GSTR 1999/D3 - Goods and Services Tax: Special credit for sales tax paid on stock

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This document has been finalised.

Generated on: 28 November 2026, 02:50:30 AM

Draft Goods and Services Tax Ruling
Goods and Services Tax: Special credit for sales tax paid on stock

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Preamble

This document is a draft for industry and professional comment. As such, it represents the preliminary, though considered, views of the Australian Taxation Office. This draft may not be relied on by taxation officers, taxpayers and practitioners. When officially released it will be a public ruling for the purposes of section 37 of the ***Taxation Administration Act 1953*** *and may be relied upon by any person to whom it applies.*

What this Ruling is about

1. This Draft Ruling explains the meaning of terms in section 16 of the *A New Tax System (Goods and Services Tax Transition) Act 1999* (the Transition Act). It also provides guidance as to how the provision operates in determining the extent of the special credit available in respect of stock on hand at 1 July 2000.

2. This Ruling provides methods for calculation of certain types of goods where it is likely that difficulties will be experienced in identifying the wholesale sales tax (WST) embedded in stock. If you act in accordance with it you will be afforded the protection available under section 37 of the *A New Tax System (Goods and Services Tax Administration) Act 1998*.

Date of effect

3. This Ruling when finalised may be relied on immediately and will apply from 1 July 2000.

Background

4. As part of the Government's initiative of a new tax system, the WST will be replaced by goods and services tax (GST) from 1 July 2000. This is the date of commencement of the GST. To help the transition from the WST system to the GST, a series of transitional measures have been provided.

5. One transitional measure is the provision under section 16 of the Transition Act of a special credit equal to the WST that you have borne on stock that you have on hand at the start of GST. This provision recognises that GST is applied in addition to the WST that will have already been charged on goods held for sale or exchange at the start of 1 July 2000.

Ruling

6. You are entitled to the special credit if you are registered as at 1 July 2000 and you have on hand, goods you have acquired or imported that are held for the purposes of sale or exchange (but not for manufacture) in the ordinary course of business.

7. However, the special credit does not apply to:

(a) second-hand goods, other than if you imported second-hand goods and nobody could quote under the *Sales Tax Assessment Act 1992* for their importation; or

(b) alcoholic beverages mentioned in subsection 15A(1) of the *Sales Tax (Exemptions and Classifications) Act 1992*.

8. Second-hand goods are those goods that are not new or have been previously used. They do not have to be previously owned. Demonstration goods and used plant and equipment that are held for purposes of sale or exchange are second-hand and are not eligible for the special credit (see paragraphs 49-61 below).

9. If you are a service provider, materials and spare parts, that you hold are stock on hand where they are to be supplied as an essential part of performing the services. When the services are performed, the goods will be disposed of and property in them will pass to the customer. These goods are held for the purposes of sale or exchange. If you hold them at the start of 1 July 2000 they are eligible for the special credit (see paragraphs 26-33 below).

10. Consumable goods (for example, office stationery or cleaning rags) by their very nature are not held for purposes of sale or exchange and are not stock on hand. They are not eligible for the special credit (see paragraph 34 below).

11. Goods held for sale under a retention of title clause, under lay-by terms and as returned goods are eligible for the special credit. However, goods held under consignment arrangements are not eligible for the special credit (see paragraphs 35-42 below).

12. Subsection 16(3) of the Transition Act provides that the special credit is equal to the amount of WST you have borne in respect of the goods on hand at the start of 1 July 2000. . For purposes

of subsection 16(3) of the Transition Act, you can ascertain the amount of the special credit by:

(a) identifying the amount of the WST borne on the quantity of goods from stock records or other source documents (see paragraph 75 below); or

(b) calculating the amount of WST using the methods shown below if you:

(i) can identify:

- the WST-inclusive cost of the goods purchased in Australia; or
- the WST and customs duty inclusive cost of the goods imported into Australia; and

(ii) know the rate of WST applicable to these goods (see paragraphs 76-78 below).

13. However, in ascertaining the WST inclusive cost price, you should:

(a) exclude any costs on which WST was not charged (see paragraphs 88-91 below); and

(b) take into account adjustments of WST borne because of discounts, rebates and returns (see paragraphs 92-98 below).

14. If the amount of WST borne in respect of goods cannot be readily ascertained, subsection 16(5) of the Transition Act provides that the Commissioner may determine methods for working out the amount of WST borne. For purposes of subsection 16(5):

(a) where you acquire goods from a retailer and the invoice does not show the amount of WST, you can calculate the WST included in your purchase price by estimating the taxable value on which tax would have been charged as being 50% of the total purchase price (see Method 1 described at paragraphs 110-112 below); or

(b) if you operate a mixed retail business with a turnover of less than $5 million and with a wide range of stock items, you can calculate a percentage of the total value of purchases made over a 13 week period that has borne WST at different WST rates. You then apply these percentages to the total value of stock on hand at the start of 1 July 2000 (see method 2 described at paragraphs 118-131 below).

15. You identify your special credit claim by entering it in a designated field in one GST return for a tax period of your choice.

You must lodge that GST return before 22 January 2001. [Note: The Government intends to move an amendment that will align this date with the concession granted by the Commissioner. This concession enables small business to extend to time of lodgment of the GST return for their second 3 month tax period.]

16. If your entitlement to the special credit alters (for example, because you receive a discount or a rebate, or you accept any returned goods or you return goods to your supplier) you must lodge an amended GST return to replace the one in which you made the claim.

17. You must keep sufficient records that identify the quantity of stock on hand at the start of 1 July 2000 and the WST borne on those goods. You must keep those records for five years. If you calculate the special credit, you must retain the calculations and any other documentation that supports the method of calculation you adopt.

