GSTR 2005/D7 - 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

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Draft Goods and Services Tax Ruling

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

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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 taxpayers and practitioners, as it is not a ruling or advice for the purposes of section 37 of the **Taxation Administration Act 1953**. The final Ruling will be a public ruling for the purposes of section 37 and may be relied upon by any entity to which it applies.*

What this Ruling is about

1. The Ruling explains the Commissioner's view on the meaning of 'creditable purpose' and 'extent of creditable purpose' in Divisions 11, 15 and 129 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).

2. The Ruling provides guidance on how to determine the extent of your creditable purpose in making acquisitions and importations to enable you to claim the correct amount of **input tax credits**.[1] It does this by providing examples of apportionment methods that you may use. These methods may also be useful to you in calculating any later **adjustments** for change in extent of creditable purpose.

3. The Ruling makes clear that you are not limited to the particular methods it sets out. However, the Ruling explains the requirement that the method you choose is fair and reasonable in the circumstances of your enterprise.

4. Unless otherwise stated, all legislative references in this Ruling are to the GST Act.

[1] Paragraph 11 of this Ruling explains why certain words are in bold.

5. Input tax credits can only be claimed for acquisitions or importations that are creditable. Sections 11-5 and 15-5 set out the requirements for an acquisition or importation to be creditable. This Ruling only considers the requirements in paragraphs 11-5(a) and 15-5(a), which require your acquisition or importation to be solely or partly for a creditable purpose. The Ruling does not deal with the other requirements in sections 11-5 and 15-5.[2]

6. Sections 11-15 and 15-10 define the concept of a creditable purpose for acquisitions and importations respectively. Both sections use the phrase 'to the extent that', which is the focus of this Ruling. Since the two sections essentially mirror each other, the discussion of creditable purpose in this Ruling applies equally to both acquisitions and importations.

7. Under the GST Act, the Commissioner may determine ways in which to work out the extent to which a **creditable acquisition** or **importation** is for a creditable purpose.[3] This Ruling is not a determination under those provisions. However, it provides guidance for determining the extent of creditable purpose. It also sets out methods that may be fair and reasonable for making adjustments for changes in the extent of creditable purpose, subject to the circumstances of your enterprise.

8. The Ruling does not deal in detail with Division 131, which is about annual apportionment of creditable purpose, or with Division 151, which is about annual lodgement and payment.[4] Explanations and examples in this Ruling are drafted on the assumption that these Divisions do not apply to you, except where specifically stated.

9. The Ruling does not apply to apportionment of input tax credits on car expenses where you use one of the four substantiation methods for claiming deductions under Division 28 of the *Income Tax Assessment Act 1997* (ITAA 1997). This is explained in GST Bulletin GSTB 2000/2 How to claim input tax credits for car expenses.

10. This Ruling does not address situations where input tax credits need to be apportioned because you exceed the **financial acquisitions threshold** and you also make **taxable supplies** or **GST-free supplies**. Apportionment of input tax credits relating to financial supplies exceeding the financial acquisitions threshold is dealt with in GSTR 2000/22 Goods and services tax: determining the extent of creditable purpose for providers of financial supplies.

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[2] The other requirements under sections 11-5 and 15-5 are: (i) that the supply of the thing to you or the importation is a taxable supply or taxable importation respectively; and (ii) you are registered or required to be registered. In addition, section 11-5 requires that you provide, or are liable to provide, consideration for the supply. In this Ruling, these requirements are assumed to be met unless stated otherwise.

[3] Subsections 11-30(5) and 15-25(4).

[4] Divisions 131 and 151 were inserted by the *Tax Laws Amendment (Small Business Measures) Act 2004*.

11. Certain terms used in this Ruling are defined or explained in the Frequently Used Terms section of the Ruling. These terms, when first mentioned elsewhere in the body of this Ruling, will appear in bold type.

Date of effect

12. This draft Ruling represents the preliminary, though considered view of the Australian Taxation Office. This draft may not be relied on by taxpayers or practitioners. When the final Ruling is issued, it is proposed that it will apply from its date of issue.

Related Ruling

13. This Ruling will replace Goods and Services Tax Ruling GSTR 2000/15 from the date of its issue as a final Ruling. GSTR 2000/15 will be withdrawn with effect from the date of issue of this Ruling as a final Ruling. You can rely upon GSTR 2000/15 until the date of issue of this Ruling as a final Ruling. If you have relied on GSTR 2000/15 to establish the extent of creditable purpose, you are protected in respect of what you have done up to the date of issue of this Ruling as a final Ruling.[5]

Background

14. If you are registered or required to be registered, you are liable for the GST payable on the taxable supplies you make. You are also entitled to input tax credits for creditable acquisitions made in carrying on your enterprise.[6] You may also be entitled to an input tax credit for the GST payable on goods you import in carrying on your enterprise (creditable importations).[7]

15. For an acquisition or importation you make to be creditable, you need to acquire or import it solely or partly for a creditable purpose.[8] Where it is partly for a creditable purpose, you are not entitled to a full input tax credit unless Division 131 applies to you. To calculate your entitlement in these circumstances, you need to ascertain the extent of your creditable purpose in making the acquisition or importation.

[5] See section 37 of the *Taxation Administration Act 1953*.
[6] Section 11-20.
[7] Section 15-15.
[8] Assuming all the other requirements in sections 11-5 and 15-5 are met.

16. When you make an acquisition or importation, the extent of your creditable purpose is based on your planned use of the acquisition or importation in your enterprise expressed as a percentage of its total use. For example, if you acquire a computer which you plan to use 60% in your enterprise for a creditable purpose, you are entitled to claim 60% of the full input tax credit. The extent of your creditable purpose is 60%.

17. The use of the expression 'to the extent that' in the context of input tax credit recoverability in the GST legislation contemplates the apportionment of acquisitions between multiple uses, as well as exclusive allocation to specific uses.

18. If your actual use of the thing acquired or imported varies over time from your planned use, there is a change in the extent of your creditable purpose. If this occurs, you may need to make an adjustment to the amount of input tax credits you claimed. In this event, your net amount for the **adjustment period** is increased or decreased by the resulting adjustment. The amount of the adjustment depends on the change in the extent of your creditable purpose.

19. The difference between your total GST payable and your total input tax credits for a tax period is called your **net amount**.[9] This amount is to be paid to, or refunded by, the Commissioner.[10] Adjustments either increase or decrease your net amount. An increasing adjustment increases your net amount for the tax period, while a decreasing adjustment decreases your net amount for the tax period. You include these amounts on your Business Activity Statement (BAS).

20. Division 131 allows small business entities that meet certain eligibility criteria to elect to undertake annual apportionment of input tax credits for certain acquisitions or importations that are partly creditable. Under Division 131, the entity is entitled to a full input tax credit for these acquisitions or importations. However, the amount of the input tax credit is reduced if the acquisition or importation relates to making input taxed supplies or, in the case of acquisitions only, if the entity provides, or is liable to provide, only part of the consideration.[11]

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[9] Section 17-5.

[10] Sections 33-5 and 35-5. Division 3 of Part IIB of the *Taxation Administration Act 1953* allows the Commissioner to apply the amount owing as a credit against tax debts that you owe to the Commonwealth.

[11] Another qualification is that Division 131 does not apply to an acquisition that, to any extent, is a reduced credit acquisition.

