



GSTD 2024/D1 - Goods and services tax: supplies of food of a kind marketed as a prepared meal

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Draft Goods and Services Tax Determination

Goods and services tax: supplies of food of a kind marketed as a prepared meal

📌 Relying on this draft Determination

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 Determination 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 Determination 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 draft Determination is about

1. This draft Determination¹ explains our view on the circumstances in which food is food of a kind 'marketed as a prepared meal, but not including soup'.
2. The supply of food of this kind is not GST-free under paragraph 38-3(1)(c) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) as it is food of a kind specified in column 3 of table item 4 of clause 1 of Schedule 1 to the GST Act (table item 4).
3. This Determination considers what products are food of a kind marketed as a prepared meal primarily by reference to the decision of the Federal Court in *Simplot Australia Pty Limited v Commissioner of Taxation* [2023] FCA 1115 (*Simplot*).
4. All legislative references in this Determination are to the GST Act, unless otherwise indicated.

Legislative context

5. Paragraph 38-3(1)(c) provides that the supply of food is not GST-free if it is food 'of a kind' specified in column 3 of the table of clause 1 of Schedule 1.
6. Within the category of 'Prepared food', column 3 of table item 4 specifies 'food marketed as a prepared meal, but not including soup'.
7. Clauses 2 and 3 of Schedule 1 provide:
 - 2 **Prepared food, bakery products and biscuit goods**
For the purpose of determining whether particular food is covered by any of the items in the table relating to the category of prepared food, bakery products or biscuit goods, it does not matter whether it is supplied hot or cold, or requires cooking, heating, thawing or chilling prior to consumption.
 - 3 **Prepared meals**
Item 4 in the table only applies to food that requires refrigeration or freezing for its storage.
8. Clause 2 of Schedule 1 makes it clear that food can be food of a kind marketed as a prepared meal regardless of 'whether it is supplied hot or cold, or requires cooking, heating, thawing or chilling prior to consumption'.
9. Clause 3 of Schedule 1 has the effect that table item 4 does not apply to products that are not required to be stored in the refrigerator or freezer prior to opening (also known as shelf-stable products) regardless of whether they are food of a kind marketed as a prepared meal. For example, table item 4 does not apply to tins or jars of baby food, baked beans, or spaghetti which, in their unopened state, do not require refrigeration or freezing.

The decision in *Simplot*

10. In *Simplot*, the Federal Court considered the GST treatment of a range of frozen food products supplied or imported by Simplot Australia Pty Limited (*Simplot Australia*). The products each contained a mix of vegetables along with spices or seasonings, and some also included grains. Some products were labelled as 'sides' or provided express or

¹ For readability, all further references to 'this Determination' refer to the Determination as it will read when finalised. Note that this Determination will not take effect until finalised.

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implied serving suggestions, including through pictures that displayed the products served with added protein (for example, chicken or pork).

11. The Court found that all of the products were food of a kind marketed as a prepared meal (other than soup) and therefore they were not GST-free.²

12. The Court held that the statutory test was to be approached as a single composite question, that being whether the products were food of a kind marketed as a prepared meal.³

13. Consistent with previous decisions on the meaning of ‘food of a kind’ in the context of GST law, the Court said that the inclusion of these words required consideration of whether the products fell in a class or genus of foods that was marketed as a prepared meal.⁴

14. As a result, the Court considered it was necessary to consider the marketing of other products of the same kind. Following *Cascade Brewery Co Pty Ltd v Commissioner of Taxation*⁵ (*Cascade*), the Court considered that marketing, in this context, means the activities of sellers in presenting the product to end-consumers.⁶

15. On the meaning of prepared meal, the Court in *Simplot* said at [124] and [125]:

... the attributes of a “prepared meal” are to be discerned from common experience. Those attributes include:

- (a) quantity — a meal connotes a quantity of substance, even if it may be termed a small meal;
- (b) composition — a prepared meal connotes food consisting of more than one ingredient or element. Whether a combination of foods constitutes a meal is a question of fact and degree. A dish comprised solely of vegetables can be a meal. However a serving of a mix of vegetables (eg, peas and corn) may not be a meal;
- (c) presentation — a prepared meal connotes a combination of foods that is complete. Matters such as seasoning, sauces and flavourings may all be relevant in determining whether foods are of a kind marketed as a prepared meal.

