the consideration for the supply of a credit card facility in paragraphs 11 to 13 of GSTR 2019/2 and on the consideration for the supply of a transaction account in paragraphs 15 to 16 of GSTR 2020/1.

35. Consideration for a financial interest is something given for the provision, acquisition or disposal of the financial interest. Part of what is given as consideration may include promises made, or rights granted, under a contract. In the context of financial supplies, the payment received is consideration for the provision or disposal of the financial interest and the payment made is consideration for the acquisition of the financial interest. Where consideration is given for the 'first' supply, there is no need to identify consideration specific to the acquisition-supply (the 'second' supply), as the acquisition will have been made for consideration. Where the financial supply has been made *'for consideration'*, the acquisition-supply will also be *'for consideration'*.

Example 1: Supply and acquisition-supply are for consideration

36. *Geo Co. supplies shares to McCulloch for $2,000. The payment of $2,000 by McCulloch is consideration for the provision of the shares (the first supply) by Geo Co. to McCulloch. McCulloch acquires the shares for consideration of $2,000. The acquisition-supply by McCulloch (the second supply) is for consideration.*

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[29] [Omitted.]~~Regulation 3 the Dictionary to the GST regulations defines consideration by reference to the GST Act.~~

[29A] [Omitted.]~~As amended by *Tax and Superannuation Laws Amendment (2012 Measures No. 1) Act 2012.*~~

Consideration relating to a loan

37. When an entity borrows money from a lender on terms that include payment of interest, it creates an interest in a debt that includes the payment of interest. The lender creates and supplies an interest in a credit arrangement. Aside from the operation of subsection 9-10(4) each entity would make a supply of a financial interest (under table item 2 ~~in subregulation~~ of subsection 40-5.09(3)) to the other, and each supply would be consideration for the other.

38. However, whatever is supplied as payment by way of creation of a debt is money as defined in section 195-1, and by operation of subsection 9-10(4) is not a supply unless supplied as consideration for a supply that is money or digital currency.[30] The supply of an interest in a credit arrangement is not money or digital currency, nor is it a supply of money or digital currency. Where the consideration for the debt is an interest in a credit arrangement, the interest in debt is not a supply (because it is not provided as consideration for a supply that is a supply of money or digital currency).

39. The supply of an interest in a credit arrangement is provided for (monetary) consideration (namely the debt) and is a financial supply.

40. Similarly, where an entity borrows money on terms that do not include payment of interest, the borrower creates and provides an interest in debt that is money as defined in section 195-1. The interest in debt is monetary consideration for the supply of an interest in a credit arrangement by the lender.

41. The lender provides an interest in a credit arrangement and the borrower acquires the interest in the credit arrangement provided by the lender. In acquiring the financial interest, the borrower is a financial supply provider of that interest,[31] and the acquisition-supply is for consideration.

Example 2: Consideration for an interest-free loan

42. *Meteor Limited lends $150,000 to Satellite Limited, a subsidiary company that is not part of Meteor's GST group. The loan is for five years and there is no interest payable by Satellite Limited. Satellite Limited supplies an interest in a debt to Meteor*

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[30] Section 195-1 sets out what is included by the terms 'money' and 'digital currency' and the terms are~~is~~ reproduced in the Glossary to this Ruling (Schedule 1).

[31] ~~Subregulation~~Subsection 40-5.06(2).

Limited, and Meteor Limited supplies an interest in a credit arrangement to Satellite Limited. The consideration provided by Satellite is the interest in a debt and is money as defined in section 195-1. The supply by Meteor of the interest in a credit arrangement is the supply of a financial interest for consideration (the interest in a debt). In acquiring the interest in a credit arrangement, Satellite Limited has made an acquisition-supply for consideration.

Example 2A: Buy-now, pay-later credit provider

42A. *SmithaPay is a buy-now, pay-later provider, who provides credit to consumers on terms where they need to repay in six equal instalments. SmithaPay does not charge interest to these customers, but it does charge late fees if customers fail to pay on time. Albert enters into such an arrangement to purchase a mobile phone from a merchant.*

42B. *The consideration provided by Albert is the interest in a debt (his obligation to repay) and is money as defined in section- 195-1. The supply by SmithaPay of the interest in a credit arrangement is the supply of a financial interest for consideration (the interest in a debt). This would be the case even if SmithaPay did not charge late fees to customers.*

Financial supply given as consideration for a financial supply

43. Where a transaction involves the provision, acquisition or disposal of a financial interest in return for another financial interest, the transaction may give rise to four financial supplies. That is, both sets of supplies to the transaction will be comprised of a financial supply and an acquisition-supply. An example of this is a share swap. This is a result of the acquisition-supply itself being a financial supply and does not cause any unintended consequences. Input tax credits are denied in respect of any acquisitions that relate to making the financial supplies (unless the acquisitions are reduced credit acquisitions).

Course or furtherance of an enterprise

44. The following rulings, along with GSTRs 2006/3 and ~~GSTR~~ 2008/~~-~~1, provide ~~See Goods and Services Tax Rulings GSTR 2002/5, GSTR 2006/3, GSTR 2006/4, GSTR 2008/1, Miscellaneous Taxation Ruling MT 2006/1 and Goods and Services Tax Determination GSTD 2006/6 for~~ an explanation of what is meant by 'carrying on an enterprise' and 'in the course or furtherance of an enterprise':

- Miscellaneous Taxation Ruling MT 2006/1 *The New Tax System: the meaning of entity carrying on an enterprise for the purposes of entitlement to an Australian Business Number*
- Goods and Services Tax Determination GSTD 2006/6 *Goods and services tax: does MT 2006/1 have equal application to the meaning of 'entity' and 'enterprise' for the purposes of the A New Tax System (Goods and Services Tax) Act 1999?*
- Goods and Services Tax Ruling GSTR 2002/5 *Goods and services tax: when is a 'supply of a going concern' GST-free?*
- Goods and Services Tax Ruling GSTR 2006/4 *Goods and services tax: determining the extent of creditable purpose for claiming input tax credits and for making adjustments for changes in extent of creditable purpose.*

When is the provision, acquisition or disposal of a financial interest connected with Australia?

45. ~~The Dictionary to the GST regulations provides that 'connected with Australia' in relation to a financial supply has the meaning given by section 9-25 of the GST Act.~~ Subsection 9-25(5) ~~of the GST Act~~ sets out when the supply of anything other than goods or real property is connected with Australia.

46. It is arguable that while subsection 9-25(5) may apply to the provision or disposal of a financial interest, it cannot apply to the acquisition of a financial interest. This is because, while the provision or disposal of a financial interest is a supply within the ordinary meaning of supply, that term does not usually contemplate an acquisition. (See paragraph 22 of this Ruling.)

47. The literal interpretation of subsection 9-25(5) of the GST Act may result in an operation for ~~regulation~~section 40-5.09 that is clearly not intended. That is, on a strict reading of the subsection, the acquisition of a financial interest might never be connected with Australia and might therefore never be a financial supply. The GST ~~-~~regulations clearly contemplate that the acquisition of a financial interest, as well as the provision and disposal of a financial interest, is capable of being a financial supply.

48. The expression 'connected with Australia' is used consistently throughout the legislation and in our view the intention is to apply the connected with Australia test as contained within

[32] [Omitted.]~~Regulation 3.~~

subsection 9-25(5) to the acquisition of financial interests and to financial supplies in general.

48A. Therefore, in determining whether the provision, acquisition or disposal of the interest is connected with Australia the tests contained in subsection 9-25(5) are relevant, along with the exceptions outlined in subsection 9-26(1). The principles dealing with when the supply of anything other than goods or real property is connected with Australia are set out in:

- Goods and Services Tax Ruling GSTR 2019/1 *Goods and services tax: supply of anything other than goods or real property connected with the indirect tax zone (Australia)*
- Goods and Services Tax Ruling GSTR 2017/1 *Goods and services tax: making cross-border supplies to Australian consumers*.

49. ~~49. Therefore, in determining whether the provision, acquisition or disposal of the interest is connected with Australia the tests contained in subsection 9-25(5) are relevant.~~These tests are alternatives, so that the provision, acquisition or disposal of an interest may be connected with Australia if:

- the thing is done in Australia (see paragraphs ~~51 to 66 of this Ruling~~29 to 60 of GSTR 2019/1), unless the supply is disconnected under subsection 9-26(1) (see paragraphs 66 to 78 in GSTR 2019/1); or
- the provision, acquisition or disposal of the interest is made through an enterprise that the supplier carries on in Australia (see paragraphs ~~67~~78 to ~~77~~28 of ~~this Ruling); Or~~GSTR 2019/1); or
- neither of the above two tests apply and the supply is of a right or option to acquire another thing and the supply of that other thing would be connected with Australia (see ~~paragraph 77A of this Ruling).~~paragraphs 61 to 65 of GSTR 2019/1); or
- the recipient is an Australian consumer (see GSTR -2017/1).

In the context of financial supplies, the supplier is the provider, acquirer, or disposer of the financial interest.

49A. Subsection 9-26(1) outlines exceptions to certain connected with Australia rules. Relevantly for financial supplies, inbound intangible supplies by a non-resident to an Australian-based business recipient will not be connected with Australia, even if they are done

[33] [Omitted.]~~Subsection 9-25(6)~~.

in Australia, unless the supplier makes the supply through an enterprise they carry on in Australia.

50. ~~-~~Paragraphs 51 to ~~77~~77B of this Ruling draw on the principles dealing with when something is connected with Australia as set out in ~~Goods~~in the ~~above~~ rulings listed in paragraph 49 of this Ruling and ~~Services Tax Ruling GSTR 2000/31. While consideration of financial supplies does not form part of Goods and Services Tax Ruling GSTR 2000/31, we believe that the principles set out in that Ruling are relevant in the financial supplies context and paragraphs 51 to 77~~ are intended to illustrate ~~that.~~how those principles apply in the context of financial supplies.

Thing is done in Australia

51. ~~-~~'Thing' is defined to mean anything that can be supplied or imported.[34] ~~and.~~ 'Thing' includes but is not limited to a service, advice, information, ~~rights~~a right, a digital product, obligations to do anything, or any combination of these things. It therefore includes interests that are financial supplies, regardless of whether the financial supply arises from the provision, acquisition or disposal of the financial interest. 'Thing', in the context of paragraph 9-25(5)(a), is what is supplied. It is the subject of the supply (or acquisition-supply). Under paragraph 9-25(5)(a), the connection with Australia requires that the 'thing' being supplied is 'done' in Australia.

~~*The provision, acquisition or disposal of a financial interest*~~

52. [Omitted.] ~~Thus, in establishing whether a thing is done in Australia it is important to identify:what is the 'thing' that is being supplied; andwhere that 'thing' is done.~~

53. [Omitted.] ~~The meaning of 'done' depends on the nature of the 'thing' being supplied. 'Done' can mean, for example, created, accepted, performed, executed, completed, or finished depending on what is supplied. In the context of financial supplies, a conclusion about where the provision or disposal of the financial interest is 'done' may also determine where the acquisition of the financial interest is done. This is discussed further at paragraphs 61 to 66.~~

~~*Supply of a service*~~

54. [Omitted.]~~If the 'thing' being supplied is a service, the supply of that service is typically done where the service is performed. If the service is performed in Australia, the service is done in Australia and the supply of that service is connected with Australia. This is the case even if the recipient of the supply is outside Australia.~~

[34] Section 195-1.

The creation, grant, transfer, assignment or surrender of a right

55. [Omitted.] If the supply is the creation, grant, transfer, assignment or surrender of any right, the thing that is being supplied is the creation of that right in the recipient, the granting, transfer, or assignment of that right to the recipient, or the surrender of that right.

56. [Omitted.] The thing is done where the right is created in that other person, granted, transferred or assigned to that other person or surrendered as the case may be.

57. [Omitted.] Whether a right is created, granted, transferred, assigned or surrendered in Australia will depend on how, in any given case, the creation, grant, transfer assignment or surrender is effected. For example, if the right is granted by the execution of a written contract, the grant of that right is done in Australia if that contract is made in Australia.

Entry into, or release from, an obligation

58. [Omitted.]If the supply is the entry into an obligation to do anything, to refrain from an act, or to tolerate an act or situation, the thing that is being supplied is the entry into an obligation to do something, to refrain from something, or to tolerate something. The thing is done where the obligation is entered into.

59. [Omitted.] If the supply is the release from an obligation, the thing that is being supplied is that release and the thing is done where the release is effected.

60. [Omitted.] Whether an obligation is entered into, or the release from an obligation occurs, in Australia, will depend on where the entry into, or the release from, the obligation is effected.

61. Where the supply is the provision, acquisition or disposal of a financial interest, the connection with Australia turns on whether the interest is provided, acquired, or disposed of in Australia. Whether an interest is provided, acquired or disposed of in Australia will depend on how, the provision, acquisition or disposal[38] is effected. For example, if the interest is created, issued or transferred by the execution of a written contract, the creation, issue or transfer of that interest is done in Australia if that contract is made in Australia.

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[35] [Omitted.]Provision of an interest includes allotment, creation, grant or issue of the interest (regulation 40-5.03).

[36] [Omitted.]Acquisition in relation to the provision or disposal of an interest includes acceptance and receipt of the interest (regulation 40-5.05).

[37] [Omitted.]Disposal of an interest includes assignment, transfer and surrender of the interest (regulation 40-5.04).

[38] This includes, for example, how the interest is created, granted, issued, transferred, assigned, surrendered, accepted or received.

Example 3: Provision of a financial interest – the thing is not done in Australia

62. *Quokka Australia Ltd buys subscribes for shares in a New Zealand company, Bilby Ltd through a broker, which does not carry on an enterprise in New ZealandAustralia. The contract for purchaseshare subscription agreement is made in New Zealand. The issue (or provision) of the interest in the securities is done in New Zealand as this is where the contract is made. (The supply may still be connected with Australia if made through an enterprise the supplier carries on in Australia - see paragraphs 49 and 67.)*

However, even if the thing was done in Australia, if Quokka Australia Ltd is an Australian-based business recipient of the supply, the supply will be disconnected under table item 1 of subsection 9-26(1).

Example 4: Provision of a financial interest - thing is done in Australia

63. [Omitted.] *Mekka New Zealand Ltd buys shares in an Australian company, Kanga Ltd, through a broker in Australia. The contract for purchase is made in Australia. The issue (or provision) of the interest in the securities is done in Australia, as this is where the contract is made.*

Example 5: Supply of a guarantee – the thing is done in Australia

64. *Constructa Ltd, an Australian construction company, has a contract to build warehouses in Malaysia for a South-East Asian importer, Dragon Imports. Dragon Imports requires Constructa Ltd to provide a bank guarantee to finance completion of the project. An Australian bank agrees to provide supply the guarantee to Dragon Imports for a fee to be paid by Constructa Ltd. Constructa Ltd pays the fee and the guarantee documents are drawn up and executed in Australia. Although the obligee and the project guaranteed are both outside Australia, the creation (or provision) of the interest under the guarantee is done in Australia, as that is where the guarantee agreement is signed. The provision of the guarantee would also be connected with Australia under paragraph 9-25(5)(b) as it is made through an enterprise the Australian bank carries on in Australia. However, the supply may be GST-free if it satisfies the requirements of a table item of subsection 38-190(1). (See paragraphs 144 to 170A of this Ruling.)*

65. Where the supply is connected with Australia becauseprovision or disposal of the thingfinancial interest is done in Australia, the acquisition supply of the financial interest will also be

~~connected with Australia.~~done in Australia. However, the supply and acquisition-supply must each be separately considered to determine whether each of them is disconnected under subsection 9-26(1).

Example 6: Acquisition of financial interest – the thing is done in Australia

66. *Manx Australia Ltd is a GST-registered Australian company which buys shares from a New Zealand company, Bobtail Ltd~~.~~, which does not carry on an enterprise in Australia. The contract for purchase is made in Australia. The ~~issue~~provision of the interest in the securities is done in Australia, as this is where the contract is made. ~~The~~However, the supply of the shares ~~is therefore connected with Australia.~~ by Bobtail Ltd to Manx Australia Ltd, an Australian-based business recipient, is disconnected from Australia ~~by~~under table item 1 of subsection 9-26(1). The acquisition of the interest in the shares by Manx Australia Ltd is also done in Australia. ~~Therefore the~~The acquisition~~-~~supply made by Manx Australia Ltd is connected with Australia because the acquisition is done in Australia and is made through an enterprise that Manx Australia Ltd carries on in Australia (satisfying subsections 9~~-~~25(5)(a) and (b) respectively) and table item 1 of subsection 9-26(1) does not apply to disconnect the supply. However, the acquisition-supply may be GST-free if it satisfies the requirements of a table item of subsection 38-190(1). ~~–~~(See paragraphs 144 to ~~170~~170A of this Ruling.)*

Supply made through an enterprise that the supplier carries on in Australia

67. Even if a thing is not done in Australia, it may still be connected with Australia if it is supplied through an enterprise the supplier carries on in Australia~~.~~ (Australian GST presence).

67A. The principles for determining when an entity has an Australian GST presence within the meaning of section 9-27 are outlined in Law Companion Ruling LCR 2016/1 *GST and carrying on an enterprise in the indirect tax zone (Australia)*. GSTR 2019/1 provides guidance on when a supply is made through an Australian GST presence for the purpose of determining whether the supply is connected with Australia under paragraph 9-25(5)(b) (see paragraphs 8 to 28 of this Ruling).

68. [Omitted.] ~~For GST purposes, the concept of carrying on an enterprise in Australia is defined in terms of the definition of 'permanent establishment' in subsection 6(1) of the *Income Tax Assessment Act 1936* ('ITAA 1936'). An enterprise is carried on in~~

~~Australia if the enterprise is carried on through a place in Australia that is a permanent establishment or would be a permanent establishment if the definition in subsection 6(1) of the ITAA 1936 did not have specific exclusions. Under paragraph 9-25(6)(b) of the GST Act, the qualifying or excluding paragraphs (e), (f), or (g) in the ITAA 1936 definition are disregarded. This means that the concept of enterprise in the GST Act is wider in scope than the meaning of permanent establishment under the Income Tax Assessment Act.~~

69. [Omitted.] ~~A supply of a thing (other than goods or real property) is connected with Australia if the supplier carries on an enterprise in Australia by means of a GST permanent establishment in Australia and the supply is made through the permanent establishment.~~

70. [Omitted.]~~Both a resident and a non-resident can have a GST permanent establishment in Australia for the purposes of the application of paragraph 9-25(5)(b). It is not limited in operation to non-residents.~~

71. In the context of financial supplies, the supplier will be the provider, acquirer, or disposer of the financial interest. A financial supply made by the supplier, although 'done' or made offshore, will be connected with Australia if it is made through an Australian GST presence~~enterprise the supplier carries on in Australia.~~, or if it is made to an Australian consumer. However, a supply of a service or anything other than goods or real property to an offshore recipient may be GST-free under section 38-190 (see paragraphs 144 to ~~170~~170A of this Ruling).

Example 7: Supply through an enterprise

72. *An American company with no Australian GST presence, Marvel Inc., has been advised to invest in medium-term notes issued by an Australian company, Big Blue. Big Blue issues its medium-term notes to a number of dealers who then on-sell the notes into the secondary market. Two of these dealers are Blue Chip Australia, a dealer that carries on its enterprise in Australia, and Integrity Plus, a dealer that carries on its enterprise in Europe. Marvel Inc. acquires $10 million worth of notes from each of these two entities.*

73. *The $10 million worth of notes acquired by Marvel Inc. from Blue Chip Australia are supplied through an Australian GST presence~~enterprise carried on in Australia~~ and the supply is connected with Australia. However, the supply may be GST-free if it satisfies the requirements of a table item of subsection 38-190(1). (See paragraphs 144 to 170A of this Ruling.)*

73A. *The acquisition-supply by Marvel Inc. from Blue Chip Australia ~~is also~~will not be connected with Australia, even if the*

thing is done in Australia, as it will be disconnected by subsection 9-26(1) because Marvel Inc. is a non-resident which, does not make the acquisition through an Australian GST presence and is making a supply to an Australian based business recipient.[38AA]

74. *The $10 million worth of notes acquired by Marvel Inc. from Integrity Plus is not supplied through an Australian GST presence ~~enterprise carried on in Australia~~ and the supply is not connected with Australia. The acquisition-supply by Marvel Inc. is not made through an Australian GST presence ~~enterprise carried on in Australia~~ nor done in Australia and therefore is not connected with Australia.*[38A]

75. Where a supply is not connected with Australia because it is not done in Australia, is not made through an Australian GST presence~~enterprise the supplier carries on in Australia~~, is not made to an Australian consumer and is not of a right or option to acquire another thing the supply of which would be connected with Australia, the acquisition-supply may still be connected with Australia if the acquisition is made through an enterprise the acquirer carries on in Australia. The test in subsection 9-25(5) is applied to both the supply and the acquisition-supply.

76. This means that even where the thing is not done in Australia, if the recipient of the 'first' supply acquires the thing through an Australian GST presence~~enterprise it carries on in Australia~~, the acquisition-supply (the second supply) is connected with Australia. This is the case, whether or not the 'first' supply was made through an enterprise the first supplier carries on in Australia.

Example 8: Acquisition-supply made through an enterprise carried on in Australia

77. *Boxer Ltd, a resident Australian company that carries on an enterprise only in Australia, buys shares from a New Zealand company, Terrier Ltd. The contract is made in New Zealand and Terrier Ltd does not carry on an enterprise in Australia. The supply is not connected with Australia as the thing (the provision of the shares) is not done in Australia, nor is the supply made through an Australian GST presence ~~enterprise the supplier carries on in Australia.~~, and Boxer Ltd is not an Australian consumer. The acquisition-supply is connected with Australia as the acquisition of the shares is made through an enterprise Boxer Ltd carries on in Australia. The acquisition-supply is GST-free if it satisfies the*

[38AA] Similar to the outcome in paragraph 115 of this Ruling, the receipt of notes by Marvel Inc. is also an acquisition-supply to Blue Chip Australia.

[38A] Paragraph 9-25(5)(c) does not apply.

requirements of subsection 38-190(1). (See paragraphs 144 to 170 of this Ruling.)

Supply is of a right or option to acquire another thing and the supply of the other thing would be connected with Australia

77A. As explained at paragraph 71 of this Ruling, the supplier of a financial supply will be the provider, acquirer or disposer of the financial interest. A financial supply made by a supplier, that is not done in Australia and is not made through an Australian GST presence~~enterprise that is carried on in Australia~~, will be connected with Australia if it is the supply of a right or option to acquire another thing and the supply of that other thing would be connected with Australia. However, a supply of a service or anything other than goods or real property to an offshore recipient may be GST-free under section 38-190 (see paragraphs 144 to 170 of this Ruling).

Recipient of the supply is an Australian consumer

77B.- Under paragraph 9-25(5)(d), a supply of anything other than goods or real property will be connected with Australia if the recipient of the supply is an Australian consumer (refer to GSTR -2017/1).[38AB] This includes supplies of services, rights, entry into or release from obligations or digital products, and can include financial supplies.

What is an 'interest' in relation to a financial supply?

78. ~~Regulation~~ Section 40-5.02 provides that an *interest* in relation to a financial supply is anything that is recognised at law or in equity as any form of property. Examples include:

- A debt or a right to credit;
- An interest conferred under a public or private superannuation scheme;
- A mortgage over land or premises;
- A right under a contract of insurance or a guarantee;
- A right to receive a payment under a derivative; and
- A right to future property.

[38AB] A supply that is connected with Australia because it is made to an Australian consumer may still be a financial supply. Items 12 and 13 to subsection 40-5.09(3) were introduced at the same time as paragraph 9-25(5)(d) to provide consistent treatment of imported financial services which are not covered by Australian regulatory requirements.

79. The term 'interest' is taken to be very broad even taking into account the use of the word property. The above examples are property or proprietary rights on a broad interpretation of the term and do not extend or contradict the generally accepted concept of 'property'. The examples indicate that the term is given its broadest application so that an interest is as wide as the legal and equitable concept of property, including rights arising under a contract.

80. This view is supported by judicial decisions that look to the relevant legislation for assistance in interpreting the term 'property'. The fact that a right is not assignable does not mean that it cannot be a proprietary right.

80A. The Full Federal Court considered the meaning of the term 'interest' in ~~regulation~~section 40-5.02 in *Commissioner of Taxation v American Express Wholesale Currency Services Pty Limited* (*American Express*)[38B] in the context of whether the right to present a credit card or charge card was an interest. After considering a number of cases including the High Court decision of *Yanner v Eaton,*[38C] the majority of the Court[38D] observed at [145] to [146]:

> 145. Although the subject matter in *Yanner* is very different indeed from that in these appeals, the discussion about the concept of 'property' is helpful in the present context. First, *Yanner* shows that the meaning of the word 'property' can be fixed by relevant context, and the rather narrow meanings given in the authorities cited by the respondents will not apply in all contexts. Secondly, the word 'property' can be applied to different kinds of relationships between a personal and a subject matter, and can be understood as referring to the degree of power that is recognised in law as power permissibly exercised over the thing.
>
> 146. Considering the text of the GST Act (especially ss 9-10 and 11-10) and the Regulations, it is apparent that the term 'interest' is referable to a very broad conception of property. The words 'anything' and 'in any form' in regulation in 40-5.02 highlight this extensive scope. Further, as the Commissioner submitted, the examples of financial supplies in the table in regulation 40-5.09(3) include a range of items that would not fit the narrower definition of property urged by the respondents. The same can be said of the 'examples of interest' attached to regulation 40-5.02. These examples are illustrative of the proposition in the joint judgment in *Yanner* mentioned above.

80B. The majority of the Court concluded at [148] that cardholders agreeing to the terms in respect to a credit card or charge card gain a bundle of rights, the most important of which is the right to present the card as payment and incur a corresponding obligation to pay the

[38B] (2010) 187 FCR 398; [2010] FCAFC 122.
[38C] [1999] HCA 53; (1999) 201 CLR 351.
[38D] Kenny and Middleton JJ.

card provider at a later date. These rights constitute an 'interest' under the broad definition within the GST regulations.[38E]

81. In their judgment in *Commissioner of Taxation (Cth) v Orica Ltd*[39], Gaudron, McHugh, Kirby and Hayne JJ considered the nature of a proprietary interest for the purposes of Part IIIA[40] of the ITAA 1936. In discussing the term 'any form of property' in section 160A of the ITAA 1936, they cited with approval a statement by Kitto J in *National Trustees Executors & Agency Co. of Australasia Ltd v. FC of T*[41]:

> 'It may be said categorically that alienability is not an indispensable attribute of a right of property according to the general sense which the word 'property' bears in the law. Rights may be incapable of assignment, either because assignment is considered incompatible with their nature, as was the case originally with debt (subject to an exception in favour of the King) or because a statute so provides or considerations of public policy so require, as is the case with some salaries and pensions; yet they are all within the conception of 'property' as the word is normally understood…'

Gummow J, in discussing the judgment of the lower court in *ICI Australia v. FC of T,*[42] observed that neither of the cases considered in relation to 'property' was dealing with rights created under the general law of contract and that it was those rights that were the subject of the case under consideration. He concluded that the contractual rights, whether or not assignable, were property for the purposes of Part IIIA of the ITAA.

Interest in or under

82. In the context of ~~regulation~~section 40-5.09, we do not ascribe any specific technical significance to establishing whether something is covered as an interest in or an interest under an item in the table. ~~Regulation~~ Section 40-5.09 also covers those transactions where by nature, the interest being supplied arises under (rather than in) an item mentioned in the table.

83. For example, in the case of an interest rate swap contract each party provides the other party with the right to receive a series of cash flows. The proper characterisation of the supply of each party's property is the provision of an interest under an interest rate

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[38E] The High Court has also considered the meaning of the term 'property' in *White v. Director of Public Prosecutions for the State of Western Australia* [2011] HCA 20; (2011) 243 CLR 478 at [10] to [12].

[39] [1998] HCA 33; 194 CLR 500; 98 ATC 4494; (1998) 39 ATR 66; (1998) 154 ALR 1; (1998) 72 ALJR 969.

[40] Part IIIA of the ITAA 1936 dealt with Capital Gains & Losses. These provisions are now incorporated within Division 108 of Part 3-1, ITAA 1997.

[41] *National Trustees Executors & Agency Co. of Australasia Ltd v. FC of T* (1954) 91 CLR 540 at 583.

[42] *ICI Australia v. FC of T* (1996) 68 FCR 122; (1996) 33 ATR 174; 96 ATC 4680.

swap (derivative) contract. Each party will also make a supply of the acquisition (the acquisition-supply) of an interest under an interest rate swap (derivative) contract.[43]

84. The interest must be an interest in, or under, one of the categories set out in the table in ~~subregulation~~subsection 40-5.09(3). These categories are:

- an account made available by an Australian ADI (authorised deposit-taking institution) in the course of its banking business or its State banking business (table item 1 of ~~Subregulation~~subsection 40-5.09(3));
- a debt, credit arrangement or right to credit, including a letter of credit ~~(Subregulation~~(table item 2 of subsection ~~-~~40~~--~~5.09(3));
- a charge or mortgage over real or personal property ~~(Subregulation~~(table item 3 of subsection 40-5.09(3));
- specified superannuation arrangements ~~(Subregulation~~(table item 4 of subsection 40-5.09(3));
- an annuity or allocated pension ~~(Subregulation~~(table item 5 of subsection 40-5.09(3));
- specified life insurance business or related reinsurance business ~~(Subregulation~~(table item 6 of subsection ~~-~~40-5.09(3));
- a guarantee ~~(Subregulation~~(table item 7 of subsection 40-5.09(3));
- an indemnity ~~(Subregulation~~(table item 7A of subsection ~~-~~40-5.09(3));
- credit under a hire purchase agreement entered into before 1 July 2012[43A] (table item 8 of ~~Subregulation~~subsection ~~-~~40-5.09(3));
- Australian currency ~~or foreign,~~ currency ~~or agreements~~of a foreign country, digital currency or an agreement to buy or sell ~~those currencies.~~ ~~(Subregulation~~ any of these three things~~.~~ (table item 9 of subsection ~~-~~40-5.09(3));

[43] As discussed at paragraph 43 of this Ruling, this may mean the transaction gives rise to four supplies – two 'actual' financial supplies and two acquisition-supplies.

[43A] A supply of credit under a hire purchase agreement entered into on or after 1 July ~~-~~2012 is not an input taxed supply – see table item 20 ~~regulation~~ of section 40-5.12.

- securities ~~(Subregulation~~(table item 10 of subsection 40-5.09(3));
- derivatives ~~(Subregulation~~(table item 11 of subsection 40-5.09(3));
- an account made available by a non-resident in the course of carrying on a banking business in a foreign country in which the entity is authorised under the law of that country to carry on a banking business (table item 12 of subsection 40-5.09(3)); and
- a foreign superannuation fund (table item 13 of subsection 40-5.09(3)).

85. The provision, acquisition or disposal of an interest may be covered by more than one item in ~~subregulation~~subsection 40-5.09(3). The supply need satisfy only one item in ~~the subregulation~~this subsection to be a financial supply, although it may be classified under more than one. Similarly, the acquisition-supply may be classified under more than one item. Conversely, something need only be mentioned in one item under section 40-5.12 to be excluded from being a financial supply. (See paragraph 189 of this Ruling.)

86. So long as the provision, acquisition or disposal is of something that is within one of the items listed in the table in ~~subregulation~~subsection 40-5.09(3), and meets the other requirements of ~~regulation~~section 40-5.09, it is a financial supply.

87. As stated at paragraph 79 of this Ruling, 'interest' within Part 3-1 of the GST regulations includes rights arising under a contract. An interest in or under particular items in ~~regulation~~section 40-5.09 may include contractual rights. The acquisition of an interest in a bank account, for example, includes the acquisition of the contractual rights in relation to the operation of that bank account.

88. The supply of an interest in any of the table items of ~~subregulation~~subsection 40-5.09(3) may be viewed as a single supply, a composite supply, a mixed supply or a series of separate supplies depending on the facts in each case. (Mixed and composite supplies are explained at paragraphs 91 to 98 of this Ruling.)

Example 9: Single supply of an interest in a table item of ~~subregulation~~subsection 40-5.09(3)

89. *Nostrum has a loan with Multilender, a lending institution. Multilender provides Nostrum with a statement of interest paid every six months for a fee. The entitlement to a statement of interest paid is given as part of an interest in or under a loan account. The*

provision of the statement of interest paid is part of the single supply of the account that is an input taxed supply. (It might also be characterised as a composite supply – see paragraph 91 of this Ruling.)

~~*Example 10: Supply of something that is an interest in or under an item and something that is not an interest in or under an item*~~

90. [Omitted.]~~*Handee Lifters enters into a hire purchase agreement before 1 July 2012 with Remarkable Finance to purchase a car. Under the agreement, Remarkable supplies Handee with both a car and credit (separately charged and disclosed) in relation to that car. The provision of the credit is an interest under a hire purchase arrangement in relation to goods and is a financial supply. However, in substance and reality the supply of the car is not the supply of an interest in or under one of the items listed in the table in subregulation 40-5.09(3). It has a separate identity and aim in itself. Therefore, the supply of the car is not a financial supply. (The supply might also be characterised as a mixed supply – see paragraph 91.)*~~

Mixed and composite supplies

91. If you make a supply that contains separately identifiable taxable and non-taxable parts, it is a mixed supply. A composite supply on the other hand is essentially a supply of a single thing. If you make a supply that contains a dominant part and includes something that is integral, ancillary or incidental[44] to that part, then the supply is composite. The word 'incidental' in this context is not to be confused with the term when used in connection with an incidental financial supply.

92. Where a supply contains a part that is a taxable supply and another part that is a financial interest, the relevant facts will determine the treatment of the supply. If it is a composite supply, there will be no need to separate the part that is a financial interest from the taxable part, as one is so integral, ancillary or incidental to the other part of the supply that it cannot be separately identified. If on the facts it is a mixed supply then you will need to separate the parts of the supply.

[44] See Goods and Services Tax Ruling GSTR 2001/8 *Goods and services tax: Apportioning the consideration for a supply that includes taxable and non-taxable parts* for a discussion of the expression 'integral, ancillary or incidental'~~(GSTR 2001/8)~~.

Example 11: Composite supply

93. *Big Truck Haulage Company enters into a contract to transport goods for the Economy Group of retail stores. Under the contract, Big Truck Haulage Company indemnifies the Economy Group for any loss or damage caused by Big Truck Haulage Company's drivers. The drivers are independent contractors that provide their own vehicles.*

94. *The supply contracted for is the transport of goods in a timely way and undamaged state. The indemnity under this contract is integral, ancillary or incidental to this supply and cannot be separated out and treated as a financial supply.*

Example 12: Mixed supply

95. *Convenient Co. provides a charge card called 'The Super Convenient Card' to Nastro. Under the agreement for The Super Convenient Card, Nastro is provided with a charge card facility and the additional benefit of 24-hour roadside assistance. The annual fee charged for The Super Convenient Card is $95. The annual fee charged for charge cards without the additional benefit of roadside assistance is $30.*

96. *The brochures for the different cards provided by Convenient Co. emphasise the benefits and convenience of The Super Convenient Card. The brochures suggest that cardholders of charge cards without the roadside assistance change from their existing charge card to The Super Convenient Card to access the roadside service. The brochures also detail the advantages to the Super Convenient roadside assistance compared to roadside assistance provided through other organisations.*

97. *Neither of the things embodied by the agreement can be viewed as the dominant part with the other part being integral, ancillary or incidental to it. Under the agreement, the supply can be characterised as consisting of a distinct taxable part (the roadside assistance) and a distinct non-taxable part (an interest in a credit arrangement or a right to credit) each of which can be enjoyed independently of the other. Accordingly, Convenient Co. has made a mixed supply of taxable and input taxed parts to Nastro.*

98. Apportionment of consideration for a supply that includes taxable and non-taxable parts is discussed in GSTR 2001/8.

Money or digital currency as consideration for money or digital currency[45]

99. While 'money' is not specifically listed in the GST ~~-~~regulations as an item that is a financial supply, many financial supplies involve money like transactions. The definition of supply excludes a supply of money or digital currency unless the money or digital currency is provided as consideration for a supply that is a supply of money or digital currency.[46] Therefore, where the consideration for a supply is money or digital currency, the consideration will not itself be a supply unless the other supply is also money or digital currency.