21. The entity then needs to make a later increasing adjustment to take account of the extent to which the acquisition or importation is for a creditable purpose. In determining this extent, an entity may refer to any relevant information available, such as records used to apportion for income tax purposes. Fact sheet *GST and annual private apportionment* explains who can make an annual apportionment election and how the election works.[12]

22. Division 151 enables certain entities to elect to have annual tax periods.[13] Entities that elect to have annual tax periods will lodge their GST returns and pay their GST or receive refunds of GST on an annual basis. Fact sheet *Report your GST once a year* explains whether you can report your GST annually and the obligations you will have if you elect to do this.[14]

Ruling

23. To correctly calculate the amount of your input tax credit entitlement on creditable acquisitions or creditable importations that you make, you need to determine the extent of your creditable purpose for those acquisitions and importations. It is your planned extent of creditable purpose that is relevant for calculating input tax credits. You need to determine your planned extent of creditable purpose on a basis that is fair and reasonable (see paragraph 43).

24. You acquire or import a thing for a creditable purpose if you acquire or import it in carrying on your enterprise (including acquiring or importing it in the course of the commencement or termination of your enterprise), but not if you acquire or import it for some other purpose (see paragraphs 52 to 64 and footnote 2).

25. You do not acquire a thing for a creditable purpose if the acquisition is of a private or domestic nature. The views expressed by the Courts and applied by the Commissioner in Taxation Rulings, in relation to the words 'private or domestic' in subsection 51(1) of the *Income Tax Assessment Act 1936* (ITAA 1936) and section 8-1 of the ITAA 1997, are relevant for determining the meaning of those words in paragraphs 11-15(2)(b), 15-10(2)(b) and 129-50(2)(b). What is 'private or domestic' will depend on the circumstances of each case (see paragraphs 72 to 84).

26. If your planned extent of creditable purpose is 100% of the total purpose (that is the acquisition or importation is solely for a creditable purpose), no apportionment is necessary (see paragraphs 37 to 48).

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[12] The fact sheet can be accessed at http://ato.gov.au/print.asp?doc=/content/53693.htm

[13] If you make an election under Division 151, you are not eligible to make an election under Division 131 – section 131-5.

[14] The fact sheet can be accessed at http://ato.gov.au/print.asp?doc=/content/54095.htm

27. If your planned extent of creditable purpose is zero (that is the acquisition or importation is not at all for a creditable purpose), you are not entitled to any input tax credits (see paragraphs 37 to 48).

28. If your planned extent of creditable purpose is less than 100% (but greater than zero), then the acquisition or importation is partly creditable and you need to apportion the total purpose between that which, on your estimate, is creditable and that which is not[15] (see paragraphs 37 to 48).

29. If the extent to which you subsequently apply an acquisition or importation for a creditable purpose changes from the planned extent, you need an appropriate basis for determining the extent of that change. In these cases you need to work out your actual extent of creditable purpose (see paragraphs 87 to 98).

30. You may choose your own apportionment method, but the method you choose needs to be fair and reasonable in the circumstances of your enterprise. It needs to appropriately reflect the intended or actual use of your acquisitions or importations.

31. The 'fair and reasonable' principle was used by the High Court in *Ronpibon Tin v. FC of T*,[16] in the context of the apportionment of expenditure serving more than one object 'indifferently'.[17] The High Court did not, in that case, apply this principle in relation to the allocation of specific acquisitions wholly to specific ends, or to apportioning items of expenditure 'distinct and severable parts of which' can be identified as being devoted to such specific ends. The Commissioner's view is that the 'fair and reasonable' principle applies equally to the choice of method for allocating or apportioning acquisitions in all circumstances.[18]

32. Following the principles set out by the High Court, the apportionment method you choose needs to:

- be fair and reasonable;
- reflect the planned use of that acquisition (or in the case of an adjustment, the actual use); and
- be appropriately documented in your individual circumstances (see paragraphs 96 to 98).

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[15] Extent of creditable purpose is the extent to which the creditable acquisition is for a creditable purpose, expressed as a percentage of the total purpose of the acquisition – subsection 11-30(3).

[16] (1949) 78 CLR 47. This case is discussed in more detail at paragraphs 96 to 98.

[17] Refer to paragraphs 49 and 50 of this Ruling for further discussion of different situations where apportionment is required.

[18] Refer to paragraph 37 of Hill J's judgement in *HP Mercantile Pty Limited v. Commissioner of Taxation* [2005] FCAFC 126:
It follows, perhaps more clearly, as well from the requirement of apportionment to be found in the words 'to the extent that' which indicate that an acquisition may relate to the making of supplies that are input taxed as well as supplies that are taxable, as would be the case with undifferentiated general overhead outgoings of an entity making both input taxed and taxable supplies: cf *Ronpibon Tin NL v. FCT* (1949) 78 CLR 47 at 55-56; 23 ALJ 139 at 141-142; 8 ATD 431 at 435; [1949] ALR 785 at 788-789.

33. Apportionment methods explained in the Ruling can be broadly categorised as direct or indirect methods. Where a direct method is available to you, the Commissioner's view is that such a method would best reflect the intended or actual use of your acquisitions. However, you are not required to use direct and indirect methods in the manner set out in this Ruling, provided that whatever alternative method you use is fair and reasonable having regard to the principles in paragraph 32 of this Ruling (see paragraphs 99 to 105).

34. For acquisitions and importations that have both a business and a private purpose, the Commissioner accepts that an appropriate basis of apportionment under income tax may provide a reasonable estimate of the extent of use for a creditable purpose, if it reflects your actual use. You will need to make a further apportionment if your business use for income tax includes use that is not for a creditable purpose for GST purposes (for example, where you also make input taxed supplies). You will also need to do this if you have calculated your extent of business use for income tax in a way that excludes certain uses that would be creditable for GST purposes (see paragraphs 122 to 125).

35. For the purposes of this Ruling, 'acquisition' or 'importation' includes a class of acquisitions or importations. Where a method or example in this Ruling refers to an action or decision being taken in relation to the connection between an acquisition and the supplies or activities of an enterprise, this does not necessarily mean that specific consideration is required of the status of each individual acquisition or importation made. In the case of acquisitions of a particular class (for example acquired on an ongoing basis), or made by a business area of the enterprise which undertakes a single type of supply or activity, it may be sufficient that a decision has been made in relation to the status of all acquisitions of that class or business area.

36. You are required to keep records containing particulars of any election, choice, estimate, determination or calculation you make under the GST law. These records should also contain the particulars of the basis on which, and the method by which, an estimate, determination or calculation was made.[19] You should keep these records in a manner that would enable your entitlement to an input tax credit under the GST Act to be readily ascertained (see paragraphs 128 and 129).

[19] Subsection 70(1AAA) of the *Taxation Administration Act 1953*.

Explanation (this forms part of the Ruling)

Divisions 11 and 15: input tax credits for acquisitions and importations

37. You are entitled to input tax credits in respect of any 'creditable acquisition' or 'creditable importation' that you make.[20] One of the requirements for an acquisition or importation to be creditable, is that it be made solely or partly for a 'creditable purpose'.[21]

Meaning of creditable purpose

38. The meaning of 'creditable purpose' is stated in the same terms for both acquisitions and importations in the GST Act. It requires you to consider both of the following conditions:[22]

(i) you acquire a thing or import goods for a creditable purpose to the extent that you do so in carrying on your enterprise;[23] and

(ii) you do not acquire a thing or import goods for a creditable purpose to the extent that:

(a) the acquisition or importation relates to making supplies that would be input taxed;[24] or

(b) the acquisition or importation is of a private or domestic nature.