Foods of a kind marketed as a prepared meal therefore refers to foods of a sufficient quantity, mix and seasonings as to be regarded by the ordinary person as being of a kind that are marketed as a prepared meal.

16. Considering each of the products in this light, the Court found that in each case the products displayed attributes that made the products food of a kind marketed as a prepared meal.⁷

Ruling

17. In determining whether a product is food of a kind marketed as a prepared meal, the statutory question is a ‘single composite question’ – that being, *is the product food of a kind that is marketed as a prepared meal?*⁸

² *Simplot* at [134–141].

³ *Simplot* at [101], applying *Clean Investments Pty Ltd v Commissioner of Taxation* [2001] FCA 80 at [91–93].

⁴ *Simplot* at [103] and [108].

⁵ [2006] FCA 821.

⁶ *Simplot* at [105].

⁷ *Simplot* at [134–141].

⁸ *Simplot* at [101], applying *Clean Investments Pty Ltd v Commissioner of Taxation* [2001] FCA 80 at [91–93].

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18. Answering the statutory question requires consideration of what is meant by food being food of a kind marketed as a prepared meal, followed by an assessment of whether the product in question falls within that class.

19. The question is not whether the product itself is marketed as a prepared meal, but whether the product is a member of a class or genus of foods that are marketed as prepared meals.⁹ This means it is necessary to consider the kinds of food that are marketed as a prepared meal.

20. The attributes of a prepared meal and the kinds of food that are marketed as a prepared meal are determined by common sense and common experience.¹⁰

21. Accordingly, a product will be food of a kind marketed as a prepared meal if it is the kind of food that, as a matter of common sense and common experience, is marketed as a prepared meal. This is determined objectively by considering the attributes of the food, including quantity, composition and presentation.

22. Ultimately, whether a product is food of a kind marketed as a prepared meal cannot be determined by viewing individual attributes in isolation or without context. The test is how the product as a whole is perceived, informed by common sense and common experience, and an overall consideration of its attributes.¹¹

Of a kind

23. The words 'of a kind' are words of expansion rather than limitation. They have the effect that the question is not whether the product is the particular item of food specified in column 3 of the table in Schedule 1, but whether the product is a member of a class or genus of food of the item specified.¹² In this case, the question is whether the product is a member of a class or genus of foods that are marketed as prepared meals.

24. Food may be of a relevant kind even if it does not share all of the attributes of food of that kind. For example, in *Simplot*, the Court found that the use of cauliflower as a substitute for rice did not prevent the relevant 'VeggieRice' products from having the character of fried rice or risotto.¹³

25. Equally, food is not of a relevant kind merely because it is an ingredient or component of food of that kind. For example, many prepared meals include peas, but frozen peas, on their own, are not food of a kind marketed as a prepared meal. Being of the same kind requires more than just a common ingredient.

26. In determining whether a product is of a relevant kind, it does not matter whether the product may also be of some other kind.¹⁴ For example, in *Simplot*, the fact that the products could be described as food marketed as a meal component or side dish did not mean they could not also be food of a kind that is marketed as a prepared meal.¹⁵

⁹ *Simplot* at [99], [103] and [108].

¹⁰ *Simplot* at [104], [124], [138] and [140].

¹¹ *Simplot* at [124] and [125].

¹² *Simplot* at [98–99], applying *Cascade* at [16] and *Lansell House Pty Ltd v Commissioner of Taxation* [2011] FCAFC 6 at [30].

¹³ *Simplot* at [104].

¹⁴ *Simplot* at [130].

¹⁵ *Simplot* at [130].

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Marketed as

27. In determining whether food is of a kind marketed as a prepared meal, it is necessary to consider the kinds of food that are marketed as a prepared meal.
28. In this context, marketing means the activities of the seller in communicating messages to the market for the promotion and sale of the product.¹⁶ The content of the marketing is what those activities objectively convey to the market.¹⁷
29. Marketing includes labelling, packaging, display, promotion and advertising. Marketing does not include the internal activities, nor is it determined by the subjective intention or motivation of the seller. These things do not convey any message to the market.¹⁸ Marketing of food products can occur at different levels across the supply chain.
30. The statutory question is not whether the product itself is marketed as a prepared meal. If a product is of the same kind as food that is marketed as a prepared meal, it does not matter if its own marketing does not represent it as a prepared meal.¹⁹
31. While it is not determinative whether a product's own marketing represents it as a prepared meal, the marketing of the product itself is nevertheless relevant. The marketing of a product is an example of the marketing of food of that kind. Further, whether a product falls within a class can be affected by how it is marketed.²⁰ Where a product is marketed as a prepared meal, it would be rare that the product would not be food of a kind marketed as a prepared meal.
32. The test does not require that food of the relevant kind be *solely or principally* marketed as a prepared meal. However, as the Court in *Simplot* emphasised, the application of this test must be informed by common sense and common experience.²¹
33. It is not appropriate to have regard to obscure examples or isolated incidences when determining whether a product is food of a kind marketed as a prepared meal. For example, isolated instances of plain yoghurt being marketed as prepared meal would not result in plain yoghurt being food of a kind marketed as a prepared meal.