Example 13: Money is not a supply

100. *Shaun sells goods to Mae Ling for $100. Shaun is making a supply for consideration of $100. Mae Ling is not making a supply because the $100 is provided as consideration for a supply of goods and not as consideration for a supply of money.*

Example 14: Digital currency~~Money~~ is a supply

101. *Jeanette buys ~~a money order~~digital currency from ~~PostOffice Co.~~CryptoC for $~~200 (in cash). A money order comes within the definition of money in section 195-1.~~2,000. Jeanette is making a supply ~~as she provides~~because the $~~200~~2,000 is provided as consideration for a supply of ~~money, namely the money order. PostOffice Co. is~~digital currency. CryptoC is also making a supply, as the ~~money order~~digital currency is provided as consideration for a supply of money (the $~~200~~2,000).*[47]

102. An acquisition includes the acquisition of something the supply of which is a financial supply.[48] However, an acquisition does not include an acquisition of money or digital currency unless

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[45] Section 195-1 sets out what is included by the ~~term~~terms 'money' and 'digital currency' and the terms are ~~is~~ reproduced in the Glossary to this Ruling (Schedule 1).

[46] Subsection 9-10(4).

[47] ~~A money order comes within paragraph (d) of the definition of money in section 195-1 of the GST Act..~~ This example illustrates when a supply of money or digital currency is a supply for the purposes of subsection 9-10(4). ~~The example~~It does not deal with whether or not Jeanette or ~~PostOffice~~CryptoC have made financial supplies. In the example, both the supply of ~~a money order~~digital currency and the $~~200~~2,000 (as currency) may be financial supplies under table item 9 of subsection 40-~~-~~5.09(3) of the GST regulations.~~The money order is a debenture and an item 10 paragraph (a) interest and the currency is an item 9 interest under subregulation 40-5.09(3).~~

[48] Paragraph 11-10(2)(f).

the money or digital currency is provided as consideration for a supply that is a supply of money or digital currency.[49]

Financial supply provider or financial supply facilitator

103. -The GST ~~regulationsr~~Regulations distinguish between a financial supply provider[50] and a financial supply facilitator.[51] ~~The Explanatory Statement states that these~~These definitions are used to avoid confusion between the provision of the actual financial supply and another supply made in connection with it (such as agency services).

Financial supply provider

104. An entity is the financial supply provider of an interest if:

- the interest was the entity's property immediately before the supply (for example, an entity sells a debenture that it owns);
- the entity created the interest when making the supply (for example, an entity issues a debenture); or
- the entity acquires the interest supplied (for example, an entity acquires a debenture).[53]

105. Whether or not an entity is a financial supply provider in relation to an interest will depend on the facts. For example, when an entity provides a mortgage over real property to a bank it creates an interest in a mortgage and is a financial supply provider of that interest.[54] The bank acquires the interest in the mortgage created by the entity and is a financial supply provider in relation to that acquisition-supply.

106. ~~Regulation~~ Section 40-5.06 gives an acquirer of a financial interest the status of a financial supply provider. However, the acquisition-supply is only a financial supply if the other conditions of ~~subregulation~~subsection 40-5.09(1) are met.

106A. Where the financial supply does not involve the supply of an interest, the ordinary meaning of 'financial supply provider' applies. The financial supply provider is the entity that makes the financial supply. See paragraphs 651A and 651B of GSTR 2004/1 for an

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[49] See subsection 11-10(3).
[50] ~~Regulation~~Section 40-5.06.
[51] ~~Regulation~~Section 40-5.07.
[52] [Omitted.]~~Explanatory Statement to the A New Tax System (Goods and Services Tax) Regulation 1999, Attachment B, page 1.~~
[53] ~~Regulation~~Section 40-5.06.
[54] ~~Subregulation~~Subsection 40-5.06(1).

example involving table item ~~Item~~ 27 of subsection 70-5.02(1) and a financial supply of ATM services.

Financial supply facilitator

107. A financial supply facilitator, in relation to a supply of an interest, is an entity that ~~facilitates~~facilities the supply of ~~an~~the interest for the financial supply provider.[55] The supply by a financial supply facilitator, in that capacity, is not a financial supply.[56] A supply by a facilitator will be a taxable supply, unless it is not taxable under another provision of the GST Act (for example, it is GST-free or input taxed). Only the financial supply provider in relation to a particular supply can make a financial supply of that thing, as only the provider can satisfy the requirements of ~~subregulation~~ subparagraph ~~-~~40~~--~~5.09(1)(b)(ii).

108. For example, if Alpha sells shares to Beta but does so through Xanthe, a broker, Alpha is making the financial supply of the shares to Beta and Xanthe is making the supply of brokerage services. The financial supply is input taxed, whilst the brokerage services are taxable.

109. Certain acquisitions from a financial supply facilitator qualify as reduced credit acquisitions. This is explained further at paragraphs 257 to 265 of this Ruling.

109A.- When a financial supply does not involve the supply of an interest, the ordinary meaning of 'financial supply facilitator' applies. The financial supply facilitator is the entity that facilitates the financial supply for the entity making the financial supply.

Acquisition of a financial interest

110. As stated at paragraph 43 of this Ruling, the acquisition of a financial interest can be both an acquisition and a financial supply. The acquirer of the financial interest both acquires and *supplies* a financial interest, that is, it makes a supply of the acquisition (or the 'acquisition-supply').

Why is an acquirer also a financial supply provider?

111. The intention is that neither the supplier nor the acquirer of a financial supply should be able to claim input tax credits in relation to the supply or acquisition of the financial supply. This is achieved

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[55] ~~Regulation~~Section 40-5.07.
[56] Subparagraph 40-5.09(1)(b)(ii). This is one situation where the regulations distinguish between a supply and acquisition.

by denying a creditable purpose to both parties to a transaction in which there is a financial supply.

112. The entity that makes or supplies the financial interest and the entity that acquires the financial interest have both made financial supplies.[57] Therefore, anything acquired or imported that relates to making those supplies is not for a creditable purpose, and each entity is denied input tax credits for those acquisitions or importations.

Example 15: Supply and acquisition-supply

113. *S&T Galore is registered for GST and carries on an enterprise in Australia as a share trader. S&T Galore buys and sells shares in the course of carrying on that enterprise. Both the sale and the acquisition of the shares are financial supplies and S&T Galore is denied input tax credits for acquisitions and importations that relate to making those financial supplies. S&T Galore will be entitled to reduced input tax credits for things acquired in making those financial supplies that are reduced credit acquisitions (for example, brokerage). Assuming the other conditions in ~~regulation~~section 40-5.09 are satisfied, the acquisition-supply in each case is also a financial supply.*

Who is the recipient of the acquisition of a financial interest?

114. A financial supply that consists of the acquisition of a financial interest may not involve anything other than consideration passing from the acquirer to the provider. For example, Nudge Pty Ltd sells shares to Wink Pty Ltd for $20,000. Wink Pty Ltd has acquired a legal interest in the shares and arguably all Nudge Pty Ltd has received in return is the money.

115. A recipient in relation to a supply is defined in section 195-1 as meaning the 'entity to which the supply is made'. A financial supply consisting of the acquisition of a financial interest is treated by the legislation as being 'made to' a recipient, so that it does not matter that the recipient of the acquisition-supply may not actually receive something. The GST regulations treat the receipt of this interest by the acquirer as being a supply to the provider. Therefore, in the example above, Nudge Pty Ltd provides legal title in the shares and Wink Pty Ltd acquires the interest in those shares. In acquiring those shares, Wink Pty Ltd makes a supply of the acquisition (an acquisition-supply) and Nudge Pty Ltd is taken to have received that supply.

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[57] Provided the other conditions of ~~regulations~~Section 40-5.09 are satisfied.

116. One consequence of this interpretation is that the acquisition of a financial interest, as well as the provision~~, and~~ or disposal of ~~a~~the financial interest ~~will~~, may be GST ~~-~~-free ~~if it satisfies~~. The supply and the acquisition-supply must each be separately considered to determine whether they satisfy the requirements of subsection 38-190(1). (See paragraphs -144 to ~~170).~~170A of this Ruling).

~~Regulation~~Section 40-5.10 ~~—~~ What is an incidental financial supply?

117. As stated at paragraph 20 of this Ruling, the supply or acquisition of a financial interest is a financial supply if it is mentioned as:

(a) a financial supply in ~~regulation~~section 40-5.09; or

(b) an incidental financial supply in ~~regulation~~section 40-5.10.[58]

118. For a supply to be an incidental financial supply, the requirements of ~~regulation~~ section 40-5.10 must be satisfied. That is, something is an incidental financial supply, if it is:

- supplied by the *same supplier* to the *same recipient* as the original financial supply; and
- supplied directly in connection with a financial supply.

Further, the thing supplied will only be an incidental financial supply where it is:

- incidental to the financial supply; and
- supplied at or about the same time, as the financial supply but not for separate consideration; and
- the usual practice of the entity to supply the thing (or similar things) and the financial supply together in the ordinary course of the entity's enterprise.

Composite supply versus incidental financial supply

119. A composite supply is essentially the supply of a single thing. Composite supplies contain one dominant part and also include something that is integral, ancillary or incidental to that part. ~~Regulation~~Section 40-5.10, on the other hand, contemplates the supply of two things, one of which is a financial supply, for a single

[58] ~~Regulation~~Section 40-5.08.

consideration. Where one of the things is an incidental financial supply, you do not need to determine whether there is a mixed or composite supply.

120. The term 'incidental' when used in the context of an incidental financial supply has a meaning different from its meaning when used in the phrase 'integral, ancillary or incidental' in relation to a composite supply.[59] (See paragraphs 133 to 135 of this Ruling.)

121. In practice, it may be difficult to identify something that is an incidental financial supply, because supplies that fit the definition of an incidental financial supply may, in many cases, also be described as a composite supply.

122. GSTR 2001/8 provides an entity with the option to treat a minor part of the supply as integral, ancillary or incidental if the consideration that would be apportioned to it (if it were part of a mixed supply) does not exceed the lesser of $3.00 or 20%. However, the Ruling also states that you cannot apply this approach where a provision of the GST Act specifically requires you to treat a part of a supply a particular way.

123. We do not consider that the approach in GSTR 2001/8 displaces, or should displace, ~~regulation~~section 40-5.10. Section~~Regulation~~ 40-5.10 deals specifically with incidental financial supplies and provides its own tests of what is an incidental financial supply. Some things may be incidental financial supplies even though they are part of a mixed supply and would not be integral, ancillary or incidental under the approach mentioned above.

124. ~~Regulation~~Section 40-5.10 operates in a way similar to the option given in GSTR 2001/8 to treat a minor part of the supply as incidental. As stated at paragraph 119 of this Ruling, an incidental financial supply is essentially the supply of two things, one of which is a financial supply. Applying the principles in GSTR 2001/8, this would be characterised as a mixed supply. A composite supply, on the other hand, is essentially the supply of a single thing.

125. In making something an incidental financial supply, ~~regulation~~section ~~-~~40-5.10 has the effect of treating something that is the supply of more than one thing as a composite supply. However, even if the conditions in ~~regulation~~section 40-5.10 are not met, the supply may still be a composite supply if, applying the principles in GSTR 2001/8, it would be one.

[59] See GSTR 2001/8 for a discussion of the expression 'integral, ancillary or incidental'.

When is something 'directly in connection with' a financial supply?

126. The ordinary meaning of 'directly in connection with' contemplates a direct or immediate link or association.

127. The expression 'directly in connection with' used in ~~regulation~~section ~~-~~40-5.10 is also used in the New Zealand GST legislation to determine the link necessary between a supply and goods or real property before the supply can be treated as zero-rated.[60] In examining the expression, the New Zealand courts have found that there must be a direct relationship with the goods or real property.[61]

128. In the financial supply context, in establishing whether a supply is directly in connection with a financial supply, you look at the supply and determine whether that supply has the requisite connection with the financial supply. For a supply to be 'directly in connection with' a financial supply, the supply must have a direct relationship with the financial supply. A causal relationship may be sufficient to determine that a supply is directly in connection with a financial supply for the purposes of ~~regulation~~section 40-5.10.

129. A supply has a direct relationship with a financial supply where the supply:

- is readily identifiable as having occurred because of the financial supply; and
- would not occur if there were not a financial supply.

130. The provision of information or advice that does not have a direct relationship to a financial supply would not be 'directly in connection with' a financial supply.

Example 16: Directly in connection with a financial supply

131. *Paddie SuperFund has an i~~I~~nternet site that its members can use to access information about their superannuation entitlements under their membership account. When members join the fund, Paddie SuperFund offers training sessions in how to access and use the site. The fee for joining the fund includes the training sessions. The supply of the training sessions is directly connected to the supply of an interest in the superannuation fund because without the supply of the interest in the superannuation fund, the training sessions would not be provided and they have no value or purpose of their*

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[60] Paragraphs 11A(1)(e), (f), (h), (i), (l) and (m) and subparagraph 11A(1)(k)(i) of the *Goods and Services Tax Act 1985* (NZ).

[61] *Wilson & Horton Ltd v. C of IR* (1994) 16 NZTC 11,221 and *Malololailai Interval Holidays New Zealand Ltd v. C of IR* (1997) 18 NZTC 13,337.

own. Where the other requirements of ~~regulation~~section 40-5.10 are satisfied the supply of the training sessions will be an incidental financial supply.

Example 17: Not directly in connection with a financial supply

132. *Goldenweb Ltd is a promoter of managed investment schemes and property developments. When an entity invests in a managed investment scheme, part of the package of information provided is an invitation to a luncheon presentation on inner city townhouse developments currently being marketed by Goldenweb Ltd. The invitations are available to the general public from Goldenweb Ltd's reception desk and are also distributed by letterbox drop the week before each presentation. The invitation to the luncheon presentation is not 'directly in connection' with the supply of the interest in a managed investment scheme.*

When is a supply 'incidental' to a financial supply?

133. 'Incidental' is not defined in the GST Act or GST regulations. 'Incidental' is defined in *Black's Law Dictionary* as 'depending upon or appertaining to something else as primary;…; something incidental to the main purpose'.[62]

134. It follows that in the context of ~~regulation~~ section 40-5.10 for a supply to be 'incidental' to a financial supply it is subordinate to the financial supply and depends upon or is coincidental to the financial supply.

135. A supply may be regarded as incidental to a financial supply where that supply is something that is of lesser significance or importance than the financial supply.

When is something provided not for separate consideration?

136. Whether a supply is for separate consideration will depend on the facts of a particular transaction. Separate itemisation of the fees on an invoice may indicate that the service is provided for separate consideration, but it is not a conclusive factor. Other factors, including the nature of the service provided, the contractual arrangements and intention of the parties, will also be relevant in determining whether there is separate consideration.

[62] *Black's Law Dictionary* 5th ed. West Publishing Co. p.686.

Example 18: Different consideration not separate consideration

137. *LotsaCards Finance offers cardholders an option of three different types of credit cards – Red, Silver, and Gold cards. There are different annual fees for each card. The fees for each card are based on the types of benefits that are associated with that card and the credit limit available. The Red Card has a credit limit of $2,000 with an annual fee of $10. The Silver Card has a credit limit of $7,500 with an annual fee of $35. The Gold Card has a credit limit of $10,000 with an annual fee of $75. The main benefit of the Silver Card is membership in a loyalty rewards program. The main benefits of the Gold Card are membership in a loyalty reward program plus insurance on certain purchases using the card (for example, domestic airfares). The difference in the annual fees does not mean that there is separate consideration for the different benefits attaching to each card. Red Card and Silver Card cardholders can pay the additional annual fee amount to upgrade to the next level card. This additional amount is not separate consideration. The supply of the additional benefits by LotsaCards Finance is an incidental financial supply provided all the other conditions of ~~regulation~~section 40-5.10 are met.*

Example 19: Separate consideration

138. *Continuing on from the example at paragraph 137 of this Ruling, LotsaCards Finance also offers income protection insurance for an extra $5 a month, regardless of the type of card held. The extra $5 payable by cardholders for the insurance cover is separate consideration. On these facts, the insurance cover is not an incidental financial supply. However it and the credit card facility may be a composite supply if on a closer analysis of the supply it is in substance and reality the supply of an interest in credit, rather than a mixed supply of insurance and an interest in credit.*

138A. Goods and Services Tax Ruling GSTR 2012/1 *Goods and services tax: loyalty programs* provides guidance on the GST implications of other aspects of certain loyalty programs, such as the accrual and redemption of points by members and transactions between program partners.

What amounts to usual practice?

139. To determine whether something is the 'usual practice' of an entity, you look at the context in which an activity is undertaken. The ordinary meaning of 'usual practice' contemplates that the 'usual practice' of an entity is an action of the entity that is performed consistently within the entity. The adoption of set guidelines or procedures that are to be followed by the entity when

transacting business would be indicative of the 'usual practice' of that entity. It is sufficient if the entity provides the 'thing' together with the financial supply as a matter of course.

140. 'Usual practice' is not limited to those activities that are existing and established practices of that entity. It can be a practice new to that entity, or a usual practice established by other financial supply providers, that the entity intends adopting.

Example 20: Usual practice established

141. *Kramer is provided with an organiser when taking out a home loan with a mortgage of $750,000 over his new property. The supply of the organiser satisfies all of the other requirements of an incidental financial supply; however, Kramer is the first customer the bank has provided with an organiser. The bank intends to provide organisers to all customers who take out a loan. The bank has acquired 500 organisers in contemplation of this practice. This is indicative of the commencement of a usual practice. As all the requirements of ~~regulation~~section 40-5.10 are satisfied, the supply of organisers will be an incidental financial supply.*

When is something provided in the ordinary course of the entity's enterprise?

142. Whether a thing is supplied in the ordinary course of the entity's enterprise is a question of fact taking into account the nature of the enterprise and general customs and practices of its trade.

143. The requirement that the transaction be in the 'ordinary course' of the enterprise excludes transactions that are made for purposes other than the carrying on of the enterprise or to achieve ends dissimilar from those of the business activity.[63] Again, there may be a business activity that is new to the enterprise and a single transaction carried out with the intention to carry on that business activity will be in the course of the entity's enterprise.[64]

Financial supplies for consumption outside Australia

144. The table in subsection 38-190(1) lists the supplies of things other than goods or real property for consumption outside Australia that are GST-free. Table items 2, 3 and 4 set out the circumstances most relevant to financial supplies. Table item 5 (dealing with exports of services to repair, etc imported goods) is not applicable to

[63] *Downs Distributing Co. Pty Ltd v. Associated Blue Star Stores Pty Ltd* (1948) 76 CLR 463 at 477.
[64] *Fairway Estates Pty Ltd v. Federal Commissioner of Taxation* (1970) 123 CLR 153; 1 ATR 726; 70 ATC 4061.

financial supplies. Supplies that satisfy the circumstances described in any of table items 1 to 5 may not be GST-free if they fall within the exclusion in subsection 38-190(2). Supplies that satisfy the circumstances described in table item 2 may not be GST-free if they fall within the exclusion in subsection 38-190(3). Supplies that satisfy the circumstances described in any of table items 2 to 4 may not be GST-free if they fall within the exclusion in subsection 38-190(2A).

144A. The following GST rulings discuss the application of section 38-190:

- Goods and Services Tax Ruling GSTR 2003/7 *Goods and Services Tax: what do the expressions "directly connected with goods or real property" and "a supply of work physically performed on goods" mean for the purposes of subsection 38-190(1) of the A New Tax System (Goods and Services Tax) Act 1999?*
- Goods and Services Tax Ruling GSTR 2003/8 *Goods and services tax: supply of rights for use outside Australia – subsection 38-190(1), item 4, paragraph (a) and subsection 38-190(2)*
- Goods and Services Tax Ruling GSTR 2004/7 *Goods and services tax: in the application of items 2 and 3 and paragraph (b) of item 4 in the table in subsection 38-190(1) of the A New Tax System (Goods and Services Tax) Act 1999:*
  - *when is a "non-resident" or other "recipient" of a supply "not in Australia when the thing supplied is done"?*
  - *when is "an entity that is not an Australian resident" "outside Australia when the thing supplied is done"?*
- Goods and Services Tax Ruling GSTR 2005/6 *Goods and services tax: the scope of subsection 38-190(3) and its application to supplies of things (other than goods or real property) made to non-residents that are GST-free under item 2 in the table in subsection 38-190(1) of the A New Tax System (Goods and Services Tax) Act 1999*
- Goods and Services Tax Ruling GSTR 2007/2 *Goods and services tax: in the application of paragraph (b)*

[54A] [Omitted.] ~~The following GST Rulings discuss the application of section 38-190: GSTR 2003/7; GSTR 2003/8; GSTR 2004/7; GSTR 2005/6 and GSTR 2007/2.~~

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"?

Supplies that are both GST-free and input taxed

145. Subsection 9-30(3) provides that if a supply is both GST-free and input taxed, the supply is GST-free (unless the supply is of the type where the supplier can choose to treat it as input taxed under a specific provision). This means that if something is both GST-free by virtue of subsection 38-190(1) and input taxed because of the GST Act and regulations, it is GST-free. Acquisitions relating to the making of that GST-free supply are creditable.

Subsection 38-190(1) – GST-free supplies

Item 2

146. As discussed at ~~paragraphs~~paragraph 51 of this Ruling, 'thing' means anything that can be supplied or imported[65] and therefore includes interests that are financial supplies.

147. A supply to a non-resident recipient is GST-free under subsection 38-190(1) if it is a supply made to a non-resident who is not in Australia when the thing supplied is done[65A] and:

- the supply is neither a supply of work physically performed on goods situated in Australia when the work is done, nor a supply directly connected with real property situated in Australia;[65B] or
- the non-resident acquires the thing in carrying on the non-resident's enterprise, but is not registered or required to be registered.[66]

148. However, the supply is not GST-free if ~~either subsection~~any of subsections 38-190(2), (2A) or (3) ~~applies~~apply to that supply.

Example 21: GST-free supply of services

149. *Knightly Co. is an Australian resident with a permanent establishment in New Zealand. It is applying for a loan from Kiwi Bank in New Zealand. Kiwi Bank has no operations outside New Zealand. Kiwi Bank acquires information from a credit rating*

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[65] Section 195-1.
[65A] See GSTR 2004/7.
[65B] See GSTR 2003/7.
[66] Subsection 38-190(1), item 2. See GSTR 2004/7.

agency located in Australia about the creditworthiness of Knightly Co. The credit rating agency searches databases and makes telephone calls to other financial institutions (all located in Australia). This supply of information by the credit rating agency in Australia is connected with Australia because the information is prepared in Australia. However, as the recipient is not an Australian resident, the supply is GST-free provided Kiwi Bank is not in Australia in relation to the supply when the information services are performed.

Example 22: GST-free supply of a financial supply

150. *Australian Enterprises is a share-trader resident in Australia with all its activities being in Australia. Therefore, supplies that it makes are connected with Australia. It acquires shares from American Inc. a company that is located in the United States (US) and is not in Australia in relation to the supply. The GST regulations and the GST Act operate so that in acquiring the shares, Australian Enterprises makes a financial supply (an acquisition-supply) to American Inc. The acquisition-supply to American Inc satisfies the requirements of table item 2 of subsection 38-190(1) and is GST-free. To the extent that anything acquired or imported by Australian Enterprises relates to making that financial supply (that is, acquiring the shares), it is for a creditable purpose.*

Is the recipient registered or required to be registered?

151. As discussed in paragraph 147 of this Ruling, one of the ways in which a supply may be GST-free is if it is made to a non-resident who is not in Australia when the thing supplied is done and the non-resident acquires the supply in carrying on an enterprise but is not registered, or required to be registered, for GST. In these situations, the financial supply provider needs to be satisfied that the non-resident recipient is not registered, or required to be registered, before it can treat the supply as GST-free.

152. A supplier is able to ~~ensure that~~ check the GST registration status of a recipient ~~is not registered~~ by checking the Australian Business Register.[67] However, the Australian Business Register does not include those non-resident entities that are registered as a 'Limited Registration Entity'.

152A. For the purposes of determining whether a supply is GST-free under table item 2 of subsection 38-190(1), a check of the Australian Business Register may not, on its own, constitute

[67] The Australian Business Register is at ~~www.bep.gov.au or~~ www.abr.gov.au.

reasonable grounds for being satisfied the recipient is not registered or required to be registered.

153. The supplier must be satisfied, on reasonable grounds that the entity it supplies to is not required to be registered. Where a supplier has reason not to be so satisfied, enquiries should be made of the recipient.

154. We accept that the supplier has reasonable grounds for being satisfied, if the entity has provided a statement, declaring that the entity is not required to be registered. This is provided the supplier has no other reason to believe that the statement is not accurate.

155. Having a statement from the recipient is not the only way in which a supplier may be satisfied that the recipient is not required to be registered.

Item 3

156. A supply is also GST-free where it is a supply:

- that is made to a recipient who is not in Australia when the thing supplied is done;[67A] and
- the effective use or enjoyment of which takes place outside Australia,[67B]

other than a supply of work physically performed on goods situated in Australia when the work is done, or a supply directly connected with real property situated in Australia.[68] However, the supply will not be GST-free if subsections 38-190(2) or (2A) apply to the supply.

Example 23: Effective use or enjoyment takes place outside Australia

157. *Ripper Home Loans, an Australian-resident company, securitises its mortgages by assigning the income stream from them to a special purpose vehicle, Ripper Securitisation, an Australian-resident entity. Ripper Securitisation then issues securities (that are rights) to ~~an~~a non-resident offshore bank, Landmark Ltd, that sells them to offshore investors. Landmark Ltd ~~is~~does not have a presence in Australia in relation to the supply ~~when the shares are issued~~of securities to it. Ripper Securitisation pays interest on the securities to the investors into their offshore accounts. The effective use and enjoyment of the securities by*

[67A] See GSTR 2004/7.
[67B] See GSTR 2007/2.
[68] Subsection 38-190(1), item 3. See GSTR 2003/7.

Landmark Ltd is outside Australia~~.~~, as Landmark Ltd is a company (a non-individual) that does not have a presence in Australia in relation to the supply of securities (see GSTR 2007/2). This example specifically illustrates a situation where effective use and enjoyment takes place outside Australia. However, the supply may also be GST-free under table items 2 and 4 of subsection 38-190(1).

Item 4

158. Under table item 4 of subsection 38-190(1), a supply in relation to rights is GST-free if:

- the rights are for use outside Australia;[68A] or
- the supply is to an entity that is not an Australian resident and is outside Australia when the thing supplied is done.[68B]

158A.- The principles for determining the types of supplies capable of being covered by table item 4 and when rights are 'for use outside Australia' are outlined in GSTR 2003/8.[68CA] It is the intended use of those rights, determined objectively, that is relevant in determining whether the rights are for use outside Australia. The actual use of the rights is not relevant, other than as evidence of the intended use.

Example 24: GST-free supply in relation to rights

159. [Omitted.] ~~Under an agreement entered into in Australia, Never Never Bank agrees to provide the right to credit through an overdraft facility with its London branch to Air Atlantis. Air Atlantis is a non-resident entity that is not in Australia in relation to the supply. Air Atlantis intends using the loan facility to pay its European suppliers.~~

160. [Omitted.] ~~The supply of the overdraft facility by Never Never Bank is connected with Australia under paragraph 9-25(5)(a) because the agreement is entered into in Australia and the provision of the financial interest is done in Australia. The supply of the right to credit is for use outside Australia. It is not the supply of a right to which subsection 38-190(2) applies. The supply therefore is GST-free under item 4 of~~

[68A] See GSTR 2003/8.
[68B] See GSTR 2004/7.
[68CA] For guidance on the application of these principles to certain categories of financial supplies, refer to the taxation determinations issued in respect of transaction accounts (GSTD 2020/1), credit cards (GSTD 2017/1), the sale or purchase of financial products on overseas securities or futures exchanges (GSTD 2015/1) and foreign currency exchange transactions (GSTD 2012/5).

~~subsection 38-190(1). (The supply may also be GST-free under another item of subsection 38-190(1).)~~

160A. *A GST-registered Australian company, Never Never Investments P/L (Never Never), sells 100% of the shares in its wholly-owned US subsidiary to another GST-registered Australian company, Kandalex Investments P/L (Kandalex). The US subsidiary operates a profitable business in the US. Kandalex acquires 100% of the shares in the US subsidiary with the intention of holding the shares long-term and earning dividend income, using its controlling interest to control the US subsidiary's future business activities. The shares supplied provide Kandalex with various shareholder rights (voting rights, the right to share in company profits, etcetera) which are governed by the relevant US jurisdiction's corporate law.*

160B. *The jurisdiction where the relevant rights would be exercised or enforced by Kandalex is relevant to determining if the rights under the shares are for use outside Australia. In considering the nature of the rights and the surrounding circumstances, the supply of shares by Never Never in the US subsidiary is a supply of rights that are for use outside Australia. The supply is not a supply of rights to which subsections 38-190(2) or (2A) apply. The supply therefore is GST-free under table item 4 of subsection 38-190(1).*

~~*Is there a connection between the supply and the GST permanent establishment?*~~

161. [Omitted.]~~As discussed at paragraphs 67 to 77, a supply (including an interest that is a financial supply) is connected with Australia if it is made through an enterprise the supplier carries on in Australia (paragraph 9-25(5)(b)). Where an entity has a permanent establishment in Australia, as defined, a connection must be established between the permanent establishment and the supply. That is the supply must be made through the permanent establishment for it to be connected with Australia. A supply that is connected with Australia in this way may be GST-free if it satisfies the conditions set out in Division 38 of the GST Act.~~

~~*Example 25: Supply made through a GST permanent establishment in Australia, but GST-free*~~

162. [Omitted.]~~Datachip, an Australian resident company that has no offshore operations, grants a resident of New Zealand a right to use software in New Zealand. The supply is the grant of the right to use the software in New Zealand. The right is granted under a legal agreement made in New Zealand to which the managing director of Datachip travels for the signing.~~

163. [Omitted.]~~Under paragraph 9-25(5)(a) the thing supplied, the granting of the right to use the software, is not done in Australia because the right is granted in New Zealand. However, as the supply~~

~~is made by the Australian business operation (i.e., the Australian GST permanent establishment of the Australian resident) the supply of the right to use is connected with Australia under paragraph 9-25(5)(b).~~

164. [Omitted.] ~~While the supply is connected with Australia the supply is not a taxable supply because it is GST-free under subsection 38-190 (1). This is because the rights are for use outside Australia and subsection 38-190(2) does not apply.~~

~~*Example 26: Supply made through a permanent establishment outside Australia*~~

165. [Omitted.] ~~Aus Co. an Australian consultancy services company, has a branch in Taiwan. Aus Co. undertakes to have its Taiwan branch (Aus Co. Taiwan) prepare and provide a report to a client in Australia. The supply made by Aus Co. through Aus Co. Taiwan is not connected with Australia because the service is not performed in Australia (paragraph 9-25(5)(a)). Also, as the supply is made through the Taiwan branch, the supply is not made through an enterprise that the supplier carries on in Australia (paragraph 9-25(5)(b)). Division 84 may apply to the acquisition by the Australian client. (See paragraphs 171 to 183.)~~

Determining ~~whether~~ the residency and location of the recipient ~~is not a resident~~

166. Whether a supply is made to a non-resident is a question of fact to be established in each case. Section 195-1 defines a non-resident as an entity that is not an Australian resident. Australian resident is defined in terms of the definition of 'a resident of Australia' in subsection 6(1) of the ITAA 1936. This definition provides different tests for companies and individuals. Whether an entity satisfies the relevant test is essentially a question of fact to be established in each case, having regard to the decided income tax cases and any income tax public rulings issued.[68D]

167. While address information supplied by the recipient of a financial supply may be indicative that the recipient is a non-resident, it is not determinative. Where a financial supply provider has reason to believe that the entity is in fact an Australian resident, further enquiries must be undertaken. A financial supply provider must be satisfied that the recipient of the supply is a non-resident before they can treat a supply as GST-free.

[68C] [Omitted.] ~~Paragraph 9-25(5)(c) does not apply.~~

[68D] See also the following paragraphs in GSTR 2004/7: paragraphs 114 to 118 (individuals); paragraphs 119 to 126 (companies); paragraphs 127 to 157 (partnerships); paragraphs 158 to 168 (corporate limited partnerships); paragraphs 169 to 174 (trusts).

167A. —To satisfy the requirements for a GST-free supply under table item 2 of subsection 38-190(1), the non-resident must also not be in Australia when the thing supplied is done. Whether an entity is 'not in Australia' at the time when the thing supplied is done requires an analysis based on the facts.[68DA]

168. -In some circumstances, it may not be possible for a financial supplier in Australia to determine whether the counterparty to a transaction is a resident or a non-resident or whether the counterparty is in Australia when the thing supplied is done. This may be the case where the Australian enterprise supplies or acquires securities in an on-market transaction. Where it is not possible to determine the residency or location of the counterparty in an on--market securities transaction (and only in that circumstance), the Australian enterprise may use the following to approximate the residency and location of the counterparty:

- the place the transaction takes place (that is, the location of the securities exchange through which the transaction takes place);
- if it is not known where the transaction takes place, the place where the security is listed;
- if it is not known where the transaction takes place ~~n~~or where the security is listed, the place where the counterparty's broker is ordinarily resident.

169. [Omitted.]~~To satisfy the requirements for a GST-free supply under item 2 in subsection 38-190(1), the non-resident must also not be in Australia when the thing supplied is done. Whether an entity is 'not in Australia' at the time when the thing supplied is done requires an analysis based on the facts.~~

Supply not GST-free if supplied under agreement and provided to an entity in Australia – subsection 38-190(3)

170. -Subsection 38-190(3) applies to ensure that a supply made pursuant to table item 2 of subsection 38-190(1) is not GST-free if it is supplied under an agreement with a non-resident and the supply is provided, or is required to be provided, to another entity in Australia. For subsection 38-190(3) to apply, the supply must be provided, or

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[68DA] See the following paragraphs in GSTR 2004/7: paragraphs 181 to 191; paragraphs 201 to 228 (individuals); paragraphs 229 to 379 (companies); paragraphs 380 to 409 (partnerships); paragraphs 410 to 419 (corporate limited partnerships); paragraphs 420 to 438 (trusts).

[68E] [Omitted.]~~See the following paragraphs in GSTR 2004/7: paragraphs 181 to 191; paragraphs 201 to 228 (individuals); paragraphs 229 to 379 (companies); paragraphs 380 to 409 (partnerships); paragraphs 410 to 419 (corporate limited partnerships); paragraphs 420 to 438 (trusts).~~

the agreement must require it to be provided, to another entity in Australia.[68F]

170A. However, for a supply other than an input taxed supply, the supply will be GST-free if any of the following apply:

- the other entity (to which the supply is provided or the agreement requires it to be provided) would be an Australian-based business recipient of the supply, if the supply had been made to it;
- the other entity is an individual who is provided with the supply as an employee or an officer of an entity that would be an Australian-based business recipient of the supply, if the supply had been made to it; or
- the other entity is an individual who is provided with the supply as an employee or officer of the recipient and the recipient's acquisition of the thing is solely for a creditable purpose and is not a non-deductible expense.[68G]

Intangible supplies from Offshore – 'Reverse charge'

171. If a supply is not connected with Australia, it will not be a taxable supply under section 9-5 of the GST Act. However, an intangible supply (being the supply of ~~a thing (~~anything other than goods or real property) ~~that is not connected with Australia~~ or ~~is connected with Australia because~~supply of ~~paragraph 9-25(5)(c) will~~low-value goods may be treated as a taxable supply under ~~Division~~section 84 ~~if:~~-5 where certain requirements are satisfied.

171A. Although the table in subsection 84-5(1) includes several types of supplies that may be subject to the reverse charge, this section of the Ruling focuses on table item 1 of subsection 84-5(1) as this is likely to be the most common item applicable to entities that make financial supplies. An intangible supply will be taxable (except to the extent it is GST-free or input taxed) under table item 1 of subsection 84-5(1) where:

- the supply is not connected with Australia;
- the recipient of the supply acquires the thing supplied solely or partly for the purpose of an enterprise that the recipient carries on in Australia~~, but not solely for a creditable purpose~~;

[68F] See GSTR 2005/6.
[68G] Paragraph 38-190(3)(c).

- the recipient does not acquire the thing solely for a creditable purpose;
- the supply is for consideration; and
- the recipient is registered~~,~~ or required to be registered.[69]

~~However, the supply is not a taxable supply to the extent that it is GST-free or input taxed.~~

171B. The GST on a supply treated as a taxable supply under section 84-5 is payable by the recipient of the supply and is not payable by the supplier. The charge for GST is reversed, so Subdivision 84-A (containing section 84-5) is commonly referred to as a 'reverse charge' provision.[69AAA]

171C. If Division 84 applies to the provision, acquisition or disposal of an interest mentioned in subsection 40-5.09(3), the provision, acquisition or disposal is a financial supply to the extent that it would, apart from subparagraphs 40-5.09(1)(a)(iii) and (b)(i), be a financial supply.[69AA] That is, it will be a financial supply (and not a reverse charged taxable supply) even if:

- it is not connected with Australia, or
- the supplier is not registered for GST.