Acquisitions and importations that are only partly creditable

39. If Division 131 does not apply to you, you are not entitled to a full input tax credit if the acquisition or importation is partly creditable.[25] An acquisition or importation is partly creditable if it is made only partly for a creditable purpose.[26] In addition, an acquisition (but not an importation) is partly creditable if you provide, or are liable to provide, only part of the consideration for the acquisition.[27]

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[20] Sections 11-20 and 15-15.
[21] Sections 11-5 and 15-5.
[22] Sections 11-15 and 15-10. For Division 129 purposes, creditable purpose is defined in section 129-50.
[23] Carrying on an enterprise includes doing anything in the course of the commencement or termination of the enterprise – section 195-1.
[24] This does not apply if the acquisition or importation relates to input taxed supplies made through an enterprise or part of an enterprise you carry on outside Australia. Nor does it apply if the acquisition or importation relates to financial supplies and either you do not exceed the financial acquisitions threshold, or the financial supply is a borrowing that relates to making taxable supplies. See subsections 11-15(3) to (5) and 15-10(3) to (5).
[25] Sections 11-25 and 15-20.
[26] Subsections 11-30(1) and 15-25(1).
[27] Paragraph 11-30(1)(b).

40. When an acquisition or importation is partly creditable because it is only partly for a creditable purpose, the amount of input tax credit to which you are entitled depends on the extent of creditable purpose expressed as a percentage of the total purpose of the acquisition or importation.[28]

41. However, an acquisition or importation can still be fully creditable if the only non-creditable purpose relates to the making of financial supplies and you do not exceed the financial acquisitions threshold.[29]

Calculating input tax credits

42. Formulae are specified in the GST Act for the calculation of input tax credits for acquisitions and importations that are partly creditable. A different formula is specified for importations, as the extent to which consideration is provided is not relevant for importations. The formulae are:

For acquisitions:[30]

$$\text{Full input tax credit} \times \text{Extent of creditable purpose} \times \text{Extent of consideration}^{31}$$

For importations:[32]

$$\text{Full input tax credit} \times \text{Extent of creditable purpose}$$

43. If Division 131 does not apply to you, then for the purpose of claiming input tax credits, you need to estimate the extent to which the acquisition or importation is for a creditable purpose. You also need to do this if Division 131 does apply to you, in limited circumstances where your acquisition or importation is partly creditable only because it was made partly in relation to making supplies that would be input taxed.[33] This means that at the time of acquisition or importation, it is your *planned* use of the thing for a creditable purpose that is relevant in working out your input tax credit. You may estimate the planned use of the acquisition or importation based on:

- records you already have available from a previous period;
- records kept since you made the acquisition or importation, but before you lodge your BAS for the tax period in which you made the acquisition or importation including your actual use (full or partial) of the acquisition;

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[28] Subsections 11-30(3) and 15-25(3).
[29] Refer to Goods and Services Tax Ruling GSTR 2003/9 which deals with the financial acquisitions threshold.
[30] Subsection 11-30(3).
[31] Expressed as a percentage of the total consideration for the acquisition.
[32] Subsection 15-25(3).
[33] Division 131 uses the term 'non-input taxed purpose' rather than creditable purpose, but the two are the same in the circumstances described.

- records kept for some other purpose, for example, income tax, management accounting, profitability analysis, intra-entity transfer charging or cost accounting;
- your previous experience concerning the usage of similar acquisitions;
- your business plan; or
- any other fair and reasonable basis.

44. If your actual extent of use for a creditable purpose is different from your planned use, you may need to make an adjustment under Division 129 (see paragraphs 87 to 94).

45. If Division 131 applies to you, and your claim for input tax credits was made in accordance with section 131-40 or 131-45, you will need to determine subsequently the extent, if any, to which the acquisition or importation is for a creditable purpose. This will enable you to determine the amount of the input tax credit you would have been entitled to if Division 131 did not apply. This in turn will enable you to calculate the amount of your increasing adjustment under subsection 131-55(2).

46. In determining the extent to which an acquisition or importation is for a creditable purpose for the purposes of subsection 131-55(2), you may refer to any relevant information available, including, where appropriate, the bases listed in paragraph 43. In addition, you may refer to records used to apportion between business and private usage of the acquisition or importation for income tax purposes for the year of income in which the acquisition or importation occurred. If you are required to lodge an income tax return, this will allow you to simultaneously establish the extent of business use for both income tax and GST purposes and thereby assist to lower compliance costs.[34]

Meaning of 'extent of creditable purpose'

47. The phrase 'extent of creditable purpose' is defined to mean the extent to which the creditable acquisition or importation is for a creditable purpose, expressed as a percentage of the total purpose of the acquisition or importation.[35]

[34] Drawn from paragraph 2.6 of the Explanatory Memorandum to the Tax Laws Amendment (Small Business Measures) Bill 2004.
[35] Subsections 11-30(3) and 15-25(3).

48. The phrase, 'to the extent that' appears in sections 11-15 and 15-10 which explain the meaning of 'creditable purpose'. The same phrase is to be found in section 8-1 of the ITAA 1997 and subsection 51(1) of the ITAA 1936. Under income tax law, the phrase 'to the extent that' has been found to require an apportionment to be made to determine what part of a loss or outgoing is deductible. The Commissioner views the phrase 'to the extent that' in the GST Act as incorporating the same apportionment concepts as under income tax law.

Apportionment under GST

49. As explained in paragraph 43, for GST purposes, it is the planned extent of creditable purpose that is relevant to the claiming of input tax credits on acquisitions and importations. You could base your planned usage on previous experience if that experience is likely to provide a reasonable reflection of planned usage.

50. The following principles apply to the apportionment of input tax credits:

- if you plan to use the acquisition or importation solely (100%) for a creditable purpose then it is fully creditable and there is no need to apportion;
- if you plan to use the acquisition or importation partly for both creditable and non-creditable purposes (including where distinct and severable parts are devoted to particular creditable and non-creditable purposes) or as overheads in your enterprise, then apportion on a fair and reasonable basis. The acquisition or importation is partly creditable; and
- if you plan to use the acquisition or importation not at all (0%) for a creditable purpose, it will not be a creditable acquisition or importation. You are not entitled to any input tax credits for the acquisition or importation and there is no need to apportion.

When will an acquisition or importation be partly creditable, and therefore require an apportionment of input tax credits?

51. A creditable acquisition or creditable importation is partly creditable where the extent of creditable purpose is greater than 0% but less than 100%.[36] This will be the case where your acquisitions or importations are partly made in carrying on your enterprise. It will also be the case if they are made in carrying on your enterprise, but relate partly to making supplies that would be input taxed.

[36] You also need to make an apportionment where the extent of consideration you provide or are liable to provide for an acquisition is less than 100%.

Acquisitions and importations made partly 'in carrying on your enterprise'

What is an 'enterprise'?

52. 'Enterprise' is broadly defined in section 9-20 and includes activities where you are engaged in a business.[37] The activities of charitable and religious organisations, government bodies and trusts are also considered to be an enterprise. There are several exclusions including activities of employees and activities done as a private hobby. Whether you are carrying on an enterprise is a question of fact.