Prepared meal

34. In *Simplot*, the Court considered that the attributes of a 'prepared meal' are to be determined from common experience and include considerations of quantity, composition and presentation.²²
35. It is not necessary for food to be called a prepared meal, or marketed for consumption on a particular occasion such as breakfast, lunch or dinner.²³ It is also not limited to food that is packaged as a single portion to be consumed from its packaging.²⁴
36. Food may be food of a kind marketed as a prepared meal while also being food of a kind marketed as a meal component.²⁵ However, in practice, many meal components will not possess the necessary attributes that would make them food of a kind marketed as a prepared meal.

¹⁶ *Simplot* at [105].

¹⁷ *Simplot* at [105], [108] and [110].

¹⁸ *Simplot* at [108], referring to *Cascade* at [23–26].

¹⁹ *Simplot* at [129].

²⁰ *Cascade* at [22].

²¹ *Simplot* at [86] and [104].

²² *Simplot* at [124].

²³ *Simplot* at [119].

²⁴ *Simplot* at [139–140].

²⁵ *Simplot* at [130].

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37. Food will be food of a kind marketed as a prepared meal if it is the kind of food that is, as a matter of common sense and common experience, marketed as a prepared meal. This is determined objectively by considering the attributes of the food, including quantity, composition and presentation. Each of these is considered in further detail in paragraphs 38 to 46 of this Determination.

Quantity

38. In *Simplot*, the Court considered that a meal connotes a ‘quantity of substance’.²⁶

39. The following considerations are relevant regarding the quantity of the product:

- The food need not constitute a substantial meal – a small meal is still a meal.
- What will constitute a ‘quantity of substance’ will vary based on the food in question – there is no universally applicable bright line.
- Food of a kind that is presented as being for consumption by a particular group (for example, infants) or that is commonly consumed on a particular occasion (for example, breakfast) needs to be considered in light of that context. A quantity of food may be of sufficient quantity when presented as a meal for infants, even if the same quantity might not be sufficient as a meal for adults. See Example 2 of this Determination.
- Food may be supplied in large quantities and may still be food of a kind marketed as a prepared meal.²⁷ There is no upper threshold on quantity. See Example 3 of this Determination.
- Serving suggestions and similar guidance on the product packaging may be relevant when considering the marketing and presentation of the product. However, these have little or no relevance to the question of whether the product contains a ‘quantity of substance’.²⁸

40. The degree to which a product’s quantity is relevant may also depend on the form in which the product is sold. Where the food is commonly sold in such a way that the consumer is able to choose or measure the amount they purchase (for example, sushi or nigiri), the quantity or weight will be of little relevance in determining whether the food is of a kind marketed as a prepared meal.

Composition

41. A food’s composition will be consistent with it being a prepared meal where it is made from multiple ingredients or elements. This is a matter of fact and degree.

42. However, it is necessary to consider the nature of the ingredients or elements and not simply the number of ingredients or elements (see Examples 4 and 5 of this Determination). A product that includes some combination of protein, vegetables and a grain product like pasta, rice or bread is more likely to be of a kind marketed as a prepared meal.

²⁶ *Simplot* at [124].

²⁷ As discussed in *Simplot* at [139] in relation to a product that was not sold ‘pre-portioned’, the fact that ‘[i]t was entirely up to the consumer to determine how much or how little of the package was to be consumed on any one occasion’ did not prevent the relevant product being food of a kind marketed as a prepared meal.

²⁸ *Simplot* at [129], [134] and [138].

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43. The composition of a product may also indicate its suitability to be eaten at a particular meal occasion. For example, foods containing cereal and muesli are generally consumed at breakfast.