172. You do not acquire a thing for a creditable purpose to the extent that the acquisition relates to making supplies that would be input taxed or the acquisition is of a private or domestic nature. Things acquired by an entity from offshore for use in making financial supplies are not acquired solely for a creditable purpose. This includes acquisitions that may be reduced credit acquisitions.

173. It is clear that the purpose of Division 84 is to apply to acquisitions that would not be fully creditable because, for example, they relate to making a financial supply. Division 70 is a statutory device the effect of which is to allow partial input tax credits to an entity making financial supplies. The application of Division 70 should not impede the appropriate operation of Division 84. Support for this is found in ~~regulation~~section 70-5.02A, which contemplates that Division 84 applies to reduced credit acquisitions.

174. Where Division 84 applies, ~~services or other things (excluding~~intangible supplies not connected with Australia and low-

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[69] Section 84-5. For the purposes of section 84-5, in determining whether the recipient is required to be registered, the value of such supplies in question (if they were taxable supplies) is counted towards the recipient's GST turnover (see subsection84-(2)).

[69AAA] See also paragraphs 79 to 87 of GSTR 2019/1.

[69AA] Subsection 40-5.09(2).

value imported goods ~~and real property)~~ acquired from offshore for use in making financial supplies are subject to a 'reverse charge' unless the supply would have been GST-free or input taxed. GST is payable on the supply by the recipient of those services or other things. This means that where a financial supply provider acquires a service from offshore that would be subject to GST if purchased in Australia the recipient is required to remit GST equal to 10% of the price of the supply.

Example 27: Acquisition from offshore not for a creditable purpose

175. *Invest Bank, ~~an~~a GST-registered Australian financial institution, engages Legal UK, solicitors operating in the United Kingdom (UK), to prepare an opinion on the legal aspects of a proposed banking operation in Australia in liaison with a subsidiary of a UK bank. The legal advice is prepared in the UK and provided to Invest Bank in Australia. The supply of that advice is not connected with Australia because the advice is not prepared in Australia and Legal UK has no Australian GST presence~~~~GST permanent establishment in Australia~~.*[69A]

176. *The supply is for consideration, Invest Bank is registered for GST and it acquires the supply for the purpose of its enterprise carried on in Australia. The proposed Invest Bank enterprise will only make input taxed supplies. The acquisition made by Invest Bank is not solely for a creditable purpose because the acquisition relates to making supplies that are input taxed. Thus, the requirements of section 84-5 are satisfied and the supply by Legal UK is a taxable supply. Under section 84-10, Invest Bank, the recipient of the supply, is liable to pay GST on the taxable supply.*

177. Where the entity receiving the supply is registered, or required to be registered, the supply of that service or thing is a taxable supply and GST of 10% of the price is payable by the recipient.[70] ~~If the recipient is not registered or required to be registered, the supply is not a taxable supply and no GST will be payable on that supply.~~

177A. If the recipient is not registered or required to be registered, the supply may still be a taxable supply where the supply is to an Australian consumer.[71AAA] GST on taxable supplies to Australian consumers is not subject to the reverse charge in Division 84 (except for certain circumstances where incorrect information is provided to

[69A] Paragraph 9-25(5)(c) and (d) do~~es~~ not apply.
[70] Sections 84-10 and 84-12.
[71] [Omitted.]~~Paragraph 84-5(1)(e).~~
[71AAA] Paragraph 9-25(5)(d

the supplier);~~,~~ rather, GST will be payable by the supplier pursuant to the normal rules.[71AA]

178. Where you have acquired something that is a taxable supply because of the reverse charge provisions, you may be entitled to input tax credits (including reduced input tax credits) for the acquisition. Any input tax credit for those acquisitions is worked out under section 84-13.

179. The acquisition of some financial interests by a financial supply provider will not be connected with Australia because they are not 'done' in Australia, are not made through an enterprise the financial supply provider carries on in Australia, are not made to an Australian consumer and they are not the acquisition of a right or option to acquire another thing the supply of which would be connected with Australia. In these circumstances, when read on its own, Division 84 would operate to treat those financial interests as taxable.[71A] The GST regulations operate so that if Division 84 applies to a financial interest, which would be a financial supply apart from the fact it is not connected with Australia and the supplier is not registered or required to be registered,[72] it is a financial supply.[73]

Example 28: Financial supply not connected with Australia

180. *Earthbound Bank, an Australian~~-~~-resident entity, acquires units in Balmy Unit Trust. Balmy Unit Trust is a resident of The Bahamas and issues the units in The Bahamas. The supply of the financial interest, which is the interest in the unit trust, is not a financial supply because it is not connected with Australia and the supplier is not required to be registered. As Division 84 would apply to make the supply taxable, ~~subregulation~~subsection 40-5.09(2) applies to treat the supply of the interest as a financial supply. Division 84 does not apply to make the supply taxable to the extent that it is input taxed. The acquisition-supply by Earthbound Bank to Balmy Unit Trust would also be a financial supply due to the*

[71AA] Sections 9-5 and 9-25.

[71A] Division 84 also applies if a supply is connected with Australia because it is the supply of a right or option to acquire another thing the supply of which would be connected with Australia (that is, it is connected with Australia under paragraph 9-25(5)(c)).

[72] This is separate to the issue that an acquisition on a strict reading of subsection 9-25(5) cannot be connected with Australia.

[73] ~~Subregulation~~Subsection 40-5.09(2~~). Subregulation~~). Subsection 40-5.09(2) also recognises that in these circumstances the supplier need not register, or may be unable to register, for GST. For example, the entity does not carry on an enterprise in Australia.

operation of ~~subregulation~~subsection 40-5.09(1). It may be GST-free if the requirements of subsection 38-190(1) are met.

Transfers between branches (not being GST branches[74]) of the same entity

181. Transfers to an enterprise carried on inside Australia, or the doing of anything for an enterprise carried on in Australia, from or by an enterprise carried on outside Australia where these enterprises are branches (but not GST branches) of the same entity are treated as a supply that is not connected with Australia.[75] Therefore, provided the other requirements of section 84-5 are satisfied, the transfers are a taxable supply and subject to the reverse charge.

182. Transfers to an enterprise carried on outside Australia, or the doing of anything for an enterprise carried on outside Australia by an enterprise carried on in Australia, where these enterprises are branches (but not GST branches) of the same entity are not supplies for the purposes of the GST Act. This is because supplies between these branches of an entity are supplies within a single entity rather than supplies between separate entities corresponding to the branches of that entity.

183. Where an entity conducts an enterprise through a branch in Australia, the entity must register[76] for GST in Australia and will have a GST liability for supplies made to third parties by the Australian enterprise provided the supply satisfies the other conditions for a taxable supply. The entity may also be entitled to input tax credits in relation to acquisitions made in the course of conducting its enterprise, including those relating to transfers made, or services provided, within the entity.

~~Regulation~~Section 40-5.12 – What are not financial supplies

184. A range of supplies that are sometimes associated with financial transactions, and other supplies that are themselves financial in nature, are excluded by the regulations[77] from being financial supplies. These supplies will be taxable supplies unless specified to be GST-free, input taxed or otherwise not taxable under another provision of the GST Act.

185. ~~Regulation~~Section 40-5.12 sets out categories of supplies that are not financial supplies regardless of whether a financial supply

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[74] As defined in section 195-1 of the GST Act.
[75] Section 84-15.
[76] Provided its GST turnover meets the registration turnover threshold – sections 23-5 and 23-10.
[77] ~~Regulation~~Section 40-5.12 lists those supplies that are not financial supplies.

provider or a financial supply facilitator makes the supply. The categories, as set out in ~~regulation~~ section 40-5.12 of the GST regulations, are:

- supplies of cheque and deposit forms to an ADI and special forms provided to account holders (table items 1 and 2 of ~~Regulation~~section 40-5.12);
- professional services, including information and advice in relation to a financial supply (table item 3 of ~~Regulation~~ section 40-5.12);
- an interest in or under a payment system (table item 4 of ~~Regulation~~section 40-5.12);
- stored value cards not linked to an account with an ADI (table item 5 of ~~Regulation~~section 40-5.12);
- goods supplied in accordance with agreements under which the goods are leased, where the lessors dispose of their rights in the goods to the lessees, or the lessees have no obligation or option to acquire the rights of the lessors in the goods (table item 6 of ~~Regulation~~ section 40-5.12);
- an option, right or obligation to make ~~or receive~~ a taxable supply~~. (Regulation~~ or acquire something the supply of which is a taxable supply (table item 7 of section 40-5.12);
- a supply made as a result of the exercise of an option or right, or the performance of an obligation to make ~~or receive~~ a taxable supply~~. (Regulation~~ or acquire something the supply of which is a taxable supply (table item 8 of section 40-5.12);
- facilities for trading securities or derivatives and clearance and settlement of those trades (table item 9 of ~~Regulation~~ section 40-5.12);
- insurance and reinsurance business (other than life insurance business) (table item 10 of ~~Regulation~~section 40-5.12);
- broking services (table item 11 of ~~Regulation~~section 40-5.12);
- management of the assets or liabilities of another entity (table item 12 of ~~Regulation~~section 40-5.12);
- debt collection services (table item 13 of ~~Regulation~~section 40-5.12);

- sales accounting services under a factoring arrangement (table item 14 of ~~Regulation~~section 40-5.12);
- trustee services (table item 15 of ~~Regulation~~section 40-5.12);
- custodian services in relation to money, digital currency, documents and other things (table item 16 of ~~Regulation~~section 40-5.12);
- currency with a market value that exceeds its stated value as legal tender (table item 17 of ~~Regulation~~section 40-5.12);
- bailment and floorplan arrangements (table item 18 of ~~Regulation~~ section 40-5.12);
- goods supplied under a hire purchase agreement entered into on or after 1 July 2012 (table item 19 of ~~Regulation~~section 40-5.12);
- credit under a hire purchase agreement entered into on or after 1 July 2012 (table item 20 of ~~Regulation~~section 40-5.12); and
- a warranty for goods (table item 21 of ~~Regulation~~section 40-5.12).

Something that is both a financial supply and not a financial supply

186. If something is a financial supply under ~~regulation~~section 40-5.09 and also not a financial supply under ~~regulation~~ section 40-5.12, then ~~regulation~~ section 40-5.12 prevails. Unless it is also an incidental financial supply, the supply will be treated as ***not*** being a financial supply.[78]

Example 29: ~~Regulation~~Section 40-5.12 prevails

187. *Divest Bank provides a variety of banking services including bank accounts, loans, safe custody services, cash and cheque counting and sorting. It provides these services (for a fee) to both account holders and non-account holders. One of its customers, Marrakesh Holdings, deposits money, cheques, and credit card vouchers with Divest Bank for overnight storage. Divest Bank provides Marrakesh Holdings with wallets for this purpose. The following day, Divest Bank clears and counts the money and cheques*

[78] ~~Regulation~~Subsection 40-5.08(2).

in the wallets and deposits the funds into Marrakesh Holding's account. It returns the credit card vouchers to Marrakesh Holdings. Custodian services fall within table item 16 of ~~regulation~~section 40-5.12 and they may also fall within table item 1 of ~~regulation~~section 40-5.09 if they are part of the supply of the account to Marrakesh Holdings (or on the facts are parts of a composite supply). The custodian services are not part of an account keeping function for Marrakesh Holdings but are a separate supply. ~~Regulation~~Section 40-5.12 has the effect that the custodian services are treated as a separate supply to, or separate component of, the supply of the account held by Marrakesh Holdings. Therefore ~~regulation~~section 40-5.12 prevails and the service is taxable.

Example 30: ~~Regulation~~Section 40-5.10 prevails

188. *Use the same facts as at paragraph 187 of this Ruling, however in this example Divest Bank does not charge Marrakesh Holdings a separate fee for the storage but absorbs the costs into its monthly account-keeping fees. The supply is incidental to the supply of an interest in an account and is an incidental financial supply.*[79] *~~Regulation~~Section 40-5.10 prevails over ~~regulation~~section 40-5.12 and therefore the supply is input taxed.*

189. Table items 1, 2, 5 and 8 of ~~regulation~~section 40-5.12 refer specifically to a table item ~~in subregulation~~of subsection 40-5.09(3). As stated at paragraph 85 of this Ruling, the provision, acquisition or disposal of something may fall under more than one table item ~~in regulation~~of section 40-5.09(3). Even if something mentioned in table items 1, 2, 5, or 8 of section 40-5.12 is covered by a table item ~~in subregulation~~of subsection 40-5.09(3) in addition to the item specifically mentioned, it is excluded from being a financial supply. For example, special forms provided in connection with an account mentioned in table item 1 are excluded from being financial supplies even though an interest in an account may also be covered as an interest in or under a debt in table item 2.

190. Table items 7 and 10 of ~~regulation~~section 40-5.12 also mention specific table items ~~regulation~~of section 40-5.09 but do so only to exclude them from the operation of the table item ~~in regulation~~of section 40-5.12.

[79] In this example, it is assumed that all the requirements for an incidental financial supply are met.

Recovery and oncharge

191. Financial supply providers may incur expenses on behalf of a customer (as agent) or as a principal in the ordinary course of providing their services to the customer.

192. Where the cost is incurred as principal, the financial supply provider may seek to build that expense into the fee charged to the customer. We refer to this as 'on-charging'. On the other hand, where the cost is incurred on the customer's behalf, the financial supply provider may seek reimbursement for that amount from the customer. We refer to this as 'recovery' or reimbursement.

193. The principles on agency relationships set out in Goods and Services Tax Ruling GSTR 2000/37 *Goods and services tax: agency relationships and the application of the law* apply equally to the agent/principal relationships that may exist between a financial supply provider and its customer. The GST treatment of certain costs that are charged for by the financial supply provider depends on whether it incurs the cost as principal or as agent.

194. Where an expense incurred by the financial supply provider is absorbed into the consideration for the financial supply and 'on-charged' to the customer, it will be input taxed. This will be so whatever the type of expense being on-charged and irrespective of whether the on-charged items are listed separately. The expense incurred is treated as an input into the service or supply made by the financial supply provider.

195. For taxes, fees and charges excluded from GST[80], such as stamp duties, ~~and bank account debits (BAD) tax,~~ the GST treatment depends on whether the financial supply provider or the customer is liable for meeting the expense. This will determine whether the expense is 'recovered' or 'on-charged' (that is, whether it was incurred as principal or agent) and whether the supply is taxable, input taxed or GST-free.

196. These are the situations contemplated by the examples in Schedule ~~7~~2 of the GST regulations in relation to taxes, fees and charges excluded from GST.[81] On the other hand, where the expense is incurred on behalf of the customer and then reimbursed, the 'recovery' will not of itself be a financial supply. The recovery of the tax, fee or charge from the customer will continue to be excluded from GST.

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[80] Payments of certain taxes, fees and charges are excluded from being the provision of consideration under Division 81 and by reference to the GST regulations.

[81] See Schedule ~~7~~2, item 15 of ~~Part~~clause 1 and items 6 and 7 of ~~Part~~clause 2 of the GST regulations.

197. Where a financial supply facilitator incurs costs in providing the taxable supply of its services and passes on the costs as part of its fee for service (on-charging), the entire fee will be taxable. The facilitator may also incur expenses on behalf of the financial supply provider, and recover those expenses. The recovery will have the same character as the expense incurred on behalf of the financial supply provider.

Reduced credit acquisitions – ~~regulation~~section 70-5.02

198. In some cases, acquisitions that relate to making financial supplies may attract a reduced input tax credit, even though no input tax credit would arise under the basic rules. These acquisitions are reduced credit acquisitions[82] and are listed in ~~regulation~~section 70-5.02. If a reduced credit acquisition is not wholly for a creditable purpose[83] under Division 70 of the GST Act (for example, if it relates to making other input taxed supplies), you will need to determine your extent of creditable purpose. Subsection 70-20(2) and section 84-13 contain formulae for working out your input tax credit in these circumstances and this is further explained in GSTR 2006/3.

199. The list of acquisitions under ~~regulation~~sections 70-5.02 and 70-5.02A is intended to be exhaustive. This is clear from the language in ~~subregulations~~subsections 70-5.02(1) and ~~(2).~~70-5.02A(3). Therefore, if something is not specified as an item within the table, it is not a reduced credit acquisition. While an acquisition must fall within one of the items, it is not necessary that there be an express reference to a particular acquisition in an item, unless it is clear from the wording of the item that this is the case.

200. An acquisition is not a reduced credit acquisition to the extent that you would be entitled to an input tax credit for the acquisition outside of Division 70 of the Act.[84]

201. For the purposes of subsection 70-5(2), the GST regulations specify that the percentage of the input tax credit for each reduced credit acquisition is either 75% or 55%.[85]

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[82] Subsection 70-5(1). See ~~Goods and Services Tax Ruling~~ GSTR 2004/1, which discusses reduced credit acquisitions.

[83] An acquisition or importation is not for a creditable purpose to the extent that the acquisition or importation relates to making other input taxed supplies or is of a private or domestic nature.

[84] Subsection 70-5(1A).

[85] Subsection 70-5(2); ~~regulations~~Section 70-5.03. The 75% rate applies to a reduced credit acquisition other than to the extent the reduced credit acquisition is covered by item 32. To the extent the reduced credit acquisition is covered by item 32, the percentage is 55%.

Meaning of ~~dictionary definition~~ 'account'

202. ~~The Dictionary to the GST regulations defines account by way of a 'means and includes' definition.~~ For the purposes of table item 1 of ~~subregulation~~subsections 40-5.09(3) and ~~subregulation~~subsection 40-5.09(4), 'account' means an account made available by an Australian ADI within the meaning of section 9 of the *Corporations Act 2001*.[86] ~~This is the combined effect of both the item and the 'means' definition within paragraph (a) of that defined term.~~

203. This does not prevent other supplies or acquisition-supplies that have 'account-like' facilities being financial supplies provided that they satisfy another table item in subsection 40-5.09(3). As illustrated in example 9 of this Ruling, the supply or acquisition-supply of an interest in or under a debt may include account-like facilities with a non-ADI. Provided that the other elements of ~~regulation~~subsection 40-5.09(3) are satisfied, the financial interest in these circumstances will be a financial supply that includes the provision of the account-like facilities. The account-like facility in these circumstances is not dependent on coming within table item 1 of subsection 40-5.09(3) ~~paragraph (a) of the definition of account~~.

204. [Omitted.]~~This includes account-like facilities that may arise as part of the provision, acquisition or disposal of an interest in or under one of the table items in regulation 40-5.09(3). The definition of account in the GST regulations therefore includes savings/transaction accounts, cheque accounts, term deposits, loan accounts and credit card accounts.~~

205. The purpose of the definition of account in section 196-1.01 is to expand the meaning of 'account' when the term is used outside subsection 40-5.09(3). The definition includes table item 1 of subsection 40-5.09(3) accounts and paragraph ~~Paragraph~~ (b) ~~of the definition~~ extends the meaning of account to include accounts with institutions other than ADIs.[86A] This expanded meaning of account is of most relevance to ~~regulation~~section 70-5.02 in that items referring to accounts (such as table items 1 to 5 and table item 8) are not limited to table item 1 Australian ADI accounts. It includes

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[86] Section 9 of the *Corporations Act 2001* provides that Australian ADI means:
(a) an ADI (authorised deposit-taking institution) within the meaning of the *Banking Act 1959*; and
(b) a person who carries on State banking within the meaning of paragraph 51(xiii) of the Constitution.

[86A] Some accounts that fall within table item 12 of subsection 40-5.09(3) of the GST regulations may also meet the requirements of paragraph (b).

accounts that have characteristics whereby the account holder has the right to:

- have the account maintained by the account provider (the provider);
- repayment of the amount credited to the account by the provider; and
- require the provider to act on directions by the account holder that are in accordance with the arrangements, or any agreement, between the provider and the account holder in relation to operation of the account.

206. While paragraph (b) of the definition extends the meaning of account to include accounts with institutions other than ADIs the term must still be read in the context in which it appears. While definitions of account in general dictionaries may extend the meaning to include 'any periodically rendered reckoning'[87], the context of an item in the GST regulations narrows it to transactions involving a sum of money. Therefore, the meaning of account (for both subsection 40-5.09(3) and the defined term) as used in the GST regulations does not extend to an 'account' that records non-monetary balances such as reward/loyalty point and 'frequent flyer' point balances. (These accounts are further excluded from the scope of the GST regulations as they do not give 'account holders' the right to repayment of an amount credited.) This meaning of 'account' is specific to the GST regulations and it is not necessarily interpreted in the same way for the purpose of the GST Act.

207. [Omitted.]

Is ~~subregulation~~subsection 70-5.02(~~2~~1) inclusive or exclusive?

208. Part 4-2 of the GST regulations lists those acquisitions that are reduced credit acquisitions for the purposes of Division 70 of the GST Act. While Division 70 of the regulations is intended to contain an exhaustive list of the acquisitions that qualify as reduced credit acquisitions, some of the things listed under items are listed on an 'inclusive' basis.

209. Items listed in the GST regulations contain the expressions *'including'*,[88] *'the following'* or *'of the following kinds'*[89] and *'the*

[87] Merriam-Webster's Dictionary of Law, 1996.
[88] Table i~~I~~tems ~~2,~~ 8, ~~10,~~ 24 and 29 of ~~subregulation~~subsection 70-5.02(~~2) and regulation 70-5.02B.~~1).
[89] Table i~~I~~tems 1, 2, 6, 7, 10, 11, 14, 15, 17, 26 and 30 of ~~subregulation~~subsection 70-5.02(~~2).~~1).

following, ... including' or *'including the following'*.[90] The words 'the following' are used in those items where the list is intended to be exhaustive. 'Including' is used where the list is not exhaustive.

210. The word 'including' has been considered in numerous cases.[91] In some instances, the word 'including' is used as an extension of the thing defined or described and at other times to provide clarification. In the GST regulations, the expression is used in a variety of constructions and you need to look at each item in the regulation to see in what sense it is used. It is often used to simply make clear what the item in the regulation intends to cover by describing a practical activity or acquisitions intended to be covered by the general expression used at the commencement of the item.

211. Different constructions of 'including' used in the GST regulations are the expressions *'including'*, *'including by using the following facilities'*, or *'including the following'*. Where these expressions are used, the listings that follow provide examples of the item being described. For example, table item 2 refers to:

> 'Processing services in relation to account information for account providers, including:
>
> (a) archives storage, retrieval and destruction services;
>
> (b) statement processing and bulk mailing; and
>
> (c) processing and manipulation of information relating to accounts, including information about transactions to which item 7 applies.'

Paragraphs (a) to (c) are examples of processing services in relation to account information.

212. To give an item its correct context, each paragraph in the item needs to be read with reference to the commencing words of the item. For example, an 'archive destruction service' mentioned in table item 2(a) is a processing service and a reduced credit acquisition if it is a destruction service 'in relation to archived account information for an account provider'. This means that a service acquired to destroy archived account information for an account provider is a reduced credit acquisition. However, the acquisition of services to destroy other papers, records or assets does not come within the item and is not a reduced credit acquisition.

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[90] Table i~~t~~tems 1, 9, 23 and 24 of ~~subregulation~~subsections 70-5.02(~~2~~1) and ~~subsection~~ 70-5.02A(3).

[91] *Re Proprietary Articles Trade Association of South Australia Inc.* [1949] SASR 88; *Lippett v. Robertson* [1953] SASR 13; *In the Estate of Nicholas* [1955] VLR 291 and *Cuisenaire v. Reed* (1962) 5 FLR 189, *YZ Finance Co. Pty Ltd v. Cummings* (1964) 109 CLR 395, *Cohns Industries Pty Ltd v. Deputy Commissioner of Taxation (Cth)* (1979) 37 FLR 508 at 511 per Young CJ, Starke and Gray JJ; *Marsal Pty Ltd v. Comptroller of Stamps (Vic)* (1982) 82 ATC 4,536.

213. [Omitted.]

214. [Omitted.]

215. In relation to the use of the expression *'the following'*, the subsequent words are intended to be an exhaustive list of the item being described. Outside of examples given, no other meaning can be attributed to the item. We give this same interpretation to the expression *'the following ... including'* in table items 23 and 24. The word 'including' in this context clarifies that the item applies to superannuation schemes.

216. The table below describes the interpretation we give to each item that contains an expression mentioned in paragraphs 209 to 215 of this Ruling.

***Table 1:** Interpretation of expressions used in subsection 70-5.02(1)*

Item No	Context of Expression	Illustrative or Exhaustive
~~Regulation~~Section 70-5.02(~~2~~)1)		
1	The service of … performing a transaction in respect of an account … including by using the following facilities	Illustrative
2	Processing services … including the following…	Illustrative
5	Processing services … including …	Illustrative
6	Supplies to which the following … relate	Exhaustive
7	Processing … of the following kind	Exhaustive
8	Services to a third party mentioned in paragraph ~~6~~(b) in table item 6… including …	Illustrative
9	Arrangement … including the following …	Illustrative
10	Securities and unit registry services … including the following …	Illustrative
11	The following supplies	Exhaustive
14	The following loan application … services	Exhaustive
15	The following loan management services	Exhaustive
17	The following debt collection services	Exhaustive

Item No	Context of Expression	Illustrative or Exhaustive
23	The following … functions, including those functions for superannuation schemes …	Exhaustive
24	The following administrative functions… including those functions for superannuation schemes …	Exhaustive
26	The following life insurance administration services …	Exhaustive
29	Trustee and custodial services … including …	Illustrative
30	The following master custody services …	Exhaustive
~~Regulation~~Section 70-5.~~02B~~02A(3)[92]		
1	Provision of senior management services, including the following: …	Illustrative
3	Provision of human resources support services, including the following: …	Illustrative
7	Performance of financial management service functions, including the following: …	Illustrative
	~~(c) financial control (including statutory reporting and accounting policy) …~~	~~Illustrative~~
	~~(d) general ledger account reporting functions, including paying and processing invoices and payment instructions …~~	~~Illustrative~~
13	Provision of legal services, including: …	Illustrative
15	Maintenance and operation of transaction processing systems (including communications and applications systems)	Illustrative

Internally- generated management and support services by a non-resident parent entity

217. An entity making financial supplies in Australia may receive management and support services from an enterprise it carries on

[92] The conditions of ~~regulation~~ subsection 70-5.02A(2) must also be met before the acquisition is a reduced credit acquisition. See paragraphs 218 to 219 of this Ruling for an explanation.

outside Australia, a non-resident parent, subsidiary or other closely related enterprise. As the services are supplied from outside Australia, the recipient of the supply is subject to a GST 'reverse charge' on the supply. The imposition of a GST on these services may place the Australian enterprise at a competitive disadvantage when compared to the operations of other financial institutions acquiring similar services in Australia. Resident financial institutions will not incur a GST liability on management and support services that are undertaken wholly within the entity or between GST grouped entities.

218. To address this potential disadvantage, where an Australian enterprise acquires specified management and support services from a 'closely related' non-resident enterprise, the acquisition may be a reduced credit acquisition. To qualify as a reduced credit acquisition, the acquisition must satisfy the conditions in ~~regulation~~section 70-5.02A. These conditions are that the supply or transfer is a taxable supply because of section 84-5 of the Act and the receiving enterprise and the supplying enterprise are closely related. In addition, the supply or transfer that gives rise to the acquisition must consist in:

- the transfer of something to an enterprise in Australia (the ***receiving enterprise***) from an enterprise outside Australia (the ***supplying enterprise***); or
- the doing of something for the receiving enterprise by the supplying enterprise.

219. To qualify as a reduced credit acquisition, the acquisition must also be the acquisition of something that is listed within ~~subregulation~~subsection 70-5.~~02B(1).~~02A(3).

Closely related

220. An enterprise is closely related[93] to another enterprise if:

- both enterprises are carried on by the same entity;
- one enterprise is carried on by a 100% subsidiary of the entity that carries on the other enterprise; or
- both enterprises are carried on by 100% subsidiaries of the same entity.

For example, a supply from a non-resident 'head office' or 'parent' entity, to an Australian branch or 100% subsidiary company of the supplier will involve a supply between 'closely' related entities.

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[93] ~~Regulation~~Section 70-5.01A.

221. In determining the reduced credit acquisition, the price of the relevant supply is reduced by the amount passed on by the supplying enterprise to the receiving enterprise for any unabsorbed contribution from a third party (~~regulation~~subsection 70-5.~~02C).~~02A(5)).

222. An acquisition is not a reduced credit acquisition where the supplier does no more than seek recovery of the cost of a supply by a third party (with or without additional cost or profit margins) and the substance and character of the supply by the third party remains unchanged by the supplier before supply to the Australian enterprise. This will be an unabsorbed contribution for the purposes of ~~regulation~~subsection 70-5.~~02C.~~02A(5).

Differentiating between mixed and composite acquisitions

223. The supplier of something that is identifiable as having more than one part where each part is taxable does not need to apportion the consideration for the supply. This is because GST is payable on the whole supply. Similarly, if all of the parts of a supply are identifiable as being non-taxable, GST is not payable on any part of the supply.

224. However, a supply consisting only of taxable parts may not be wholly a reduced credit acquisition to the acquirer. Only those parts that are reduced credit acquisitions give rise to reduced input tax credits.

225. It is not necessary to separate parts of an acquisition into things that are listed in ~~regulation~~section 70-5.02 and parts that are not unless these are separately identifiable parts of the acquisition. Where there are no separately identifiable parts of the acquisition you need to look at the acquisition as a whole to determine whether it is an acquisition specified in the GST regulations.

Example 31: Acquisition of more than one thing

226. *Papier Suppliers supplies Fobick Bank with stationery. The supply is made up of deposit and withdrawal forms, letterhead and business cards. The supply from Papier Suppliers consists of several parts, all of which are taxable. There is no need for Papier Suppliers to separately identify the consideration that relates to each part; however, Papier Suppliers chooses to separately list each item on the invoice provided to Fobick Bank.*

227. *Examining the acquisition, Fobick Bank has acquired deposit and withdrawal forms, letterhead and business cards. Business cards and letterhead are not listed as reduced credit acquisitions in ~~regulation~~section 70-5.02. Therefore, the acquisition of those items by Fobick Bank is not a reduced credit acquisition. Deposit and*

withdrawal forms are listed in table item 4 of ~~regulation~~section 70-5.02 as a reduced credit acquisition and, therefore, the acquisition of those forms is a reduced credit acquisition by Fobick Bank.

Reduced credit acquisition is acquired together with something that is not a reduced credit acquisition

228. If something that is listed as a reduced credit acquisition is acquired together with something that is not listed as a reduced credit acquisition then you may need to treat those parts separately. This will depend on whether the acquisition is a '**mixed acquisition**' or a '**composite acquisition**'. These terms are intended to be similar to the concepts of a mixed supply[94] and a composite supply and to adopt similar principles. The difference is that these terms are used to describe an acquisition that contains parts that are reduced credit acquisitions and parts that are not. Paragraphs 19 to 24 of GSTR 2001/8 explain how to differentiate between mixed and composite supplies.

229. The supplier may not need to separate the components of a supply that is a 'mixed acquisition' or a 'composite acquisition' to the acquirer. Paragraph 11 of GSTR 2001/8 states:

> Where you make a supply that is identifiable as having more than one part and each part is taxable, you do not need to apportion the consideration for the supply. This is because GST is payable on the whole supply.

230. A supply, or part of a supply, that is taxable to the supplier (and therefore requires no further separation into its component parts) may still be a mixed acquisition to the acquirer. That is, a supply, or part of a supply, that consists of separately identifiable parts that would all be taxable does not need to be characterised as a mixed or composite supply. However, that supply, when viewed from the perspective of the acquirer may be characterised as a mixed acquisition because it consists of separately identifiable parts. The terms mixed acquisition and composite acquisition are not defined terms but are used in this Ruling as an aid to interpreting the provisions.

231. The description of the supply on the invoice is a factor in determining the character of the acquisition, but is not necessarily decisive.

232. A mixed acquisition contains separately identifiable parts where one or more of the parts is a reduced credit acquisition and one or more of the parts is not a reduced credit acquisition. In a mixed acquisition, no part is dominant, and each part has a separate identity.

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[94] A mixed supply is a supply that consists of taxable and non-taxable parts.

233. On the other hand, a composite acquisition is an acquisition of one dominant part and includes other parts that are not treated as having a separate identity as they are integral, ancillary or incidental to the dominant part of the acquisition. Where an acquisition is a composite acquisition, then it is essentially the acquisition of a single thing, and will be either wholly a reduced credit acquisition or wholly not a reduced credit acquisition.

234. In working out whether you are acquiring a mixed or composite acquisition, the key question is whether the acquisition has parts that should be regarded as being separately identifiable, or whether it is essentially an acquisition of one dominant part with other parts being integral, ancillary or incidental to that dominant part. This is discussed in paragraphs 235 to 256 of this Ruling.

Mixed acquisition – separately identifiable parts

235. In many cases, it will be a matter of degree whether the parts of an acquisition are separately identifiable and retain their own identity. This is a similar process to determining whether or not something is a mixed supply. The principles and case law relevant to determining whether a supply includes separately identifiable parts are outlined in paragraphs 45 to 54C of GSTR 2001/8.

236. The principles enunciated in GSTR 2001/8 ~~case law from New Zealand and the United Kingdom~~ assist in establishing, by analogy, how to determine whether an acquisition includes separately identifiable parts. GSTR 2001/8~~These cases~~ illustrates that the relevant factor is what the acquirer in essence acquires. The question is what 'in substance and reality' is acquired for the consideration paid.

237. Further discussion on mixed acquisitions is contained in Goods and Services Tax Determination GSTD 2011/3 *Goods and services tax: do the acquisitions of the services provided under the arrangement described in Taxpayer Alert TA 2010/1 form part of a reduced credit acquisition made by the financial supply provider under item 9 of the table in subregulation 70-5.02(2) of the A New Tax System (Goods and Services Tax) Regulations 1999?*, which specifically deals with supplies from a financial supply facilitator that is related to a financial supply provider.~~Following the judgment of Lord Slynn of Hadley in *Card Protection Plan v. Customs and Excise Commissioners* [2001] BVC 158 (*Card Protection*) you must have regard to the essential features of the transaction to see whether it is several distinct principal services or a single service. An overall view should be taken and something that is in reality a single service should not be 'artificially split'.~~

238. [Omitted.] ~~Applying the rationale of the Court in the Card Protection case, the question is what is the essential feature of the scheme or its dominant purpose and why objectively would an entity want to acquire the thing. (In that case, Lord Slynn had 'no doubt' that the reason was to obtain provision of insurance cover against loss arising from the misuse of credit cards or other documents.)~~

239. [Omitted.]

240. [Omitted.]

241. [Omitted.] ~~Sea Containers and British Airways show that different conclusions may be reached after taking into account the relevant facts of cases that are similar.~~

242. [Omitted.] ~~the issue before the Court was whether in 'substance and reality' the subscription paid by members was for the bare right of membership or for all the benefits that came with membership.~~

243. [Omitted.] ~~The Court held that on a proper construction of the rules of the Association the contract which existed between the Association and its members did not merely confer on the members a bare right to membership with all the other benefits being merely incidental to that right. Instead, under the contract each member was entitled to all the benefits that he or she could properly anticipate from having read the brochure. The subscription was paid for a package of individual benefits and could therefore be apportioned.~~

[Omitted.]

~~245.~~244.

~~246.~~245. [Omitted.] ~~The view expressed in Wellington in relation to supplies is consistent with the view expressed in this Ruling that an acquisition has separately identifiable parts where the parts require individual recognition and retention as separate parts, due to their relative significance in the supply.~~

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[95] [Omitted.] ~~*Sea Containers Ltd v. Customs & Excise Commissioners* [2000] BVC 60.~~

[96] [Omitted.] ~~*Sea Containers Ltd v. Customs and Excise Commissioners* [2000] BVC 60 at 67.~~

[97] [Omitted.] ~~*British Airways plc v. Customs and Excise Commissioners* (1990) 5 BVC 97~~.

[98] [Omitted.] ~~*British Airways plc v. Customs and Excise Commissioners* (1990) 5 BVC 97 at 102-103.~~

[99] [Omitted.] ~~*Commissioners of Customs & Excise v. The Automobile Association* (1974) 1 BVC 8.~~

[100] [Omitted.] ~~*Customs and Excise Commissioners v. Wellington Private Hospital Ltd* [1997] BVC 251 at 266.~~

[101] [Omitted.] ~~*Customs and Excise Commissioners v. Wellington Private Hospital Ltd* [1997] BVC 251 at 266..~~

Example 32: Mixed acquisition

~~247.~~246. *In a particular month, Clever Counters provides Inca Investments with administrative services such as maintaining records, handling inquiries and processing application forms. Clever Counters also provides Inca Investments with a new record-keeping software package. The parts of the acquisition are separately identifiable and retain their own identity. No one part of the acquisition dominates another. In 'substance and reality', Inca Investments has acquired administration functions and a software package. The acquisition of a software package is not a reduced credit acquisition under any of the items in the regulations. Inca Investments is entitled to a reduced input tax credit for the administrative services but not for the record-keeping package.*

Composite acquisition

~~248.~~247. In a composite acquisition, subordinate parts complement and accompany the dominant part of the acquisition. Such an acquisition is essentially the acquisition of a single thing. It need not be broken down, unbundled or dissected any further. A composite acquisition may appear, at first, to have more than one part, but is treated as if it is the supply of one thing. The principles for determining whether a supply is a composite supply that includes integral, ancillary or incidental parts are outlined in paragraphs 55 to 63 of GSTR 2001/8.