When is an acquisition or importation made in 'carrying on your enterprise'?

53. You acquire a thing for a creditable purpose to the extent that you acquire it in carrying on your enterprise.[38] The acquisition needs to be made in the course of the activities that constitute your enterprise. An acquisition is made 'in carrying on your enterprise' if it is made for the purposes of that enterprise, but not if it is made for some other purpose. You could engage in an activity that is usually done by the enterprise, but is not for the purposes of that enterprise.

Example 1 – carrying on an enterprise

54. *Boatco Pty Ltd (Boatco) is trustee for a discretionary trust which operates a business of importing and selling luxury boats. Boatco buys a cruiser solely for the private use of Mike and his family, who are the beneficiaries of the trust. The acquisition of the boat is not made in 'carrying on' Boatco's enterprise, even though, Boatco usually makes acquisitions of boats in carrying on its enterprise.*

55. The test for establishing whether you have made an acquisition in carrying on your enterprise is broader than the test for income tax deductibility. Under section 195-1, 'carrying on' is defined to include the commencement or termination of your enterprise. For example, in some circumstances the cost of a feasibility study incurred in commencing a business may not be deductible for income tax purposes, while acquisitions for the same study conducted in the course of commencing an enterprise could be creditable acquisitions under the GST Act.

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[37] The Commissioner's view on what is an 'enterprise' for purposes of the GST Act is explained in GST Determination GSTD 2000/8 Goods and services tax: what is an 'enterprise' for the purposes of *A New Tax System (Goods and Services Tax) Act 1999*? Does MT 2000/1 have equal application to the meaning of 'enterprise' for GST purposes? GSTD 2000/8 states that 'enterprise' is defined in section 9-20 of the GST Act in substantially the same way as in *A New Tax System (Australian Business Number) Act 1999* (the ABN Act). The Commissioner's view on the meaning of 'enterprise', for the purposes of the ABN Act is explained in Miscellaneous Taxation Ruling MT 2000/1 The New Tax System: the meaning of entity carrying on an enterprise for the purposes of entitlement to an Australian Business Number ('ABN').

[38] Subsection 11-15(1).

Partly in carrying on your enterprise

56. You may make an acquisition partly for the purpose of your enterprise and partly for some other purpose. An example of this is where an employee also engages in an enterprise (for example, a consultancy), and his or her acquisitions are used both in the enterprise and for the purposes of his or her employment. Another example would be where the acquisition is used partly in your enterprise and partly in some non-enterprise activity, for example, a hobby.

Example 2 – business and hobby

57. *John operates an interior design business. John's interior design business is conducted from business premises where he meets clients and generally carries on his business. John also collects, sells and exchanges rare coins as a hobby. His coin collection is kept in a specially made display cabinet located in a separate office within the business premises. John uses the office only to conduct research on rare coins and for other activities related to his hobby.*

58. *For the purpose of GST, the design business is an enterprise, but the activities of the hobby are not. John's expenses in maintaining the business premises are partly for his enterprise and partly for his hobby. He would need to apportion the input tax credits on these acquisitions.*[39] *In contrast, the acquisition of the display cabinet and the rare coins is not made in 'carrying on' John's enterprise, and is not at all for a creditable purpose.*

Example 3 – business and employment

59. *Victoria operates a gift shop business. Victoria also is employed part time to teach painting at her local TAFE college. She is required to provide a number of art materials at her own expense to use in the art course.*

60. *These acquisitions are not made in 'carrying on' her enterprise, since employment activities are excluded from the definition of 'enterprise'.*

[39] Methods John could use to apportion these input tax credits are explained in paragraphs 102 to 118.

Acquisitions made in carrying on an enterprise, but not directly linked to making particular supplies

61. Carrying on an enterprise includes those activities that you do in actually managing or conducting that enterprise. Certain acquisitions or importations relate to the carrying on of the enterprise as a whole and are not directly linked to the making of supplies but nonetheless they relate indirectly to all activities of the enterprise. These may be referred to as enterprise costs and may include costs such as compliance costs for meeting Australian Securities and Investment Commission (ASIC), GST or income tax obligations, directors' fees or the costs of maintaining a register of shareholders. However, if your enterprise makes input taxed supplies as well as taxable supplies or GST-free supplies, you still need to apportion the input tax credits on these types of acquisitions and importations.

62. An alternative view has been raised that this approach to enterprise costs is not consistent with the provisions of section 11-15. This alternative view requires that the words '…to the extent that … the acquisition relates to making supplies that would be input taxed' in subsection 11-15(2) be interpreted as requiring some direct connection between the acquisition and the supply. It follows from this view that if the acquisitions cannot be directly linked to making input taxed supplies, the extent of creditable purpose is 100%.

63. One possible consequence of the alternative interpretation is that all indirect and overhead costs of an enterprise that makes only input taxed supplies are arguably creditable acquisitions. This is clearly not the intention of the legislation.[40] In the context of section 11-15 the Commissioner's view is that if acquisitions are made in carrying on an enterprise that makes input taxed supplies, even if those acquisitions are not directly related to making particular supplies they are still indirectly related to making all supplies. For the purpose of section 11-15, acquisitions can relate indirectly to making input taxed supplies, and input tax credits need to be apportioned accordingly.[41]

64. In a different context, the High Court has interpreted the words 'relating to' as being 'extremely wide' and stated that the meaning must be sought 'in the context in which the expression is used'.[42] The Court in *Ronpibon Tin NL v. FC of T*[43] indicated that in the income tax context, where a certain expense, such as directors' fees, has a 'double aspect', it will need to be apportioned if it 'cannot be dissected'.

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[40] Paragraph 3.26 of the Explanatory Memorandum to the A New Tax System (Goods and Services Tax) Bill 1998 states you do not have a creditable purpose if your acquisition of a thing relates, either directly or indirectly, to a supply you make that is input taxed.

[41] This applies equally to importations under section 15-10.

[42] *Tooheys Ltd v. Commissioner of Stamp Duties (NSW)* (1961) 105 CLR 602, at 620, per Taylor J. See also Kitto J at 618.

[43] (1949) 78 CLR 47 at page 59.

Acquisitions or importations used partly to make input taxed supplies

65. Acquisitions or importations may be partly creditable because you use them partly to make input taxed supplies. Input taxed supplies are listed in Division 40 of the GST Act, and include:

(i) financial supplies;

(ii) residential rent (including some supplies of commercial residential premises);

(iii) sales of residential premises and supplies of residential premises by way of long term lease;

(iv) certain supplies of precious metals; and

(v) supplies of food through school tuckshops and canteens.

66. If you make supplies of residential rent, residential premises or precious metals, you will need to apportion your input tax credits on any acquisitions or importations that are used to make these supplies as well as to make taxable supplies or GST-free supplies. However, some special rules apply to financial supplies and supplies of food made by school tuckshops and canteens, even though they are input taxed supplies.

Financial supplies

67. If you exceed the financial acquisitions threshold[44] and you also make taxable or GST-free supplies, Goods and Services Tax Ruling GSTR 2000/22, which is about determining the extent of creditable purpose for providers of financial supplies, explains how to apportion your input tax credits.

68. If you do not exceed the financial acquisitions threshold, and all your other supplies are taxable or GST-free, your acquisitions can still be fully creditable. However, if:

(i) the amount of input tax credits relating to your financial supplies does not exceed this threshold; and

(ii) you make other input taxed supplies, or you make acquisitions of a private or domestic nature,

you still need to apportion your input tax credits to the extent that you use your acquisitions or importations in making those other input taxed supplies or they are of a private or domestic nature.