Presentation

44. A food's presentation will indicate it is a prepared meal if it is presented as being complete. Being 'complete', in this context, involves both preparation and inclusions.

45. First, the food should be 'complete' in the sense of being prepared and should require only limited further assembly and cooking activity. When determining whether a product is 'complete', the following principles are relevant:

- If food is sold fully assembled, the fact that all or part of it may be raw does not prevent the food from being sufficiently prepared, even if it requires cooking before for consumption.
- If cooking or heating is required for the food to be ready for consumption, this should only require limited cooking activity by the consumer, such as placing in the microwave, oven, frying pan, or saucepan.
- Some foods, including sushi and salad, are ready for consumption when sold even though part of them may be raw.
- Sometimes food is supplied with separated components. The fact that a consumer needs to combine the components before consumption (for example, to combine various salad components supplied in separate compartments and dress the salad with the sachet of dressing provided) does not, of itself, mean that the food is not sufficiently prepared to be 'complete'.

46. Second, the food should be presented as being 'complete' in the context of being a complete *meal*, not merely being prepared. This is a matter of fact and degree, but will commonly be indicated by the inclusion of seasonings, sauces and flavourings.

Overall consideration of the product

47. After considering the attributes of a prepared meal, the Court in *Simplot* said that²⁹:

Foods of a kind marketed as a prepared meal therefore refers to foods of a sufficient quantity, mix and seasonings as to be regarded by the ordinary person as being of a kind that are marketed as a prepared meal.

48. This does not mean that all products of sufficient quantity and that have multiple ingredients, including seasoning or sauce, are food of a kind marketed as a prepared meal. It is also necessary to apply common sense and common experience when considering each attribute and the overall product.

49. It is necessary to examine whether the product is sufficiently similar to other kinds of products that are commonly marketed as prepared meals. This is to be determined by the composition of the product but can also be impacted by how it is presented and marketed. For example, in *Simplot*, the Court identified the products as pasta in sauce, risotto or fried rice. These types of foods were, as a matter of common experience, foods of a kind marketed as a prepared meal.³⁰ However, this was not the only relevant factor,

²⁹ *Simplot* at [124].

³⁰ *Simplot* at [134–140].

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as the Court also considered it was necessary to have regard to the quantity and presentation of the products.

50. There are some kinds of food that are not *generally* a kind of food marketed as a prepared meal. Sometimes, however, the specific attributes of a product may tend to show that it is food of a kind marketed as a prepared meal. For example, appetizers such as spring rolls, gyoza, risotto balls, or dumplings are not generally presented as prepared meals and are not, as a matter of common sense and common experience, marketed as prepared meals. However, whether or not a product is food marketed as a prepared meal will depend on that product's attributes and not simply its description as, for example, 'spring rolls' or 'dumplings'. The presentation of a product, including its own marketing, can impact the characterisation of the product (see Example 9 of this Determination).

Examples

51. Paragraphs 52 to 81 of this Determination provide a series of examples illustrating our view on how the law applies in practice.

Example 1 – marketing does not refer to the product as a prepared meal

52. *Supermarket Ltd sells a Mediterranean salad bowl containing fetta, olives, mixed leafy greens, chickpeas and a sachet of dressing. The product weighs 200 grams and contains 1,000 kJ. It is sold ready to eat.*

53. *While the Mediterranean salad bowls are not referred to as a prepared meal in their marketing, they have the attributes of a prepared meal, including the appropriate quantity, composition and presentation. As a matter of common sense and common experience, a salad presented in a bowl with sufficient quantity for one person, and that comes complete with protein and dressing, is a kind of food that is marketed as a prepared meal.*

54. *The Mediterranean salad bowl is food of a kind marketed as a prepared meal.*

Example 2 – quantity – breakfast products

55. *Food Supplier Ltd manufactures and sells pots of bircher muesli containing rolled oats soaked in yoghurt and apple juice, coconut flakes and raisins. The pots weigh 150 grams and contain 900 kJ.*

56. *As a matter of common sense and common experience, bircher muesli is a kind of food that is eaten for breakfast.*

57. *In other contexts, this quantity may not be seen as a sufficient quantity for a meal. However, food of a kind that is commonly consumed on a particular occasion, like breakfast, needs to be considered in light of that context.*