~~249.~~248. [Omitted.] ~~In *Customs and Excise Commissioners v. Madgett and Anor (t/a Howden Court Hotel)* [1998] BVC 458, the European Court of Justice described the term 'ancillary' in terms of scale and connection:'… a service is ancillary if, first, it contributes to the proper performance of the principal service and second, it takes up a marginal proportion of the package price compared to the principal service. It does not constitute an object for customers or a service sought for its own sake, but a means of better enjoying the principal service.'~~

~~250.~~249. [Omitted.] ~~In Customs and Excise Commissioners v. British *Telecommunications plc* [1999] BVC 306, Lord Slynn of Hadley considered whether delivery was ancillary or incidental to a supply of cars or whether it was separately identifiable. In concluding that, as a matter of commercial reality, there was one contract for a delivered car, Lord Slynn found it necessary to consider all of the circumstances of the supply and said:'… the fact that separate charges are identified in a contract or on an invoice does not on a consideration of all the circumstances necessarily prevent all the~~

[102] [Omitted.]~~*Customs and Excise Commissioners v. Madgett & Anor (t/a Howden Court Hotel)* [1998] BVC 458 at 464.~~

~~supplies from constituting one composite transaction nor does it prevent one supply from being ancillary to another supply which for VAT purposes is the dominant supply … the essential features of a transaction may show that one supply is ancillary to another and that it is the latter that for VAT purposes is to be treated as the supply.'~~

~~251.~~250. [Omitted.]

Example 33: Composite acquisition

~~252.~~251. *Luther Life Co. acquires archives storage and retrieval services from Storit. As part of the service, Storit provides a number of things, such as archive boxes and labels, as well as collection and storage of the boxes. These things are merely some of the things that go together to make up the acquisition of archive services. The acquisition is a composite acquisition and therefore is a reduced credit acquisition under table item 2(a) of ~~subregulation~~subsection 70-5.02(~~2~~1).*

Example 34: Composite acquisition

~~253.~~252. *Trusted Bank acquires transaction cards from Trendee Cards. Customers use these cards to operate their accounts with Trusted Bank. The contract for the acquisition of the transaction cards from Trendee Cards includes the supply of the card blanks together with artwork and embossing (for example, with the customer's name, the card number and expiry date, etcetera). When acquired from a single supplier and as part of a single acquisition, the parts cannot be separated. Without each of the parts, the card is not a transaction card but is simply a piece of plastic. The acquisition is a composite acquisition and therefore a reduced credit acquisition under table item 3 of ~~subregulation~~subsection 70-5.02(~~2~~).1).*

~~254.~~253. However, in some cases, no matter how subordinate a minor part may be, the subordinate part still maintains its individual status under a specific legislative provision. For example, taxation and auditing services under table items 24(h) and 26(h) of subsection 70-5.02(1) are specifically excluded from being reduced

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[103] [Omitted.]~~*Customs and Excise Commissioners v. British Telecommunications plc* [1999] BVC 306 at 312.~~

[104] [Omitted.]~~See Lord Hope of Craighead in *Customs and Excise Commissioners v. British Telecommunications plc* [1999] BVC 306 at 314~~

[105] [Omitted.]~~*Customs and Excise Commissioners v. Madgett (t/a Howden Court Hotel)* [1998] BVC 458.~~

credit acquisitions where provided as part of services to comply with industry regulatory requirements.

Example 35: Specific exclusion

~~255.~~254. *Sure, Steady and Associates provides Inca Investments with the service of ensuring compliance with industry regulatory requirements including taxation services, such as completion of its BAS. Under table item 24(h) of ~~subregulation~~subsection 70-5.02(~~2),~~1), taxation services (such as completion of Inca Investment's BAS) are excluded from the administrative function of compliance with industry regulatory requirements. That part is therefore not a reduced credit acquisition under paragraph 24(h). Inca Investments is not entitled to reduced input tax credits for the preparation of its BAS or any other taxation services Sure, Steady and Associates might provide as part of that service.*

~~256.~~255. The specific exclusions in table items 24(h) and 26(h) of subsection 70-5.02(1) relate only to the services provided under that paragraph of the item. Where the audit or taxation services mentioned in paragraph (h) of table items 24 and 26 of subsection 70-5.02(1) are provided as an integral part of a service under a different paragraph of that item, there is no need to treat the part that is a taxation or auditing service differently to the other part of the supply.

Example 36: No exclusion

~~257.~~256. *Overlord Administration Services provides Inca Investments with a total administration package for its investment funds. The fee for this service is calculated as a percentage of the funds under management and is not dissected according to the various functions performed. Part of the duties of Overlord Administration Services is taxation services including preparation of the BAS. There is no need for Inca Investments to separate the acquisition of the taxation services from the acquisition of the other services. Inca Investments will be entitled to reduced input tax credits for the acquisition of the total administration service package.*

What is a financial supply facilitator~~ – items 9, 11, 18, 21, 27, and 28~~?

~~258.~~257. In terms of what is and what is not a financial supply, the GST regulations distinguish between a supply made by a financial supply facilitator and one made by a financial supply

provider. As discussed in paragraph 103 of this Ruling, these definitions principally serve to avoid confusion between the provision of the actual financial supply and another supply made in connection with it.

~~259.~~258. A financial supply facilitator is defined in ~~regulation~~section 40-5.07 in relation to a supply of a particular interest to be an entity facilitating the supply of that interest. The facilitating of a supply refers to activities that help forward (assist) the supply[106], rather than those that simply assist the financial supply provider. In determining whether an entity is facilitating the supply of the interest for a financial supply provider, the activities performed by the entity must have the effect of helping forward or assisting the supply and therefore must have a sufficient nexus with the supply of an interest by a financial supply provider.

~~260.~~259. A sufficient nexus in these circumstances requires that the activities of the entity have an identifiable association with the supply that goes beyond a mere general association. An identifiable association does not mean that the activities have to be directly linked to the supply, however it does require that there be a substantial connection so as to exclude activities that are only generally related. The activities must relate to and assist a particular supply.

~~261.~~260. As a general rule, acting in an agent-like capacity on behalf of a financial supply provider indicates an identifiable association with the supply of an interest, as the activities of the agent are substantially connected with the supply of an interest. However, acting in an agent-like capacity is not the only way in which the activities of an entity may have an identifiable association with the making of a financial supply. In the absence of this identifiable association, an entity will not be a financial supply facilitator of the supply of the interest.

~~262.~~261. The term financial supply facilitator is specific to ~~subregulation~~subsection 70-5.02(~~2~~)1) and to those items listed in the ~~subregulation.~~subsection. Although the term is defined in ~~regulation~~section 40-5.07, the nature of the services provided by a financial supply facilitator that are eligible for a reduced input tax credit are outlined in the relevant items in ~~subregulation~~subsection 70-5.02(~~2~~).1). For the purposes of these items, if a financial supply facilitator does not provide the specific service mentioned then the service will not be a reduced credit acquisition. For example, an entity may be a financial supply facilitator in relation to the supply of an interest in an account, but the service it provides will not be a reduced credit acquisition unless it is the service of opening, issuing,

[106] The Macquarie Dictionary definition of facilitate is "to help forward (an action, process etc)".

closing, operating, maintaining, or performing a transaction in respect of the account.

261A. When a financial supply does not involve the supply of an interest, the ordinary meaning of 'financial supply facilitator' applies. The financial supply facilitator is the entity that facilitates the financial supply for the entity making the financial supply.

Example 37: Financial supply facilitator

~~263.~~262. *ABC Ltd engages XYZ Ltd to locate borrowers for ABC Ltd. XYZ Ltd receives money from ABC Ltd for this purpose and then provides that money as loans to borrowers. In this scenario, XYZ Ltd makes the supply of the loan monies to borrowers as agent for ABC Ltd. For the purposes of the GST regulations, XYZ Ltd is acting as a financial supply facilitator in relation to the supply of the interest in the loan funds. XYZ Ltd facilitates this supply for ABC Ltd (who is the financial supply provider by virtue of being the entity that owns the interest in the loan funds) and supplies that interest to borrowers.*

~~264.~~263. *The supply made by XYZ Ltd to ABC Ltd is a reduced credit acquisition under item 11 of ~~subregulation~~subsection 70-5.02(~~2~~)1), as the supply the financial supply facilitator is making is the provision of a loan facility under paragraph (b) of that item. The provision of the loan facility by XYZ Ltd facilitates the supply of an interest in a credit arrangement by ABC Ltd, the financial supply provider.*

Example 38: Bringing about supply for financial supply provider

~~265.~~264. *For the purpose of strategic planning, DMW Ltd engages Radical Ltd to provide advice on suitable takeover targets. Based on the advice supplied by Radical Ltd, DMW Ltd selects a company and engages Jones RD Ltd to facilitate the acquisition of a controlling interest in the company selected. In this example, despite the fact that the advice is relied upon to ultimately make a financial supply, Radical Ltd is not a financial supply facilitator. This is because the activities of Radical Ltd have only a general association with the acquisition of the controlling interest in that they assist the financial supply provider but do not assist the particular supply (of the acquisition) of the securities.*

~~266.~~265. *However, Jones RD Ltd is a financial supply facilitator because its activities have an identifiable association with DMW Ltd's acquisition of the controlling interest and assist that particular supply by the financial supply provider. The supply made by Jones RD Ltd to DMW Ltd is a reduced credit acquisition under*

table item 9 of ~~subregulation~~subsection 70-5.02(~~2~~)1), as the supply it makes as a financial supply facilitator is the arrangement of the provision, acquisition or disposal of an interest in a security, specifically, arranging a takeover bid under paragraph (f). The arranging of a takeover bid by Jones RD facilitates the supply (acquisition-supply) of an interest in securities by DMW Ltd, the financial supply provider.

When does an acquisition relate to making a financial supply?

265A. GSTR 2008/1 provides guidance on determining whether an acquisition is for a creditable purpose, including whether the acquisition relates to making supplies that would be input taxed (see Part B of GSTR 2008/1, from paragraph 101 to 196).

~~267.~~266. Where a financial supply provider acquires the services of a financial supply facilitator to effect a financial supply, the complexity of the transaction may require that the facilitator supply services over an extended period. The financial supply provider is entitled to reduced input tax credits from the time there is a relationship between a reduced credit acquisition and the making of a financial supply. That is, the financial supply provider does not have to wait until the financial supply has been concluded before the entitlement arises.

~~268.~~267. How much reduced input tax credit an entity can claim and when it can be claimed will depend on the usual attribution rules. If your actual use of the acquisition changes from your planned use, you may need to make an adjustment to reflect any changes in the extent of your creditable purpose. ~~(See Goods and Services Tax Ruling GSTR 2000/24.)~~ GSTR 2000/24 provides general guidance on making adjustments for changes in extent of creditable purpose. Goods and Services Tax Determination GSTD 2012/3 *Goods and services tax: does an adjustment for a change in extent of creditable purpose necessarily arise for services acquired in relation to a proposed merger and acquisition transaction that does not eventuate, or that does not proceed in the manner contemplated at the time the services were acquired?* provides specific guidance on adjustments for changes to extent of creditable purpose arising from merger and acquisition activity or proposed activity.

Example 39: Acquisitions leading up to making a financial supply

~~269.~~268. *At the board meeting of Future Corporation, the decision to acquire a controlling interest in Past Enterprises is made and recorded in the minutes. To facilitate the transaction, Future Corporation engages the services of an investment banker (Present*

Ltd). Present Ltd invoices Future Corporation on a monthly basis. Present Ltd takes nine months to complete the transaction for Future Corporation.

~~270.~~269. *Although the acquisition of the controlling interest takes nine months to complete, Future Corporation is entitled to claim a reduced input tax credit for each preceding month's supply of services by Present Ltd (being the arrangement by a financial supply facilitator of the acquisition of an interest in a security) as each invoice issues. This is because the acquisition of the services relates to a financial supply that Future Corporation is in the process of making.*

Example 40: Acquisitions leading up to the making of a financial supply where the transaction is not completed

~~271.~~270. *Following from the example at paragraph 268 of this Ruling, instead of the transaction being completed, Future Corporation's acquisition fails due to the actions of the existing Past Enterprises board. Although the shares are not in fact acquired, Present Ltd's services up to this point still relate to the making of a financial supply by Future Corporation.*

~~272.~~271. *As Future Corporation's actual use of Present Ltd's services has not changed from its planned use, no adjustment under Division 129 arises in these circumstances. This is because, up to this point, Future Corporation has used Present Ltd's services for the intended purpose.*

Example 41: Success fee – single payment for services that partly relate to making a financial supply

~~273.~~272. *Belvedere Ltd, an investment company, wishes to expand its operations into minerals exploration. It engages a merchant bank (Eagle Corp) to recommend a method (such as takeover, acquire assets, acquire a joint venture or partnership interest) by which the expansion may be most effectively achieved and to facilitate the expansion once the method has been approved by the Belvedere Board. Eagle Corp will receive a success fee on completion of the arrangement.*

~~274.~~273. *After three months of due diligence activities, Eagle Corp recommends to Belvedere Ltd that a takeover of Rochester Enterprises (a medium-sized minerals exploration company) will provide the best vehicle for its proposed expansion. At Belvedere's next Board meeting, the directors agree to proceed with the acquisition of a controlling interest in Rochester Enterprises and record this in the Board minutes. The arrangement of the*

acquisition of the shares in Rochester Enterprises takes Eagle Corp a further six months to complete. At that time, it furnishes Belvedere Ltd with a tax invoice for all of the services rendered. Belvedere Ltd accounts for GST on a non-cash basis and remits monthly. Belvedere Ltd will need to ascertain the extent of creditable purpose relating to its acquisition from Eagle Corp to determine its entitlement to input tax credits in that month's tax period.

~~275.~~274. *The services rendered prior to the activities of arranging the acquisition of the shares of Rochester Enterprises need to be apportioned in light of the type of due diligence advice provided by Eagle Corp. To the extent that the due diligence conducted relates to an option that, if adopted, would lead to the making of input taxed supplies, the acquisition of the advice would not be creditable. Conversely to the extent that advice relates to an option that, if adopted, would lead to the making of taxable supplies, the acquisition of the advice would be creditable. The services of arranging for the acquisition of the shares in Rochester Enterprises are not for a creditable purpose as they relate to making supplies that would be input taxed. Belvedere Ltd may be entitled to a reduced input tax credit under table item 9 of ~~subregulation~~ subsection 70--5.02(~~2~~)1) in respect of the services acquired concerning the arrangement of the acquisitions of shares in Rochester Enterprises. Whether Belvedere Ltd is entitled to reduced input tax credits for the acquisition depends on the other requirements of Division 70 being met and whether, in substance and reality, the services acquired come within table item 9 of subsection 70-5.02(1).*

Something acquired to make a reduced credit acquisition is not a reduced credit acquisition

~~276.~~275. Something that is used in making a reduced credit acquisition is not, for that reason, a reduced credit acquisition.[107] This means that an input used by a supplier in providing something that is a reduced credit acquisition in the hands of the recipient, is not itself a reduced credit acquisition.

Example 42: Something acquired to make a reduced credit acquisition

~~277.~~276. *Loaner Bank engages Retro Inc. to process its loan applications. Retro Inc. is short-staffed and hires staff from an employment agency to process the loan applications. The supply of processing services by Retro Inc. is a reduced credit acquisition by*

[107] ~~Subregulation~~Subsection 70-5.02(3).

Loaner Bank; however, the labour hire is not a reduced credit acquisition to Retro Inc.

~~278.~~277. Inputs into a supply that become an integral part of that supply do not need to be segregated out. While these things are not themselves reduced credit acquisitions, the supplier does not need to separately identify the inputs into the supply made to the financial supply provider.

Example 43: Something acquired to make a reduced credit acquisition - no need to separately identify

~~279.~~278. *In Example 42 of this Ruling, Retro Inc. invoices Loaner Bank for the processing services. The amount invoiced includes a component for the labour hire services. The acquisition of processing services is a reduced credit acquisition to Loaner Bank and there is no need for Loaner Bank to segregate out the labour hire component.*

Tax Invoices

~~280.~~279. No special tax invoice requirements apply to suppliers of reduced credit acquisitions. That is, the supplier is not required to identify that a particular supply is a reduced credit acquisition. However, the supplier must comply with the tax invoice requirements generally.

~~281.~~280. [Omitted.]

~~282.~~281. Goods and Services Tax Ruling GSTR 2013/1 *Goods and services tax: tax invoices* discusses the information requirements for tax invoices. These information requirements do not include any specific requirements for tax invoices issued for reduced credit acquisitions. Tax invoices issued must comply with the information requirements that apply to a supply of that kind.

What this Ruling does

Schedule 1

~~283.~~282. Schedule 1 of this Ruling contains a glossary of terms to explain what is understood by the financial product or acquisition mentioned in the Ruling including Schedule 2. Not all of these terms are legislative definitions. Most terms have been taken from banking and finance dictionaries or are based on explanations provided by industry bodies. (A list of references appears at the end of the glossary.)

~~284.~~283. Schedule 1 ~~forms~~does not form part of ~~this Ruling.~~ the binding public ruling. The explanations given in Schedule 1 for terms used in this Ruling are not exhaustive definitions, nor are they interpretative. They are indicative only and may, due to industry usage, legal developments or other considerations, change over time.

Schedule 2

~~285.~~284. Schedule 2 of this Ruling sets out the GST treatment of supplies and fees commonly provided by financial supply providers. Many of these are expressed by reference to the consideration provided for the supply of the services.

~~286.~~285. These supplies, fees, and charges are divided into the following categories:

- Transaction Banking & Cash Management:
  - Accounts;
  - Payments and funds transfer;
  - Stored value and similar cards;
  - Deposits and investment;
- Advances, Loans and Mortgages:
  - Loan transactions;
  - Credit and charge cards;
  - Mortgages and charges;
  - Debt and credit arrangements;
- Trade Finance, Asset Based Finance and Inventory Based Finance:
  - Trade finance;
  - Asset based finance;
  - Inventory/receivables finance;
- Securities;
- Guarantees and Indemnities;
- Currency;
- Superannuation, Annuities and Allocated Pensions:
  - Superannuation;
  - Annuities or allocated pensions;
- Derivatives;

- Insurance;
- Advisory and Professional Services:
  - Advisory and professional services;
  - Financial planning;
- Brokerage and Facilitator Services;
- Trustee and Custodian Services;
- Funds Management;
- Commodities and Collectibles.

How to read Schedule 2 of the Ruling

Requirements for financial supply

~~287.~~286. The provision, acquisition or disposal of an interest mentioned in ~~subregulation~~subsection 40-5.09(3~~) or (4)~~) is a financial supply if:

- the provision, acquisition or disposal is:
  - for consideration; and
  - in the course or furtherance of an enterprise; and
  - connected with Australia; and
- the supplier is:
  - registered or required to be registered; and
  - a financial supply provider in relation to the supply of the interest.

~~288.~~287. This is represented in the table as:

Table 2: *Requirements for a financial supply in the table in Schedule 2*

Line No.	*Supply, Service or Consideration*	*GST Regulation or GST Act*	*GST Status*	*Notes*
	ACCOUNTS			
A1	The following fees and charges by Australian ADIs[§] as account provider to account holders, or by an ADI to a non-account holder for a fee of less than $1,000			
A2	• Account opening, keeping, maintenance and service fees	40-5.09(3) Item 1	Input taxed	~~Subregulation~~Subsection 40-5.09(4) may also apply

~~289.~~288. This means that the supply satisfies the requirement for a financial supply within the GST regulations because it is:

- the provision of an interest in or under an account made available by an ADI in the course of its banking business;
- provided the provision is:
  - for consideration;
  - in the course or furtherance of an enterprise; and
  - connected with Australia;
- the supplier is a financial supply provider in relation to the supply of the interest; and
- the supplier is registered or required to be registered.

As a financial supply, this supply is input taxed.

288A. However, a financial supply will not be input taxed to the extent that it is GST-free. Reference should be made to paragraphs 144 to 170 of this Ruling for guidance on the application of subsection 38-190(1) to financial supplies. While Schedule 2 does provide notes indicating when particular supplies may be

GST-free under subsection 38-190(1), Schedule 2 is not intended to be an exhaustive list of all GST-free supplies. ~~Unless specifically noted at a particular item, Schedule 2 does not discuss in what circumstances a particular supply may be GST-free under subsection 38-190(1). Reference should be made to paragraphs 144 to 170 of this Ruling for guidance on the application of subsection 38-190(1) to financial supplies.~~

~~290.~~289. If relevant, ~~subregulation~~subsection 40-5.09(4) will also apply. The supply of those services to a non-account holder will be input taxed if supplied for a fee of less than $1,000 and if table item 1 ~~in subregulation~~of subsection 40-5.09(3) would have applied to that supply in relation to an account with the ADI.

~~291.~~290. The symbol "§" indicates that the term is defined in ~~the glossary.~~Schedule 1. The definitions provided in Schedule 1 are provided to assist in interpreting the various terms but do not form part of this ruling (see paragraph 283 of this Ruling).

Requirements for incidental financial supply

~~292.~~291. The supply may be an incidental financial supply if it satisfies the requirements of ~~regulation~~section 40-5.10; namely, it is:

- something that is supplied by the *same supplier* to the *same recipient* as the original financial supply;
- supplied directly in connection with a financial supply;
- incidental to the financial supply;
- supplied at or about the same time, as the financial supply but not for separate consideration; and
- the usual practice of the entity to supply the thing (or similar things) and the financial supply together in the ordinary course of the entity's enterprise.

~~293.~~292. This is represented in the table as:

Table 3: *Incidental financial supplies in the table in Schedule 2*

Line No.	*Supply, Service or Consideration*	*GST Regulation or GST Act*	*GST Status*	*Notes*
	LOAN TRANSACTIONS			
B48	• Card insurance (supplied with card - no separate fee)	40-5.09(3) Table items 1 & 2 & 40-5.10	Input taxed	

~~294.~~293. This means that the supply of the insurance, provided with a transaction card for no separate (additional) fee, is incidental to the supply of an account under table item 1 or the supply of an interest in credit under table item 2 ~~in subregulation~~of subsection 40-5.09(3). The supply is an incidental financial supply provided the requirements of ~~regulation~~section 40-5.10 are met. Being a financial supply, the supply is input taxed. (The supply, on the facts might also be characterised as a composite supply.)

Requirements for non-financial supply

~~295.~~294. If the supply does not satisfy the requirements of ~~regulations~~section 40-5.09, or if it is a supply listed within ~~regulation~~section 40-5.12, then it will not be a financial supply. It may be taxable, GST-free, input taxed or otherwise non-taxable under another provision of the GST Act. Some supplies may come within both ~~regulations~~ sections 40-5.09 and 40-5.12. Where this is the case, ~~regulation~~section 40-5.12 prevails and the supply will not be a financial supply (unless it is also an incidental financial supply).

~~296.~~295. This is represented in the table as:

Table 4: *Requirements for a non-financial supply in the table in Schedule 2*

Line No.	*Supply, Service or Consideration*	*GST Regulation or GST Act*	*GST Status*	*Notes*
	PAYMENT & FUNDS TRANSFER			
A101	The following fees and charges payable by a merchant for credit, debit and charge card merchant operations:			
A102	• Sales processed fee	Section 9-5 40-5.12 Table item 4	Taxable†	

~~297.~~296. This means that the supply is specified not to be a financial supply under ~~regulation~~section 40-5.12. Supplies under ~~regulation~~section 40-5.12 are generally taxable supplies, unless they are specifically treated as GST-free, input taxed or non-taxable under another provision of the GST Act. Sales processed fees for credit, debit and card merchant operations are taxable supplies under section 9-5.

~~298.~~297. Whether or not a supply is in fact a supply of the kind listed in the fourth column depends on the requirements for a supply of that kind being met. Each transaction will need to be judged and its GST status determined by having regard to all the facts and circumstances particular to that case. Items in this category are identified by the symbol "†".

~~299.~~298. The line number in the table is used merely as a device for referring to a particular item.

~~300.~~299. Schedule 2 forms part of this Ruling.

Definitions

~~301.~~300. See the Glossary in Schedule 1.

Your comments

300A. You are invited to comment on this draft Ruling, including the proposed date of effect. Please forward your comments to the contact officer by the due date.

300B. A compendium of comments will be prepared when finalising this Ruling and an edited version (names and identifying information removed) is published to the Legal database on ato.gov.au

Please advise if you do not want your comments included in the edited version of the compendium.

Draft update published: **10 August 2022**

Due date: **23 September 2022**

Contact officer details have been removed following publication of the final ruling.

Detailed contents list

~~302.~~301. Below is a detailed contents list for this Ruling:

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Commissioner of Taxation
26 June 2002

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Schedule 1

Glossary of Terms

This Glossary of Terms is provided for information only. It does not form part of the proposed binding public ruling.

Abbreviations

Act Name	Abbreviation
Corporations Act 2001	Corporations Act
Superannuation Industry (Supervision) Act 1993	SIS Act
A New Tax System (Goods and Services Tax) Act 1999	GST Act
A New Tax System (Goods & Services Tax) Regulations ~~1999~~2019	GST regulations
Income Tax Assessment Act 1936	ITAA 1936
Income Tax Assessment Act 1997	ITAA 1997

=A=

Acceptance Fee

A fee charged by a financial institution that accepts bills of exchange (drawn up by customers) to enhance their marketability.

Account

~~The Dictionary to the GST regulations defines account by way of a 'means and includes' definition.~~ For the purposes of table item 1 of ~~subregulation~~subsection 40-5.09(3) and ~~subregulation~~subsection 40-5.09(4), account means an account made available by an Australian ADI within the meaning of section 9 of the Corporations Act. For these purposes, it includes the following accounts:

- savings/transaction accounts (including accounts linked to debit cards);
- cheque accounts;
- call accounts;
- retirement savings accounts;
- term deposits;
- loan accounts; and

- credit card accounts.

For the purposes of ~~regulation~~section 70-5.02, the meaning of account is not limited to Australian ADIs but extends to accounts provided by non-ADIs as explained at paragraphs 202 to 206 of this Ruling.

It includes an account in relation to which the account holder (the customer) has the right to:

- have the account maintained by the account provider (the provider);
- repayment of the amount credited to the account by the provider; and
- require the provider to act on directions by the customer that are in accordance with the arrangements, or any agreement, between the provider and the customer in relation to operation of the account.

~~The definition of account in the GST regulations includes the following accounts:~~

- ~~savings/transaction accounts (including accounts linked to debit cards);~~
- ~~cheque accounts;~~
- ~~call accounts;~~
- ~~retirement savings accounts;~~
- ~~term deposits;~~
- ~~loan accounts; and~~
- ~~credit card accounts.~~

The definition of account in the GST regulations does not extend to an 'account' that records non-monetary balances such as reward/loyalty point and 'frequent flyer' point balances.

Account Receivable Financing

A facility whereby a firm uses its book debts as security for a loan or series of loans from finance companies. The difference between account receivable finance and debt factoring is that the former is a secured loan arrangement, while the latter is an outright purchase of receivables.

Actuary

A professional person who applies mathematical, statistical and financial analyses to a wide range of business risks. Actuaries are experienced in analysing financial transactions and assessing risks and operate mainly in the superannuation, investment and insurance industries. In Australia, an actuary will most likely be a Fellow of the Institute of Actuaries of Australia (FIAA) or an accredited member of that institute, having gained similar overseas qualifications.

Additional Reports

In relation to a trustee administration service, are reports prepared to address regulatory and compliance obligations associated with taxation and funds administration.

Advance

A synonym for loans, overdrafts and other types of financial accommodation.

Allocated Pension/Annuity

Pension/annuity paid by a managed fund from investment of personal superannuation and rollover moneys. The amount and timing of the pension are nominated by the recipient. If the pension amount exceeds the income earned by the fund, the balance is made up by a partial return of capital. Withdrawals of capital are permitted and are concessionally taxed as eligible termination payments. Income payments themselves attract tax concessions. Allocated pension/annuity payments are paid at monthly, quarterly, half yearly or yearly intervals.

Annuity

Regular income payments, akin to a pension. The purchaser is known as an annuitant. There are many variations, but annuities are broadly classed as immediate (payment commences on purchase of the annuity) or deferred (payment commences on a specified future date).

Approved Deposit Fund

A type of fund into which lump sum eligible termination payments are deposited or 'rolled over' upon a person's retirement, resignation or retrenchment. Tax is deferred until funds are withdrawn, or rolled over into an annuity or allocated pension, which must be prior to age 65. In regulatory terms, an approved deposit fund has an approved trustee which is a constitutional corporation.

Asset Allocation Services

The apportionment of an investment portfolio among different asset classes (shares, bonds, property, cash and overseas investments) from time to time in accordance with the investment outlook of the investor or investment manager.

Asset Backing

The value of a company's assets standing behind its issued shares. Some companies may have a strong asset backing even if the dividends they pay on shares are relatively low.

Asset Reconciliation

In relation to custody services, where the bailee supplies these services for valuables such as jewellery or documents, etcetera, there are rules which provide for the reconciliation of the bailor's assets held in custody.

Assignment

Legal transfer of rights or property from one person (the assignor) to another (the assignee). The assignee acquires rights subject to equity and cannot obtain a better title than that of the assignor. The assignee can however, obtain a lesser title than that of the assignor.

Assurance

A term which is used interchangeably with insurance, for example, life assurance/life insurance. Historically, assurance was used to describe insurance based on human life, for example, a life assurance policy that would pay out when the person either reached a certain age or died. In contrast, insurance dealt with insurance other than life insurance. The distinction today between the two terms in contemporary usage is minimal.

Austraclear Limited

Unlisted public company that acts as a clearing house for securities trading on Australian stock exchanges. The securities are held by Austraclear in a central depository and physical delivery is eliminated. Trading in securities takes place electronically, with Austraclear recording changes in ownership records.

Australian ADI

An Australian ADI (authorised deposit-taking institution) is defined under section 9 of the Corporations Act to mean:

(a) an ADI within the meaning of the *Banking Act 1959*; ~~or~~and

(b) a person who carries on State banking within the meaning of paragraph 51(xiii) of the Constitution.

Australian Prudential Regulation Authority (APRA)

The Commonwealth agency responsible for prudential regulation of banks, life insurance companies, general insurance companies and superannuation funds having taken over these functions from the Insurance and Superannuation Commission and the Reserve Bank of Australia.

Australian Securities and Investments Commission (ASIC)

The primary regulatory body responsible for administering the Corporations legislation, replacing the National Companies and Securities Commission, Australian Securities Commission and the Corporate Affairs Commission of the co-operative scheme.

Authorised Deposit-Taking Institution (ADI)

A body corporate in relation to which an authority under subsection 9(3) of the *Banking Act 1959* is in force.

Automatic Teller Machine (ATM)

The term 'ATM' is an automatic teller machine that is used in the payment system designated by the Reserve Bank of Australia (RBA) as the ATM system. It takes its meaning from the following definition set out in the ~~Consumer Electronic Clearing System (CECS) Manual~~

Australian Payments Network Limited Code Set for Issuers and Acquirers Community (IAC) Framework – Volume 6 ATM System Code:

> "ATM" or "ATM Terminal" means an approved electronic device capable of automatically dispensing Cash in response to a Cash withdrawal Transaction initiated by a Cardholder. Other Transactions (initiated by a ~~debit card~~Card) such as funds transfers, deposits and balance enquiries may also be supported. The device must accept either magnetic stripe Cards or smart (chip) Cards where Transactions are initiated by the Cardholder keying in a Personal Identification Number (PIN). Limited service devices (known as "Cash ~~dispensers')~~dispensers") that only allow for Cash withdrawal are included.

=B=

BPAY

A national bill payment scheme for telephone and internet banking services.

Bailment

Delivery of goods or property from one party (the bailor) to another (the bailee) upon a condition, express or implied, that they will be returned to the bailor when the purpose for which they were bailed ceases. Although possession passes to the bailee, ownership remains with the bailor. A bailee owes a duty to the bailor to take due care of the property and to restore it to the bailor in accordance with the terms of the bailment. The bailee may pay bailment fees under the arrangement.

Bank Cheque

A cheque drawn on a particular bank and obtained from that bank by a payer for the payment of an amount.

Bank@Post

Service provided by Australia Post to customers of a number of participating banks and other financial institutions. Customers of these institutions are able to use credit and debit cards at post offices to make deposits and withdrawals and obtain account balances.

Banking Business

Subsection 5(1) of the *Banking Act 1959* defines banking business as:

(a) a business that consists of banking within the meaning of paragraph 51(xiii) of the Constitution; or

(b) a business that is carried on by a corporation to which paragraph 51(xx) of the Constitution applies and that consists, to any extent, of:

(i) both taking money on deposit (otherwise than as part-payment for identified goods or services) and making advances of money; or

(ii) other financial activities prescribed by the regulations for the purposes of this definition.

For the purposes of subparagraph (b)(ii) of the definition of banking business in subsection 5(1) of the *Banking Act 1959*, the provision of a purchased payment facility is banking business if APRA determines that the facility:

(a) is of a type for which the purchaser of the facility is able to demand payment, in Australian currency, of all, or any part, of the balance of the amount held in the facility that is held by the holder of the stored value; and

(b) is available, on a wide basis, as a means of payment, having regard to:

(i) any restrictions that limit the number or types of people who may purchase the facility; and

(ii) any restrictions that limit the number or types of people to whom payments may be made using the facility.

Bare Trust

A trust that merely holds property on trust for a beneficiary, with the trustee having no duty (as to the trust property) other than to convey the property according to the instructions of the beneficial owner. It is different from a custodian agreement, because a bare trustee has legal title in the property.

Bare Trustee

The trustee of a 'bare trust' (see above).

Barter

A type of countertrade, where goods and services are exchanged for other goods and services.

Bearer Security

A negotiable security such as a bond or debenture payable to the holder on maturity, title to which passes by mere delivery.

Best Endeavours Underwriting

See Underwriting.

Bill of Exchange

An unconditional order in writing requiring the party to whom it is addressed to pay on demand, or at a fixed or determinable future time, a stipulated amount in money to, or to the order of, a specified person or to bearer. It is a negotiable instrument, usually sold at a discount to face value. A bill of exchange includes a promissory note, cheque, bank draft, bank cheque and order.

Biller

In relation to a payment system, means a business or organisation that collects payments through BPAY.

Biller Institution

In relation to a payment system, means a participating financial institution that provides transactional processing services to billers, by collecting payments from the BPAY central interchange processor and delivering the payments to the biller.

Bond

Debt instrument issued by government, semi-government and statutory bodies as well as corporates. Bonds are generally fixed interest securities with interest paid half-yearly, and are of medium to long term.

Brokerage

Payment made to a broker for the services of acting as an intermediary between buyers and sellers, usually calculated as a percentage of the amount of the transaction.

=C=

Capital Fees

Fees charged in relation to the holding and or management of capital assets on behalf of another entity. Also referred to as capital commission.

CHAMP

CHAMP is the CHESS Interface System. It is the PC-based software for Australian institutions, custodians and brokers who have a requirement to connect to the Australian Stock Exchange's CHESS settlement system.

Charge

A form of security for the payment of a debt or performance of an obligation, consisting of the right of a creditor to receive payment out of some specific fund or out of the proceeds of the realisation of specific property. The fund or property is said to be charged with the debt payable out of it.

Charge Card

An article, commonly known as a charge card, for use in obtaining cash, goods or services by incurring a debt with the issuer of the card.~~entitling the holder to obtain goods or services, usually up to a prescribed limit, and requiring payment in full, or of an agreed proportion, at~~

~~regular intervals. However, some financial institutions issue charge cards which have a wide acceptability similar to credit cards.~~

Chattel

A chattel in law refers to any property other than freehold land. 'Chattels personal' include movable and tangible property. 'Chattels real' comprise leasehold and interests in land less than actual freehold.

Chattel Mortgage

A loan agreement that grants to the lender a lien (the right to retain property or goods of another in the lender's possession until payment of a debt) on property other than freehold land.

Cheque

A bill of exchange, or draft on a bank, drawn against available funds to pay a specified sum of money to a specified person on demand. The term *cheque* is defined in subsection 10(1) of the *Cheques Act 1986,* which states:

> A cheque is an unconditional order in writing that:
>
> (a) is addressed by a person to another person, being a financial institution; and
>
> (b) is signed by the person giving it; and
>
> (c) requires the financial institution to pay on demand a sum certain in money.