Explanations

18. Section 16 of the Transition Act provides for the special credit and states:

> '(1) You are entitled to a special credit for GST purposes if:
>
> (a) you are registered as at 1 July 2000; and
>
> (b) you have on hand, at the start of 1 July 2000, goods you acquired or imported that are held for the purposes of sale or exchange (but not for manufacture) in the ordinary course of business.
>
> (2) However, this section does not apply to the following:
>
> (a) second-hand goods (unless you imported them and nobody was entitled to quote under the *Sales Tax Assessment Act 1992* for the importation); and
>
> (b) goods mentioned in subsection 15A(1) (alcoholic beverages) of the *Sales Tax (Exemptions and Classifications) Act 1992*.
>
> (3) The amount of the special credit is equal to the amount of sales tax that you have borne in respect of the goods.
>
> (4) The special credit is treated as though it were an input tax credit attributable to any one period of your choice. However, you are not entitled to it unless you separately identify it in a GST return that you lodge before 22 January 2001.

(5) The Commissioner may make a written ruling determining methods for working out the amount of sales tax that you have borne in respect of specified goods in cases where that amount is not readily ascertainable.'

19. Some of the terms used in section 16 of the Transition Act are explained below. These explanations should be read in conjunction with the above legislation.

'Goods on hand'

20. Goods are on hand if you have property in those goods, that is, you are the owner and they are **actually** in your physical possession, or are being stored or warehoused for you by someone else. They are also on hand if they are **in transit**, that is, they are not physically in your possession and you have the power to dispose of those goods: *Farnsworth v. FC of T* (1949) 78 CLR 504 and *All States Frozen Foods v. FC of T* (1990) 21 FCR 457; 90 ATC 4175; (1990) 20 ATR 1874. Provided you have borne WST on those good you can claim the special credit.

21. For example, if you are a contractor and you retain the power to dispose of goods that are on site but are not affixed to the real property, these goods are on hand even though they are not in your physical possession. Therefore, you can claim the special credit provided you have borne WST on the goods.

'At the start of 1 July 2000'

22. Section 16 of the Transition Act requires that for goods to attract the special credit they must be on hand at the start of 1 July 2000. This is the date of commencement of the GST. To claim the special credit, it is necessary to determine the quantity of stock on hand and the extent of WST borne on that stock as at 1 July 2000.

23. For example, if your accounting period ends on a date other that 30 June, (for example 30 April or the last Sunday of the month) you should adjust your balance date stock levels to reflect stock movements between that date and 30 June 2000 to determine the quantity of stock on hand at 1 July 2000.

'Goods you acquired or imported that are held for the purposes of sale or exchange'

24. If you are a retailer or a wholesaler/retailer, goods held by you for purposes of sale or exchange in the ordinary course of business are stock on hand under section 16 of the Transition Act.

25. If you are a tradesperson, repairer or other service provider, goods held by you (for example, materials or spare parts) are also stock on hand for purposes of section 16 of the Transition Act where they are:

(a) to be supplied in the course of, and as an essential part of performing the services; and

(b) disposed of, that is, property in them passes to the customer.

Materials or spare parts

26. Paragraph 16(1)(b) of the Transition Act is similar to the definition of 'trading stock' in section 70-10 of the *Income Tax Assessment Act 1997* (the ITAA 1997). The major difference is that the section 70-10 definition includes goods for manufacture. We consider that the words 'goods you acquired … that are held for the purposes of sale or exchange … in the ordinary course of business' connote 'trading stock' as that term is ordinarily used.

27. Support for this view can be found in *FC of T v. Suttons Motors (Chullora) Wholesale Pty Ltd* (1985) 157 CLR 277, where the High Court, in considering the ordinary meaning of the term 'trading stock', said at 281-282:

> 'It is not necessary for present purposes however to explore the outer limits of the area covered by that ordinary meaning of the term. Its traditional and narrower denotation still lies at the centre of that meaning and is adequate for present purposes. That denotation is of **goods held by a trader in such goods for sale or exchange in the ordinary course of his trade**'[emphasis added].

28. Taxation Ruling TR 98/8 provides guidance on whether goods held by a person supplying services (for example, a tradesperson, repairer or other service provider) would be trading stock for income tax purposes. It states at paragraph 5(c) and subparagraph 6(a)(ii):

> 'materials or spare parts are separately identifiable things before and after the services are provided which retain their individual character or nature, that is, they are not used up or significantly changed in performing the services'.

29. For income tax purposes, this requirement would exclude from trading stock, for example, paint held by an artist or house painter (see paragraph 15 Taxation Ruling TR 98/8). The same treatment would apply to paint held by a panel beater or materials used by a tyre repairer to retread tyres.

30. However, for GST purposes, paragraph 16(1)(b) of the Transition Act should be read so that a construction of the provision gives effect to the purpose or object of the legislature. In the High Court in *Newcastle City Council v. GIO General Ltd* (1997) 191 CLR 85, McHugh J said at 113:

> 'Nevertheless, when the purpose of a legislative provision is clear, a court may be justified in giving the provision "a strained construction" to achieve that purpose provided that the construction is neither unreasonable nor unnatural. If the target of a legislative provision is clear, the court's duty is to ensure that it is hit rather than to record that it has missed. As a result, on rare occasions a court may be justified in treating a provision as containing additional words if those additional words will give effect to the legislative purpose.'

31. Effect can be given to the purpose or object of the legislation of avoiding inappropriate double taxation if paragraph 16(1)(b) is interpreted to include the words - **either separately or as part of or in combination with other goods.** The outcome of this construction is that we will regard goods held by an entity providing services as stock where the goods are to be supplied as an essential part of performing the services and the goods are disposed of and property in them passes to the customer.

32. This result is supported by a decision of the Taxation Board of Review No 1 in *Case 115* (1951) 1 TBRD (NS) 485; *Case 120* (1951) 1 CTBR (NS) 568 where Mr R R Gibson, Chairman, stated (TBRD at 491-492; CTBR at 572-573):

> 'The conclusion I have come to is that the main legislative purpose of the definition of trading stock ... is to ensure, beyond the possibility of any question, that goods which are not sold, or not separately sold, by a manufacturer or other trader (and might therefore not be trading stock as the term is ordinarily understood) but which (whether raw materials or not) **become parts or constituents of the goods which he does sell, shall be treated as trading stock** for the purposes of the Act' [emphasis added].

33. Therefore, for example, if you are a panel beater or you are a tyre repairer and you have on hand as at 1 July 2000 a stock of paint, or materials to retread tyres, you are entitled to the special credit if you are registered as at 1 July 2000 and the goods have borne WST.