58. *Regardless of whether the pots are referred to as a meal or as breakfast in their own marketing, they have the attributes of a breakfast, including the composition, presentation and are of a sufficient quantity for a complete breakfast.*

59. *The pots of bircher muesli are food of a kind marketed as a prepared meal.*

Example 3 – quantity – large quantities

60. *Food Wholesaler Ltd sells frozen beef lasagne in a range of sizes including 5 kg and 10 kg trays.*

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61. *While the lasagne trays are not pre-portioned and are provided in quantities that are more than what one person would be expected to consume as a meal, neither of these factors affect whether they are food of a kind marketed as a prepared meal.*

62. *The lasagne trays have the attributes of a prepared meal, including sufficient quantity, composition and presentation. As a matter of common sense and common experience, lasagne is a kind of food that is marketed as a prepared meal.*

63. *The lasagne trays are food of a kind marketed as a prepared meal.*

Example 4 – composition – number of ingredients or elements

64. *Supermarket Ltd sells a range of frozen food products, including frozen mashed potato. The product comes with 2 pre-portioned packets of 200 grams each and instructions for heating the packets in the microwave, either separately or together.*

65. *The product's composition is not consistent with that of a prepared meal as it comprises one element only. While mashed potato is a component in meals, as a matter of common sense and common experience, a product composed solely of mashed potato is not a kind of food that is marketed as a prepared meal.*

66. *The frozen mashed potato product is not food of a kind marketed as a prepared meal.*

Example 5 – composition – nature of ingredients or elements

67. *Food Supplier Ltd manufactures and sells a range of chilled desserts, including a product called 'Not Just a Trifle'. The trifle contains a wide range of ingredients including cream, custard, strawberries, grapes, pears, mango, pomegranate seeds, raw almonds and pistachios, jelly, sponge cake and sherry.*

68. *While the trifle includes many different ingredients, the nature of these ingredients, when combined, mean that the composition of the product is not consistent with that of a prepared meal but rather is that of a dessert. A dessert may be part of a meal or a course in itself but it is not a meal.*

69. *As a matter of common sense and common experience, trifle is not a kind of food that is marketed as a prepared meal.*

70. *The trifle is not food of a kind marketed as a prepared meal.*

Example 6 – presentation – prepared

71. *Supermarket Ltd sells crumbed fish and potato chips packaged together in a box in their frozen food section. The box weighs 350 grams and the fish and chips have been partly cooked. The instructions on the box suggest that the product should be:*

- *oven baked for 15 minutes*
- *cooked on the grill for 15–17 minutes or*
- *cooked in a pan for 10 minutes.*

72. *The product's quantity, composition and presentation are consistent with that of a prepared meal. As a matter of common sense and common experience, fish and chips is a kind of food that is marketed as a prepared meal.*

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73. *While the product is not fully cooked, the consumer is merely required to heat and serve. In this case, heating the product can be achieved by various methods.*

74. *The fish and chips are food of a kind marketed as a prepared meal.*

Example 7 – presentation – not prepared

75. *Supermarket Ltd sells meal preparation kits that contain all the ingredients necessary to make a meal. Each kit is accompanied by cooking directions. The Chicken Stir Fry kit comes with raw chicken, fresh stir fry vegetables, a packet of sauce and uncooked rice.*

76. *The Chicken Stir Fry kit is not food of a kind marketed as a prepared meal. While the kit contains all the necessary ingredients for a meal, these require more than limited cooking activity before consumption. Even though the final product would be a prepared meal, in the unprepared state in which they are sold, the ingredients are not food of a kind marketed as a prepared meal.*

Example 8 – presentation – not complete

77. *Food Supplier Ltd manufactures and sells tubs of coleslaw (shredded cabbage, carrot and dressing) in various sizes, including 250-gram and 500-gram tubs.*

78. *While the tubs are of a sufficient quantity for a meal, the product's presentation is not consistent with that of a prepared meal. While coleslaw is a component in some prepared meals, as a matter of common sense and common experience, coleslaw is not a kind of food that is marketed as a prepared meal.*

Example 9 – presentation – complete

79. *In its chilled section, Supermarket Ltd sells Easy Dumpling Dinners that contain 4 vegetable and 4 prawn dumplings in a microwavable container. The product weighs 250 grams and contains 1,700 kJ and comes with a sachet of soy sauce.*

80. *While not all products containing dumplings are food of a kind marketed as a prepared meal, this product is a sufficient quantity and composition for a meal and is presented as being a complete meal that is sold ready-to-eat once heated.*

81. *As a matter of common sense and common experience, food of this kind that is packaged and presented this way, is food of a kind marketed as a prepared meal.*

Date of effect

82. This Determination will not take effect until finalised. When the final Determination is issued, it is proposed to apply both before and after its date of issue. However, the Determination will not apply to you to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 75 to 76 of Taxation Ruling TR 2006/10 *Public Rulings*).