Clean Bill

A bill of exchange that has no commercial documents or special conditions attached.

Clean Collection

Collection of bills of exchange drawn on an Australian ADI by an overseas party.

Clearing Account

A clearing account is either an accumulation account (a holder record maintained in CHESS by a broker to facilitate settlement of CHESS approved securities with clients who are not participants) or a settlement account (a holder record maintained in CHESS by a participant non-broker to facilitate settlement of CHESS approved securities with other participants).

Clearing House Electronic Subregister System (CHESS)

A clearing and settlement system for equities involving the Australian Stock Exchange and the banking system. It provides for electronic transfer of title to securities and electronic payment rather than payment by cheque. Settlement for transactions between brokers must take place on the third business day after the date of the transaction (T+3).

Clearing Transactions

An institutional arrangement for transferring securities and monetary transfers by way of a simple and efficient means of exchange.

Collateral

Term for security given by a borrower to support a loan.

Commercial Bills

Accommodation bills that have no underlying trade transactions.

Commercial Paper

Negotiable, short-term, unsecured promissory notes issued in bearer form, usually on a discount basis. Commercial paper is usually issued for a term of up to 180 days by a corporation to raise working capital.

Commission

Payment to an agent or similar entity, or to an employee for particular services rendered. The payment may be made on a fixed sum or fixed percentage basis, or on a sliding scale based on the value of the transaction.

Commitment Fee

Fee charged by a financial institution to keep open a line of credit or to provide a specified amount of financial accommodation in the future at a nominated interest rate. The fee is designed (in theory) to offset the cost of keeping funds available.

Common Fund

An account established to pool the funds of particular entities, such as the members or beneficiaries of a superannuation fund or trust. The authority to establish a common fund, and the rules on the nature and operation of the common fund, usually arise under relevant trust legislation. The pooled monies are invested in a mix of assets determined by the investment option selected.

Company Title

The grant by a company of a right of exclusive use or occupancy of real property that the company owns or holds to a shareholder as a right attached to the holding of the shares. The right may be a lease, licence or a contractual right. The company's constitution must permit the granting of such rights.

Compliance Services

Fulfilling the compliance needs of clients that may arise under various statutes or contracts.

Continuous Disability Policy

A contract of insurance that is, by its terms, to be of more than 3 years duration and under which a benefit is payable in the event of:

(i) the death, by accident or by some other cause stated in the contract, of the person whose life is insured; or

(ii) injury to, or disability of, the insured as a result of accident or sickness; or

(iii) the insured being found to have a stated condition or disease.

A contract of insurance is not a continuous disability policy if the terms of the contract permit alteration, at the instance of the life company concerned, of the benefits provided for by the contract or the premiums payable under the contract unless the only alterations that are permitted to be made are alterations that improve the benefits and are made following an offer made by the life company and accepted by the owner of the policy.

A contract of consumer credit insurance within the meaning of the *Insurance Contracts Act 1984* or a contract of insurance entered into in the course of carrying on health insurance business is not a continuous disability policy.

Convertible Notes

Unsecured notes issued to existing shareholders with the right to either redeem the note for cash or convert it into ordinary shares at a fixed price at certain specified dates. Notes carry a fixed interest rate based on the issue price known as the coupon rate.

Core Custody

A mixture of services relating to the holding of assets on behalf of other entities. Typically, core custody or global custody includes holding certificates, changing the name on certificates, and making and receiving payments in respect of assets.

Corpus Commission

Commission calculated on the value of capital assets held in trust and estate administration.

Counterparty

The responding party to a transaction including a foreign exchange or swap transaction.

Countertrade

International commercial operations in which the exporter of merchandise agrees to full or partial payment in the form of goods and services from another country. Transactions generally pass through the hands of a compensator (that is, countertrade broker). The basic types of countertrade include barter, counterpurchase, buy-back and offsets.

Coupon

A detachable interest voucher which forms part of a bearer bond and entitles the holder to a cash payment on presentation to the issuer on or after the due date (half yearly or yearly).

Credit Arrangement

An arrangement under which an entity lends money on terms that include deferred repayment, or under which payment of a debt owed by one entity to another is deferred or time is allowed to pay.

In the context of considering whether the supply of a credit card or charge card was a supply of an interest in a credit arrangement or right to credit, the majority of the Full Federal Court stated in *American Express*[107A] at [154]:

> …There is a common understanding of the word 'credit', which is broader than this definition and encompasses the examples provided in Part 2 of Schedule 7. As Stone J observing [*sic*] in considering the Bankruptcy Act 1966 (Cth), in which 'credit' is undefined, '[b]roadly speaking, the term ['credit'] means the provision of funds either directly to the person obtaining the credit or to a third party provider of goods and services to that person subject to the obligation of the person obtaining credit to pay at a later time': see *Fitz-gibbon v. Inspector General in Bankruptcy* (2000) 180 ALR 475 at 479 [15]. This is the interest supplied by Amex Intl to charge card customers.

Credit Card

An article commonly known as a credit card and any similar article used in obtaining cash, goods or services on credit. It includes an article commonly issued by persons conducting business to their customers, or prospective customers, for use in obtaining goods or services from the business on credit.

Credit Union

A non-bank financial institution for personal savings and loans, structured on a co-operative basis. Traditionally, credit unions were established on the basis of a common bond among their membership (for example, workplace or community-oriented) and existed to provide savings and personal loan facilities to their members. Credit unions are now recognised as ADIs and operate under the *Banking Act 1959* and the Corporations Act. For the purposes of the GST regulations, credit union ~~includes the Cairns Penny Bank Limited (ACN 087 933 757).~~ is defined in section 196-1.01 as:

(a) an Australian ADI listed on the APRA website as a credit union; or

(b) an Australian ADI listed on the APRA website as an Australian-owned bank that:

(i) on or before 1 July 2011 was listed on the APRA website as a credit union; and

(ii) retains mutuality; and

(iii) was listed on the APRA website as a credit union at all times in the period between 1 July 2011 and the time it was listed on the APRA website as an Australian-owned bank; or

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[107A] *Federal Commissioner of Taxation v. American Express Wholesale Currency Services Pty Ltd* (2010) 187 FCR 398; [2010] FCAFC 122.

(c) the Cairns Penny Savings & Loans Limited (ACN 087 933 757).

Custodian

An entity or person holding assets and safeguarding property on behalf of another. Unlike a trustee, a custodian does not hold legal title in the property.

In relation to a superannuation entity, a custodian means a person (other than the trustee of the entity) who, under a contract with the trustee or an investment manager of the entity, performs custodian functions in relation to any of the assets of the entity. In most cases, the 'superannuation custodian' will become the legal owner, but not the beneficial owner, of some or all of the assets of the fund.

Custody

Legal responsibility for the property of another. This generic term includes a variety of custodian roles including core custody, safe custody and services in relation to property.

=D=

Debenture

A debenture of a body, for the purposes of the GST regulations, is a chose in action that includes an undertaking by the body to repay as a debt, money deposited with or lent to the body. The chose in action may (but need not) include a charge over property of the body to secure repayment of the money.

A debenture is a security under the definition in section 92 of the Corporations Act. Table item 10(a) of ~~subregulation~~subsection 40-5.09(3) of the GST regulations includes, as a security, certain exclusions from the definition of debenture under the Corporations Act.

It includes:

(a) an undertaking to repay money deposited with or lent to the body by a person if:

  (i) the person deposits or lends the money in the ordinary course of a business carried on by the person; and

  (ii) the body receives the money in the ordinary course of carrying on a business that neither comprises nor forms part of a business of borrowing money and providing finance; or

(b) an undertaking by an Australian ADI to repay money deposited with it, or lent to it, in the ordinary course of its banking business; or

(c) an undertaking to pay money under:

  (i) a cheque; or

  (ii) an order for the payment of money; or

  (iii) a bill of exchange; or

(d) an undertaking to pay money under a promissory note that has a face value of at least $50,000; or

(e) an undertaking by a body corporate to pay money to a related body corporate; or

(f) an undertaking to repay money that is prescribed by the regulations.

The Corporations Act definition also provides that for the purposes of the definition [of debenture], if a chose in action that includes an undertaking by a body to pay money as a debt is offered as consideration for the acquisition of securities under an off-market takeover bid, or is issued under a compromise or arrangement under Part 5.1 of the Corporations Act, the undertaking is taken to be an undertaking to repay as a debt money deposited with or lent to the body.

Debit Card

An article intended for use by an entity in obtaining access to an account held by the entity for the purpose of withdrawing or depositing cash or obtaining goods or services. Use of a debit card transfers funds directly from client account to merchant account or provides a voucher cashable by the merchant.

Debt

An amount due from one entity to another or a presently existing obligation to pay an ascertainable amount at a future time.

Debt Security

As defined in the glossary of sharemarket terms by the Australian Stock Exchange (ASX):

(a) an unsecured note, except one convertible to a share or unit;

(b) a debenture, except one convertible to a share or unit;

(c) any security that ASX decides to classify as a debt security;

(d) but not a security ASX decides to classify as an equity security.

Deed

A written document evidencing a legal transaction. Promises in a deed do not have to be supported by consideration, which differentiates it from a contract generally.

Deposit

(a) money lodged in an account at a financial institution at call or at term;

(b) to lodge for safekeeping;

(c) initial down payment on a terms purchase;

(d) money paid as proof of intent to complete a contract.

Deposit Splitting

Money deposited with a financial institution is 'split' and credited to a number of different accounts held by the same account holder.

Derivative

Financial instruments such as options, forwards, futures, swaps, etcetera whose value is tied to or derived from an underlying security, commodity, currency, liability or index. Entities usually use derivatives to hedge against changes in interest rates and foreign exchange risks or to minimise business risks. Some derivatives are also called synthetics or exotics.

For the purposes of the GST regulations, a derivative is defined in section 196-1.01 as an agreement or instrument the value of which depends on, or is derived from, the value of assets or liabilities, an index or a rate.

Digital Currency

Digital currency is defined in section 195-1 of the GST Act as digital units of value that:

(a) are designed to be fungible; and

(b) can be provided as consideration for a supply; and

(c) are generally available to members of the public without any substantial restrictions on their use as consideration; and

(d) are not denominated in any country's currency; and

(e) do not have a value that depends on, or is derived from, the value of anything else; and

(f) do not give an entitlement to receive, or to direct the supply of, a particular thing or things, unless the entitlement is incidental to:

(i) holding the digital units of value; or

(ii) using the digital units of value as consideration;

but does not include:

(g) money; or

(h) a thing that, if supplied, would be a financial supply for a reason other than being a supply of one or more digital units of value to which paragraphs (a) to (f) apply.

Examples of things that are not digital currency are:

- loyalty points provided by retailers that can only be redeemed for products and services specified by that loyalty scheme;
- 'currency' used in online multiplayer games, that cannot be used outside the game under which the 'currency' is made available;
- 'digital currency' with value based on something else or that gives an entitlement or privileges to something else. For example, a token that is aligned with an Australian or foreign currency, or gives you an entitlement to use software application services; and
- non-fungible tokens (NFTs).

Direct Credit

This system is designed for the benefit of a company or other organisation which pays large numbers of regular payments of fixed amounts to its creditors and prefers to originate credits itself in the accounts of its creditors with the financial institutions concerned.

Direct Debit

This system is designed for the benefit of a company or other organisation which receives large numbers of regular payments of fixed amounts by standing orders from its debtors and which prefers to originate debits itself on the accounts of its debtors with the financial institution concerned.

Dishonoured Cheque

A cheque duly presented for payment that a drawee financial institution refuses to pay because the account of the drawer contains insufficient funds or because payment would make the account overdrawn beyond any overdraft limit.

Dividend

Periodic distribution, usually from profits, to ordinary shareholders. It is generally expressed as a percentage of the nominal or par value of the ordinary share capital or as an absolute amount per share. Most companies pay dividends half yearly (interim) or yearly (final).

For the purposes of the GST Act, a dividend has the meaning given by subsections -6(1), (4) and (5) of the ITAA 1936.

Documentary Collection

A method of financing international trade where the exporter presents a bill of exchange plus shipping documents to the importer's local bank with instructions as to the collection of the debt. The collection will include the exporter's explicit instructions as to the manner of payment and collection of proceeds.

Documentary Credit

Credit advice issued by a financial institution at the request of an importer authorising the payment of money to a beneficiary against delivery of specified shipping documents (usually accompanied by a bill of exchange covering the cost of goods plus freight, etcetera).

Drafts

Bills of exchange on demand are called drafts because they are drawn by one person on another. Cheques are sometimes called drafts.

Drawdown

(*v.*) To utilise all or part of a large loan facility. (*n.*) The part of a loan facility accessed at a particular time.

=E=

Electronic Funds Transfer at Point of Sale (EFTPOS)

A computerised payment system whereby a customer can electronically transfer funds from its account where the proceeds are immediately credited to the supplier's account with a financial institution in consideration for goods and services purchased from the supplier. The transaction involves the customer utilising a plastic card (or a digital representation of the card used in a mobile or wearable device) to activate the transfer of funds.

Encashment

Encashment (settlement) in relation to share trading, is an arrangement between brokerage houses for the payment or receipt of cash or securities. It represents the final consummation of a securities transaction and is handled through the stock clearing corporation.

Endorsement

A writing on the back of an instrument such as a bill of exchange, cheque, bill of lading, deed, writ, etcetera. A bill or cheque payable to order is negotiated by the endorsement of the holder, completed by delivery. If the endorser simply signs their name on the bill or cheque it becomes payable to bearer. If the instrument is transferred to a named payee this becomes a special endorsement. A restrictive endorsement destroys the negotiability of the instrument.

Entry Fee

A charge levied on money invested in a managed fund such as an unit trust, superannuation fund or life insurance policy.

Equity Security

As defined in the glossary of sharemarket terms by the Australian Stock Exchange (ASX):

(a) a share;

(b) a unit;

(c) a right to a share or unit or option;

(d) an option over a security;

(e) a security convertible into another class of securities;

(f) any security that ASX decides to classify as an equity security;

(g) but not a security ASX decides to classify as a debt security.

Escrow Agent

The holder of property to be delivered by the agent upon the fulfilment of agreed contractual conditions. Similar to a bare trustee, the role of an escrow agent usually originates to ensure completion of a contract.

Establishment Fee

A scale of charges applied by a financial institution, where a customer takes up a loan offer, to cover the cost of processing the loan application, taking security, etcetera.

Exit Fee

A fee charged on withdrawal of funds by a unit holder from a managed fund, such as an unit trust, superannuation fund or life insurance policy.

Extendable Bond

Bond whose maturity can be extended at the option of the lender or issuer.

Extendable Notes

Note with maturity that can be extended by mutual agreement between the issuer and investors.

=F=

Factoring

The sale and purchase of book debts, invoices payable etcetera for cash. The factor operates by buying from his or her clients their invoiced debts. These are purchased without recourse, the factor becoming responsible for all credit control, sales accounting and debt collection. The factor has no call on his client unless there is a dispute over the delivery or quality of the goods. It is a form of specialisation which enables companies to sell their outstanding book debts for cash. The selling company receives payment for the debts purchased on a calculated average settlement date instead of a number of small payments spread over an indefinite period.

Financial Planning Services

Provision of financial and portfolio advice to internal and external clients provided directly by in-house resources or indirectly by external service providers.

Financial Supply

A financial supply has the meaning given by the GST regulations made for the purposes of subsection 40-5(2) of the GST Act. Paragraphs 19 to 26 of this Ruling provide guidance on when something is a financial supply. ~~The provision, acquisition or disposal of an interest~~

~~mentioned in the regulations is a financial supply where that provision, acquisition or disposal satisfies the requirements in the regulations. Examples of financial supplies include maintaining and operating cheque and savings accounts for account holders; lending, including maintaining and discharging loans; mortgages; life insurance contracts; conversion of foreign currency; futures contracts, commodity derivatives, options; and shares or debentures.~~

Financial Supply Facilitator

Under ~~regulation~~section 40-5.07 of the GST regulations, a financial supply facilitator, in relation to the supply of an interest, is an entity facilitating the supply of the interest for a financial supply provider. Paragraphs 107 to 109A of this Ruling provide guidance on the meaning of financial supply facilitator.

Financial Supply Provider

Under ~~regulation~~section 40-5.06 of the GST regulations, an entity ~~who~~ in relation to the supply of an interest that was:

(a) immediately before the supply, the property of the entity; or

(b) created by the entity in making the supply is the financial supply provider of the interest.

The entity that acquires the interest is also the financial supply provider of the interest.

Paragraphs 104 to 106A of this Ruling provide guidance on the meaning of financial supply provider.

Floating Rate Note

Long term (>5 years) debt securities whose interest rates are adjusted periodically in line with a benchmark rate.

Floor Plan Arrangement/Finance

An agreement under which a financier purchases capital goods from a manufacturer or distributor for the purposes of display and sale by a wholesaler or retailer. The financier retains legal title to the goods, while possession and limited rights over the goods (and the obligation to return the goods if unsold) are granted to the dealer. Floor plan finance is a form of bailment.

Foreclosure

A remedy available to a mortgagee on default of the mortgagor, enabling the mortgagee to seek an order for extinguishing the mortgagor's equity of redemption (relevant only to general law land, not to Torrens title). Its effect is to vest full title in the mortgagee and thus enable the sale of the property with an unencumbered title.

Foreign Currency Draft

A draft payable in a foreign currency.

Foreign Currency Notes

Monetary notes otherwise than in Australian currency.

Foreign Investment Fund (FIF)

Income tax provisions apply (to interests in FIFs) for the purposes of determining the assessable income of resident beneficiaries that hold interests in certain foreign companies and trusts.

Forfaiting

A fixed interest trade financing technique whereby an exporter (seller) who receives a bill of exchange, promissory note or any other freely negotiable instrument for the supply of goods and services, discounts the debt instrument with a financial institution (the forfaiter) on a non-recourse basis after having accepted the instrument. (This means that the forfaiter cannot claim payment of the debt from the exporter if the importer defaults.) Effectively, the exporter passes all risks and responsibility for collection to the forfaiter in exchange for immediate cash payment. Unless the importer is of undoubted creditworthiness, the forfaiter will cover any risk by obtaining security by way of an 'aval' or unconditional, irrevocable bank guarantee, from the importer's bank. The forfaiter either holds the notes until full maturity (as an investment) or sells them to another forfaiter, again on a non-recourse basis. The holder of the instruments then presents each receivable to the financial institution at which they are payable, as they fall due.

Forward Contract

A cash market transaction in which two parties agree to the purchase and sale of a commodity at some future time under such conditions as the two agree. In contrast to futures contracts, the terms of forward contracts are not standardised, a forward contract is not transferable and there is no margin or collateral requirement to assure performance of the contract.

Forward Rate Agreement (FRA)

A hedge agreement between two parties to fix the interest rate of a future loan or deposit of a specified amount and term. No principal amounts are exchanged and the FRA is separate from the underlying loan or deposit.

Front-End Fee

A fee payable to a lender at the beginning of a loan or a deduction from the principal amount when investing in a rollover fund or unit trust.

Futures Contract

A standardised agreement between two parties to buy or sell a specified quantity of a commodity of a given grade or quality, or a financial instrument, or to make a cash adjustment based on a change in the price of the commodity or instrument, at an agreed time in the future. Futures contracts can be used to hedge the cost of future borrowings and the

rate of return on future money market investments. A futures contract differs from a forward contract in that the former is traded on a futures exchange.

~~**Futures Exchange**~~

~~Futures exchange means:~~

~~(a) a body corporate in relation to which an approval under section 1126 of the Corporations Act is in force; or~~

~~(b) a body corporate that is recognised as a futures exchange in a foreign country and operates as a futures exchange under the laws of that country.~~

=G=

Garnishee

To attach money held for another by means of a garnishee order.

Garnishee Order

A court order obtained by a judgment creditor attaching funds in the hands of a third party (the garnishee) who owes money to the judgment debtor. If the garnishee is a financial institution holding funds in the name of a judgment debtor, it is obliged to pay the amount in the garnishee order as the court directs.

~~**Giro Post**~~

~~Service provided by Australia Post to customers of a number of participating banks and other financial institutions. Customers of these institutions are able to use credit and debit cards at post offices to make deposits and withdrawals and obtain account balances.~~

Guarantee

A promise in writing made by one party (the guarantor or surety) that should another party (the obligor) fail to carry out an engagement made with a third party (obligee), the guarantor will be liable for the debt, default or miscarriage of the obligor. A contract of guarantee must be supported by consideration, unless it is in the form of a deed under seal.[107B]

=H=

[107B] See Goods and Services Tax Ruling GSTR 2006/1 *Goods and services tax: guarantees and indemnities.*

Hedging

Taking steps to protect against, or reduce, the risk of future price or exchange rate fluctuations.

Hire Purchase Agreement

A contract for the purchase of goods whereby the hirer acquires possession and use of, but not title to, the goods until all instalments have been paid.

Within the meaning of section 995-1 of the ITAA 1997, hire purchase agreement means:

(a) a contract for the hire of goods where:

(i) the hirer has the right, obligation or contingent obligation to buy the goods; and

…

(ii) the charge that is or may be made for the hire, together with any other amount payable under the contract (including an amount to buy the goods or to exercise an option to do so), exceeds the price of the goods; and

(iii) title in the goods does not pass to the hirer until the option referred to in subparagraph (a)(i) is exercised; or

(b) an agreement for the purchase of goods by instalments where title in the goods does not pass until the final instalment is paid.

=I=

Income Commission

Commission based fees calculated on the income derived from assets held and/or managed on behalf of another.

Indemnity

A contractual obligation under which a person assumes primary responsibility for the debt or undertaking of another.[107C]

Interchange

The process of passing transactions between participants in a payment system.

Interchange Fees

Payments and associated fees between participants in a payment system and/or operators to cover operating costs and risks associated with Interchange.

[107C] See GSTR 2006/1.

Internal Common Fund

Funds within each statutory trustee organisation made up of balances from various client trusts pooled for greater investment capability. (See also 'common fund'.)

Investment Account Contract

A contract that:

- provides for benefits to be paid on death or on a specified date(s) or on death before the specified date, or the last of the specified dates;
- provides for the benefits to be calculated by reference to a running account under the contract or units, the value of which are guaranteed by the contract not to be reduced; and
- provides for the account to be increased (for example, by the amounts of premiums paid or interest payable).

A contract is not an investment account contract if it provides for the account to be reduced otherwise than by the amounts of withdrawals by the person responsible for the payment of premiums or by the amounts of charges payable under the contract.

A contract will be an investment account contract where APRA makes a written declaration upon the request of a life company that contracts of a kind specified in the declaration and entered into by the company are, or would be, investment account contracts.

Investment-Linked Contract

A contract:

- for the provision of benefits calculated by reference to units, the value of which is related to the market value of a specified class or group of assets of the party by whom the benefits are to be provided; and
- that provides for benefits to be paid on death or on a specified date(s) or on death before the specified date, or the last of the specified dates.

A contract will be an investment-linked contract where APRA makes a written declaration upon the request of a life company that contracts of a kind specified in the declaration and entered into by the company are, or would be, investment-linked contracts.

=L=

Lease

A contract whereby one party (the lessor) grants to another party (the lessee) the exclusive right to use the lessor's property for an agreed period of time, usually in return for the payment of rent over the term of the lease agreement.

Letter of Administration

A grant by a Court authorising an administrator to administer a deceased estate. The grant of letters of administration empowers the administrator to deal with a deceased's property similarly to an executor.

Letter of Credit (Documentary Credit)

Letters of credit substitute the lender's credit for the borrower's credit. A letter of credit is frequently used by companies ordering goods from foreign suppliers with whom they have no credit relationship. A letter of credit is a short-term negotiable security where payment is assured upon presentation of certain documents or meeting certain conditions.

Different forms of letters of credit include: revolving, standby, irrevocable, revocable, confirmed, unconfirmed, commercial, traveller's, performance, transferable, back-to-back.

Letter of Identification

A letter issued by a financial institution to a customer to whom a letter of credit has been supplied. It is used with the latter as proof of the bearer's signature and identity.

Life Insurance Business

Business that consists of issuing of life policies, issuing of sinking fund policies, undertaking of liability under life policies, undertaking of liability under sinking fund policies, and any related business. It includes business declared to be life insurance business.

Life (insurance) Policy

Each of the following constitutes a life policy for the purposes of the *Life Insurance Act 1995*:

(a) a contract of insurance that:

  (i) provides for the payment of money on the death of a person or on the happening of a contingency dependent on the termination or continuance of human life;

  (ii) is subject to payment of premiums for a term dependent on the termination or continuance of human life;

  (iii) provides for the payment of an annuity for a term dependent on the continuance of human life;

(b) a contract that provides for the payment of an annuity for a term not dependent on the continuance of human life but exceeding the term prescribed by the regulations for the purposes of this paragraph;

(c) a continuous disability policy;

(d) a contract (whether or not it is a contract of insurance) that constitutes an investment account contract or investment-linked contract.

A contract that provides for the payment of money on the death of a person is not a life policy if:

(a) by the terms of the contract, the duration of the contract is to be not more than one year; and

(b) payment is only to be made in the event of:

(i) death by accident; or

(ii) death resulting from a specified sickness.

Line of Credit

A flexible loan arrangement with a financial institution agreeing to lend funds to a client on a 'come and go' basis up to a prescribed maximum figure. The client only pays interest on the funds actually borrowed. The facility is similar to an overdraft but can include fixed term borrowing as well as bank bill and other facilities. The exposure limit is reviewed regularly.

Loans (including Borrowing and Lending)

A loan is a credit arrangement under which the lender provides the use of its funds on specified terms under a business contract. Loans may be made in Australian or foreign currency.

Loans are classified by a variety of variables including:

- the lender, the size of the borrower (commercial, corporate);
- the purpose of the loan (personal, business, mortgage, franchise, venture, operating, capital or bridge);
- what is lent (Australian dollars, gold, securities);
- the nature of the interest rate (fixed or variable);
- the nature of the payment;
- whether there is collateral (secured, unsecured);
- the time to maturity, conditions of repayment (call, fixed term).

For the purposes of the GST Act, 'borrowing' has the meaning given by section 995-1 of the ITAA 1997 as any form of borrowing, whether secured or unsecured, and includes the raising of funds by the issue of a bond, debenture, discounted security or other document evidencing indebtedness.

Loyalty Program

A 'consumer loyalty program' is described in Taxation Ruling TR 1999/6 as a marketing tool operated by a supplier of goods or services (including credit card providers), or a group of such suppliers, to encourage customers to be loyal to the supplier(s). The standard features of these programs are:

(a) the customer is dealing with the supplier in a personal capacity, that is, in accordance with the normal arm's length commercial relationship that exists between consumers and suppliers;

(b) membership is restricted to natural persons;

(c) membership of the program is usually by application, which may require an application fee and/or annual fees;

(d) points are received with each purchase of goods or services;

(e) members and non-members of the program pay the same amount for goods or services purchased; and

(f) points are redeemable for goods or services.

The definition also extends to commercial business to business loyalty programs which offer the features listed in (c) to (f) above but does not include loyalty programs which provide for trade or volume discounts.

Membership of a trade exchange (barter scheme) does not constitute membership of a loyalty program.

Refer to GSTR 2012/1, which provides details of the types of features present in certain types of loyalty programs.

=M=

Macroeconomics

Economic analysis concerning broad trends and influences on the economy, such as the interaction of fiscal and monetary policies, GDP, balance of payments, etcetera.

Managed Investment Scheme

A managed investment scheme is defined under section 9 of the Corporations Act to mean:

(a) a scheme that has the following features:

(i) people contribute money or money's worth as consideration to acquire rights (interests) to benefits produced by the scheme (whether the rights are actual, prospective or contingent and whether they are enforceable or not);

(ii) any of the contributions are to be pooled, or used in a common enterprise, to produce financial benefits, or benefits consisting of rights or interests in property, for the people (the members) who hold interests in the scheme (whether as contributors to the scheme or as people who have acquired interests from holders);

(iii) the members do not have day-to-day control over the operation of the scheme (whether or not they have the right to be consulted or to give directions); or

(b) a time-sharing scheme;

The Corporations Act definition excludes particular items from the meaning of a managed investment scheme for the purposes of that Act. Some of these exclusions are added to the definition of a Security for the purposes of the GST regulations. These exclusions are identified below. For the purposes of section 9 of the Corporations Act a managed investment scheme does not include the following:

- a partnership that has more than 20 members but does not need to be incorporated or formed under an Australian law because of regulations made for the purposes of subsection 115(2);
- a body corporate (other than a body corporate that operates as a time sharing scheme);
- a scheme in which all the members are bodies corporate that are related to each other and to the body corporate that promotes the scheme;[108]
- a franchise;
- a statutory fund maintained under the *Life Insurance Act 1995;*
- a regulated superannuation fund, an approved deposit fund, a pooled superannuation trust, or a public sector superannuation scheme, within the meaning of the *SIS Act;*
- a scheme operated by an Australian ADI in the ordinary course of its banking business;[109]
- the issue of debentures or convertible notes by a body corporate;
- a barter scheme under which each participant may obtain goods or services from another participant for consideration that is wholly or substantially in kind rather than in cash;[110]
- a retirement village scheme operating within or outside Australia:
  - (i) under which the participants, or a majority of them, are provided, or are to be provided, with residential accommodation within a retirement village (whether or not the entitlement of a participant to be provided with accommodation derives from a proprietary interest held by the participant in the premises where the accommodation is, or is to be, provided); and
  - (ii) which is not a time-sharing scheme;
- a scheme that is operated by a co-operative company registered under Part VI of the *Companies (Co-operative) Act 1943* of Western Australia or under a previous law of Western Australia that corresponds to that Part;[111]
- a scheme of a kind declared by the regulations not to be a managed investment scheme.

[108] Paragraph (e) of the definition. This exclusion is added back as a security for the purposes of the GST regulations.
[109] Paragraph (i) of the definition. This exclusion is added back as a security for the purposes of the GST regulations.
[110] Paragraph (k) of the definition. This exclusion is added back as a security for the purposes of the GST regulations.
[111] Paragraph (m) of the definition. This exclusion is added back as a security for the purposes of the GST regulations.

Management Fee

The fee charged by a managed fund's manager(s), a superannuation fund's manager(s) or life insurer's manager(s) for investment management, administration, trusteeship, services, etcetera.

Mandate

The agreed objectives given by an investor to his or her investment manager, often including a benchmark portfolio, guidelines as to maximum and minimum sector exposures, and prohibited investments. A mandate is usually set out as part of the management agreement between a fund manager and its client.

Margin

(a) the difference between a cost price and sale price of goods, securities and other property;

(b) a deposit of money on the purchase of securities;

(c) the difference between a benchmark rate and the interest rate charged to individual borrowers;

(d) the difference in dollar terms between financial accommodation and security lodged by a borrower;

(e) the difference between the spot price and forward price of a currency;

(f) the difference between the interest rate paid on deposits and charged for loans.

Master Custody

Custody of all assets of clients domiciled in a particular market with which the master custodian has a direct contractual arrangement so that the master custodian has primary control of the client's assets. In addition to providing core custody services, master custody delivers consolidated tax reporting of multiple investment manager portfolios in domestic and foreign currency, as well as performance analysis, and reporting that complies with Australian accounting standards.

Master Fund

An investment vehicle that enables individual investors or small superannuation funds to channel money into one or more underlying investments, most commonly wholesale or retailed pooled funds operated by professional investment managers.

Master funds can generally be categorised into three distinct types:

- discretionary funds – where the individual investor selects the underlying investment product(s) from a list drawn up by the master fund manager;
- fund of funds – where the investor selects a general risk profile (for example, growth, capital stable), but the master fund manager selects the underlying investments from among a range of products managed by external managers;

- feeder funds – operate similarly to fund of funds arrangements, but with the master fund manager also being responsible for managing the underlying investments.

Master funds that are structured as prescribed interests are commonly referred to as master trusts. However, the term master fund encompasses the broader scope of the industry including products offered by life insurance companies.

Merchant

An entity that supplies goods and/or services.

Microeconomics

Economic analysis dealing with individual companies or markets and their impact on the economy.

Money

Money is defined by section 195-1 of the GST Act to mean:

(a) currency (whether of Australia or of any other country); and

(b) promissory notes and bills of exchange; and

(c) any negotiable instrument used or circulated, or intended for use or circulation, as currency (whether of Australia or of any other country); and

(d) postal notes and money orders; and

(e) whatever is supplied as payment by way of:

  (i) credit card or debit card; or

  (ii) crediting or debiting an account; or

  (iii) creation or transfer of a debt.

However, it does not include:

(f) a collector's piece; or

(g) an investment article; or

(h) an item of numismatic interest; or

(i) currency the market value of which exceeds its stated value as legal tender in the country of issue.

Money Order

An order for the payment of money, issued by and payable at post offices and requiring proof of ownership before payment.

Mortgage

A conveyance or transfer of title (either equitable or legal) to property by the owner (mortgagor) to another person (mortgagee) to secure repayment of money. The borrower remains in possession of the property and, once the loan has been repaid, the property is reconveyed to the mortgagor. In the event of default, the property may be sold and the surplus proceeds, if any, after expenses of sale and repayment of indebtedness, go to the mortgagor.

Mortgage-backed securities

Securities backed by a pool of mortgage loans.

Mortgage ~~Broking~~Broker

~~Mortgage broking is the execution of the mortgage.~~

The Macquarie Dictionary defines a broker to be a 'middleman or agent'. Brokers may also be referred to as intermediaries. Mortgage brokers may introduce borrowers to a range of different lenders or, alternatively, may introduce a range of different borrowers to a lender.

Mortgage Investment Schemes

A mortgage investment scheme differs from a simple loan secured by a mortgage in the following three ways:

- more than one person contributes money to buy an interest in the benefits produced by the scheme (in some instances the scheme may include single investor loans);
- the money people contribute is pooled or used in a common enterprise for the scheme members;
- members of the scheme do not have day-to-day control over the scheme's operation.

Types of mortgage investment schemes include registered managed investment schemes, small industry supervised schemes, runout schemes, and twenty investor or less schemes.

For the purposes of the GST regulations, mortgage scheme means a managed investment scheme that has at least 50% of its non-cash assets invested in mortgage loans or in one or more other mortgage schemes.

Mortgagee

A lender who provides finance that is secured by a mortgage or charge over the property being financed.

Mortgagor

A borrower that takes out a mortgage over its property to secure a debt in favour of a mortgagee.

Mutual Fund

The United States equivalent of a unit trust in operation, but managed by an investment company.

=N=

Negotiable Instrument

An instrument such as a bill, promissory note or cheque that is capable of being transferred by delivery or endorsement and delivery, so as to give a good title to the transferee, taking bona fide and for value, thus constituting it the true owner, notwithstanding any defect in title in the transferor.

Negotiation

Transfer of a cheque or bill of exchange to another party for valuable consideration in such a manner as to constitute the transferee its holder.

Negotiation Fee

Fee charged for arranging financial accommodation, particularly by the lead bank of a consortium of lending institutions.

Night Safe/Wallet

An overnight safe custody facility offered by financial institutions whereby traders can deposit monies through a form of letterbox that is accessible from the street after operating hours. The money is deposited in either a locked bag or wallet. Some wallets or bags are locked by the customer and held unopened for collection by the customer the next working day. Other wallets or bags are locked by the customer and opened by the financial institution and credited to the customer's account.

Nominee

An entity named by another (the nominator) to act on its behalf, often to conceal the identity of the nominator.

Nominee Company

A financial institution or other company which holds shares, securities or other property for another, sometimes with a view to concealing ultimate beneficial ownership. A nominee company performs the usual administrative functions of portfolio management such as registration of securities and collection of dividends and interest.

Nostro Account

An account maintained by an Australian bank with another bank in a foreign country. The account is kept in the currency of that country, with the equivalent Australian dollar value listed separately, and is used for settling foreign exchange transactions and for making and receiving foreign payments.

Numismatic

Means relating to, or consisting of, coins and medals. Numismatics refers to the collecting of coins, commemorative or military medals and ~~more recently,~~ currency notes. An item of numismatic interest is one which, from the supplier's perspective, is supplied specifically for the purpose of collection.

=O=

On-Charge

An expense the payer has the liability to pay and seeks to pass on in the price charged for a subsequent supply.

Option

A contractual right but not an obligation to buy or sell a fixed quantity of a commodity, currency, financial security, etcetera, at a particular price (the exercise or strike price). Options are frequently used for speculation or hedging against future market prices. An option to buy is known as a call option and an option to sell is a put option.

Overdraft

A facility which enables an account to go into debit (overdraw) up to a maximum figure – the overdraft limit. Charges in relation to the overdraft may include interest charged on the daily balance, a total facility fee, a usage fee and an unused limit fee to compensate the financial institution for having the additional funds on standby.