[44] Refer to Goods and Services Tax Ruling GSTR 2003/9 which deals with the financial acquisitions threshold.

School tuckshops and canteens

69. The supply of food by a non-profit body through a school tuckshop or canteen is input taxed if:

(i) the shop only supplies food; and

(ii) the non-profit body chooses to have all its supplies of food through the shop treated as input taxed.

70. If a tuckshop does not or cannot elect to be input taxed, its supplies are taxable or GST-free, in which case it can claim input tax credits in full.

71. Consequently, school tuckshops and canteens which supply only food make either:

(i) taxable or GST-free supplies; or

(ii) input taxed supplies,

and do not need to apportion input tax credits.

Acquisition or importation of a private or domestic nature

72. An acquisition or importation is partly creditable to the extent that it is for a creditable purpose. To the extent that the acquisition is of a 'private or domestic nature', it is not a creditable acquisition. The question of whether an acquisition or importation is of a 'private or domestic nature' depends on the circumstances of each case.

73. The words 'private or domestic nature' are used in the ITAA 1936 and the ITAA 1997.[45] In these sections, the words are part of what is referred to as the negative limb of the test for deductibility for income tax. The positive limbs of section 8-1 of the ITAA 1997 and subsection 51(1) of the ITAA 1936 require the expenditure to be incurred in gaining or producing assessable income or necessarily incurred in carrying on a business for the purpose of gaining or producing assessable income.

74. There has been debate under current income tax law about whether the positive and negative limbs of section 8-1 of the ITAA 1997 and subsection 51(1) of the ITAA 1936 are mutually exclusive. One view is that the positive limb and the 'private or domestic' part of the negative limb are simply stating the same test in different words. That is, if something has been incurred in gaining assessable income or necessarily incurred in carrying on a business, it cannot be of a private or domestic nature and vice versa.

[45] Subsection 51(1) of the ITAA 1936 and section 8-1 of the ITAA 1997 respectively.

75. This view finds support in the fact that some cases on the business/private borderline in income tax concentrate on the positive limb while others concentrate on the negative limb, without suggesting that they are dealing with different principles. Even cases that suggest some potential overlap consider that it is rare for an item of expenditure to satisfy the positive limb, and yet be considered to be of a 'private or domestic nature'.[46]

76. In income tax law, the Courts have considered the deductibility of various expenses that generally have a private or domestic nature. These include:

(i) travel expenses to and from work;

(ii) expenses for the necessities of life (such as food, clothing and shelter);

(iii) self education;

(iv) child care fees; and

(v) home office expenses such as rent, interest and electricity.

The Courts usually decided these cases on their particular facts with no general principle stating that expenditure of a particular type is always private or domestic.

77. The Commissioner views the words 'private or domestic nature' in the GST Act as having essentially the same meaning as in the ITAA 1936 and ITAA 1997. The meaning of 'creditable purpose' in sections 11-15 and 15-10 can be seen as having positive and negative limbs, similar to section 8-1 of the ITAA 1997 and subsection 51(1) of the ITAA 1936. The positive limb refers to the requirement that the acquisition or importation be made in 'carrying on your enterprise', while the negative limb excludes items of a private or domestic nature.[47]

78. The Commissioner considers that the preferable view is that there is little or no difference between the two tests in the enterprise/private borderline. Under the GST law it would also be rare for an acquisition or importation to satisfy the positive limb and at the same time also be of a private or domestic nature. One consequence of this is that an entity, which is not an individual or a partnership, will rarely, if ever, make an acquisition in the course of its enterprise, which is of a private or domestic nature, where the acquisition is made for the purposes of the enterprise.

79. The Commissioner treats the body of income tax case law in the area of 'private or domestic' as establishing the principles applicable to the GST, unless some specific provision of the GST Act indicates a contrary outcome in a particular case.

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[46] *FC of T v. Hatchett* (1971) 125 CLR 494, contrast with *FC of T v. Forsyth* (1981) 148 CLR 203 and *John v. FC of T* (1989) 166 CLR 417.

[47] As well as acquisitions and importations that relate to making supplies that would be input taxed.

Example 4 – private purpose

80. *Renee has a hairdressing business. She obtains her own personal hairdressing products (shampoos, brushes, etc.) by making a separate order with her supplier. Renee incurs expenses travelling between home and her business premises, and pays for before and after school care for her children. These acquisitions are all of a private nature, and cannot be creditable acquisitions.*

Example 5 – company providing benefits to employees that are subsequently used for the private purposes of the employees

81. *Alpha Pty Ltd operates a software development business. It does not make input taxed supplies. Alpha provides cars to its sales representatives as part of their salary package, and pays Fringe Benefits Tax on these benefits.*[48] *These cars are also available for the personal use of the sales staff when they are not working on company business.*

82. *The cars are not acquired for the 'private or domestic' purpose of the company, because the company is making the supply of the cars to the employees in return for their services. This is the case, even though the cars are ultimately used for the private purposes of employees. The extent of creditable purpose of these cars is 100%.*[49]

Example 6 – private use by employees of a government entity

83. *The Goodtown City Council provides cars for the use of its staff on Council business. Senior executives in the Council are able to use car pool vehicles to travel to and from work. While this travel is private in nature for those executives who use the vehicles, it is not of a private nature to the Council, because the Council is making the supply of the cars to the executives in return for their services. The extent of creditable purpose of these cars is 100%.*

[48] Refer to Goods and Services Tax Ruling GSTR 2001/3 which is about GST and how it applies to supplies of fringe benefits.

[49] Under section 69-10 of the GST Act the amount of input tax credit is restricted where the GST inclusive market value of the car exceeds the car limit.

Example 7 – non-profit body

84. *A religious institution owns a number of monasteries where members of the order live and work. The religious institution provides the members with the basic necessities, such as food and accommodation. While the benefits provided would be private in nature to the individual members, these costs would not be private or domestic to the religious institution itself. The extent of creditable purpose of these benefits is 100%.*[50]

Creditable acquisitions compared with expenses that are deductible for income tax

85. Under the GST law, unlike under income tax law, there is no distinction between acquisitions of a capital or revenue nature. For this reason, input tax credits may be available in respect of an acquisition for which no immediate income tax deduction would be allowable, for example, the acquisition of an item of capital equipment. In addition, services for managing your tax affairs, the cost of which is made deductible for income tax purposes by a specific provision can be creditable acquisitions.[51]

86. Certain expenses that are not deductible for income tax are precluded from being creditable acquisitions or creditable importations, for example, entertainment expenses.[52] In addition, the acquisition of land under the 'margin scheme' cannot give rise to a creditable acquisition.[53]

Division 129 – making adjustments when your actual extent of use for a creditable purpose is different from your planned use

87. After an acquisition or importation is made, the extent to which it is actually applied or used for a creditable purpose may be different from the planned use. This means that the original input tax credit claimed may have been too much or not enough. Adjustments for changes in the extent of creditable purpose are subject to the provisions of Division 129 of the GST Act.[54]

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[50] The activities of a religious institution are defined to be an 'enterprise' – paragraph 9-20(1)(f).
[51] Section 25-5 of the ITAA1997.
[52] Division 69.
[53] Section 75-20.
[54] If Division 131 applies to you, after making an annual increasing adjustment, you may later need to make further adjustments to account for changes in the extent of creditable purpose under Division 129.