Consumable goods

34. Consumable goods (for example, office stationery or cleaning rags) by their very nature are not held for purposes of sale or exchange and are not stock on hand (see Taxation Rulings IT 333 and TR 93/20,

paragraphs 26, 105 and 106). They are destroyed, consumed or expended by use in carrying on business. Therefore, you cannot claim the special credit for consumable goods.

Consignments, retention of titles, lay-bys and returns

35. There are a number of commercial arrangements, practices and terms of trade that will determine whether you hold goods for sale or exchange at the start of 1 July 2000, whether you have borne tax on the goods and whether you can claim the special credit.

36. Examples of these types of arrangements are:

(a) where goods are held under consignment, 'on approval', 'sale or return' or 'trial or agency' arrangements;

(b) arrangements with a retention of title clause;

(c) goods put aside on lay-by;

(d) returns by customers; and

(e) returns to suppliers.

Goods held under consignment, 'on approval', 'sale or return' or 'trial or agency' arrangements.

37. You may hold goods for sale by you even though they are currently owned by your supplier. For instance, in *FC of T v. Suttons Motors (Chullora) Wholesale Pty Ltd*, the Court stated (CLR at 282) that the fact that particular goods may not have been paid for or may not be owned by the trader did not preclude them being stock on hand in relation to the business, if notwithstanding the lack of payment or ownership they are:

> '… legitimately held in the possession of the trader as or as part of the body of stock to be sold or exchanged in the ordinary course of trade of that business'.

38. Goods held in these circumstances at 1 July 2000 will not have been the subject of an assessable dealing between the supplier and you. Further, subsection 8(2) of the Transition Act does not apply to bring the assessable dealing forward because it is not certain that an acquisition or supply has been made before 1 July 2000 (refer paragraph 6(2)(c) of the Transition Act). Accordingly, as you have not borne WST on the goods, you are not entitled to the special credit.

Arrangements with a 'retention of title' clause

39. Some suppliers of goods include in their contracts of sale, a retention of title clause (also known as a reservation of title clause or a *Romalpa* clause). Essentially, these clauses are intended to protect the supplier's interest in the goods by delaying the time of the sale until the purchaser pays for the goods.

40. In these cases, the retailer is committed to the contract of sale, has possession of the goods and receives title in the goods upon payment of the price (or earlier if they have been sold beforehand). A sale in these circumstances is covered by paragraph 6(2)(a) and section 8 of the Transition Act if the goods are delivered before 1 July 2000 and title passes after that date.

41. The effect of paragraph 6(2)(a) and subsection 8(2) of the Transition Act is that where goods are removed for delivery prior to 1 July 2000 and the assessable dealing (eg when title passes) takes place on or after 1 July 2000, the assessable dealing is taken to have occurred on 30 June 2000 and the supply is subject to WST. That being the case, the retailer would have borne the WST and will be entitled to the special credit if the goods are held for sale at 1 July 2000.

Goods put aside on lay-by

42. Goods that have been allocated to a customer under a lay-by arrangement are still held for sale until the customer pays the final instalment (see Taxation Ruling TR 95/7). You can claim the special credit for these goods.

Returns by customers

43. Many retailers have a policy of giving a full credit to customers for the return of goods. If you accept returns after 30 June 2000 of goods that you sold on or before that date, and place them back into your stock for sale, you may have borne WST on them.

44. You can treat the returned goods as having been held for sale on 1 July 2000 and you can include any WST borne on them in your special credit claim. If you have already claimed your special credit you can lodge an amended GST return to claim the additional credit. Paragraph 137 of this Ruling explains how to do this.

45. If you claim a special credit for goods returned by your customers, you should keep details in your records of both the original sale to your customer and the return of the item, as well as information about the extent of the WST borne.

Returns to suppliers

46. Where a retailer has borne WST on the purchase of goods and subsequently returns them to their supplier for a credit of the original purchase price, including WST, the retailer has not borne that tax. The supplier is entitled to a credit for the full amount of tax charged under sales tax credit ground CR1 (see Sales Tax Ruling SST 7) because the original assessable dealing from the supplier to the retailer has effectively not taken place.

47. Accordingly, if you return goods that were held for sale on 1 July 2000, you cannot claim a special credit for those goods. If you have claimed a special credit and you subsequently return the goods so that tax has not been borne on them, you must lodge an amended GST return and repay the overclaimed special credit. Paragraph 136 of this Ruling explains how to do this.

Goods excluded from the provision for the special credit

48. Section 16 excludes some goods from the provision for the special credit. They are second-hand goods (other than certain imported second-hand goods) and certain alcoholic beverages that are discussed below.

Second-hand goods

49. Paragraph 16(2)(a) of the Transition Act excludes second-hand goods from the special credit (except for goods you imported and nobody was entitled to quote under *Sales Tax Assessment Act 1992* for the importation). The term 'second-hand' is not defined in the Transition Act or in the *A New Tax System (Goods and Services Tax) Act 1999*, (the GST Act) other than in section 195-1 where it states what is *not* included (that is, precious metals and some livestock). Moreover, there is nothing to indicate that it is a term that has a special or trade meaning.

50. Therefore, 'second-hand' takes its ordinary meaning. However, for GST purposes that meaning should also be subject to the exclusions mentioned in the statutory definition.

51. The dictionaries define 'second-hand' as:

> '1. obtained from another; not original;
>
> 2. previously used or owned;
>
> 3. dealing in previously used goods
>
> 4. after having been owned by another person.'
>
> The *Macquarie Concise Dictionary* 3rd Ed

> 'A2. At second hand, (to buy, receive, learn etc) from another than the maker, or original vendor (of goods) …
>
> B. adj. (Second-hand) 1. Not original or obtained from the original source; 2. Not new, having been previously worn or used by another, as s. clothes, books etc.'
>
> The *Shorter Oxford English Dictionary* Vol 2

52. The ordinary meaning, depending on its context, can include either previous use or previous ownership, or both previous use and previous ownership, as is shown in the above dictionary definitions.