=P=

Participant

In relation to a payment system, is defined in the dictionary to the GST regulations to mean a person who is a participant in the system in accordance with the rules governing the operations of the system.

Passbooks

A passbook is a record in debit and credit form of the ledger entries in a customer's current account. It provides the customer with a list of all account transactions including interest. If the financial institution is expressed to be in account with the customer, credit items are entered on the left-hand side and debit items on the right-hand side, and vice versa if the customer is expressed to be in account with the financial institution.

Pawnbroker

One whose business is to lend money, usually in small amounts, on security of pledged personal articles that are redeemable on payment of the sum owed, including interest.

Payer

In relation to the BPAY payment system, a payer is a consumer or business banking customer who pays a bill through BPAY.

Payer Institution

In relation to the BPAY payment system, a payer institution is a participating financial institution which accepts payments from consumers or business banking customers on behalf of participating billers.

Payment Order

An unconditional order in writing that requires a person to pay on demand a stipulated sum in money to another person. Section 9 of the Corporations Act defines payment order to mean a cheque (including a cheque that a bank or other institution draws on itself), bank draft, money order or postal order.

Payment System

Payment system is defined in the dictionary to the GST regulations as a funds transfer system that facilitates the circulation of money or digital currency, including any procedures that relate to the system.

Personal Services Fees

The provision of a range of services including client portfolio management services, powers of attorney, court award administrations and estates managed pursuant to awards from guardianship boards.

PIN

Abbreviation for personal identification number. A PIN is used like a password to access or activate an account.

Pooled Superannuation Trust

A superannuation trust which complies with certain conditions set out in the SIS Act and regulations, and into which complying funds may place their investments.

Power of Attorney

A formal authority usually conferred by deed on one person (called the donee or attorney) to represent another (the donor or principal) or act in the donor's stead either generally or for specified purposes.

Precious Metal

Precious metal is defined under section 195-1 of the GST Act to mean:

(a) gold (in an investment form) of at least 99.5% fineness; or

(b) silver (in an investment form) of at least 99.9% fineness; or

(c) platinum (in an investment form) of at least 99% fineness; or

(d) any other substance (in an investment form) specified in the regulations of a particular fineness specified in the regulations.

Premium

In relation to insurance, a periodic or single payment made by the insured (policyholder) in consideration for the insurance cover provided by the insurer. Insurance premiums are based on the degree of risk involved.

In relation to life insurance, 'premium' includes 'life insurance premium' as defined in section 995-1 of the ITAA 1997.

In relation to options, the premium is the cost of buying the option; it represents the maximum amount the option-buyer can lose and is income of the option-seller.

In relation to futures, a 'premium' is the excess of one futures contract price over that of another. It also refers to the difference by which one spot commodity sells over another grade of the same or another spot commodity.

Principal

In relation to investments and loans refers to the capital sum invested, or the capital sum advanced and owing under a loan, on which interest payable is calculated.

In relation to an agency relationship, refers to a person who authorises another to be that person's agent or broker in a transaction.

Probate

The confirmation by a Court, on the application of the executor appointed under a will, that the will is valid and that the executor is authorised to administer the estate of deceased person in accordance with the will.

Promissory Note

An unconditional promise in writing requiring the party to whom it is addressed to pay the amount stipulated on demand or at a fixed or determinable future time.

Prospectus

A formal written document setting out the nature and objects of an offer of securities to potential investors which, under the Corporations Act, is required to be lodged with the Australian Securities & Investments Commission in certain circumstances.

Proxy Vote

A vote under a written authorisation given by a shareholder to someone else to vote his or her shares at a shareholder's meeting. Fund management agreements often delegate the authority to the fund manager to exercise proxy votes on behalf of the client.

Public Sector Superannuation Scheme

A superannuation fund that provides benefits for government employees.

=R=

Real Time Gross Settlement (RTGS)

A system of settlements for high value exchange transactions between clearing house members which take place progressively each day in order to reduce settlement risk.

Recourse

The right of a lender to claim payment of a debt from the debtor, or any guarantor of that debt (if demand on the principal debtor is unsatisfied).

Recovery

Where the payer seeks to recover the payment of expenses made on behalf of another party where the payer did not have a liability to pay.

Redemption and Capital Repayment

Redemption is the act of withdrawal, retirement or repayment of a debt before or on maturity, recovery of mortgaged property by payment of the mortgage debt in full or cashing in of units in a unit trust.

Redrawing

Gives borrowers access to additional payments they have made to their loan without having to go through a complete application process. Example: a borrower's minimum loan repayment is $100 per month, but he or she makes repayments of $200. The difference of $100 goes into a redraw account and once the amount reaches $2000, the borrower can redraw it.

Reduced Credit Acquisitions

~~Regulation~~Section 70-5.02 of the GST regulations provides that for the purposes of subsection 70-5(1) of the GST Act, an acquisition mentioned in ~~subregulation (2)~~the table that relates to making financial supplies ~~gives~~can give rise to an entitlement to a reduced input tax credit. ~~Subregulation (2)~~The table in subsection 70-5.02(1) contains an exhaustive list of the acquisitions that are reduced credit acquisitions.

Registered Office Fee

Fee levied for acting as the registered office of an entity under the Corporations Act.

Registry

An entity engaged by another entity to issue its securities. Duties of the registry can include the maintenance of shareholder records (including the registration of transfers), recording changes of name and address, replacing share certificates, etcetera.

Regulated Superannuation Fund

Under the SIS legislation, a fund is eligible to receive the taxation concessions only if it is classed as a regulated superannuation fund and meets specified standards of operation. A regulated superannuation fund is one which:

- elects to comply with the SIS legislation;
- has either a corporate trustee or pays retirement benefits as pensions;
- is a superannuation, pension provident or benefit fund that is indefinitely continuing.

Reinsurance

A means whereby an original insurer distributes its potential liability by laying off part of its risk to another insurer (the reinsurer) with the object of reducing the amount of its possible loss.

Related Business

Related business includes business relating to the investment, administration and management of the assets of a statutory fund.

Rent Card

A rent card is a valid payer identification card containing a barcode or other unique identifier issued by a bank. It is used to facilitate the payment of rent by a tenant.

A rent card is akin to a stored value facility card or prepayment and is not usually linked to an account with an ADI. Some rent cards may be more akin to a debit card and linked to an ADI.

Repurchase Agreement (Repos)

An agreement whereby securities are sold by one party to another party on the proviso that the first party may repurchase them at a specified price and time.

Reserve Bank of Australia (RBA)

The RBA is Australia's central bank. The Reserve Bank's main function is monetary policy. Policy decisions are made by the Reserve Bank Board, with the objective of achieving low and stable inflation over the medium term. Other major roles are maintaining financial systems stability and promoting the safety and efficiency of the payments system. The Bank is an active participant in financial markets, manages Australia's foreign reserves, issues Australian currency notes and serves as banker to the Commonwealth Government.

Responsible Entity (RE)

Relates to managed investment schemes. The RE role, established in the *Managed Investments Act 1998*, combines the functions of both the trustee and fund manager, with the RE directly responsible for the fiduciary duties and responsibilities previously held by the trustee.

Restructured Loans

Loans on which repayments were in default or likely to be in default and which have had the term extended to assist the borrower to meet repayment terms.

Retirement Savings Accounts (RSAs)

A facility offered by banks, life offices, building societies, credit unions or prescribed financial institutions that allows account holders to accumulate their own superannuation funds. This superannuation product is not managed as a trust on behalf of beneficiaries, but enables those institutions to provide superannuation from their balance sheets direct by treating superannuation contributions as deposits or premium payments.

Reverse Repurchase Agreement (Reverse Repos)

An agreement whereby the Reserve Bank sells Commonwealth Government Securities to the market on the basis that it will repurchase them at a price and date agreed upon at the time of the transaction.

Revolving Credit

A credit facility with a fixed limit which can be drawn against and repaid within the terms agreed upon provided the agreed limit is respected. This facility operates similarly to an overdraft. Credit cards are an example of consumer revolving credit.

Risk Management

Monitoring and systematic assessment of the risk profile of an investment portfolio or of an entire organisation to achieve a balance between risk minimisation and reward for risks accepted. Financial risks can be alleviated by hedging, financial futures and other devices.

Rollover

Means to renew or extend an investment beyond its maturity date. For example, a term deposit may be 'rolled over' when it matures.

Rollover of an eligible termination payment (ETP) refers to the transfer of an ETP to a rollover fund or to another superannuation fund or retirement savings account.

Rollover Bond

A rollover bond is a fixed rate bond that can be 'rolled over' each year without any action being required by the bondholder. ('Rolled over' in this context means continued or renewed.)

Rollover Fund

A fund that can accept eligible termination payments and that is eligible for the same concessional tax treatment as a superannuation fund.

=S=

Safe Custody

The physical safekeeping of property or belongings on behalf of others.

Salary Continuance Insurance

A contract of insurance that provides for the payment of income benefits during the absence of a person from work due to temporary disability. Sometimes referred to as income disability cover, income protection cover or temporary disablement cover.

Scrip (Subscription)

A document with an identifying number evidencing ownership of shares in a company.

Securities

~~For the purposes of item 10 of subregulation 40-5.09(3) of the GST regulations, securities has the meaning given by subsection 92(1) of the Corporations Act~~ and ~~includes~~:

~~(a) a debenture described in paragraph (a), (b)), (c) (d),(e) or (f) of the definition of debenture in section 9 of the Corporations Act;~~

~~(b) a document issued by an individual that would be a debenture if it were issued by a body corporate;~~

~~(c) a scheme described in paragraph (e), (i), (k) or (m) of the definition of managed investment scheme in section 9 of the Corporations Act; and~~

~~(d) the capital of a partnership or trust.~~

Section 196-1.01 provides that 'securities' has the meaning given by subsection -92(1) of the Corporations Act.

Under section 92(1) of the Corporations Act, 'securities' means:

(a) debentures, stocks or bonds issued or proposed to be issued by a government; or

(b) shares in, or debentures of, a body; or

(c) interests in a managed investment scheme; or

…

(d) units of such shares;

…

but does not include:

(f) a derivative (as defined in Chapter 7), other than an option to acquire by way of transfer a security covered by paragraph (a), (b), (c) or (d); or

(g) an excluded security.

'Excluded security' means:

(a) where:

(i) there is attached to a share or debenture a right to participate in a retirement village scheme; and

(ii) each of the other rights, and each interest (if any) attached to the share or debenture is a right or interest that is merely incidental to the right referred to in subparagraph (i);

the share or debenture or a unit in the share or debenture; or

(b) an interest in a managed investment scheme constituted by a right to participate in a retirement village scheme.

[112] [Omitted.]~~See definition of debenture in Glossary.~~
[113] [Omitted.]~~See definition of managed investment scheme in Glossary.~~

However, for the purposes of table item 10 of subsection 40-5.09(3) of the GST regulations, securities has a broader meaning. It has the meaning given by subsection 92(1) of the Corporations Act and also includes:

(a) a debenture described in paragraph (a), (b), (c), (d). (e) or (f) of the definition of debenture[114] in section 9 of the Corporations Act;

(b) a document issued by an individual that would be a debenture if it were issued by a body corporate;

(c) a scheme described in paragraph (e), (i) or (m) of the definition of managed investment scheme[115] in section 9 of the Corporations Act; and

(d) the capital of a partnership or trust.

Securities Lending Arrangement

An arrangement where the holder of securities (the lender) agrees to make those securities available to a borrower for a certain period. At the end of that period, securities which are either the original securities lent, or replacement securities of the same number and type as the original securities are returned to the lender. The borrower pays a fee for the use of the securities for the period.

A key factor in such securities lending arrangements is that legal title in the securities passes from lender to borrower so that the borrower can deal with the securities in any manner deemed to be necessary. Typically, the borrower provides security to the lender in order to secure the borrowing. The security provided may be cash deposited with the lender, equal to the market value of the securities (including accrued interest) plus a margin to cover the lender for increases in the value of the security during the borrowing period in the event that the borrower defaults on the obligation to return the securities at the end of the borrowing period.

Section 26BC of the ITAA 1936 enables both borrowers and lenders involved in securities lending arrangements to treat these transactions as loans rather than sales and purchases of securities. This type of arrangement is commonly known as a 'securities lending agreement' or 'stock loan'.

Securitisation

The process whereby an entity packages and converts legal or beneficial title to future receivables and kindred assets into marketable debt securities which are traded in the capital market.

The key participants in a securitisation program are:

- the **program vehicle** - the entity (in Australia, generally a special purpose vehicle (SPV) company or trust) that acquires the assets and issues securities to investors;
- the **investors** - who subscribe for debt or equity securities issued by the SPV. The SPV employs the subscription moneys to acquire the assets being securitised;

[114] See definition of debenture in Glossary.
[115] See definition of managed investment scheme in Glossary.

- the **program manager** - the party that co-ordinates the establishment of the program and manages it on an on-going basis;
- the **seller** or **originator** - the party that sells the assets to the program vehicle or, if the program generates its own assets, the party that locates (originates) the assets. This entity often continues to manage the assets (as the servicer) after they have been acquired by the program vehicle;
- the **trustee** - in structures that use a trust as the SPV, this will normally be a professional trustee company. Its role is usually fairly limited, with the day-to-day administration of the program vehicle being carried out by the program manager;
- the **security trustee** - the program vehicle will normally be required to give a mortgage or other securities over its assets to a security trustee, who holds the benefit of the securities on trust for all the investors from time to time;
- the **providers of any external credit enhancements** - such as credit or liquidity lines, letters of credit and currency or interest rate swaps; and
- the **ratings agencies** - the investors will usually require that the securities receive a high rating from at least one recognised rating agency.

Securitisation Vehicles Rating Services

The service provided by at least one recognised rating agency for a fee to credit rate the securities of the program vehicle (such as the special purpose vehicle).

Security Trustee (Securitisation)

The securitisation vehicle will normally be required to give a mortgage or charge over its assets to a security trustee that holds the benefit of the mortgage or charge on trust for all the investors from time to time.

Set Off

A common law right by which any debtor is entitled to take into account a debt owing to the debtor by a creditor when being sued for a debt due to the creditor. In order that this right of set off may be exercised, the debt must be a sum certain, due by and to the same parties, and in the same right. Set off by agreement arises where the customer executes a document which enables a lending institution to set off the customer's accounts. A statutory set off is available to individuals under the *Bankruptcy Act 1966* and to companies under the Corporations Act where there have been mutual credits, mutual debts or other mutual dealings.

Settlement

(a) payment of outstanding accounts;

(b) the discharge of a debt or obligation, particularly to a financial institution, or the exchange of value on the acquisition of assets (that is, the transfer of consideration in a securities transaction);

(c) making funds available at the commencement of a loan.

Share

A share in the capital of a company and includes stock except where a distinction between stock and share is expressed or implied. The main types of shares are: ordinary shares, which confer a right to vote and a right to share in the surplus assets of the company on dissolution, plus (usually) a right to a dividend; and preference shares, which give the holder a preference, generally in the form of priority in the payment of a declared dividend, or in the distribution of capital.

Single Responsible Entity

Relates to managed investment schemes. The statutory requirement under the Corporations Act is to have a single responsible entity whose role is to act as trustee and manager (see definition of Responsible Entity).

Smart Card

An article commonly known as a smart card that has the capacity to keep a record of financial transactions using the article.~~is a plastic card imbedded with a computer memory chip (integrated circuit) that is programmable and has memory storage capacity, that when used has the capacity to keep a record of financial transactions (debits and credits) without the aid of a central computer.~~

Society for Worldwide Interbank Financial Telecommunication (SWIFT)

Co-operative society created under Belgian Law, registered in Brussels, and owned by over 2000 banks throughout the world. It aims to enable members to transmit to other members international payments, statements and other messages connected with international banking. The SWIFT system provides rapid transmission of messages in standardised and computer readable form.

Special Purpose Vehicle

In relation to a securitisation arrangement, the company or trust that acquires the assets and issues securities to investors.

Spread

The difference between interest rates charged on loans and that paid to borrowers; the margin between buying and selling rates in foreign exchange; the margin above a benchmark rate; dispersion of risks underwritten by an insurer.

Stored Value Card

Stored value cards record a prepaid dollar amount that can be used to purchase products or services. In addition to cash, the card can record other items of value, such as points, etcetera. The card is 'loaded' with a prepaid dollar amount or point value, against which purchases are deducted (debited) until the value becomes zero. When the value reaches zero, the card is either discarded or can be recharged with additional dollars/points. Cards usually have an

encoded magnetic stripe with a unique serial number and/or PIN number. In some systems, a bar code or microchip can provide the same function as the magnetic stripe.

Structured Note

A derivative investment that will change in value with movements of an underlying index, or a note whose issuer makes swap arrangements to alter its required cash flows.

Subordinated Notes

Unsecured bonds that rank behind other debt, but ahead of shareholders, in the event of liquidation.

Subpoena

A writ issued in action or suit requiring the person to whom it is directed to be present at a specified place and time, and for a specified purpose, under a penalty. A subpoena can compel a witness to attend in court or before an examiner or referee, to give evidence and also to bring certain documents in their possession specified in the subpoena (*subpoena duces tecum*).

Subrogation

The substitution of one entity for another, so that the same rights and duties which attached to the original entity attach to the substituted one. An insurer is subrogated to the rights of (steps into the shoes of) the insured on paying the latter's claim. A guarantor who is called upon to honour a guarantee may be subrogated to the rights of the creditor, including security if any, given by the creditor to support a guaranteed debt.

Superannuation Fund

Superannuation fund has the meaning given by section 10 of the SIS Act:

(a) a fund that:

(i) is an indefinitely continuing fund; and

(ii) is a provident, benefit, superannuation or retirement fund; or

(b) a public sector superannuation scheme.

Superannuation Trustee

Trustee of a superannuation fund.

Swaps

Swaps are the exchange of one entitlement or obligation for another.

Sweep Facility

A facility whereby surplus funds in a customer's cheque account are automatically transferred to an investment account which earns a higher rate of interest.

SWIFT Payment Delivery System

A communications system that advises member institutions to transfer funds from one member to another.

SWIFT Telex Message

A non-profit electronic confirmation system that provides secure messaging services and interface software to financial institutions globally.

Syndicated Loan

Accommodation provided by a consortium of financial institutions where the loan size is beyond the capacity of a single lender and it is desired to spread the risk. Generally, one institution acts as a lead manager, earning a fee based on a percentage of the total facility. A number of other lenders provide the financial facility on a joint basis.

Syndication

An arrangement between a number of different parties or financial institutions to jointly devote resources to a particular undertaking.

=T=

Telegraphic Transfer

A method of transmitting money overseas, generally in the currency of the payee, by cable or telex between banks or bank branches. The payments may be credited to the payee's account at a designated bank or held at the disposal of the payee for payment in cash on application and identification.

Term Deposit

Money invested for a fixed period of time (usually short or medium term) at a specified rate of interest that applies for the length of the deposit.

Time Sharing Scheme

A time sharing scheme is defined under section 9 of the Corporations Act to mean a scheme, undertaking or enterprise, whether in Australia or elsewhere:

(a) participants in which are, or may become, entitled to use, occupy or possess, for 2 or more periods during the period for which the scheme, undertaking or

enterprise is to operate, property to which the scheme, undertaking or enterprise relates; and

(b) that is to operate for a period of not less than 3 years.

Trailing Commission

Commission paid upon the introduction of investment and/or continued investment in a financial product. It is usually calculated on the capital amount invested.

Transaction Card

A debit card, charge card, credit card or smart card. Refer to section 196-1.01 and paragraphs 191 to 204 of GSTR 2004/1 for further explanation.

Traveller's Cheques

Instruments issued by a financial institution in both domestic and foreign currencies authorising payment to be made to, or value accepted from, the holder. These instruments must be signed in front of the issuing agent and countersigned when cashed or negotiated. Travellers' cheques are neither 'cheques' nor 'bills of exchange'. They are not unconditional orders to pay, as they require a countersignature when requesting payment.

Trust

An equitable obligation, binding a person (a trustee) to deal with property over which he or she has control (the trust property) for the benefit of persons (beneficiaries or *cestius que trust*) of whom he or she may himself or herself be one, and any one of whom may enforce the obligation. A trust may be express (that is, arising by an expressed intention to create a trust) or implied (that is, where the law creates a trust).

Trust and Estate Administration

The administration of deceased estates under the terms of a will or the laws of intestacy and the administration of related deceased trusts and trusts emanating from deeds.

Trust Deed

The formal document that establishes a trust and conveys title to trust property to the trustee acting on behalf of the beneficiaries. The deed contains the name of the trustee(s), the trust manager (if any) and the beneficiaries, as well as the powers and duties of the trustee. If a unit trust, the deed will also cover investment guidelines, dividend payments, etcetera.

Trustee

A person who holds the legal title to property for the benefit of another or others.

=U=

Underwriting

Underwriting is simply defined in section 9 of the Corporations Act to include 'sub-underwrite'. In general, an underwriter assumes risk by agreeing to take up securities if unable to place them.

Best endeavours underwriting does not involve the underwriter assuming risk because the underwriter does not commit to taking up securities if the issue is undersubscribed. The underwriter undertakes to use its best endeavours to sell securities for the issuer as agent. Best endeavours underwriting is not the provision of an interest mentioned in ~~subregulation~~subsection 40-5.09(3).

Underwriting includes both debt and equity underwriting.

Unit Pricing

The periodical pricing of units in a unit trust, the underlying values of which are represented by various securities and investments.

Unit Registry

The maintenance of records relating to the investors in property investment trusts or funds, including, for example, the registration of transfers, recording changes of name and address, etcetera.

Unit Trust

Unit trust is defined in section 195-1 of the GST Act as having the meaning given by subsection 202A(1) of the ITAA 1936.

It is used as a form of pooled investment, where a number of investors buy units in a trust. Some unit trusts are promoted and managed by professional investment managers. The value of the units is set either by the market (if the trust is listed) or by the trustees (if it is unlisted).

=V=

Vostro Account

An account of a correspondent bank held with an Australian bank, in Australia, in Australian currency.

Voucher

A document that supports deposits or withdrawals made from an account (for example, deposit or withdrawal slips; credit, debit and charge card duplicates). It does not refer to a voucher as defined in section 100-25 of the GST Act.

=W=

Warrant

A certificate giving the holder the right to purchase shares on stock at a stipulated price within a specified time span, or in some cases, indefinitely. Warrants are sometimes attached to other securities as an added purchase inducement and may be traded separately after issue.

Withdrawal

Taking money out of an account by means of a voucher or through an ATM.

Without Recourse

The lender cannot claim payment of the debt from the debtor in the event of default.

(Also known as non-recourse).

Wrap Account

An investment consulting relationship for management of a client's funds by one or more money managers, that bills all fees and commissions in one comprehensive fee charged quarterly.

=Z=

Zero-Balance Facility

Cheque account operated by a company by which cheques are drawn against the account balance that at the start of the day is always zero. At the end of the day the value of all cheques drawn is totalled and the amount is transferred into the account so that the account balance reverts from a debt to zero.

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Superannuation Industry (Supervision) Act 1993

Other references

We also drew upon information provided by the following organisations, and wish to acknowledge their contributions:

Australia and New Zealand Banking Group Limited

Australian Bankers' Association

American Express International Inc

AMP Bank Limited

Australian Financial Markets Association website (www.afma.com.au)

Australian Friendly Societies Association

Australian Prudential Regulation Authority website (www.apra.gov.au)

Australian Securities and Investment Commission website (www.asic.gov.au)

Australian Stock Exchange Limited website (www.asx.com.au)

Association of Superannuation Funds of Australia Limited (including the ASFA website www.superannuation.asn.au)

Canada Customs and Revenue Agency

Commonwealth Bank of Australia

Computershare website (www.computershare.com.au)

CPS Credit Union (ACT)

Credit Union Services Corporation (Australia) Limited

Duke University website (www.duke.edu.au)

Financial Review website (www.afr.com.au)

Investment and Financial Services Association

International Banks and Securities Association of Australia (including the IBSA website www.ibsa.asn.au)

National Australia Bank Limited

Reserve Bank of Australia website (www.rba.gov.au)

St George Bank Limited

Trustee Corporations Association of Australia

Westpac Banking Corporation

Schedule 2

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Schedule 2

Supplies of financial interests and related supplies by financial supply providers§ and financial supply facilitators§

References
The table below uses the following style of abbreviations
"9-5" – means section 9-5 of the GST Act
"40-5.09" – means ~~regulation~~section 40-5.09 of the GST regulations
"40-5.09(3)" – means ~~subregulation~~subsection 40-5.09(3) of the GST regulations
"**40-5.09(3) Item 1 "** –~~–~~ means table item 1 of ~~subregulation~~subsection 40-5.09(3) of the GST regulations
"40-5.12 Items 1 & 2" – means table items 1 and 2 of ~~regulation~~section 40-5.12 of the GST regulations
"40-5.09(4)" – means ~~subregulation~~subsection 40-5.09(4) of the GST regulations
"70-5.02(2) Item 6(c)" – means table item 6(c) of ~~subregulation~~subsection 70-5.02(~~2~~)1) of the GST regulations

Please note:

1. Fees, charges and payments received or charged for a supply are generally regarded as consideration (or part of the consideration) for a financial supply rather than a financial supply themselves. For example, interest payable on money loaned or deposited is generally regarded as part of the consideration for the use of money (a debt).

   In this table the listed fees, charges and payments are given a GST status which technically corresponds to the supply for which they are given as consideration. For example, fees paid as part of the consideration for a loan are categorised as 'input taxed'. Where consideration is listed in the second column, the item (or legislative provision) that relates to it is listed in the third column.

2. Some supplies (fees, charges, etcetera) may be covered by more than one item. The fact a supply appears under a particular heading in this Schedule does not mean that it cannot also be covered by another item, however that does not make it more than one supply. The fact something is not mentioned as being covered by an item does not mean that it is not or cannot be covered by that item.

3. The supply of something is not a financial supply if it does not satisfy the requirements of section~~regulation~~ 40-5.09 or if it is mentioned within an item in section~~regulation~~ 40-5.12. Where this is the case, the table contains a reference to the relevant item in the GST regulations as well as the provision in the GST Act (if any) that determines its GST status. Items of this kind in the table are identified by the symbol "†".

4. If something is said to be taxable, GST-free or input taxed, within column 4 of the table, it is assumed that the other conditions for a supply of that type are also met (for example, for a taxable supply, that the requirements of section 9-5 are able to be satisfied.) These items in the table are identified by the symbol "‡". The actual status will depend on all the facts and circumstances of the supply. Each transaction will need to be judged and its GST status determined by having regard to all the facts and circumstances particular to that case.

4A. The fact that something is not specifically mentioned in Schedule 2 as being GST-free wholly or in part under subsection 38-190(1) does not mean it is not, or cannot be, covered by that provision. Reference should be made to paragraph 288A of this Ruling.

5. Any references to table item 1 of ~~regulation~~ subsection 40-5.09(3) in column 3 of the table are only relevant to ADIs however most things covered by table item 1 should apply (where relevant) to non-ADIs.

Line numbers in column 1 are used for ease of reference to a particular item and have no legislative basis. The symbol "§" indicates that the term is defined in Schedule 1, which does not form part of this Ruling.

A. Summary of fees and services - Transaction banking & cash management

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
	ACCOUNTS[§]			
A1	The following fees and charges by Australian ADIs[§] as account provider to account holders, or by an ADI to a non-account holder for a fee of less than $1,000:			Where supplied to a non-account holder the following conditions must also be met: 1. item 1 in ~~subregulation~~subsection 40-5.09(3) would have applied to that supply in relation to an account with the ADI; or 2. the fee relates to an application to the ADI that, if accepted, would result in the creation of an account by the ADI.[116] If the fee or charge is greater than $1,000, the supply is taxable unless listed elsewhere. The extent to which the supply of a transaction account is GST-free under table item 3 or table item 4(a) of subsection 38-190(1) is explained in GSTD 2020/1.
A2	• Account opening, keeping, maintenance and service fees	40-5.09(3) Item 1	Input taxed	

[116] ~~Subregulation~~ Subsection 40-5.09(4) may apply to these fees where relevant and provided the conditions set out in the ~~subregulation~~subsection are satisfied.

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
A3	• Account application fees	40-5.09(3) Item 1 40-5.09(4)(b)	Input taxed	The fee charged is in relation to application and input taxed. Even if bank to bank, if fee is less than $1,000 subsection ~~subreg~~ 40-5.09(4)(b) will apply.
A4	• Transaction fees	40-5.09(3) Item 1	Input taxed	
A5	• Fees and charges for account transactions by ATM§, telephone or other electronic means	40-5.09(3) Item 1	Input taxed	
A6	• Fees and charges for account transactions performed by accessing Internet banking services	40-5.09(3) Item 1	Input taxed	Transactions must be in relation to an account with the ADI. Payment to a third party to provide a link to the Internet site of the ADI will be a separate (taxable) supply because the third party is not a financial supply provider§.
A7	• Enquiry/account information fees	40-5.09(3) Item 1	Input taxed	
A8	• Closure of account fee	40-5.09(3) Item 1	Input taxed	
A9	• Preparation, reconciliation and replacement of account statement or duplicate statement	40-5.09(3) Item 1	Input taxed	
A10	• Photocopies and facsimiles of account information	40-5.09(3) Item 1	Input taxed	
A11	• Confirmation of account(s) fee	40-5.09(3) Item 1	Input taxed	
A12	• Deposit§ fees	40-5.09(3) Item 1	Input taxed	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
A13	• Deposit§ splitting fees (money§ deposited is "split" and credited to a number of different accounts held by the same account holder)	40-5.09(3) Item 1	Input taxed	
A14	• Withdrawal§ fees	40-5.09(3) Item 1	Input taxed	
A15	• Excess withdrawal§ fee	40-5.09(3) Item 1	Input taxed	
A16	• Balance below minimum fees	40-5.09(3) Item 1	Input taxed	
A17	• Direct debit§ fees	40-5.09(3) Item 1	Input taxed	
A18	• Dishonoured direct debit§ fees	40-5.09(3) Item 1	Input taxed	
A19	• Stopped payment fees	40-5.09(3) Item 1	Input taxed	
A20	• Set-off§ fees	40-5.09(3) Item 1	Input taxed	
	Passbooks§ and Transaction cards			
A21	• Fees for issue and replacement of passbook	40-5.09(3) Item 1	Input taxed	
A22	• Fees for issue and replacement of transaction card and PIN§	40-5.09(3) Item 1	Input taxed	
A23	• Fees for issue and replacement of debit, credit, charge and smart cards§	40-5.09(3) Item 1	Input taxed	Stored value cards§ not linked to accounts provided by an Australian ADI§ are not a financial supply§ under section ~~reg~~ 40-5.12 Item 5. See also line items A117 to A119 and B31 to B49.

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
	Cheques§			
A24	• Fees for sales of standard cheque§ and deposit§ books	40-5.09(3) Item 1	Input taxed	Printing of special forms and overprinting of standard forms are not input taxed as they are covered under ~~regulation~~section 40-5.12 item 2.
A25	• Fees for cheques§ deposited	40-5.09(3) Item 1	Input taxed	
A26	• Fees for post dated cheques§ and clearing cheques§	40-5.09(3) Item 1	Input taxed	
A27	• Stopped cheque§ fees	40-5.09(3) Item 1	Input taxed	
A28	• Fees for early clearance of cheque§	40-5.09(3) Item 1	Input taxed	
A29	• Dishonoured cheque§ fees	40-5.09(3) Item 1	Input taxed	
A30	• Fees for cashing cheques§ and payment orders§	40-5.09(3) Item 1	Input taxed	
A31	• Fees for clearing bank cheques§	40-5.09(3) Item 1 & 10	Input taxed	A bank cheque§ is the provision of an interest in a security under subsection ~~subreg~~ 40-5.09(3) Item 10~~; Sch 7, Part~~; Schedule 2, clause 8, item 9 and definition of *debenture*§ in section 9 of the *Corporations Act 2001*.
A32	• Repurchase of bank cheque§	40-5.09(3) Item 1 & 10	Input taxed	
A33	• Duplicate of bank cheque§ already issued	40-5.09(3) Item 1 & 10	Input taxed	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
	Vouchers§, deposit and withdrawal slips			
A34	• Information about deposit§ and withdrawal§ slips and credit/charge card§ vouchers§ used on account transactions	40-5.09(3) Item 1 & 2	Input taxed	
A35	• Supply to customers of deposit§ books including those with identifying information (for example, real estate agents deposit§ book for tenant)	40-5.09(3) Item 1 40-5.12 Item 2	Input taxed	If ~~regulation~~section 40-5.12 item 2 applies, this overrides ~~regulation~~section 40-5.09.
A36	• Reconciliation of deposit§ and withdrawal§ slips and credit/charge card§ vouchers§	40-5.09(3) Items 1 & 2	Input taxed	
A37	• Retention and storage of deposit§ and withdrawal§ slips and credit/charge card§ vouchers§	40-5.09(3) Item 1&2	Input taxed	
	Transfers			
A38	• Cash transfers, money orders§ and other forms of direct funds remittance	40-5.09(3) Item 1	Input taxed	
A39	• Electronic transfer to another Australian ADI ~~(e.g., telegraphic transfer$^{\Phi}$)~~	40-5.09(3) Item 1	Input taxed	~~Subregulation~~Subsection 40-5.09(4) may also apply.

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
A40	• ~~Domestic and i~~International money§ transfer or ., telegraphic transfer§	40-5.09(3) Item 1	Input taxed	Where the transfer is undertaken as a transaction under the supply of a transaction account, GSTD 2020/1 will be relevant. A separate supply of an international money transfer or telegraphic transfer is GST-free under table item 4 of subsection 38-190(1) when the overseas payee has a right to payment that must be exercised at an overseas bank – whether it is via a deposit into the overseas payee's overseas account or right to request payment at a bank located overseas.
	Overdrafts§			
A41	• Unauthorised overdraft§ fee	40-5.09(3) Item 1	Input taxed	
A42	• Overdraft§ fees	40-5.09(3) Item 1	Input taxed	
A43	• Maintenance of overdraft§ facility	40-5.09(3) Item 1	Input taxed	
	Wallets/Nightsafes			
A44	• Supply and use of wallets for night safe	40-5.09(3) Item 1	Input taxed	Input taxed provided the contents in the wallet held by bank for safe custody§ and credited to the customer's account. If not credited to the customer's account the supply of wallet and key for this facility will be taxable as a custodian§ service under item 16, ~~reg~~section 40-5.12.
A45	• Alternative or additional key to night safe/wallet§	40-5.09(3) Item 1	Input taxed	
A46	• Fee for lost key to night safe/wallet§	40-5.09(3) Item 1	Input taxed	
A47	• Supply of permanent wallet	40-5.09(3) Item 1, 40-5.09(4~~40 5.09(4~~)(a)	Input taxed	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
	Other			
A48	• Fee for negotiation§ of a clean bill§ of exchange§	40-5.09(3) Items 1 & 10	Input taxed	
A49	• Collection, handling and sorting of cash, and cheques§ (including lottery, art union proceeds, etcetera)	40-5.09(3) Item 1	Input taxed	Limited to those types of collection handling and sorting services generally provided to account holders by account providers in connection with an account. Where done for a non-account holder, and NOT in relation to a payment system§ may also be input taxed, if ~~subregulation~~subsection 40-5.09(4) is satisfied. Collection, handling and sorting done in relation to a payment system§, is taxable under item 4, ~~regulation~~section 40-5.12 even if fee charged is less than $1,000.
A50	• Changing cash into different cash denominations	40-5.09(3) Item 1	Input taxed	
A51	• Deposits to an account	No provision, acquisition or disposal of an interest	Not subject to GST	
A52	• Withdrawals from an account	No provision, acquisition or disposal of an interest	Not subject to GST	
A53	• Establishing, operating and terminating letters of credit	40-5.09(3) Item 2 & 10	Input taxed	
A54	• Fee for collecting interest payments under a debenture§ on behalf of an account holder	40-5.09(3) Item 1	Input taxed	Payment under a debenture§ may also be covered by items 2 and 10 of ~~regulation~~section 40-5.09.
A55	• Sweep§ and zero balance facility§ fees	40-5.09(3) Item 1	Input taxed	
A56	• Garnishee§ of accounts	40-5.09(3) Item 1	Input taxed	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
A57	• Nostro account§ (account held by Australian bank in foreign bank in foreign currency)	*See note*	Not subject to GST	The account is supplied by a foreign bank, outside Australia and does not satisfy ~~regulation~~section 40-5.09. See paragraph 30 of this Ruling.
A58	• Vostro account§ (account held by foreign bank in Australian bank in Australian currency)	Subsection 38-190(1) Item 2	GST-free	Supply is GST-free subject to section 38-190. See paragraphs 144 to 169 of this Ruling.
A59	• Audit certificates, letters of identification and bankers opinions in relation to application for an account	40-5.09(3) Item 1 40-5.09(4)(b)	Input taxed	Charge is in relation to application and input taxed. Even if bank to bank, if fee is less than $1,000 ~~subreg~~subsection 40-5.09(4)(b) will apply.
A60	• Providing letter of identity to government statutory body (for example, Centrelink) for account holder	40-5.09(3) Item 1	Input taxed	
A61	Recovery§ of Commonwealth, State and Territory fees, duties and taxes incurred in relation to an account	40-5.09(3) Item 1 Examples for item 1 in ~~regulation~~section 40-5.09(3) as set out in Schedule ~~7, Part~~2, clause 1, Item 15	No supply where recovery§ Input taxed where on-charged.	See paragraphs 181-186 of the Ruling for a discussion.
A62	Disbursements on-charged to customers as account-related fees	40-5.09(3) Item 1	Input taxed	
A63	The following computer banking services:			
A64	• Software licence fee (annual or once off)	Section 9-5	Taxable‡	Taxable *not* as a payment system§ but because service provided by the financial institution does not come within ~~subregulation~~subsections 40-5.09 (3) or (4).
A65	• Maintenance/software access fee (for maintenance and support services)	Section 9-5	Taxable‡	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
A66	• Support services (as and when required)	Section 9-5	Taxable‡	Taxable *not* as a payment system§ but because service provided by the financial institution does not come within ~~subregulation~~subsections 40-5.09 (3) or (4).
A67	Fees for the reversal of amounts incorrectly deposited to an account (good value claims) and administration between financial institutions	40-5.09(3) Item 1	Input taxed	
A68	Fees charged to customer for extra cost of special printing of special forms	Section 9-5 40-5.12 Item 2	Taxable†	
A69	Fees charged to customer for extra cost of overprinting of standard forms	Section 9-5 40-5.12 Item 2	Taxable†	
A70	Fees charged to customer for bulk bank cheque§ printing and production (bill paying service)	Section 9-5 40-5.12 Item 2	Taxable†	
A71	Information about account or customer's dealing with bank under Subpoena§	Section 9-5	Taxable‡	In relation to third party and not connected with an account.
A72	Fee for access to secure packet/envelope in safe custody§ facility or in bank branch safe where contents are not credited to customer's account	Section 9-5 40-5.12 Item 16	Taxable†	The supply is taxable because item 16 of ~~regulation~~section 40-5.12 overrides ~~subregulation~~subsection 40-5.09(4).
	PAYMENT & FUNDS TRANSFER			
A73	Fees and charges of less than $1,000 for a clearing account§ for use within a day (intra day facility) made available by an Australian ADI§ for non-account holders	40-5.09(4)(a)	Input taxed	
A74	The following fees and charges by Australian ADIs§ to account holders in operating and maintaining an account:			Account holders are not participants§ in a payment system§.