83. We will continue to act in accordance with Law Administration Practice Statement PS LA 2011/27 *Determining whether the ATO's views of the law should be applied prospectively only* and Law Administration Practice Statement PS LA 2012/2 (GA) *GST classification of food and beverage items*.

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Impact on existing ATO public advice and guidance

84. We have identified that the following updates to existing ATO public advice and guidance are required. These will be made at the time the final Determination is issued:

- an addendum to the GST Industry Issue GSTII FL1 *Detailed Food List* (DFL)
- withdrawal of Goods and Services Tax Industry Issue Food Industry Partnership *Prepared food* (Issue 5 Prepared Food).

85. The addendum to the DFL will be made to ensure consistency with the principles in this Determination. While this will involve updates to the item descriptions and notes for a number of DFL entries, at this stage we have only identified three entries with updates that will be a change in view. In the following DFL entries, the GST-free status will either change or be limited in application as outlined below:

- chicken wraps, uncooked
- prepared product that requires assembling before consumption
- vegetarian meal that requires assembling before consumption.

86. These DFL entries are not fully aligned with the principles in this Determination and will require updates to their item description, notes and/or GST-status, including removal of incorrect examples provided in the notes of the latter two entries. The updates will make it clear that products that require only limited further assembly and cooking activity can be food of a kind marketed as a prepared meal.

87. The withdrawal of Issue 5 Prepared Food will be effective from the date of withdrawal. Issue 5 Prepared Food will be withdrawn because the principles expressed in that Ruling are not fully aligned with the principles deriving from the *Simplot* decision as outlined in this Determination.

88. The DFL and Issue 5 Prepared Food are public rulings and continue to apply. Your ability to rely on the DFL or Issue 5 Prepared Food is unaffected by this draft Determination.

89. The proposed addendum to the DFL will apply both before and after its date of issue. As the addendum will apply both before and after its date of issue, both the pre-addendum wording of the DFL and the revised wording in the addendum will apply for overlapping periods of time. In these circumstances, you can choose to rely on either version of the DFL during that period.³¹

Commissioner of Taxation

27 March 2024

³¹ Subsection 357-75(1A) of Schedule 1 to the *Taxation Administration Act 1953*. See also paragraph 58A of TR 2006/10.

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Appendix – Your comments

90. You are invited to comment on this draft Determination including the proposed date of effect and the impact of the Determination on any existing ATO public advice and guidance that you rely on (see paragraphs 84 to 89 of this Determination). Please forward your comments to the contact officer by the due date.

91. A compendium of comments is prepared when finalising this Determination, and an edited version (names and identifying information removed) is published to the Legal database on ato.gov.au.

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

Due date: 26 April 2024
Contact officer: Renae Carter
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Phone: 02 9374 2942

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References

Related Rulings/Determinations:
GSTII FL1; GSTII FI3; TR 2006/10

105 FCR 248; 2001 ATC 4068; 46 ATR 248; 184 ALR 314

Legislative references:

- ANTS(GST)A 1999 38-3(1)(c)
- ANTS(GST)A 1999 Sch 1
- TAA 1953 Sch 1 357-75(1A)

- Lansell House Pty Ltd v Commissioner of Taxation [2011] FCAFC 6; 190 FCR 354; 2011 ATC 20-239; 79 ATR 22; [2011] ALMD 2353
- Simplot Australia Pty Limited v Commissioner of Taxation [2023] FCA 1115; 2023 ATC 20-881

Cases relied on:

- Cascade Brewery Company Pty Limited v Commissioner of Taxation [2006] FCA 821; 153 FCR 11; 2006 ATC 4339; 64 ATR 28; [2006] ALMD 7073
- Clean Investments Pty Ltd v Commissioner of Taxation [2001] FCA 80;

Other references:

- PS LA 2011/27
- PS LA 2012/2 (GA)

ATO references

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