53. There appears to be no judicial guidance that definitively clarifies this issue. From case law, it seems to depend on the context that the expression is used. For instance, Starke J of the High Court in *Werrin v. The Commonwealth of Australia and Another* (1938) 59 CLR 150 said at 162:

> ' … this court held *in Deputy Federal Commissioner of Taxation v. Ellis & Clark Ltd* (1934) 52 CLR 85 that sales tax was not payable on goods that had gone into use and consumption in Australia, eg, second-hand goods.'

54. We contend that the expression 'use and consumption' connotes use without the necessity for prior ownership. For example, goods the subject of a lease, would be used by the lessee and regarded as second-hand at the expiry of the lease even though there has been no change in ownership of the goods.

55. However, an alternative view is that it is not patently clear from the judgment in *Ellis & Clark*, that the Court intended that 'second-hand' should be restricted to goods used and consumed in Australia. The following judges said:

Starke J. – '… second-hand goods – that is goods which have already been distributed or gone into use';

Dixon J. - '… second-hand goods, that is, goods which have already been retailed and have gone into use';

McTiernan J. – '… goods were second-hand because they have been discarded or acquired from persons who bought them for use'.

56. All the judges indicate that prior ownership is necessary, (although Starke J seems to regard prior ownership *or* prior use as necessary) for goods to be second-hand.

57. In New Zealand - in a GST context - the Court of Appeal in *L R McLean & Co v. CIR* [1994] 3 NZLR 33 considered the term 'second-hand goods'. However, this case also does not provide any definitive answer. This is evident from the comment of Richardson J. at p.34:

> 'In ordinary usage the expression refers to goods which have been used, although depending on the context it may apply to goods which are no longer new or even in some contexts which have simply been previously owned.'

58. Richardson J. indicates, that the meaning of 'second-hand' depends on the context in which the term is used. For example goods may be 'second-hand if they are used, no longer new or previously owned but that the emphasis is on whether the goods are used, that is, they are not new.

59. This also seems to be reinforced by Barber J. in the Taxation Review Authority in *TRA Case 1* (1991) 15 TRNZ 617, where he stated at p.623 that:

> 'The word 'second-hand' as an adjective to 'good' or 'goods', means, in my view, that in some way or another the item has been used or treated or stored by a previous owner in such a manner that it can no longer be regarded as new.'

60. Barber J. also said at p.623:

> 'I agree with counsel that the concept of secondhand relates to pre-ownership or pre-use. I agree … that the emphasis is on pre-use. I consider that there is quite some commonsense flexibility in ascertaining whether a good is still new or has become secondhand. I do not regard second ownership as necessarily rendering an item secondhand. Many goods pass from manufacturer to wholesaler to retailer to customer or consumer (with other levels of distributors sometimes involved) and yet are not regarded as second hand at the consumer purchase level, even though the item has been used as stock-in-trade at the various distribution levels. The good is not regarded as second hand until it has been used for its intrinsic purpose".

61. On this basis and in the context of section 16 of the Transition Act, we believe that the term 'second-hand' means '*previously used'* or '*not new'*.

Demonstration goods

62. Many retailers set goods aside for demonstration use by or for potential customers. After a period, these goods are sold as second-hand or demonstration goods. Often, they are sold with only part of the original warranty attached. These good may be held for sale at the start of 1 July 2000. However as they are second-hand goods the special credit does not apply.

63. Goods that are used for demonstration purposes may or may not be used for their intrinsic purpose. For example, a refrigerator on

display in a department store has not been used for its intrinsic purpose to refrigerate food.

64. If you hold goods that are used for demonstration purposes, where the use of the goods for their intrinsic purpose is negligible or insubstantial, and the goods are to be sold as new goods with full warranty attached, you can claim the special credit. For example, a piece of earthmoving equipment which is occasionally used for demonstration purposes at exhibitions or field days is used for its intrinsic purpose, but that use may be regarded as negligible or insubstantial. If the full warranty is attached then the special credit can apply.

65. Demonstration vehicles or drive cars held by motor dealers have been used for their intrinsic purpose as a means of transportation. They are sold as used vehicles with a partial warranty, being the balance of warranty remaining. They are second-hand goods and excluded from the special credit by paragraph 16(2)(a) of the Transition Act.

Plant and equipment

66. Plant and equipment cannot be trading stock at the same time: (see *Case C20*, 71 ATC 91; *Case 17* 17 CTBR (NS) 111). However, an item can be trading stock and later become plant (*FC of T v. Cyclone Scaffolding Pty Ltd* 87 ATC 5083, (1987) 19 ATR 674) or be initially held as plant and later change its status to trading stock (see sections 70-30 and 70-110 of the ITAA 1997).

67. Plant and equipment that changes its status is used and, therefore, second-hand. For example, computers used as plant and equipment in the business of a computer retailer but later held by the retailer as stock on hand are regarded as goods held for purposes of sale or exchange. However, these goods are *not* be eligible for the special credit because they are second-hand goods. Also these goods may not have been held for sale or exchange in the ordinary course of business. Accordingly, the special credit is not available for such goods held at 1 July 2000.

Alcoholic beverages

68. Subsection 15A(1) *Sales Tax (Exemptions and Classifications) Act 1992*, in conjunction with Item 1 of Schedule 7 of that Act list the following alcoholic beverages:

(a) wine, cider or similar beverages, and mead, perry, sake or similar fermented beverages, if they contain more than 1.15% by volume of ethyl alcohol;

(b) beer;

(c) spirits, liqueurs or spirituous liquors; or

(d) beverages that contain beer, spirits (other than spirits for fortifying wine or other beverages), liqueurs or spirituous liquors.

69. These alcoholic beverages are excluded from the special credit by paragraph 16(2)(b) of the Transition Act.

70. A Ruling providing more information on these beverages will issue.

How to ascertain the special credit

71. You can ascertain the special credit on goods held for sale or exchange at the start of 1 July 2000, by:

(a) identifying the quantity of goods held and the amount of WST borne on those goods from stock records or source documents, such as invoices; or

(b) calculating the amount of WST by applying formulas to your tax-inclusive cost if the WST cannot be readily ascertained from stock records or source documents.