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
A75	• Transfers between accounts	40-5.09(3) Item 1	Input taxed	
A76	• Direct credits§	40-5.09(3) Item 1	Input taxed	
A77	• Direct debits§	40-5.09(3) Item 1	Input taxed	
A78	• Automatic and electronic funds transfers (such as telegraphic transfers§ and EFTPOS§)	40-5.09(3) Item 1	Input taxed	~~Applies to network access by account holder overseas because account is in Australia.~~ A separate supply of an international money transfer is GST-free under table item 4 of subsection 38-190(1) when the payee's account is located outside Australia or collection or delivery of physical currency to an overseas location. Where the transfer is undertaken as a transaction under the supply of a transaction account, GSTD 2020/1 will be relevant.
A78A	The following fees and charges relating to the use of an automatic teller machine (ATM)§			
A79	• Fees charged by Australian ADIs§ to account holders for the use~~Use~~ of an ATM ~~(automated teller machine~~	40-5.09(3) Item 1	Input taxed	~~Applies to network access by account holder overseas because account is in Australia.~~ Where the ATM transaction is undertaken as a transaction under an account, GSTD 2020/1 will be relevant to determining the extent to which the supply of the account may be GST-free.
A79A	• Fees of less than $1,000 for the supply of ATM services mentioned in subsection 40--5.09(5) charged by an Australian ADI to a recipient who is not an account holder	40-5.09(5)	Input taxed	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
A79B	• Fees of less than $1,000 for the supply of ATM services mentioned in subsection -40--5.09(5) charged by an entity that is not an Australian ADI	40-5.09(5)	Input taxed	
A80	Fees and charges to an account holder for real time gross settlement (RTGS)§	40-5.09(3) Item 1	Input taxed	Access provided to an account provider in relation to an approved RTGS§ payment system§ is a taxable supply.
A81	Inward, outward clean collections§ (Collection of bills of exchange drawn on an Australian ADI§ by an overseas party)	40-5.09(3) Item 1	Input taxed	
A82	Fees charged by a financial supply facilitator§ to an account provider for processing, settling, clearing§ and switching transactions (in relation to a payment system§) for:			
A83	• Charge, credit and debit card§ transactions	Section 9-5 40-5.12 Item 4	Taxable†	
A84	• Cheque§ transactions	Section 9-5 40-5.12 Item 4	Taxable†	
A85	• Internet banking	Section 9-5 40-5.12 Item 4	Taxable†	
A86	• ~~Giropost~~Bank@Post§	Section 9-5 40-5.12 Item 4	Taxable†	
A87	• SWIFT§ (Society for Worldwide Interbank Financial Telecommunications Payment Delivery System)	Section 9-5 40-5.12 Item 4	Taxable†	
A88	• Austraclear§	Section 9-5 40-5.12 Item 4	Taxable†	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
A89	Supply to other Australian ADIs[§] for access to credit and debit electronic payments system	Section 9-5 40-5.12 Item 4	Taxable[†]	
A90	Fees and charges to an account provider in relation to an approved RTGS[§] system	Section 9-5 40-5.12 Item 4	Taxable[†]	
A91	The following fees and charges paid by participants[§] in a payment system[§] to operators to participate in a payment system:			Account holders are not (in that capacity) participants[§] in a payment system[§].
A92	• Joint initiative/co-branding establishment fees[§]	Section 9-5 40-5.12 Item 4	Taxable[†]	
A93	• Fee charged to affiliate (co-branded credit cards[§]) for processing credit card[§] transactions	Section 9-5 40-5.12 Item 4	Taxable[†]	
A94	• Direct entry fees[§] for bulk corporate payment services, including payments from lists	Section 9-5 40-5.12 Item 4	Taxable[†]	
A95	• Fees for outsourced remittance and mail preparation services	Section 9-5 40-5.12 Item 4	Taxable[†]	
A96	• Fees for outsourced cheque[§] production	Section 9-5 40-5.12 Items 2 & 4	Taxable[†]	
A97	• Fees paid by participants in the BPAY[§] scheme	Section 9-5 40-5.12 Item 4	Taxable[†]	
A98	• Fees payable by participants to the operator under the BPAY[§] Scheme	Section 9-5 40-5.12 Item 4	Taxable[†]	
A99	Fees payable by a participant to other participants under the BPAY[§] Scheme	Section 9-5 40-5.12 Item 4	Taxable[†]	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
A100	Supply of a service by one participant§ in a payment system§ to another participant§ in the system in relation to charge, credit and debit card§ transactions	Section 9-5 40-5.12 Item 4~~Example in Schedule 8, Part 2, Item 3~~	Taxable†	Account holders are not (in that capacity) participants§ in a payment system§. Example in Schedule 3, clause 2, Item 3.
A101	The following fees and charges payable by a merchant§ for credit, debit and charge card§ merchant operations:			
A102	• Sales processed fee	Section 9-5 40-5.12 Item 4	Taxable†	
A103	• Merchant§ annual fees	Section 9-5 40-5.12 Item 4	Taxable†	
A104	• Merchant§ transaction fees	Section 9-5 40-5.12 Item 4	Taxable†	
A105	• Merchant§ monthly processing fees	Section 9-5 40-5.12 Item 4	Taxable†	
A106	• Merchant§ establishment fees§	Section 9-5 40-5.12 Item 4	Taxable†	
A107	• Imprinter and card terminal rental	Section 9-5 40-5.12 Item 4	Taxable†	
A108	• Terminal installation and maintenance fee	Section 9-5 40-5.12 Item 4	Taxable†	
A109	• Telecommunications line rental	Section 9-5 40-5.12 Item 4	Taxable†	
A110	• Marketing fees	Section 9-5 40-5.12 Item 4	Taxable†	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
A111	• Risk management§ fees	Section 9-5 40-5.12 Item 4	Taxable†	
A112	• Multi-Currency fees	Section 9-5 40-5.12 Item 4	Taxable†	
A113	• Payment system§ access and interchange§ facilities	Section 9-5 40-5.12 Item 4	Taxable†	
A114	• Clearing§ and collection of funds on behalf of third parties	Section 9-5 40-5.12 Item 4	Taxable†	
A115	• Operation of debit, credit and charge card§ payment facilities on behalf of third parties	Section 9-5 40-5.12 Item 4	Taxable†	
A116	• Processing of account data	Section 9-5 40-5.12 Item 4	Taxable†	
	STORED VALUE§ AND SIMILAR CARDS			
A117	Stored value§ facility cards not linked to an account with an ADI	Section 9-5 40-5.12 Item 5	Taxable†	For credit, debit & charge cards§ with ADIs see line items A21 to 23. For cards with non ADIs see line items B31 to B49. For prepaid travel cards or similar cards that are denominated in a foreign currency refer to line F16.
A118	Stored value facility cards linked to an account with an ADI	40-5.09(3) Item 1	Input taxed	See the Glossary for a definition of a stored value card§. For prepaid travel cards or similar cards that are denominated in a foreign currency refer to line F16.
A119	Rent card§ (not a direct debit card§ and not linked to an ADI)	Section 9-5 40-5.12 Item 5	Taxable†	Akin to a stored value facility card or prepayment not linked to an account with an ADI. If the card is linked to an ADI and more akin to a debit card, the facility will be input taxed.

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
	DEPOSIT§ & INVESTMENT			
A120	The following fees and charges between Australian ADIs§ and account holders:			
A121	• Interest payments (including contingent payments)	40-5.09(3) Item 1	Input taxed	Payment of interest forms part of the consideration for a financial supply§.
A122	• Early redemption penalties	40-5.09(3) Item 1	Input taxed	

B. Summary of fees and services – Advances§, Loans§ and Mortgages§

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
	LOAN§ TRANSACTIONS			
B1	The following charges and payments relating to provision of credit (including loans§):			
B2	• Application fees	40-5.09(3) Items 1 & 2 40-5.09(4)	Input taxed	
B3	• Approval fees	40-5.09(3) Items 1 & 2	Input taxed	
B4	• Establishment and agreement fees	40-5.09(3) Items 1 & 2	Input taxed	
B5	• Late payment/penalty fees	40-5.09(3) Items 1 & 2	Input taxed	
B6	• Rate lock fees	40-5.09(3) Items 1 & 2	Input taxed	
B7	• Administration fees	40-5.09(3) Items 1 & 2	Input taxed	
B8	• Participation fees	40-5.09(3) Items 1 & 2	Input taxed	
B9	• Discharge fees	40-5.09(3) Items 1 & 2	Input taxed	
B10	• Service fees	40-5.09(3) Items 1 & 2	Input taxed	
B11	• Commitment fees§	40-5.09(3) Items 1 & 2	Input taxed	
B12	• Drawing and redrawing§ fees	40-5.09(3) Items 1 & 2	Input taxed	
B13	• Enquiry fees	40-5.09(3) Items 1 & 2	Input taxed	
B14	• Limit fees	40-5.09(3) Items 1 & 2	Input taxed	
B15	• Line of credit§ fees	40-5.09(3) Items 1 & 2	Input taxed	
B16	• Statement and voucher§ fees	40-5.09(3) Items 1 & 2	Input taxed	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
B17	• Settlement§ fees	40-5.09(3) Items 1 & 2	Input taxed	
B18	• Document inspection fees	40-5.09(3) Items 1 & 2	Input taxed	
B19	• Early repayment fees	40-5.09(3) Items 1 & 2	Input taxed	
B20	• Restructure fees	40-5.09(3) Items 1 & 2	Input taxed	
B21	• Interest payments	40-5.09(3) Items 1 & 2	Input taxed	Payment of interest forms part of the consideration for a financial supply§.
B22	• Early repayment penalties	40-5.09(3) Items 1 & 2	Input taxed	
B23	• Other loan§ or advance§ related fees	40-5.09(3) Items 1 & 2	Input taxed	
B24	• Dishonour fee	40-5.09(3) Items 1 & 2	Input taxed	
B25	• Fee for moving to/from variable or fixed interest rate	40-5.09(3) Item 1 & 2	Input taxed	
B26	• Disbursements on-charged to customers as account-related fees	40-5.09(3) Item 1 & 2	Input taxed	
B27	Advancement of principal§	Not consideration for provision, acquisition or disposal of an interest under 40-5.09(3)	Not subject to GST	Advancement and repayment of principal§ occurs under an agreement for a loan§ (a financial supply§) but is not itself a financial supply§ ; that is, it is not itself the provision, acquisition or disposal of an interest in or under item in subsectionsubregulation 40-5.09(3).
B28	Repayment of principal§	Not consideration for provision, acquisition or disposal of an interest under 40-5.09(3)	Not subject to GST	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
B29	Fees and charges by pawnbrokers§ to establish, maintain and discharge loan§	40-5.09(3) Item 2	Input taxed	Depending on facts, fee payable on collection of the goods may be for loan§ administration or storage. If paid for storage - the fee is consideration for a taxable supply. As it is for separate consideration it is not an incidental financial supply.
B30	Fees, charges and payments related to loans§ made to Australian residents in foreign currency	40-5.09(3) Items 1 & 2	Input taxed	
	CREDIT§ AND CHARGE CARDS§			
B31	The following fees and charges for providing credit and charge cards§:			The extent to which the supply of a credit card facility is GST-free under table item 4 of subsection 38-190(1) is explained in GSTD 2017/1.
B32	• Application fees	40-5.09(3) Items 1 & 2	Input taxed	
B33	• Establishment and closing fee	40-5.09(3) Items 1 & 2	Input taxed	
B34	• Additional card (same holder) fees	40-5.09(3) Items 1 & 2	Input taxed	
B35	• Additional (or second) cardholder fees	40-5.09(3) Items 1 & 2	Input taxed	
B36	• Replacement card fees and any associated courier costs	40-5.09(3) Items 1 & 2	Input taxed	Courier costs may be taxable if charged for separately.
B37	• Interest payments	40-5.09(3) Items 1 & 2	Input taxed	Payment of interest forms part of the consideration for a financial supply§.
B38	• Increase and exceed limit fees	40-5.09(3) Items 1 & 2	Input taxed	
B39	• Fee for not making a payment by due date	40-5.09(3) Item 1 & 2	Input taxed	
B40	• Fee for duplicate card statement or voucher§	40-5.09(3) Item 1 & 2	Input taxed	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
B41	• Annual credit card§ fee	40-5.09(3) Item 1 & 2	Input taxed	~~The annual fee will be consideration for a GST-free supply under item 4 of subsection 38-190(1) to the extent that the cardholder intends using the credit card facility when the cardholder is outside Australia.~~
B42	• Foreign currency to Australian currency conversion fee	40-5.09(3) Item 1 & 2	Input taxed	
B43	• Over the counter and cash advance§ fee	40-5.09(3) Item 1 & 2	Input taxed	
B44	• Fee for effecting an ATM§ transaction	40-5.09(3) Item 1 & 2 and 40-5.09(4A)	Input taxed	~~Fees for overseas ATM transactions may be consideration for a GST-free supply under section 38-190. See paragraphs 144-170 of this Ruling~~
B45	• Revolving credit§ facility fee	40-5.09(3) Item 2	Input taxed	
B46	• Loyalty program§ membership (supplied with card – no separate fee)	40-5.09(3) Items 1 & 2 40-5.10	Input taxed	GSTR 2012/1 provides guidance on the GST implications of certain loyalty programs.
B47	• Loyalty program§ membership (supplied for separate fee)	Section 9-5 40-5.10	Taxable	Not incidental to the supply of an account under ~~regulation~~ section 40-5.09. May be composite depending on the particular facts. GSTR 2012/1 provides guidance on the GST implications of certain loyalty programs.
B48	• Card insurance (supplied with card – no separate fee)	40-5.09(3) Items 1 & 2 40-5.10	Input taxed	
B49	• Card insurance (supplied for separate fee)	Section 9-5 40-5.10	Taxable	Not incidental to the supply of an account under ~~regulation~~ section 40-5.09. May be composite depending on the particular facts.

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
	MORTGAGES§ AND CHARGES§			
B50	Mortgage§ over land, premises or chattel§	40-5.09(3) Item 3	Input taxed	
B51	In relation to mortgage§ over a chattel§:			
B52	• Assignment§/reassessment of asset fees	40-5.09(3) Item 3	Input taxed	
B53	• Registration of interest in the asset	40-5.09(3) Item 3	Input taxed	
B54	Mortgage§ over a share§ or bond§	40-5.09(3) Item 3	Input taxed	
B55	Switching of mortgages	40-5.09(3) Item 3	Input taxed	
B56	Charge§ over the assets of a company	40-5.09(3) Item 3	Input taxed	
B57	Fees and charges for documentation of the mortgage§ facility supplied by the mortgagee§ to the mortgagor§	40-5.09(3) Item 3	Input taxed	
B58	Legal fees for preparing mortgage - other than when included as an on-charge by the mortgagee§	Section 9-5	Taxable‡	
B59	Fees and charges for the following activities in relation to a charge§ or mortgage§ over real or personal property:			Assumes the services are provided as part of the supply of the charge§ or mortgage§ by the financial supply provider§ and not by a third party.
B60	• Valuation of the collateral§ or security for a credit or an advance§	40-5.09(3) Item 3	Input taxed	
B61	• Allowing mortgagor§ to inspect mortgage§ and security documents held by mortgagee§	40-5.09(3) Item 2 & 3	Input taxed	
B62	• Making loan§ available on an ongoing basis	40-5.09(3) Item 2 & 3	Input taxed	
B63	• Allowing more than one drawing down against mortgage§ loan§ account§	40-5.09(3) Item 2 & 3	Input taxed	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
B64	• Duplicate statements or statements outside the normal cycle for loan§	40-5.09(3) Item 2 & 3	Input taxed	
B65	• On-charge§ of costs to insure risk under loan§ or facilities secured by mortgage§	40-5.09(3) Item 2 & 3	Input taxed	
B66	• Registration of mortgage§ with Land Titles Office	40-5.09(3) Item 2 & 3	Input taxed	
B67	• Changes to certificate of title; for example, to update encroachments, to note subsequent borrowing, etcetera.	40-5.09(3) Item 2 & 3	Input taxed	
B68	• Moving to/from variable or fixed interest rate	40-5.09(3) Item 2 & 3	Input taxed	
B69	• Change to the mortgage§ to reflect changes to mortgaged property	40-5.09(3) Item 2 & 3	Input taxed	
B70	• Draw down facility	40-5.09(3) Item 2	Input taxed	
B71	• Discharge of mortgage§	40-5.09(3) Item 3	Input taxed	Only where a fee is not provided for under the mortgage. Otherwise a consequence of the mortgage§ rather than a separate supply; that is, not itself the provision, acquisition or disposal of an interest in an item under the regulations.
B72	Recovery§ of Commonwealth, State and Territory fees, duties and taxes	40-5.09(3) Item 3 *See note*	No supply if recovered Input taxed if on-charged	See paragraphs 191 to 197 of the Ruling for a discussion about recovery§ and on-charge§.
B73	Recovery§ of loan§ protection and title insurance	40-5.09(3) Item 3 *see note*	No supply if recovered§ Input taxed if on-charged§	See paragraphs 191 to 197 of the Ruling for a discussion about recovery§ and on-charge§.
B74	Recovery§ of professional and third party costs in connection with a mortgage§	40-5.09(3) Item 3 *see note*	No supply if recovered§ Input taxed if on-charged§	See paragraphs 191 to 197 of the Ruling for a discussion about recovery§ and on-charge§.

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
B75	Fee charged for production and inspection of title and mortgage[§] documents for purposes other than under compulsion of law (for example, subpoena[§])	40-5.09(3) Item 3	Input taxed	
B76	Fee charged for production and inspection of title and documents produced under compulsion of law (for example, by subpoena[§])	Section 9-5	Taxable[‡]	Not provided in connection with the mortgage[§] and therefore not covered by section 40-5.09(3) item 3 or section 40-5.10.
B77	Sale of debtor's property by mortgagee[§] in possession (where sale by debtor would **not** have been a taxable supply under subsection 105-5(1))	Subsection 105-5(1) Section 9-5 Div 38 Div 40	Not a taxable supply Varies according to fact situation	The GST status of the sale varies depending on the facts; for example, the sale may be input taxed, GST-free or 'out of scope' depending on the particular facts.
B78	Sale of debtor's property by mortgagee[§] in possession (where sale by debtor would **not** have been a taxable supply because of subsections 105-5(3))	Subsection 105-5(3) Section 9-5 Div 38 Div 40	Not a taxable supply	The GST status of the sale varies depending on the facts; for example, the sale may be input taxed, GST-free or 'out of scope' depending on the particular facts.
B79	Sale of debtor's property by mortgagee[§] in possession (where sale by debtor would have been a taxable supply)	Section 105-5(1) 40-5.12 Item 8 Div 105	Taxable[†]	
	DEBT[§] & CREDIT ARRANGEMENTS[§]			
B80	Right to an income stream that is an interest in or under a debt[§]	40-5.09(3) Item 2	Input taxed	
B81	Establishing, operating and terminating letters of credit	40-5.09(3) Item 2	Input taxed	

C. Summary of fees and services – Trade Finance, Asset Based Finance and Inventory Based Finance

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
	TRADE FINANCE			
C1	The following fees and charges relating to the provision of import documentary letters of credit (service provided by Australian bank to Australian importer - guarantees debt[§]):			
C2	• Establishment and termination fees	40-5.09(3) Item 2	Input taxed	
C3	• Issuance fees	40-5.09(3) Item 2	Input taxed	
C4	• Document handling fees	40-5.09(3) Item 2	Input taxed	
C5	• Acceptance fees[§]	40-5.09(3) Item 2	Input taxed	
C6	• Amendment fees	40-5.09(3) Item 2	Input taxed	
C7	• Reimbursement fees	40-5.09(3) Item 2	Input taxed	
C8	• Extension and increase fees	40-5.09(3) Item 2	Input taxed	
C9	The following fees and charges relating to the provision of export documentary letters of credit (service provided to overseas bank by Australian bank):			
C10	• Document handling fees	Section 38-190	GST-free	The GST status of the supply for which the fee, etcetera is paid may vary depending on the facts of the supply; that is: • Where the supply satisfies section 38-190, it is GST-free.
C11	• Advising fees	Section 38-190	GST-free	
C12	• Negotiation fees[§]	Section 38-190	GST-free	
C13	• Discrepancy fees	Section 38-190	GST-free	
C14	• Without Recourse[§] fees	Section 38-190	GST-free	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
C15	• Assignment fees	Section 38-190	GST-free	• If the supply is by financial supply facilitator, it is taxable. • If it is the provision, acquisition or disposal of a financial interest by a financial supply provider, it is input taxed.
C16	Fees and charges relating to collections and remittance services related to export transactions (service provided by Australian bank to Australian exporter), for example, amendment and dishonour fees	Section 38-190 ~~Regulation~~Section 40-5.09 Section 9-5 *See note*	Input taxed/Taxable depending on whether as provider or facilitator	The supply is input taxed where the bank takes a principal interest in debt§. The supply is taxable if the bank acts as facilitator. The supply is not GST-free as it is not within section 38-190.
C17	Fees and charges relating to collections and remittance services related to import transactions (bank providing service to overseas bank)	Section 38-190	GST-free	
C18	Fees and charges relating to trade guarantees (including bills of lading guarantees) or bonds§	40-5.09(3) Item 7	Input taxed	
C19	Fees, charges and payments relating to forfaiting§	40-5.09(3) Item 2	Input taxed	
	ASSET BASED FINANCE[117]			
C20	Payments relating to the sale of goods	Section 9-5	Taxable‡	
C21	The following fees and charges for the supply of finance under a hire purchase§ agreement entered into before 1 July 2012 for the supply of goods where the credit charge is not disclosed to the recipient of the goods:			Not covered by item 8 of ~~subregulation~~subsection 40-5.09(3) because interest component is not separately disclosed.

[117] See below line item C29 re treatment of stamp duties.

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
C22	• Hire charges, rent or instalments	Section 9-5	Taxable‡	
C23	The following fees and charges for the supply of finance under a hire purchase§ agreement entered into before 1 July 2012 for the supply of goods where the credit charge is disclosed to the recipient of the goods:			
C24	• Hire charges, rent or instalments	Section 9-5 40-5.09(3) Item 8	Taxable/Input taxed	Only credit component is financial supply§. Principal component is taxable.
C25	• Credit charges, including interest and associated fees	40-5.09(3) Item 8	Input taxed	Fees associated with the provision of an interest in credit under the hire purchase§ arrangement are input taxed; for example, an establishment fee§.
C25A	The fees and charges for the supply of goods and finance under a hire purchase§ agreement entered into on or after 1 July 2012	Section 9-5 40-5.12 Items 19 and 20	Taxable	~~Sch 8, Part~~Schedule 3, clause 7, item 1
C26	Assignment§/reassessment of asset fees under a hire purchase agreement entered into before 1 July 2012	40-5.09(3) Item 8	Input taxed	To the extent that the fee relates to the credit component it is input taxed.
C26A	Assignment§/reassessment of asset fees under a hire purchase agreement entered into on or after 1 July 2012	Section 9-5 40-5.12 Items 19 and 20	Taxable	~~Sch 8, Part~~Schedule 3, clause 7, item 1
C27	Fees and charges for deferred purchase by the purchaser including hire charges, rent or instalments	Section 9-5	Taxable‡	
C28	Fees and charges for leases§ by the lessee including lease§ charges, rent or instalments	Section 9-5 40-5.12 Item 6	Taxable†	
	Stamp duties and other State & Commonwealth duties			

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
C29	On-charging of stamp duties and other Government taxes and charges associated with the supply of goods under a hire purchase agreement	Section 9-5	Taxable‡ (that is, relates to transfer of title to the goods)	An 'on-charged' stamp duty, tax or charge loses its character (as a tax fee or charge that is not taxable under Division 81) and becomes an input to the underlying supply of the good. See paragraphs 195 to 196 of the Ruling.
	INVENTORY / RECEIVABLES FINANCE			
C30	Receivables factoring§ and accounts receivable financing§ fees and charges levied by the seller	40-5.09(3) Item 2	Input taxed	Fees or charges levied by the seller for services provided by the seller are taxable.
C31	Fees and charges levied by the financier for the assignment§ or sale of receivables (that is, fee for assignment of debt§) or loans§ secured over receivables	40-5.09(3) Item 2	Input taxed	Fees or charges levied by the financier for services provided by the financier are taxable.
C32	Floor plan and inventory financing transactions fees and charges	Section 9-5 40-5.12 Item 18	Taxable†	
C33	Sales accounting services under a factoring§ arrangement	Section 9-5 40-5.12 Item 14	Taxable†	
C34	Fees and charges for factoring§ of taxi vouchers§ by taxi drivers	40-5.09(3) Item 2	Input taxed	
C35	Fees and charges relating to bailment§	Section 9-5 40-5.12 Item 18	Taxable†	
C36	Fees and charges for floor plan arrangements§	Section 9-5 40-5.12 Item 18	Taxable†	
C37	Establishment fees§ and charges for receivables factoring§ and invoice financing arrangements	40-5.09(3) Item 2	Input taxed	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
C38	Settlement§ fees for receivables factoring§ and invoice financing accounts	40-5.09(3) Item 2	Input taxed	
C39	Fees and charges for export receivables factoring§ and invoice financing arrangements	40-5.09(3) Item 2	Input taxed	
C40	Fees and charges for import receivables factoring§ and invoice financing arrangements	Section 38-190	GST-free	

D. Summary of fees and services – Securities§

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
	SECURITIES§			
D1	Fees and charges for the following securities§ supplied by a financial supply provider§:			
D2	• Bonds§ and bearer instruments (securities) §, including Funeral Bonds that are securities.	40-5.09(3) Item 10(a)	Input taxed	
D3	• Bonds§, stocks or debentures§ issued by a government entity	40-5.09(3) Item 10(a)	Input taxed	
D4	• Shares§ in a body	40-5.09(3) Item 10	Input taxed	
D5	• Debentures§ or convertible notes§ issued by a body	40-5.09(3) Item 10(a)	Input taxed	
D6	• A document issued by an individual that would be a debenture§ if issued by a body corporate	40-5.09(3) Item 10(b)	Input taxed	
D7	• Promissory notes§ and bills of exchange	40-5.09(3) Item 10(a)	Input taxed	Paragraphs (c)(iii) & (d) of the definition of debenture§ in section 9 of the *Corporations Act 2001*. Given as an example of item 10 in ~~Sch 7, Part 8~~Schedule 2, clause 9, item 8.
D8	• Dealings in floating rate notes§, commercial bills§, commercial paper§, extendable bill investments and other financial instruments (for example, assignment§, acceptance or discounting)	40-5.09(3) Item 10	Input taxed	Given as an example of item 10 in ~~Sch 7, Part 8~~Schedule 2, clause 9, item 6.

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
D9	• Bank cheques§	40-5.09(3) Item 10	Input taxed	Para (c)(i) of the definition of *debenture*§ in section 9 the *Corporations Act 2001*. ~~Sch 7, Part 8~~ Schedule 2, clause 9, item 9~~. & 10~~.
D10	• Structured notes§	40-5.09(3) Item 10	Input taxed	Given as an example of item 10 in ~~Sch 7, Part 8~~Schedule 2, clause 9, item 4.
D11	• Subordinated notes§	40-5.09(3) Item 10	Input taxed	Given as an example of item 10 in ~~Sch 7, Part 8~~Schedule 2, clause 9, item 3.
D12	• Fixed income securities§	40-5.09(3) Item 10	Input taxed	
D13	Payment of dividends§	No provision, acquisition or disposal of an interest	Not subject to GST	Payment of a dividend§ is not regarded as consideration for a supply by shareholders for GST purposes however this does not mean that it may not be consideration for another supply; for example, if forgone in exchange for shares§.
D14	Interests in a partnership	40-5.09(3) Item 10(d)	Input taxed	
D15	Cash distributions from a partnership	No provision, acquisition or disposal of an interest	Not subject to GST	
D16	Interests in a trust§	40-5.09(3) Item 10(d)	Input taxed	
D17	Cash distributions from a trust	No provision, acquisition or disposal of an interest	Not subject to GST	
D18	Time share§ schemes	40-5.09(3) Item 10(c)	Input taxed	Paragraph (b) of the definition of managed investment scheme§ in section 9 of the *Corporations Act 2001*.
D18A	Company title§ schemes	40-5.09(3) Item 10	Input taxed	
D19	Securities lending§ by a financial supply provider§	40-5.09(3) Item 10	Input taxed	
D20	Securities lending§ agency fees	Section 9-5	Taxable†	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
D21	Money orders§ and postal notes	40-5.09(3) Item 10	Input taxed	
D22	The following interests in a managed investment scheme§:			Where a scheme is not registered as a managed investment scheme§, or is not entitled to regulatory relief from being registered, the supply of an interest in such a scheme will still be covered by this item.
D23	Retail and wholesale managed funds	40-5.09(3) Item 10	Input taxed	
D24	• An interest in an Investor Directed Portfolio Service (IDPS) such as: - wrap accounts§ - member discretionary masterfunds or IDPS-like arrangements	40-5.09(3) Item 10	See notes	In each case it is necessary to consider whether or not an enterprise is being carried on in respect of the product. Where the IDPS amounts to an entity that is carrying on an enterprise, an interest in the IDPS will be an input taxed supply.
D25	Mortgage investment schemes§	40-5.09(3) Item 10	Input taxed	
D26	An interest in a scheme in which all of the members are bodies corporate that are related to each other and to the body corporate that promotes the scheme	40-5.09(3) Item 10(c)	Input taxed	Paragraph (e) of the definition of managed investment scheme§ in section 9 of the *Corporations Act 2001*.
D27	An interest in a scheme operated by an Australian ADI§ in the ordinary course of its banking business§	40-5.09(3) Item 10(c)	Input taxed	Paragraph (i) of the definition of managed investment scheme§ in section 9 of the *Corporations Act 2001*.
D28	An interest in a barter§ scheme under which each participant may obtain goods or services from another participant for consideration that is wholly or substantially in kind rather than in cash	40-5.09(3) Item 10(c)	Input taxed	Paragraph (k) of the definition of managed investment scheme§ in section 9 of the *Corporations Act 2001*. Supplies of goods or services between participants are not interests in the scheme.

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
D29	An interest in a scheme that is operated by a co-operative company registered under Part VI of the *Companies (Co-operative) Act 1943* of Western Australia or under a previous law of Western Australia that corresponds to that part	40-5.09(3) Item 10(c)	Input taxed	Paragraph (m) of the definition of managed investment scheme§ in section 9 of the *Corporations Act 2001*.
D30	Fees and charges for borrowing and lending securities§ through a repurchase (repo) or reverse repurchase§ (reverse repo§), including stock lending	40-5.09(3) Item 10	Input taxed	
D31	Securitisation§ arrangement including supply of the following:			
D32	• Assignment§ of an income stream	40-5.09(3) Item 2	Input taxed	
D33	• Issue of bond§/debenture§	40-5.09(3) Item 10	Input taxed	
D34	• Rating service§	40-5.09(3) Item 10	Input taxed	If the rating service is provided separately and constitutes an aim in itself, the supply will be taxable under item 3, ~~regulation~~section 40-5.12.
D35	Co-ordinating the issue of debt securities by the special purpose vehicle§	Section 9-5 40-5.12 Item 12	Taxable†	
D36	Arrangement by a financial supply facilitator§ of the provision, acquisition or disposal of an interest in a security (for example, broking services)	Section 9-5 40-5.12 Item 11	Taxable†	
D37	Entry and exit fees§ levied for the acquisition or disposal of an interest in a managed investment scheme§	40-5.09(3) Item 10	Input taxed	
D38	On going management (or similar) fees that are debited against the investor's account in the managed investment scheme§	Not consideration for the provision, acquisition or disposal of an interest	Not subject to GST	This is an element of calculating the return to an investor rather than consideration for any supply made by a managed investment scheme§ to an individual member.

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
D39	Clearance and settlement§ of securities§ or derivatives§	40-5.12 Item 9	Taxable†	
D40	Facilities for trading securities§ or derivatives§	40-5.12 Item 9	Taxable†	
D41	Underwriting§ of securities§ (for example, shares§ or debentures§) as financial supply provider§	40-5.09(3) Items 10 & 11	Input taxed	Underwriting§ involves a number of different activities. Where the underwriter agrees to place or take up securities it is unable to place, the fee will be both for supplies it makes as a financial supply provider and a financial supply facilitator. Only that part relating to the supplies as a financial supply provider will be input taxed. The fee will need to be apportioned into its taxable and input taxed components. (Paragraphs 91 to 98 of this Ruling discuss mixed and composite supplies.)
D42	Best endeavours underwriting§	Section 9-5	Taxable†	Not the provision of an interest mentioned in the table in ~~subregulation~~subsection 40-5.09(3).

E. Summary of fees and services – Guarantees§ and indemnities§

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
	GUARANTEES§ AND INDEMNITIES§			
E1	An indemnity§ that is not a contract of insurance	40-5.09(3) Item 7A	Input taxed	Prior to 1 July 2012, an indemnity was covered by subsection 40-5.09(3) Item 7
E2	A surety bond that is a guarantee§	40-5.09(3) Item 7	Input taxed	
E3	A performance bond that is not a contract of insurance	40-5.09(3) Item 7 40-5.09(3) Item 7A	Input taxed	A guarantee is covered by Item 7. An indemnity is covered by Item 7A. Prior to 1 July 2012, an indemnity was covered by Item 7.
E4	Bank guarantees§ and bonds§	40-5.09(3) Item 7 40-5.09(3) Item 7A	Input taxed	A guarantee is covered by Item 7. An indemnity is covered by Item 7A. Prior to 1 July 2012, an indemnity was covered by Item 7.
E5	Establishing, operating and terminating letters of credit	40-5.09(3) Item 2	Input taxed	
E6	Warranty for goods	40-5.12 Item 21 Section 9-5	Taxable	Prior to 1 July 2012, a warranty for goods was excluded from being a financial supply§ by Item 7 of subsection~~regulation subreg~~ 40-5.09(3).