88. You **apply**[55] a thing for a creditable purpose to the extent that you apply it in carrying on your enterprise. You do not apply a thing for a creditable purpose to the extent that the application relates to making supplies that are input taxed,[56] or the application is of a private or domestic nature.[57] The discussion in paragraphs 52 to 84 regarding the meaning of 'enterprise', 'private or domestic nature' and 'input taxed supplies' applies equally to the terms as they apply to Division 129.

89. Adjustments under Division 129 are made in subsequent tax periods called adjustment periods.[58] The number of adjustment periods you have for an acquisition or importation depends on its GST exclusive value and whether it relates to business finance. The adjustment periods for acquisitions or importations that do not relate to business finance are:[59]

GST-exclusive value of the acquisition or importation	Adjustment periods
$5,000 or less	Two
$5,001 to $499,999	Five
$500,000 or more	Ten

You will not have an adjustment under Division 129 where the GST exclusive value of an acquisition or importation that does not relate to business finance is $1,000 or less.[60] However, even where the GST exclusive value of the acquisition or importation is $1,000 or less, you may have an increasing adjustment under Division 138 if your registration is cancelled.[61]

[55] The meaning of apply is set out in section 129-55.
[56] Excluding financial supplies made through an enterprise or part of an enterprise carried on outside Australia: subsection 129-50(3).
[57] Subsections 129-50(1) and (2).
[58] Section 129-90.
[59] Subsections 129-10(2) and 129-20(3).
[60] For adjustment periods for acquisitions or importations that relate to business finance, see subsection 129-20(2). You will not have an adjustment under Division 129 where the GST exclusive value of the acquisition or importation that relates to business finance is $10,000 or less (subsection 129-10(1)). See GSTR 2000/22. You should also note that section 129-25 may reduce the number of adjustment periods.
[61] An entity whose registration has been cancelled may still have acquisitions and importations for which entitlements to input tax credits have arisen. Division 138 provides for increasing adjustments to cancel those input tax credits (section 138-1).

90. The formula for calculating the adjustment requires you to calculate your actual application for a creditable purpose as a percentage of total application. If this is the first adjustment you are making for the acquisition or importation, you calculate your change in extent of creditable purpose by comparing your actual application since acquisition or importation with your planned use at the time you claimed the input tax credit. However, if you have previously made an adjustment for the changed use of the acquisition or importation, you calculate the current period change by comparing the actual application over the entire period of use with the former application used when making that previous adjustment. You calculate the adjustment as follows:[62]

Full input tax credit × Change in extent of creditable purpose

91. If the actual extent to which the acquisition or importation has been applied for a creditable purpose is greater than was planned, you will have a decreasing adjustment. Conversely, if the actual extent is less than was planned, you will have an increasing adjustment.

Example 8 – change in extent of creditable purpose

92. *John acquired video equipment which he planned to use 60% in his enterprise for a creditable purpose. John was entitled to claim 60% of the full input tax credit. He subsequently finds that from the time of acquisition to the end of his first adjustment period, his actual use of the equipment for a creditable purpose is 75%. Hence the change in extent of creditable purpose is 15%. If the full input tax credit was $300, John will have a decreasing adjustment of $300 × 15% equalling $45. When John makes this adjustment, it will decrease the net amount on his BAS in that adjustment period.*

93. For the purpose of making adjustments under Division 129, the actual application is measured from the time of acquisition until the end of each adjustment period. This means that the calculation of creditable purpose is a cumulative one, starting at the point of acquisition and ending at the end of the relevant adjustment periods.[63] This does not however, require the calculation of actual application to be the result of a continuous measurement of use. It will be sufficient to make a reasonable estimate based on a representative period, using one of the methods explained in paragraphs 102 to 118.

[62] Sections 129-70 and 129-75.
[63] See Method Statement in subsection 129-40(1).

Exclusions to making adjustments under Division 129

94. You do not have an adjustment under Division 129 if:

- you have already had an adjustment under Division 130 (which is about goods applied solely to private or domestic use) for the acquisition;[64] or
- the GST-exclusive value of the acquisition or importation is at or below a certain amount. ($1,000 if the acquisition or importation does not relate to business finance, otherwise $10,000).[65]

General principles of apportionment

95. If you make an acquisition partly for a creditable purpose, apportionment of the input tax credit referable to that acquisition is required. In practice, this will usually involve an initial decision about whether the acquisition is to be used 'solely' for a particular purpose (in which case apportionment will not be required).

96. The principles to be applied in identifying situations where apportionment is appropriate in an income tax context, and the method to be employed where apportionment is required, were considered by the High Court in *Ronpibon Tin NL v. FC of T*. In that case, the High Court considered what part of management and administrative expenses incurred by a taxpayer (whose principal business activity has been interrupted by World War II), were referable to gaining or producing assessable income. The High Court considered both the allocation of distinct expenditure to specific activities, and also apportionment, and said:[66]

> In applying the foregoing test or standard separate and distinct items of expenditure should be dealt with specifically. To begin with there are the payments by Ronpibon Tin No Liability to the dependents of members of that company's Eastern staff. …from the point of view of the income-tax law they could not be regarded as business expenditure…
>
> In the next place the cost incurred by the same company in cables and other communications with reference to the buffer stock scheme cannot be deducted. … Sufficient details do not appear to say what other distinct and severable items are wholly incapable of reference to the gaining of assessable income.
>
> The charges for management and the directors' fees are entire sums which probably cannot be dissected. But the provision contained in s.51(1) [of the ITAA 1936], as has already been said, contemplates apportionment. The question what expenditure is incurred in gaining or producing assessable income is reduced to a question of fact when once the legal standard or criterion is ascertained and understood. This is particularly true when the problem is to apportion outgoings which have a double aspect, outgoings that are in part attributable to the gaining of assessable income and in part to some other end or activity.

[64] Section 129-15.
[65] Subsections 129-10(1) and (2).
[66] (1949) 78 CLR 47 pages 58-59.

> It is perhaps desirable to remark that there are at least two kinds of items of expenditure that require apportionment. One kind consists in undivided items of expenditure in respect of things or services of which distinct and severable parts are devoted to gaining or producing assessable income and distinct and severable parts to some other cause. In such cases it may be possible to divide the expenditure in accordance with the applications which have been made of the things or services. The other kind of apportionable items consists in those involving a single outlay or charge which serves both objects indifferently. Of this directors' fees may be an example. With the latter kind there must be some fair and reasonable assessment of the extent of the relation of the outlay to assessable income. It is an indiscriminate sum apportionable, but hardly capable of arithmetical or rateable division because it is common to both objects.

97. The High Court therefore emphasised the necessity of considering the facts of individual cases. Where items of expenditure ('acquisitions' or 'importations' in the context of GST) are not referable to a particular object, then apportionment is required using a method which results in a fair and reasonable reflection of the relation of the expenditure to assessable income.

98. Following the principles set out by the High Court, the method you choose to allocate or apportion acquisitions between creditable and non-creditable purposes needs to:

- be fair and reasonable;
- reflect the planned use of that acquisition (or in the case of an adjustment, the actual use); and
- be appropriately documented in your individual circumstances.