Identifying the quantity of taxable goods held and the amount of WST borne on those goods from stock records or source documents

Identifying the quantity of goods held

72. In many cases, you will need to, or may want to, undertake a physical stocktake of your goods held for sale or exchange at the start of 1 July 2000 on which you have borne sales tax.

73. To establish the quantity of goods held at the start of 1 July 2000 for GST purposes, you cannot estimate the quantity of your stock based only on a stocktake you completed for a prior period. However, you can determine the quantity of goods held for sale at the start of 1 July 2000, without the need to undertake a physical stocktake on that date, if you have:

(a) maintained a continuous, accurate record of your stock on hand by recording all stock movements and losses such as purchases, sales, returns, spoilage, breakage, shoplifting and theft;

(b) undertaken stocktake(s) so that you count all items of stock at least once during the period 1 July 1999 to 30 June 2000; and

(c) adjusted your stock records for discrepancies identified by your stocktakes.

74. If your accounting period ends on a date other than 30 June 2000, you must nevertheless determine your special credit by reference to the stock on hand as at the start of 1 July 2000.

Identifying the amount of WST borne on the goods from stock records or source documents

75. Where your stock system identifies each article of stock, its cost and the amount of WST charged to you, your special credit should be calculated directly from that WST figure. If your stock system does not identify each article of stock, the most accurate method of identifying the amount of tax borne is to trace the acquisition or importation back to source documents such as invoices or the record of entry for home consumption.

Calculating the amount of WST from your tax-inclusive cost

76. If your stock system or source documents do not record WST as a separate component of cost, you can calculate the amount of tax borne by determining the WST-inclusive cost price and applying appropriate formulas (see paragraph 78 below).

77. In determining the WST-inclusive cost price you can:

(a) identify the quantity of goods held;

(b) use an acceptable stock valuation method (see paragraph 82 below);

(c) exclude any costs on which you were not charged WST; and

(d) take into account adjustments to the recorded or calculated amount of tax borne.

78. You then can calculate the amount of WST borne by applying a formula to the tax-inclusive cost. However, you will have to use one series of formulas for goods purchased in Australia (see paragraphs 99-100 below) and another series for goods you have imported into Australia (see paragraphs 101-106 below).

Rates of WST

79. For the purposes of calculating the special credit, you can treat any 'tax-paid' stock as having been subject to WST at the current rates, even though any goods purchased before 1 July 1995 would have been taxed at lower rates.

Identify the quantity of goods held

80. The methods of identifying the quantity of goods held are discussed in paragraphs 72-74 above**.** If you do not have a stock recording system of the kind described in paragraph 75 above, you will have to carry out a physical stocktake to determine the quantity of goods on hand.

81. However, if you have an annual turnover of less than $5 million, you can choose to undertake a physical stocktake shortly before or after 1 July 2000. In these circumstances, you will need to maintain an accurate record of purchases, sales, returns, spoilage and breakage, so that the result of your physical stocktake is adjusted for stock movements to calculate the amount of stock on hand at the start of 1 July 2000. If you wish to carry out your stocktake after 1 July 2000 and you use the retail inventory method of stock valuation to calculate your cost, you must value the stock at the selling prices that applied before you adjusted your prices to take account of WST having ceased and GST becoming payable.

Stock valuation methods

82. In many businesses, it is impractical or commercially unrealistic to trace the actual tax-inclusive cost of each particular article of stock. Therefore, we will accept any reasonable method (discussed below) of valuing your stock provided it identifies the cost price on which you have borne tax for each line of stock.

83. Some stock valuation methods use the value of the most recent purchases or the value at which the stock could be replaced. Unless the goods on hand have not been subject to any price increases since the time of purchase, these methods will not value all the items in stock at their actual purchase price. Therefore, if you use these stock valuation methods and your purchase prices have increased since you purchased the goods, you must make adjustments to reduce the resultant cost figure to equal the actual price for which you purchased all of the goods.

FIFO and average cost

84. Of the methods that are accepted for valuing trading stock on hand, FIFO ('first in, first out') and average cost give the most accurate valuation and are the Commissioner's preferred methods for identifying the tax-inclusive cost of goods for which you are claiming the special credit. However, you can use the other methods detailed below if they give an accurate calculation of the tax-inclusive cost of your goods on hand or if appropriate adjustments are made so that your method achieves that result.

Retail inventory method

85. The retail inventory method (also known as calculated cost or point of sale methods) will provide an accurate cost valuation where:

(a) your gross profit margin is set to take account of the items of stock on hand at the start of 1 July 2000 that you purchased at a price lower than your most recent purchases; or

(b) you turn your stock over in a short period of time so that your current retail prices (when reduced by your gross profit margin) equate to your actual purchase prices; or

(c) a further adjustment is made (after your selling prices are reduced by your gross profit margin) to reflect movements in cost prices while the stock was on hand; and

(d) mark-downs to retail selling prices are added back.

86. If you conduct your stocktake after 1 July 2000, you must calculate your total selling prices by valuing the physical quantities at the selling prices that applied before they were adjusted to take account of WST having ceased and GST becoming payable.

Other methods

87. Other methods such as LIFO ('last in, first out') and base cost are not acceptable for determining the special credit.

Costs that have not been taxed

88. Your recorded cost price for each line of stock may include charges that were not included in the taxable value on which you have borne tax. You must exclude the value of these costs from your recorded cost before applying a formula to the tax-inclusive cost and calculating the amount of tax borne. The reason the more common of these costs are not included in the taxable value is discussed in the following paragraphs.

Separately contracted costs

89. Freight, insurance, finance charges and optional warranty charges that are included in a separate contract and are not essential to the contract of sale of the goods to you, do not form part of the taxable value of the wholesale sale of goods.

Tax advantaged computer programs

90. Some goods such as digital cameras may incorporate tax advantaged computer programs (TACPs). The value of these programs known as the exempt part of the taxable value is excluded from the taxable value.

Instruction manuals and AC adaptors

91. Many goods are sold with other goods such as instruction manuals and AC adaptors that are exempt from tax. Although your supplier charges a single price for the complete packaged goods, the value of the exempt goods are excluded from the taxable value of the goods.