F. Summary of fees and services – Currency

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
	CURRENCY			
F1	Fees and charges by a financial supply provider§ for the following supplies relating to Australian currency, the currency of a foreign country, digital currency, or an agreement to buy or sell ~~the currency~~any of these three things:			
F2	• Conversion of foreign to domestic currency	40-5.09(3) Item 9	Input taxed	
F3	• Foreign currency drafts§	40-5.09(3) Item 9	Input taxed	A separate supply of a foreign currency draft is GST-free under table item 4 of subsection 38-190(1) when the draft must be presented to a bank outside Australia. Where the foreign currency draft is a transaction under the supply of a transaction account, GSTD 2020/1 will be relevant.
F4	• Foreign currency notes§ where the recipient intends to use the notes outside of Australia	Subsection 38 190(1) Item 4	GST-free	If the recipient of the notes intends to use the notes in Australia (for example, to on supply the notes to another entity in Australia), the supply of the notes to the recipient will not be GST free, but will be input taxed under Item 9 of ~~subregulation~~subsection 40-5.09(3).
F5	• Fees for travellers cheques§ issued by principal§	40-5.09(3) Item 9	Input taxed	GST-free under table item 4 of subsection 38-190(1) when payee intends to use traveller's cheque while located outside Australia.

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
F6	• Fees for repurchase of travellers cheques[§] by principal[§]	40-5.09(3) Item 9	Input taxed	
F7	• International cheques[§]	40-5.09(3) Item 9	Input taxed	A separate supply of an international cheque is GST-free under table item 4 of subsection 38-190(1) when the cheque must be presented at a bank outside Australia. Where the international cheque is a transaction under the supply of a transaction account, GSTD 2020/1 will be relevant.
F8	• Forward contracts[§] for transactions to buy or sell foreign currency	40-5.09(3) Item 9 & 11	Input taxed	GST-free under table item 4 of subsection 38-190(1) when currency is delivered to an overseas account.
F9	• Options[§] to buy or sell foreign currency	40-5.09(3) Item 9 & 11	Input taxed	The supply of a call option will be GST-free if the delivery of currency on exercise of option would itself be a GST-free supply (that is, a forex spot delivered to an overseas account) (paragraph 9-30(1)(b)).
F10	• Collection, negotiation[§] and endorsement[§] of instruments (including cheques[§]) for payment in foreign currency, including message services	40-5.09(3) Item 9	Input taxed	
F11	• Purchase and sale of cash	40-5.09(3) Item 9	Input taxed	
F11A	• Purchase and sale of digital currency	40-5.09(3) Item 9	Input taxed	
F12	• Changing cash into different denominations	40-5.09(3) Item 9	Input taxed	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
F13	Fees levied by agent for travellers cheques§ distributed by agent acting on behalf of issuer	Section 9-5	Taxable‡	Where the supply of the travellers cheque (line item F5) is GST-free under table item 4 of subsection 38-190(1), the supply of the service by the agent will also be GST-free under table item 4.
F14	Fees levied by agent acting on behalf of issuer for the services of facilitating the repurchase of travellers cheques§	Section 9-5	Taxable‡	
F15	Fees and charges for the purchase or sale of Australian currency or the currency of a foreign country for an amount exceeding the stated legal tender value (other than precious metals§)	Section 9-5 40-5.12 Item 17	Taxable†	This item refers to money of numismatic§ interest; that is, it is intended to be collected rather than currency bought and sold for use as currency.
F16	Supply of ~~Fees for~~ prepaid travel cards or similar cards issued by an Australian ADI loaded with Australian or ~~to the extent loaded with~~ foreign currency	Subsection 38-190(1) Item 4	GST-free	Only GST-free to the extent the card is intended to be used when the cardholder is outside Australia and the cardholder's physical presence outside Australia is integral to the transaction. To the extent the supply is not GST-free, it will be input taxed under items 1 or ~~item~~ 9 of subsection~~regulation~~ 40-5.09(3).

G. Summary of fees and services – Superannuation, Annuities & Allocated pensions§

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
	SUPERANNUATION			
G1	Capital contributions to a regulated superannuation fund§, an approved deposit§ fund§, a pooled superannuation trust§ or a public sector superannuation scheme§ within the meaning of the *Superannuation Industry (Supervision) Act 1993*, or an RSA (retirement savings account) within the meaning of the *Retirement Savings Accounts Act 1997*	40-5.09(3) Item 4	Input taxed	
G2	[Omitted.]~~Entry and Exit fees$^{\Phi}$ charged by superannuation fund$^{\Phi}$ to members~~	~~40-5.09(3) Item 4~~	~~Input taxed~~	
G3	On-going management (or similar) fees§ that are debited against the member's account in the superannuation fund§	Not consideration for the provision, acquisition or disposal of an interest	Not subject to GST	This is an element of calculating the return to a member rather than consideration for any supply made by a superannuation fund§ to an individual member.
G4	The following fees, charges or payments relating to rollover bonds§ charged to a superannuation fund:			
G5	• Management service fees	Section 9-5 40-5.12 Item 12	Taxable†	
G6	• Transfer (fund switch) fees	Section 9-5 40-5.12 Item 12	Taxable†	
G7	• Cheque§ issuing fees	Section 9-5 40-5.12 Item 12	Taxable†	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
	ANNUITIES OR ALLOCATED PENSIONS§			
G8	Capital contributions, rollovers§, fees or other payments to superannuation funds§ to establish a pension or allocated pensions§	40-5.09(3) Item 5	Input taxed	
G9	Capital contributions, rollovers§, fees or other payments to superannuation funds§ to establish an annuity§ or allocated annuity§	40-5.09(3) Item 5	Input taxed	

H. Summary of fees and services – Derivatives§

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
	DERIVATIVES§			
H1	Forward contracts§, futures contracts§, swap contracts and options§ contracts the value of which depends on, or is derived from:			
H2	• The price of debt securities§ or debt securities index values or interest rates	40-5.09(3) Item 11	Input taxed	Given as an example of item 11 in ~~Sch 7, Part 9~~Schedule 2, clause 10, item 1(a).
H3	• Foreign exchange or currency values or currency index values	40-5.09(3) Item 9 & 11	Input taxed	Given as an example of item 11 in ~~Sch 7, Part 9~~Schedule 2, clause 10, item 1(b).
H4	• Share§ or stock prices or equity index values	40-5.09(3) Item 11	Input taxed	Given as an example of item 11 in ~~Sch 7, Part 9~~Schedule 2, clause 10, item 1(c).
H5	• Credit spreads§ or credit events, including: - default; and - other forms of financial distress; and - credit index values	40-5.09(3) Item 11	Input taxed	Given as an example of item 11 in ~~Sch 7, Part 9~~Schedule 2, clause 10, item 1(d).
H6	• Macroeconomic indicators or variables; or	40-5.09(3) Item 11	Input taxed	Given as an example of item 11 in ~~Sch 7, Part 9~~Schedule 2, clause 10, item 1(e).
H7	• Climatic events or indexes	40-5.09(3) Item11	Input taxed	Given as an example of item 11 in ~~Sch 7, Part 9~~Schedule 2, clause 10, item 1(f).

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
H8	Commodity derivatives[§] that involve no option, right or obligation to delivery of a commodity	40-5.09(3) Item 11	Input taxed	Given as an example of item 11 in ~~Sch 7, Part 9~~Schedule 2, clause 10, item 2. Refer to line items N1 to N5 in relation to commodity transactions, deliverable wool futures and forward contracts (or options over such futures or contracts).
H9	Reciprocal repurchase agreements[§]	40-5.09(3) Item 11	Input taxed	Given as an example of item 11 in ~~Sch 7, Part 9~~Schedule 2, clause 10, item 3.
H10	Options[§] over input taxed supplies of precious metals[§]	40-5.09(3) Item 11	Input taxed	Given as an example of item 11 in ~~Sch 7, Part 9~~Schedule 2, clause 10, item 4.
H11	Securities[§] lending agreements	40-5.09(3) Item 11	Input taxed	Given as an example of item 11 in ~~Sch 7, Part 9~~Schedule 2, clause 10, item 5.
H12	Initial and variation margins[§] in respect of exchange traded futures contracts[§]	40-5.09(3) Item 11	Input taxed	Given as an example of item 11 in ~~Sch 7, Part 9~~Schedule 2, clause 10, item 6.
H13	Cash settlement[§] of a derivative[§] over the counter or on the exchange rather than the physical delivery of the underlying taxable assets	40-5.09(3) Item 11	Input taxed	Given as an example of item 11 in ~~Sch 7, Part 9~~Schedule 2, clause 10, item 7. Refer to line items N1 to N5 in relation to commodity transactions, deliverable wool futures and forward contracts (or options over such futures or contracts).
H14	Derivatives structuring fees	Section 9-5	Taxable[†]	
H15	Warrants[§]	40-5.09(3) Item 11	Input taxed	

I. Summary of fees and services – Insurance

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
	INSURANCE SERVICES			
I1	The following life insurance business§ (to which subsection 9(1) of the *Life Insurance Act 1995* applies):			Life insurance business means business that consists of issuing of life policies; issuing of sinking fund policies; undertaking of liability under life policies; undertaking of liability under sinking fund policies; and any related business§. It includes business declared to be life insurance business.
I2	• A contract of insurance that provides for the payment of money§ on the death of a person or on the happening of a contingency dependent on the termination or continuance of human life	40-5.09(3) Item 6	Input taxed	Related business includes business relating to the investment, administration and management of the assets of a statutory fund. Given as an example of item 6 in ~~Sch 7, Part~~Schedule 2, clause 4, item 1.
I3	• A contract of insurance that is subject to payment of premiums§ for a term dependent on the termination or continuance of human life	40-5.09(3) Item 6	Input taxed	Given as an example of item 6 in ~~Sch 7, Part~~Schedule 2, clause 4, item 2.
I4	• A contract of insurance that provides for the payment of an annuity§ for a term dependent on the continuance of human life	40-5.09(3) Item 6	Input taxed	Given as an example of item 6 in ~~Sch 7, Part~~Schedule 2, clause 4, item 3.
I5	• A continuous disability policy§ (within the meaning of section 9A of the *Life Insurance Act 1995*)	40-5.09(3) Item 6	Input taxed	Given as an example of item 6 in ~~Sch 7, Part~~Schedule 2, clause 4, item 5.

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
I6	• A contract that provides for the payment of an annuity§ (in excess of the term prescribed in the Life Insurance Regulations) for a term, not dependent on the continuance of human life	40-5.09(3) Item 6	Input taxed	Given as an example of item 6 in ~~Sch 7, Part~~Schedule 2, clause 4, item 4.
I7	• An investment account contract§ or an investment-linked contract§ (within the meaning of section 14 of the *Life Insurance Act 1995)*	40-5.09(3) Item 6	Input taxed	Given as an example of item 6 in ~~Sch 7, Part~~Schedule 2, clause 4, item 6.
I8	• Related reinsurance§ business	40-5.09(3) Item 6	Input taxed	
I9	Life insurance business§ declared to be life Insurance business under subsection 12(2) section 12A or 12B of the *Life Insurance Act 1995*, or related reinsurance§ business	40-5.09(3) Item 6	Input taxed	
I10	A funeral bond that is a contract of life insurance	40-5.09(3) Item 6	Input taxed	
I11	A contract of consumer credit insurance within the meaning of the *Insurance Contracts Act 1984*	Division 78	Taxable	This is not a continuous disability policy§ and therefore is not a life policy§ within the meaning of the *Life Insurance Act 1995.*
I12	A contract of private health insurance	Subsection 38-55(1)	GST-free	A health insurance policy is not a continuous disability policy§ within the meaning of the *Life Insurance Act 1995.*
I13	A contract of insurance against liability to pay for services supplied by ambulance	Subsection 38-55(2)	GST-free	
I14	A contract of insurance for indemnification against (continuous) disability	40-5.09(3) Item 6	Input taxed	
I15	A contract of insurance that provides for the payment of income benefits during the absence of a person from work due to temporary disability (for example, salary continuance insurance§)	Section 9-5 40-5.12 Item 10	Taxable†	Salary continuance insurance§ is not continuous disability insurance within the meaning of the *Life Insurance Act 1995.*

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
I16	A contract of insurance for indemnification against casualty or property damage (including public liability or third-party damage)	Section 9-5 40-5.12 Item 10	Taxable†	
I17	Brokerage§ of insurance (including initial or trailing commissions§)	Section 9-5 40-5.12 Item 11	Taxable†	
I18	A contract of insurance for indemnification against credit risk or credit losses	Section 9-5 40-5.12 Item 10	Taxable†	
I19	Compensation paid to a beneficiary of an insurance policy covering credit risk or credit losses	40-5.12 Item 10 & Division 78	Taxable†	

J. Summary of fees and services – Advisory & Professional services

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
	ADVISORY & PROFESSIONAL SERVICES			
J1	Advice by a legal practitioner in the course of professional practice	Section 9-5 40-5.12 Item 3	Taxable†	
J2	Advice by an accountant in the course of professional practice	Section 9-5 40-5.12 Item 3	Taxable†	
J3	Advice by a taxation practitioner including preparation of tax returns and Business Activity Statements	Section 9-5 40-5.12 Item 3	Taxable†	
J4	Advice by an actuary§	Section 9-5 40-5.12 Item 3	Taxable†	
J5	Rating services for securitisation§ vehicles	Section 9-5 40-5.12 Item 3	Taxable†	
J6	Advisory services about syndicated loan§ facilities	Section 9-5 40-5.12 Item 3	Taxable†	
J7	Advice about corporate finance transactions	Section 9-5 40-5.12 Item 3	Taxable†	
J8	Advice about financial and investment alternatives	Section 9-5 40-5.12 Item 3	Taxable†	
J9	General financial advice other than about the operation of accounts or the granting of credit	Section 9-5 40-5.12 Item 3	Taxable†	
J10	Valuation services provided by a professional valuer to a financial supply provider§	Section 9-5 40-5.12 Item 3	Taxable†	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
J11	Fees and charges for advice, research, information, analysis or other similar services about:			
J12	• Mergers and acquisitions	Section 9-5 40-5.12 Item 3	Taxable†	
J13	• Corporate restructuring	Section 9-5 40-5.12 Item 3	Taxable†	
J14	• Fund raising	Section 9-5 40-5.12 Item 3	Taxable†	
J15	• Risk management§	Section 9-5 40-5.12 Item 3	Taxable†	
J16	• Financial management, corporate management, business strategy and management	Section 9-5 40-5.12 Item 3	Taxable†	
J17	• Industry or market structure products	Section 9-5 40-5.12 Item 3	Taxable†	
	FINANCIAL PLANNING			
J18	Advice and administration services for estate planning	Section 9-5 40-5.12 Item 3	Taxable†	
J19	Assessment of financial position and facilitating financial transactions	Section 9-5 40-5.12 Item 3	Taxable†	
J20	Advising on investment strategies and portfolio planning	Section 9-5 40-5.12 Item 3	Taxable†	
J21	Facilitating financial structures and planning	Section 9-5 40-5.12 Item 3	Taxable†	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
J22	Portfolio analysis and review	Section 9-5 40-5.12 Item 3	Taxable[†]	

K. Summary of fees and services – Brokerage§& Facilitator Services

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
	BROKERAGE§ & FACILITATOR SERVICES			
K1	Brokerage§ and/or Commission§	Section 9-5 40-5.12 Item 11	Taxable†	
K2	Origination fees	Section 9-5 40-5.12 Item 11	Taxable†	
K3	Fees and charges for the following services by a broker or financial supply facilitator§:			
K4	• Procuring counterparties to a financial supply§ transaction (for example, syndicated loans§)	Section 9-5 40-5.12 Item 11	Taxable†	
K5	• Arranging deposit§, loan§ and securities§ transactions	Section 9-5 40-5.12 Item 11	Taxable†	
K6	• Arranging asset-based finance, trade finance and inventory or receivable finance transactions	Section 9-5 40-5.12 Item 11	Taxable†	
K7	• Arranging financial transactions	Section 9-5 40-5.12 Item 11	Taxable†	
K8	• Arranging commodity transactions	Section 9-5 40-5.12 Item 11	Taxable†	
K9	Fees and charges for arranging insurance or risk indemnification transactions	Section 9-5 40-5.12 Item 11	Taxable†	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
K10	The following supplies related to underwriting§ by a financial supply facilitator§:			Underwriting§ of a security (for example, a share§ or debenture§) may be input taxed if the underwriter agrees to take up securities§ it is unable to place.
K11	• Advisory services	Section 9-5 40-5.12 Item 3	Taxable†	
K12	• CHESS§ sponsorship	Section 9-5 40-5.12 Item 11	Taxable†	
K13	• Nominee§ or custodian services	Section 9-5 40-5.12 Item 16	Taxable†	
K14	• Arrangement of scrip loan facilities	Section 9-5 40-5.12 Item 9 or 11	Taxable†	

L. Summary of fees and services - Trustee§ and custodian services

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
	CUSTODY§ SERVICES			
L1	The following Core Custody§ Services:			
L2	• Clean payments made on behalf of another entity	Section 9-5 40-5.12 Item 16	Taxable†	
L3	• Settling and undertaking of securities§ transactions at the direction of the custodian§ client	Section 9-5 40-5.12 Item 16	Taxable†	
L4	• Collecting income and other payments with respect to the securities§ in the fund	Section 9-5 40-5.12 Item 16	Taxable†	
L5	• Proxy voting§	Section 9-5 40-5.12 Item 16	Taxable†	
L6	• Portfolio reporting – settlement§ activity, recurrent reporting	Section 9-5 40-5.12 Item 16	Taxable†	
L7	• Option§ trading services made on behalf of another entity	Section 9-5 40-5.12 Item 16	Taxable†	
L8	• Cheque§ drawing	Section 9-5 40-5.12 Item 16	Taxable†	
L9	• Asset reconciliation§	Section 9-5 40-5.12 Item 16	Taxable†	
L10	• Daily cash reconciliation and reporting	Section 9-5 40-5.12 Item 16	Taxable†	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
L11	• Acting as escrow agent§	Section 9-5 40-5.12 Item 16	Taxable†	
L12	• Clearing§ and settling securities§ or derivatives§ trades	Section 9-5 40-5.12 Item 9	Taxable†	
L13	• Transaction authorisation (acting as nominee§ under Power of Attorney§)	Section 9-5 40-5.12 Item 3 & 16	Taxable†	
L14	• Opening and maintaining bank accounts to facilitate settlement§ of security transactions	Section 9-5 40-5.12 Item 16	Taxable†	This is a fee for a service and distinct from the fee charged by an ADI to open an account which is a financial supply§ under item 1 of ~~subregulation~~subsection 40-5.09(3).
L15	Master custody§ services including:			Item 12 of ~~regulation~~section 40-5.12 may also apply to the master custody§ services listed below.
L16	• Maintenance of accounting records	Section 9-5 40-5.12 Item 16	Taxable†	
L17	• Pricing of securities§	Section 9-5 40-5.12 Item 16	Taxable†	
L18	• Taxation reporting	Section 9-5 40-5.12 Item 3 & 16	Taxable†	
L19	• Mandate§ monitoring	Section 9-5 40-5.12 Item 16	Taxable†	
L20	• Trade execution monitoring	Section 9-5 40-5.12 Item 16	Taxable†	
L21	The following accounting and administration services*:*			

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
L22	• Portfolio performance analysis	Section 9-5 40-5.12 Item 16	Taxable†	
L23	• Risk management§ reporting	Section 9-5 40-5.12 Item 16	Taxable†	
L24	• Management accounting	Section 9-5 40-5.12 Item 3 & 12	Taxable†	
L25	• Cash management	Section 9-5 40-5.12 Item 3 & 12	Taxable†	
L26	• Unit registry§ services	Section 9-5 40-5.12 Item 3, 12 & 16	Taxable†	
L27	• Statutory accounts preparation	Section 9-5 40-5.12 Item 3	Taxable†	
L28	• Tax return (including BAS) preparation	Section 9-5 40-5.12 Item 3	Taxable†	
L29	• Preparation of Superannuation returns	Section 9-5 40-5.12 Item 3	Taxable†	
L30	• Maintenance/access to property portfolio database	Section 9-5 40-5.12 Item 3	Taxable†	
	Reporting & Compliance Services§			
L31	The following taxation reports and accounts:			
L32	• Foreign Investment Fund§ (FIF) compliance	Section 9-5 40-5.12 Item 3	Taxable†	
L33	• Reconciliation of accounting income to taxable income	Section 9-5 40-5.12 Item 3	Taxable†	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
L34	• Taxable income report	Section 9-5 40-5.12 Item 3	Taxable†	
L35	Performance analysis	Section 9-5 40-5.12 Item 3	Taxable†	
L36	Performance reporting including risk analysis	Section 9-5 40-5.12 Item 3	Taxable†	
L37	Statutory accounts	Section 9-5 40-5.12 Item 3	Taxable†	
L38	Unit pricing§ services for:			
L39	• Superannuation funds§	Section 9-5 40-5.12 Item 12	Taxable†	
L40	• Unit trusts§	Section 9-5 40-5.12 Item 12	Taxable†	
	Safe Custody§			
L41	Rental of safety deposit§ boxes	Section 9-5 40-5.12 Item 3 & 16	Taxable†	
L42	Safe custody§ of money§, documents and other things	Section 9-5 40-5.12 Item 3 & 16	Taxable†	
	PERSONAL TRUST§ & PERSONAL SERVICES			
L43	The following legal services:			
L44	• Preparation of Power of Attorney§	Section 9-5 40-5.12 Item 3	Taxable†	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
L45	• Deed[§] preparation	Section 9-5 40-5.12 Item 3	Taxable[†]	
L46	• Will preparation	Section 9-5 40-5.12 Item 3	Taxable[†]	
L47	• Applications for probate[§]	Section 9-5 40-5.12 Item 3	Taxable[†]	
L48	• Applications for letters of administration	Section 9-5 40-5.12 Item 3	Taxable[†]	
L49	The following fees and charges for trust and estate administration[§] services:			
L50	• Trustee[§] fee	Section 9-5 40-5.12 Item 15	Taxable[†]	The fee charged by the trustee[§] will be taxable regardless of how it is calculated.
L51	• Management fee[§] charge for internal common funds[§]	*See note*	*Varied* *See note*	May vary depending on structure of internal common funds[§]; that is, whether the management services are supplies individually to each beneficiary/contributor to the common fund or to an entity being the trustee of the common fund. Subject to individual ATO decision (for example, private ruling).
L52	• Fee for transferring intestate assets	Section 9-5 40-5.12 Item 15	Taxable[†]	
L53	• Co-trustees commission[§]	Section 9-5 40-5.12 Item 15	Taxable[†]	
L54	The following fees and charges for personal services[§]:			

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
L55	• Fees for holding and/or managing capital assets on behalf of another entity	Section 9-5 40-5.12 Item 12	Taxable†	
L56	• Income commission§	Section 9-5 40-5.12 Item 12	Taxable†	
L57	• Third-party cheque§ fees	Section 9-5	Taxable‡	
L58	• Initial and trailing commissions§	Section 9-5	Taxable‡	
L59	• Management fee§ charge for internal common funds§	*See note*	*Varied* *See note*	May vary depending on structure of internal common funds§. Subject to individual ATO decision (for example, private ruling), see line item L51.
L60	The following fees and charges for services to investment funds:			
L61	• Third-party prospectus§ management fees§	Section 9-5 40-5.12 Item 12	Taxable†	
L62	• Application processing fee	Section 9-5 40-5.12 Item 12	Taxable†	
L63	• Initial or trailing commissions§	Section 9-5	Taxable‡	
L64	The following fees and charges for the provision of professional services:			
L65	• Directors fee	Section 9-5 40-5.12 Item 3	Taxable†	
L66	• Secretarial fee	Section 9-5 40-5.12 Item 3	Taxable†	
L67	• Registered office fee§	Section 9-5 40-5.12 Item 3	Taxable†	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
L68	• Taxation fee	Section 9-5 40-5.12 Item 3	Taxable†	
L69	• Accountancy fee	Section 9-5 40-5.12 Item 3	Taxable†	
L70	• Land tax return fee	Section 9-5 40-5.12 Item 3	Taxable†	
L71	The following property services performed by statutory trustee organisations:			
L72	• Property inspection	Section 9-5 40-5.12 Item 3	Taxable†	
L73	• Property valuation	Section 9-5 40-5.12 Item 3	Taxable†	
L74	• Property management	Section 9-5 40-5.12 Item 3	Taxable†	
L75	• Acting as Trustee§	Section 9-5 40-5.12 Item 15	Taxable†	
L76	• Strata management	Section 9-5 40-5.12 Item 3	Taxable†	
	SUPERANNUATION TRUSTEE§ SERVICES			
L77	Trusteeship of corporate superannuation funds§	Section 9-5 40-5.12 Items 12 & 15	Taxable†	
L78	Trusteeship of Public Offer superannuation funds§	Section 9-5 40-5.12 Items 12 & 15	Taxable†	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
L79	Manage investment strategy	Section 9-5 40-5.12 Items 3, 12 & 15	Taxable†	
L80	Manage accounts and records	Section 9-5 40-5.12 Items 12 & 15	Taxable†	
L81	Prepare client statements	Section 9-5 40-5.12 Items 12 & 15	Taxable†	
L82	Document security	Section 9-5 40-5.12 Items 12 & 15	Taxable†	
L83	Act as approved trustee§	Section 9-5 40-5.12 Items 12 & 15	Taxable†	
L84	Collect and process dividends§/interest	Section 9-5 40-5.12 Items 12 & 15	Taxable†	
L85	Effecting the transfer of title to securities§	Section 9-5 40-5.12 Items 12 & 15	Taxable†	
L86	Receive/take up entitlement issues	Section 9-5 40-5.12 Items 12 & 15	Taxable†	
L87	Purchase/sell investments	Section 9-5 40-5.12 Items12 & 15	Taxable†	
L88	Record investments purchase/sale transactions	Section 9-5 40-5.12 Items 12 & 15	Taxable†	
L89	Reconcile bonus shares, rights issues, dividends§	Section 9-5 40-5.12 Items 12 & 15	Taxable†	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
	CORPORATE SERVICES			
L90	Compliance advice	Section 9-5 40-5.12 Items 3 & 15	Taxable†	
L91	Prepare superannuation and taxation returns (including BAS)	Section 9-5 40-5.12 Items 3 & 15	Taxable†	
L92	CHESS§/CHAMP§ administration	Section 9-5 40-5.12 Items 12 & 15	Taxable†	
L93	Provide and confirm buy/sell instructions through CHESS§/CHAMP§	Section 9-5 40-5.12 Items 12 & 15	Taxable†	
L94	Trustee§ services provided in acting as:			
L95	• Trustee§ for structured finance funds	Section 9-5 40-5.12 Item 15	Taxable†	
L96	• Trustee§ of a unit trust§	Section 9-5 40-5.12 Item 15	Taxable†	
L97	• Trustee§ of debenture§ and note issues	Section 9-5 40-5.12 Item 15	Taxable†	
L98	• Trustee§ for security bonds	Section 9-5 40-5.12 Item 15	Taxable†	
L99	• Trustee§ of a trust§ or other entity	Section 9-5 40-5.12 Item 15	Taxable†	Given as an example of item 15 in ~~Sch 8, Part~~Schedule 3, clause 6, item 1.
L100	• Trustee§ under a will or settlement§	Section 9-5 40-5.12 Item 15	Taxable†	Given as an example of item 15 in ~~Sch 8, Part~~Schedule 3, clause 6, item 2.

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
L101	• Mortgage§ custodian§	Section 9-5 40-5.12 Item 16	Taxable†	
L102	The following professional services:			
L103	• Statutory accounts preparation	Section 9-5 40-5.12 Item 3	Taxable†	
L104	• Compliance services§	Section 9-5 40-5.12 Item 3	Taxable†	
L105	• Preparation of financial plans	Section 9-5 40-5.12 Item 3	Taxable†	
	SECURITISATION§			
L106	The following services provided in acting as Trustee§ over a unit trust§ structure for mortgage backed§ and asset backed§ securitisation§ programs:			
L107	• Review of legal documentation	Section 9-5 40-5.12 Items 3 & 15	Taxable†	
L108	• Activity of acquiring title to mortgages§	Section 9-5 40-5.12 Item 15	Taxable†	This is distinct from gaining an interest in the mortgage§ as financial supply provider under table item 3 of ~~regulation~~subsection 40-5.09(3).
L109	• Maintenance of trust§ bank accounts in the Trustee's name	Section 9-5 40-5.12 Item 15	Taxable†	
L110	• Holding authorised investments in the Trustee's name	Section 9-5 40-5.12 Item 15	Taxable†	
L111	• Maintaining trust§ ledger accounts in accordance with the Trust Deed§	Section 9-5 40-5.12 Item 15	Taxable†	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
L112	• Safekeeping of physical securities§ and documents evidencing title to assets and maintenance of electronic records or depository balances	Section 9-5 40-5.12 Item 15	Taxable†	
L113	• Settling all funds received from the relevant assets in accordance with the Trust Deed§	Section 9-5 40-5.12 Item 15	Taxable†	
L114	• Ensuring prompt payment to bondholders, either in certified form on a register or on a nominated depository	Section 9-5 40-5.12 Item 15	Taxable†	
L115	• Appointing auditors	Section 9-5 40-5.12 Item 15	Taxable†	
L116	The following services in acting as Security Trustee§ for mortgage backed and asset backed securitisation§ programs:			
L117	• Hold charge over assets of special purpose vehicle to secure payment to bondholders	Section 9-5 40-5.12 Item 15	Taxable†	The acquisition of the mortgage§ or charge over the assets of the special purpose vehicle by the security trustee§ (in their own right) may be a financial supply§ if the other requirements of section 40-5.09 are met.
L118	• Acting as custodian§ of assets of special purpose vehicle	Section 9-5 40-5.12 Item 15	Taxable†	
L119	• Registrar services and maintenance of securities§ register	Section 9-5 40-5.12 Item 15	Taxable†	
L120	The following services in acting as Bare Trustee§/Mortgage§ Document Custodian§:			
L121	• Holding documentation in safe custody§	Section 9-5 40-5.12 Item 15 & 16	Taxable†	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
L122	• Input documentation on to document tracking system	Section 9-5 40-5.12 Item 15	Taxable†	
L123	• Tracking relevant documents	Section 9-5 40-5.12 Item 15	Taxable†	
L124	• Reviewing correctness of relevant documents	Section 9-5 40-5.12 Item 15	Taxable†	
L125	• Obtaining approval from the beneficiary of the bare trust§ to execute/release documentation	Section 9-5 40-5.12 Item 15	Taxable†	
L126	• Arranging for signatories to execute releases	Section 9-5 40-5.12 Item 15	Taxable†	
L127	• Forwarding documentation to the appropriate party	Section 9-5 40-5.12 Item 15	Taxable†	
L128	Fees and charges for:			
L129	• Coordinating the issue of debt securities§ by the special purpose vehicle	Section 9-5 40-5.12 Item 12	Taxable†	See line item D32.
L130	• Servicing loan§ assets including loan management and debt§ collection services	Section 9-5 40-5.12 Items 12 and 13	Taxable†	
L131	• The provision of liquidity facilities, swaps§, letters of credit and other financial accommodation	40-5.09(3) Items 2 & 11	Input taxed	
L132	• The issue of debt§ or equity securities§ to investors	40-5.09(3) Item 10	Input taxed	
L133	Rating services for securitisation§ vehicles	Section 9-5 40-5.12 Item 3	Taxable†	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
L134	Securitisation§ arrangement including supply of the following:			
L135	• Assignment§ of an income stream	40-5.09(3) Item 2	Input taxed	See line item D32.
L136	• Issue of bond§/debenture§	40-5.09(3) Item 10	Input taxed	See line item D33.
L137	• Rating service§	40-5.09(3) Item 10	Input taxed	If the rating service is provided separately and constitutes an aim in itself, the supply will be taxable under item 3, section 40-5.12. See line items D34 and L133.

M. Summary of fees and services – Funds management

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
	FUNDS MANAGEMENT			
M1	Fees and charges for managing an asset portfolio or funds under management	Section 9-5 40-5.12 Item 12	Taxable†	
M2	Fees and charges for administration of an asset portfolio or funds under management	Section 9-5 40-5.12 Item 12	Taxable†	
M3	Acting as the trustee of an entity	Section 9-5 40-5.12 Item 12 & 15	Taxable†	
M4	The following investment portfolio administration services:			
M5	• Maintaining account holder records and associated accounting	Section 9-5 40-5.12 Item 12	Taxable†	
M6	• Processing of contributions and returns	Section 9-5 40-5.12 Item 12	Taxable†	
M7	• Storage and retrieval of archived documents	Section 9-5 40-5.12 Item 12	Taxable†	
M8	• Statement processing and bulk mailing	Section 9-5 40-5.12 Item 12	Taxable†	
M9	• Rental of safety deposit§ boxes	Section 9-5 40-5.12 Item 16	Taxable†	
M10	• Clean payments made on behalf of another entity	Section 9-5 40-5.12 Item 12	Taxable†	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
M11	• Settling and undertaking of securities[§] transactions at the direction of the custodian[§] client	Section 9-5 40-5.12 Item 12	Taxable[†]	
M12	• Collecting income and other payments with respect to the securities[§] in the fund	Section 9-5 40-5.12 Item 12	Taxable[†]	
M13	• Proxy voting[§]	Section 9-5 40-5.12 Item 12	Taxable[†]	
M14	• Portfolio reporting – settlement[§] activity, recurrent reporting	Section 9-5 40-5.12 Item 12	Taxable[†]	
M15	• Option[§] trading services performed on behalf of another entity	Section 9-5 40-5.12 Item 12	Taxable[†]	
M16	Fees charged by a funds manager for opening and maintaining bank accounts to facilitate settlement[§] of security transactions	Section 9-5 40-5.12 Item 12	Taxable[†]	
M17	Safekeeping of physical securities[§] and maintaining electronic records of depository balances	Section 9-5 40-5.12 Item 16	Taxable[†]	
M18	The following accounting and administrative services for funds under management:			
M19	• Maintenance of accounting records	Section 9-5 40-5.12 Item 12	Taxable[†]	
M20	• Pricing of securities[§]	Section 9-5 40-5.12 Item 12	Taxable[†]	
M21	• Taxation reporting	Section 9-5 40-5.12 Item 12	Taxable[†]	

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
M22	• Mandate[§] monitoring	Section 9-5 40-5.12 Item 12	Taxable[†]	
M23	• Trade execution monitoring	Section 9-5 40-5.12 Item 12	Taxable[†]	
M24	• Portfolio performance analysis	Section 9-5 40-5.12 Item 12	Taxable[†]	
M25	• Risk management[§] reporting	Section 9-5 40-5.12 Item 12	Taxable[†]	

N. Summary of fees and services – Commodities and Collectibles

Line No.	*Supply, Service or Consideration*	*GST regulation or GST Act*	*GST Status*	*Notes*
	COMMODITIES			Refer to line items H8 and H13 in relation to: • commodity derivatives involving no option, right or obligation to delivery • cash-settled derivatives.
N1	Purchase and sale of commodities	Section 9-5	Taxable†	
N2	Deliverable wool futures and forward contracts§	Section 9-5 40-5.12 Item 7	Taxable†	Schedule ~~8, Part~~3, clause 3 item 1.
N3	Deliverable wheat futures and forward contracts§	Section 9-5 40-5.12 Item 7	Taxable†	Schedule ~~8, Part~~3, clause 3 item 2.
N4	Options§ over a deliverable wool future or forward contract§	Section 9-5 40-5.12 Item 7	Taxable†	Schedule ~~8, Part~~3, clause 3 item 3.
N5	Options§ over deliverable wheat futures and forward contracts§	Section 9-5 40-5.12 Item 7	Taxable†	Schedule ~~8, Part~~3, clause 3 item 3.
	COLLECTIBLES			
N6	Collector's piece (other than precious metals§)	Section 9-5	Taxable‡	Excluded from the definition of *money*§ in section 195-1 of the GST Act and not included as a financial supply§ in any item under regulation.
N7	Investment articles (other than precious metals§)	Section 9-5	Taxable‡	
N8	Item of numismatic§ interest (other than precious metals§)	Section 9-5	Taxable‡	
N9	Currency the market value of which exceeds its stated value as legal tender in the country of issue (other than precious metals§)	Section 9-5 40-5.12 Item 17	Taxable†	

§ This term is defined in the Glossary of Terms in Schedule 1.

† The supply is listed under a table item of section 40-5.12 as something that is not a financial supply. The supply is taxable under the GST Act as specified. However, this assumes that the conditions for a supply of that kind are met. On the particular facts and circumstances of the transaction, another provision of the Act may apply. Each transaction will need to be judged and its GST status determined by having regard to all the facts and circumstances particular to that case.