Choosing a method for determining the extent to which an acquisition or importation is applied for a creditable purpose

99. You will need a method for determining the extent to which you actually applied the acquisition for a creditable purpose since acquisition. The most appropriate method depends on the circumstances of each case. In choosing a method to measure your application of an acquisition or importation, the matters you could consider include:

(i) the nature of the acquisition or importation and the ways of directly measuring its use; and

(ii) the value of the acquisition or importation and the cost of directly measuring its use.

100. To calculate the amount of your input tax credits, you will need to make an estimate of the extent of creditable purpose for your acquisitions and importations. The requirement that your estimation is fair and reasonable in your circumstances is a prerequisite for any decision you make.

101. Where practicable, the method should use information regarding the application of the acquisition or importation as this accords with the basic principles explained in paragraphs 96 to 98.[67]

Types of methods for determining the extent of use for a creditable purpose

102. In some instances you may be able to assess an acquisition or importation as being (or having been) used solely (100%), not at all (0%) or partly in connection with one or more particular supplies or activities of the enterprise. You may do this by considering each acquisition or importation individually. In many cases, however, it may not be practical for such an individual process to be applied. In those cases, an estimation on some fair and reasonable basis may be appropriate. These methods of estimating the extent of creditable purpose can be broadly categorised as either direct or indirect methods.

103. You are not required to use direct and indirect methods in the manner set out in this Ruling, provided that whatever alternative method you do use is fair and reasonable having regard to the principles explained in paragraph 32 of this Ruling.

104. Where a direct method is available to you, the Commissioner's view is that this will reflect most accurately the actual or intended use of the acquisition. If your accounts satisfy Australian Accounting Standards, or prudential requirements of equivalent rigour, the Commissioner considers that they may provide an appropriate foundation for applying the direct method, subject to that application being fair and reasonable in your individual circumstances.

105. A combination of different methods might be required for the various acquisitions or importations made by an entity. For example, an entity might be carrying on a number of different businesses or making supplies in different areas, or there might be several kinds of businesses within a single GST group.[68]

Direct methods

106. Direct methods seek to identify a direct measure of the use of the acquisition or importation. Measures based on inherent characteristics of, or factors directly connected with, the acquisition usually give a fair reflection of the use of the thing. These factors are sometimes referred to in management accounting and costing systems as 'drivers'.

[67] Subsections 129-10(1) and (2).
[68] GST Groups are covered by Divisions 48 and 149.

107. These factors or characteristics indicate a direct link between the acquisition or importation and its use. Some examples of these factors and characteristics are:

(i) distance, for example, kilometres travelled by a motor vehicle as evidenced by a logbook;

(ii) time, for example, computer processing time spent on various input taxed and other activities, as evidenced by a time sheet;

(iii) volume, for example, numbers of transactions of particular types;

(iv) space, for example, floor area where the space is used for different activities; and

(v) staff numbers, for example where the use of particular acquisitions is directly related to the number of staff.

A method based on these factors or characteristics expresses the relevant use of the acquisition or importation as a percentage of total use.

108. The Commissioner believes that the use of 'direct methods' accords with the basic principles explained above (see paragraphs 96 to 98) and will usually best reflect the extent of creditable purpose. If it is not possible or practicable to use a direct method, you could use some other fair and reasonable basis. You could choose not to use a direct method where, for example:

- you consider that an indirect method would be more appropriate;
- the cost of measuring the use of the acquisition is disproportionate to the cost of the acquisition itself; or
- it is impracticable to use a direct method in the context of your business.

Indirect methods

109. There are two main types of indirect method. These are 'input based' and 'output based'.

110. The indirect methods are based on estimated usage of acquisitions and importations for creditable purposes. They use factors or characteristics that are not directly identifiable with the use of the particular acquisition. For this reason, they may not give an accurate measure of the creditable use of the acquisition or importation. However, they may provide a reasonable basis for the purpose of calculating your input tax credits entitlement.

111. Indirect methods may be appropriate in circumstances such as where there are overhead expenses or a large number of small acquisitions or importations and it is not cost effective to try to measure the use to which each separate acquisition or importation is put.

112. Indirect methods work on the assumption that measures of input and output of the enterprise provide an adequate estimate of the application of mixed-use inputs for the making of various supplies. These methods may be of limited use where some of the inputs (acquisitions or importations) or outputs (supplies) have a disproportionate value when compared with the total. To include these disproportionately large acquisitions, importations, or supplies in the indirect method calculation may distort the result.

113. Of the indirect methods, the Commissioner believes an input based method is more likely to reflect the principles outlined in paragraphs 96 to 98. Nevertheless, an output based method may produce a fair and reasonable result.

Input based indirect methods

114. Input based indirect methods employ a measure based on the already established use of some inputs (directly allocated inputs) to estimate the use of other inputs not able to be allocated in this way (remaining inputs). These methods are only useful where a direct method has already been used in respect of a majority of acquisitions or importations, so as to provide a reliable basis for their use in calculating the creditable use of the remaining inputs.

115. The proportion of directly allocated inputs would be calculated as the proportion of total inputs to inputs used in making supplies other than input taxed supplies. This could then be used to establish the extent of creditable purpose in respect of the remaining inputs.

116. This method will provide the most accurate results where the percentage of remaining inputs does not exceed the proportion of directly allocated inputs. Some examples of input based indirect methods are:

(i) the cost of acquisitions directly allocated to supplies that are not input taxed relative to the total costs of all acquisitions directly allocated; or

(ii) input tax credits directly allocated to acquisitions used to make supplies that are not input taxed relative to total directly allocated input tax.

117. Based on actual data for the adjustment period, an input based indirect method as outlined above could be used to determine relevant adjustments for the purposes of Division 129.

Output based indirect methods

118. These methods utilise measures of output to estimate use of acquisitions or importations. For example:

(i) total value of supplies that are not input taxed as a percentage of total supplies; and

(ii) net profit (or gross profit) from supplies that are not input taxed as a percentage of total net profit (or gross profit).

Examples of these methods can be found at paragraphs 141 to 151.

Distorting factors

119. The basis of apportionment or allocation needs to make sense in the context of an enterprise and should not produce significant distortions. Any method to allocate indirect costs must be consistently followed without producing an inappropriate loading of expenses to particular intended or actual uses. If different types of indirect costs are being allocated, it may be appropriate to use different apportionment or allocation criteria.

120. To ensure that the apportionment method you use gives a fair reflection of the extent to which your acquisitions and importations are for a creditable purpose, you should exclude factors which may distort the results of the calculation. These factors may include extraordinary supplies, income items or acquisitions, for example substantial one-off capital acquisitions. Methods which have the effect of including, for example, the same supplies more than once in the factors used, would also produce a distorted result, and would not be fair and reasonable.

121. Whether or not a factor is a distorting factor will depend on the facts and circumstances of each case. Decisions on these will be made having regard to the nature of the enterprise, the nature of the acquisition or importation, whether it is made as part of a business cycle or is a one-off acquisition, unlikely to be repeated in the future. An example of a situation that does not give rise to a distortion is an entity that acquires new computers as part of its normal business practice of replacing its computers every three years.

Using apportionment methods that you have already applied under income tax law

122. Paragraph 51 explains that an apportionment is necessary if an acquisition or importation is partly for a creditable purpose and partly for making input taxed supplies or partly of a private or domestic nature. The types of expenses that typically require apportionment under income tax because of their use for private purposes include motor vehicles,[69] home computers, home telephone and home office expenses. For income tax purposes, some expenses may need to be apportioned for reasons that are not relevant for GST. For example, expenses incurred partly in gaining or producing exempt income cannot be fully deducted for income tax purposes but may be fully creditable for GST purposes if the acquisition or importation does not relate to making input taxed supplies.