Adjustments to the recorded or calculated amount of tax borne

Court cases and refunds

92. The courts sometimes decide that a particular product that has previously been subject to sales tax is exempt or is taxable at a lower rate. When this happens, suppliers to retailers commonly make claims to the ATO for refunds of WST that they have previously charged on these goods. These claims are made on the basis that the WST will be refunded to the retailers. This eliminates the WST borne on the goods. If you have received a refund or a credit for WST in these circumstances, you have not borne any WST on these goods and you cannot claim the special credit.

93. If you are aware that you will receive a refund in these circumstances but you haven't received it when you make your special credit claim, you may anticipate the reduction in the amount you can claim to avoid having to lodge an amended GST return when the refund is received.

Discounts and rebates

94. Arrangements between suppliers and purchasers often include express or implied conditions that provide for discounts or rebates from the amount payable by the purchaser to the supplier. Certain of these discounts or rebates such as trade discounts, volume rebates, deferred credits and prompt payment or settlement discounts reduce the price for which the goods are sold. They also reduce the WST payable.

95. Price reductions such as settlement discounts or trade discounts are usually deducted in advance of payment. Deferred credits and volume rebates are not calculated until after the transaction has been completed and may be paid as a refund to the purchaser.

Consequently, the credit reduces the taxable value and, therefore, the amount of sales tax payable by the supplier.

96. As a retailer, you may receive a refund or credit from the supplier that includes components attributable to both the taxable value of the original transaction and the sales tax. In this case, the amount of WST borne by you is reduced by the tax component of the discount or rebate.

97. If a significant number of the products you sell are purchased at prices that include costs that have not been taxed (or you receive discounts or rebates that reduce the amount of tax borne) you may be able to calculate an average adjustment factor that you could apply to all these goods that are in your stock. To do this you would have to base your calculation on a sufficient number and variety of transactions so that the result is reasonable and statistically sound.

98. If, at the time of making your special credit claim, you know you will receive discounts or rebates that reduce the amount of sales tax borne on your stock, you should allow for them when calculating your claim to avoid having to make adjustments after your claim has been made. If you have made your claim and you later receive discounts or rebates that reduce the amount of tax borne on the goods you have claimed, you must lodge an amended return and repay the credit overclaimed.

Formula for goods you purchased in Australia

99. You can calculate the sales tax borne by using the formula below where you know the rate of sales tax, provided the WST-inclusive cost price contains only the following components:

(a) the taxable value on which sales tax was borne; and

(b) the sales tax,

$$\text{Sales tax borne} = \frac{\text{WST rate}}{(\text{WST rate} + 100\%)} \times \text{tax-inclusive cost price}$$

Example

100. WST-inclusive cost price of $933

WST rate of 12%.

Calculation:

$$\text{Sales tax borne} = \frac{\text{WST rate}}{(\text{WST rate} + 100\%)} \times \text{tax-inclusive cost price}$$

$$= \frac{12\%}{12\% + 100\%} \times \$933$$

$$= \$99.96$$

Formula for goods you have imported

101. Where you import goods, the WST paid to Customs is calculated differently from the calculation that is applied to a sale by an Australian wholesaler to a retailer. On importation, it is calculated by applying the WST rate to a taxable value comprising 120% of the sum of the customs value and the customs duty. If you applied the WST rate to the tax and duty inclusive cost of the imported goods this would not take into account the 120% 'uplift factor'. For this reason, if you apply the formula given in the previous paragraphs to goods you have imported, it will give you a result that is less than the actual amount you paid to Customs.

102. The following factors, for each of the WST rates, have been determined from the algebraic equation that expresses as a percentage, the proportion of WST in the tax and customs duty inclusive cost of the imported goods. These factors have been developed in conjunction with Customs. They can be used in the formula in paragraph 103 below to ascertain the amount of the WST borne on imported goods:

WST Rate	Factor
12%	12.59%
22%	20.89%
32%	27.75%

103. If you identify the goods you have imported, you can calculate the WST borne on these goods by using the following formula:

Sales tax borne = Tax and duty inclusive cost x Factor.

104. You can only use these factors if you first exclude from your total cost, any other costs that have not been included in the customs value. In addition to the costs detailed in paragraphs 88-91 above**,** your recorded value for the cost of goods you have imported may include other costs such as overseas freight, agents' fees, wharf charges and storage which usually are not subject to tax because they do not form part of the customs value set by Customs. These should also be excluded from the total cost before applying these factors.

Example

105. *Tax-inclusive cost of import* *$345.*
WST rate *12%*
Factor *12.59%*

Calculation:

Tax borne = *Tax-inclusive cost x Factor*
= $345 x 12.59%
= *$43.44*

106. If you have imported goods, you may decide that it is uneconomical to separately identify the imported goods from those you purchased locally. If so, you may apply the formula for locally purchased stock to all your stock (see paragraphs 99-100 above).

Methods of claiming special GST credit where the amount of sales tax borne is difficult to ascertain.

107. Under subsection 16(5) of the Transition Act, the Commissioner may provide methods of calculation for certain types of goods or classes of goods where it is likely that difficulties will be experienced in identifying the WST in the stock.

108. This Ruling provides two methods for calculating the special credit where the WST is difficult to identify. The first may be used in respect of goods where the sale to you was a retail sale and the invoice does not show the amount of WST. The second method may be used in respect of goods held for sale by small retailers. It calculates a series of percentages that can be applied to the total value of the stock on hand at the start of 1 July 2000 to find the tax-inclusive value of stock that has borne tax at each of the WST rates. From that the tax borne can be calculated. This will save you having to identify the tax rate of each stock item when carrying out a stocktake on or near 1 July 2000.

Purchases where WST is not shown on the invoice

109. You may have purchased goods from a retailer and, as the WST is not usually shown on the invoice from a retailer, you will not be able to work out the amount of WST included in the total price. This is because the retailer will usually have purchased the goods at a price that includes WST charged by its suppliers.

Method 1 - Purchase price x 50% x the sales tax rate

110. This method reduces the total purchase price by 50% to arrive at an estimated taxable value on which tax would have been charged to your suppliers.

Example 1

111. *In June 2000, a plumber purchases a hand basin from a retail hardware store for fitting to a customer's home. This item is on hand at the start of 1 July 2000. However the receipt or invoice from the hardware store does not include in the selling price, details of any sales tax borne.*

The plumber's purchase price is $900 and the plumber is aware that the WST rate on this item is 12%.

Calculation:

Special credit = Purchase price x 50% x WST rate
= $900 x 50% x 12%
= $54

Example 2

112. *A corner store was short of stock and purchased 10 cartons of soft drink from a local supermarket. These are on hand at the start of 1 July 2000.*

The corner store's purchase price is $240 and the WST rate for soft drinks was 22%

Calculation:

Special credit = Purchase price x 50% x WST rate
= $240 x 50% x 22%
= $26.40

Examples of tax rates

113. The following list provides some guidance about the rates of WST that have been included in the prices of stock commonly held by several kinds of service providers. It is not an exhaustive list and it should not be regarded as stipulating the rates of tax that taxpayers have charged or should charge on particular goods.

Kind of service provider	What is subject to WST		What is exempt
	at 12%	at 22%	
Repairers	Parts for; - Washing machines - Refrigerators - Dryers	Parts for: - Motor vehicles - Boats - TVs - Sound equipment - Computers - Watches - Cameras - Lawn mowers	
Plumbers	Baths Sinks Toilets Cisterns Hot water systems and parts Shower screens		Piping Pipe fittings Cement Most builders hardware Water tanks
Electricians	Domestic light fittings Light bulbs and tubes Hot water system parts	Commercial lighting	Fixed wiring Switches GPOs

114. If you are in any doubt as to the rate of tax to apply when using this method, you should contact us by calling **13 28 66** for the cost of a local call.

Small business retailers

115. Many small retailers do not have adequate stock recording systems and will have to carry out physical stocktakes to identify the quantities of each stock item on hand at the start of 1 July 2000. It will also be necessary to identify the rate, and from that, the amount of WST that was charged on all purchases.

116. However, it is anticipated that many small retailers will not have recorded either the rate of sales tax or the amount of tax for each stock item. Therefore, if you are a small retailer it is recommended that you plan for your stocktake by identifying the rate of WST on each item of stock. In almost all cases, the rate of WST for each item will be shown on invoices and price lists from your suppliers. Alternatively, your supplier may be able to assist you in identifying the particular WST rates and the actual amount of tax included in the purchase price of each item.

117. Retailers with only a few stock items should not have difficulty in calculating the special credit. However, retailers of mixed businesses that have a wide range of stock items with different rates of WST may find identifying the WST rate for each item both difficult and time consuming at stocktake time. Method 2 is intended to overcome this difficulty.

Method 2 – Used by small mixed businesses

118. If you operate a small mixed business, this Ruling provides you with an alternative method to calculate your special credit. This method can be applied to goods held in stock by mixed businesses that:

(a) have an annual turnover or anticipated annual turnover of less than $5million;

(b) have inventory purchases that do not significantly vary throughout the trading year; and

(c) do not keep a perpetual stock recording system or a stock recording scanning system.

119. To use this method, you record and analyse your purchases over a quarter (or 13 continuous weeks) to arrive at the proportion of the total value of your purchases that have borne tax at each of the different WST rates.

120. You do not have to use the 13 weeks immediately leading up to 30 June 2000. However, you must ensure that you maintain your usual purchasing patterns during the period chosen.

121. You will then be able to apply these percentages to the total value of stock on hand at the start of 1 July 2000, to calculate:

(a) the value that was subject to the 12% rate of tax;

(b) the value that was subject to the 22% rate of tax; and

(c) the value (if any) that was subject to the 32% rate of tax.

122. This will save you having to identify the tax rate of each stock item when you are carrying out your stocktake on or near the start of 1 July 2000.

123. In some circumstances, your major wholesale supplier may provide a stocktake support service of costing out the value of your stock by taking the physical quantities from your stocktake and calculating the cost of your stock and the WST that was charged to you on that stock. This amount of WST gives you the value of your special credit, provided adjustments are made for discounts, rebates and returns (see paragraphs 92-98 above). If your supplier does so,

you can still use Method 2 for goods you have purchased from other suppliers.

124. Alternatively, a wholesaler may provide you with a summary of your purchases for the 13 week period. This avoids the need to record and analyse purchases from that wholesaler. At the end of the 13 week period, you can add the totals from that wholesaler to the totals of your purchases from other suppliers and then apply Method 2.

How method 2 works

125. The purchases of a small mixed business comprise goods with various rates of WST, including WST exempt goods. The invoices from the suppliers identify the rate of sales tax for each item purchased. You have to carefully examine the invoices from each of your suppliers to find out:

- whether the value shown for each line of stock purchased already includes WST, or
- whether the price charged for each line is exclusive of WST. In which case, WST was calculated for the whole invoice and added as a single amount into the invoice total.

126. The calculation at the end of the 13 week period to find the percentage for each rate of WST, must be based on WST-inclusive totals for each rate.

127. If you find that some of your suppliers show WST-inclusive prices and others show WST-exclusive prices, we suggest that you record separate weekly totals for tax-exclusive prices rather than adding WST to the price of each item of stock (see the separate columns for tax-exclusive purchases in the worksheet below). At the end of the 13 week period, WST can be added in total to find the total WST-inclusive amounts.

Step 1 - The items that have borne the same WST rate are grouped together and the values are totalled to arrive at a weekly figure. This is continued for each tax rate as well as exempt items until all purchases are accounted for the week. We recommend that you use a worksheet similar to the one shown below.

Step 2 – At the end of the 13 week period you total each column.

Step 3 - WST is added to each WST-exclusive column to calculate the total value for your purchases of taxable goods under each WST rate.

Step 4 – The WST-inclusive totals for each tax rate, together with the total for exempt goods, are added to give you total purchases for the period.

Step 5 - The total for each WST rate is divided by total purchases to give you a percentage of the total for each WST rate.

Sample worksheet

128. Weekly purchases in dollars (assume no 32% purchases of stock)

Week	Exempt	12%		22%		Totals
		WST-incl	WST-excl	WST-incl	WST-excl	
	$	$	$	$	$	
1	1,300	390	200	450	500	
2	1,200	110	245	500	610	
3	1,400	500	216	510	550	
4	1,100	295	300	420	490	
5	1,300	185	195	395	560	
6	1,350	245	286	410	390	
7	1,250	280	325	450	520	
8	1,350	355	345	465	490	
9	1,330	167	290	490	525	
10	1,280	122	300	395	495	
11	1,320	283	400	510	580	
12	1,310	369	195	490	600	
13	1,300	420	295	500	535	
Totals excl WST			$3,592		$6,845	
WST			12%		22%	
WST on WST-excl			$431		$1,505	
Totals (incl WST)	$16,790	$3,721	$4,023	$5,985	$8,350	$38,869

Total exempt - As a percentage of total stock

$$= \frac{\$16,790}{\$38,869} \times \frac{100}{1}$$

$$= 43.2\%$$

Total 12% - As a percentage of total stock

$$= \frac{(\$3,721 + \$4,023)}{\$38,869} \times \frac{100}{1}$$

$$= 19.9\%$$

Total 22% - As a percentage of total stock

$$= \frac{(\$5,985 + \$8,350)}{\$38,869} \times \frac{100}{1}$$

$$= 36.9\%$$

129. You can use these percentages when you have calculated the total value of stock held for sale at the start of 1 July 2000.

Adjustments to stock on hand

130. Before you can apply the percentages calculated, you may need to adjust the value of stock on hand at the start of 1 July 2000 to exclude costs and adjustments outlined in paragraphs 88-98 above. Your wholesaler may be able to tell you whether these charges are included in your purchase prices, and if so to what extent.

Calculation of special credit

Example

131. Your stock on hand, after adjustments for discounts and returns at the start of 1 July 2000 has a total tax-inclusive cost of $25,000.

Applying the percentages that you have calculated in the worksheet:

12% goods

Tax-inclusive cost = *19.9% of total value of stock*
= *19.9% of $25,000*
= $4,975

Applying the formula from paragraph 99 above:

Tax borne = *12/112 of tax-inclusive cost price*
= *12/112 x $4,975*
= *$533.03*

22% goods

Tax-inclusive cost = *36.9% of total value of stock*
= *36.9% of $25,000*
= *$9,225*

Applying the formula from paragraph 99 above:

Tax borne = *22/122 of tax-inclusive cost price*
= *22/122 x $9,225*
= *$1,663.52*

Total tax borne
(at 12% and 22%) = *$2,196.55*

Special credit of $2,196.55 is to be included in a GST return.

Adjustments to stock on hand

132. Your mixed business may have small amounts of stock on hand, at the start of 1 July 2000, that have been acquired from other retailers, who have borne the sales tax. You will not know the cost of the goods (taxable value) on which the sales tax was charged to your supplier. You will need to find out the rate of sales tax on those items and apply the calculation outlined in Method 1 of this Ruling. If you are in any doubt as to the rate of tax to apply, you should contact us by calling **13 28 66** for the cost of a local call.

How to claim your special credit

133. To claim the special credit for sales tax borne on stock, you must become registered before 1 July 2000. Also, you will be regarded as registered as at 1 July 2000 if your registration has a date of effect of 1 July 2000, even if you are not notified of your registration until after that date.

134. Under subsection 16(4), you can only claim the credit by identifying it in one (and only one) GST return that you lodge before 22 January 2001. The Commissioner recently granted a concession to enable small business to extend to time of lodgment of the GST return for their second 3 month tax period. The original intent of subsection 16(4) of the Transition Act is that the claim for the special credit be made as part of a GST return for a period that ends before 7 January 2001. To preserve this, the Government intends to move an

amendment that will align the date of lodgment in subsection 16(4) with the concession granted by the Commissioner.

135. You identify your special credit claim in a GST return by entering it in the designated field in your Business Activity Statement (BAS). Your one month or 3 month BAS incorporates your GST return.

136. It is anticipated that many retailers will claim the special credit as soon as possible. You can make your claim when you lodge your first BAS. However, you must ensure that you adjust the calculation of the tax borne to allow for any discounts and returns (that you are aware of at that time) that alter the amount you are entitled to claim.

Amending your claim for the special credit

137. If, after making your claim, you receive any discounts or rebates, or accept any returns or return goods to your supplier so that your entitlement to the special credit is changed, you must lodge an amended GST return. You can do this by completing an amended BAS to replace the one in which you made your claim. You must do this on or before the 21st day of the month following the end of the tax period in which the change happens.

138. You can lodge an amended BAS to claim any additional credit that may arise because of:

(a) inadvertent mistakes in completing the BAS in which the special credit claim is made; or

(b) goods returned from customers and placed back into stock (see paragraphs 43-45 above).

139. Provided you lodge the amended BAS (and repay any credit that has been overclaimed) within the time explained in paragraph 136 above**,** you will not be liable for any penalty.

Retaining your records

140. Records are required to be retained for five years from the date on which the record was prepared, or the completion of the transaction or acts to which those records relate.

141. Where you claim the special credit in a GST return that you lodge you must retain records of the calculations, including records that identify the stock on hand at the start of 1 July 2000 and the sales tax rates borne on that stock.

142. Where you use a method provided by the Commissioner, as it is difficult to work out the amount of WST borne, you must retain your calculations and any documentation that support the method adopted.

Your comments

143. If you wish to comment on this draft Ruling, please send your comments promptly by 28 January 2000 to:

Contact Officers:	Geoff Mills	Grant Murphy
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Commissioner of Taxation
25 November 1999

Previous draft:

Not previously issued in draft form

Related Rulings/Determinations:

IT 333; TR 93/20; TR 95/7; TR 98/8; SST 7

Subject references:

- Alcoholic Beverages
- Amended Business Activity Statement
- Amended GST return
- Annual turnover
- Business Activity Statement
- Calculation of special credit
- Consignments
- Consumable goods
- Costs of acquiring goods
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- Stock valuation methods
- Tax Advantaged Computer Programs
- Transition Act
- Transitional measures
- Volume rebates
- Warranty
- Wholesale sales tax

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ATO references:
NO 99/17091-3
BO
ISSN: 1034-9758