123. For acquisitions and importations that have both a business and a private purpose, the Commissioner accepts that an appropriate basis of apportionment under income tax may provide a reasonable estimate of the extent of use for a creditable purpose where that is reflective of your actual use.

124. Most taxpayers operate under an income tax year that ends on 30 June. However, under GST you will have either monthly or quarterly tax periods unless Division 151[70] applies to you. Subject to paragraph 125, if you have established a business use percentage for the income tax year, the Commissioner will accept that figure as a reasonable estimate of the extent of creditable purpose for the GST tax periods ending during your next tax year, unless you are aware of a significant change in the extent of business use. You may still use a different percentage of creditable purpose for those periods, if appropriate, but you will need to keep additional records.

125. You may make an acquisition for which the cost is deductible for income tax purposes, but is nevertheless only partly for a creditable purpose. This would be the case where you make the acquisition only partly in carrying on your enterprise and partly for some other tax deductible purpose as, for example, in the case of a consultant who is also an employee. Another example is where a business makes input taxed supplies as well as taxable supplies. The relevant expenses may all be deductible under income tax, but may not be creditable acquisitions under the GST Act. In these cases, you can use your income tax business percentage as a starting point, but you will need some method to further calculate the extent of your creditable purpose. For this purpose, you could use the methods explained below.

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[69] Refer to comments in paragraph **9**.

[70] Division 151 enables certain entities to have annual tax periods. Entities that elect to have annual tax periods will lodge their GST returns and pay their GST or receive refunds of GST on an annual basis.

Determining extent of use for a creditable purpose on certain types of acquisitions

126. There may be a number of approaches for determining the extent of use for a creditable purpose. While the use of the following methods is not compulsory, if you choose to use them the Commissioner will accept that you have correctly determined the extent of your creditable purpose where those representative periods reflect your actual usage:

(a) Computer (including Internet expenses) - reasonable estimate based on a diary or log of the use of your computer kept for one month.

(b) Home Office expenses:

(i) insurance and other occupancy expenses – reasonable estimate calculated on floor area. If the insurance relates to contents, a valuation basis may also be appropriate;

(ii) electricity – reasonable estimate based on a diary or log of your use of the home office kept for one month; and

(iii) other running expenses – reasonable estimate based on a diary or log of your use of the home office kept for one month.

An example of this method can be found at paragraphs 130 to 134.

(c) Telephone expenses – reasonable estimate based on a diary or log kept for one month of incoming and outgoing calls relating to both creditable and non-creditable purposes.

An example of this method can be found at paragraphs 130 to 134.

127. Diary or log records should be kept in the initial tax period for the category of acquisition, but can be relied on for other acquisitions of that type provided it is reasonable to expect that the usage pattern has continued for those acquisitions as well. The diary or log need not take any particular form, but must contain sufficient information to ascertain the purpose and amount of use of the item in question over the period. Ideally the log or diary should be kept over a representative period (of at least one month), that is one which approximates the average usage of the acquisition over time.

Record keeping – general requirements

128. You are required to keep and retain documents in relation to any election, choice, estimate, determination or calculation made under a taxation law. The documents should contain the particulars of any election, choice, estimate, determination or calculation. In the case of an estimate, determination or calculation, the documents should also contain the basis on which, and the method by which the estimate, determination, or calculation was made. You must retain those records for at least 5 years after the completion of the transaction or acts to which they relate. The records are to be kept in a manner so as to enable your entitlement to an input tax credit under the GST Act to be readily ascertained.[71]

129. The method you adopt to determine the intended and actual creditable purpose of acquisitions must be fair and reasonable in the context of your enterprise. Records you normally keep as part of carrying on your enterprise may be sufficient to support the method adopted. If this is not the case, you should keep additional records.

Further Examples

Example 9 – claiming input tax credits on home office type expenses

130. Toby operates a business selling posters, comics, etc., over the internet and by mail order. He owns the premises from which he runs the business, and this also includes a flat, where Toby lives. The total area of the premises is 100 square metres, with 60 square metres relating to the flat and 40 square metres relating to a separate room for the business. Toby incurs the following expenditure in relation to the premises in the March tax period (all prices include GST):

Electricity	$450
Telephone	$580
Insurance (building only)	$330

131. Toby must apportion the input tax credits on those expenses that relate to both the business and the flat (as he cannot claim input tax credits for acquisitions of a private or domestic nature).

132. *Electricity* – as this is a variable expense, floor area would not be an appropriate means by which to apportion as it bears no relationship to the amount of energy actually used. Over a typical month Toby uses a diary to record the number of hours of electricity usage in the course of operating his business. On the basis of this record, he makes a reasonable estimate that 10% of electricity costs are attributable to his business activities and calculates his input tax credits as follows:

$$\$450 \times 1/11 \times 10\% = \$4.09$$

[71] Section 70 of the *Taxation Administration Act 1953.*

133. *Telephone* – Toby uses the same telephone for business and private purposes. As this is also a variable expense, floor area would not be an appropriate basis for apportioning the input tax credit on the telephone expense. For one month Toby keeps a note book by the phone where he records incoming and outgoing calls. This record indicates that 50% of all calls are business related. Toby can therefore apportion the input tax credit on the telephone expense as follows:

$580 × 1/11 × 50% = $26.36

134. *Building insurance* – this is a fixed occupation expense. A floor area basis would be appropriate to apportion this expense, as it reasonably reflects the portion of the insurance cost relating to the business. The input tax credit claim is calculated as follows:

$330 × 1/11 × 40/100 = $12.00

Example 10 – computer expenses: annual apportionment election

135. Kent operates a business as a freelance journalist from his home. He lodges his business activity statement on a quarterly basis. Kent is eligible to make an annual apportionment election under Division 131 and does so. In March 2005, Kent purchases a computer system for $2,200 to use in his business. Kent also plans to use his computer partly for private purposes, but will not be using it in relation to making supplies that would be input taxed. As Division 131 applies to him, Kent claims a full input tax credit ($200) for the acquisition in respect of the tax period ending 31 March 2005.

136. Kent later determines that from acquisition to 30 June 2005, he used his computer system 60% for business purposes. This determination is based on the findings his tax agent has made regarding Kent's private usage of business assets when analysing Kent's records of actual usage for purposes of preparing his 2005 income tax return. Kent believes that, in future, he will continue to use the computer in much the same manner. Accordingly, he concludes that the extent to which he acquired the computer for a creditable purpose was 60%. Kent needs to make an increasing adjustment, in line with section 131-55 of $80 (100% - 60% = 40% of $200) to properly reflect the extent to which the acquisition was for a creditable purpose.

137. In accordance with his lodgement program, Kent's tax agent lodges Kent's 2005 income tax return by 28 February 2006. As this date falls within the tax period ending 31 March 2006, Kent chooses to attribute the Division 131 increasing adjustment to this tax period. This is the latest tax period available to Kent for this purpose,[72] though he could have chosen to attribute it to an earlier one.

[72] Kent could have attributed the Division 131 increasing adjustment to a later tax period if his tax agent's income tax return lodgement program has a later end date and he lodges Kent's return in accordance with that program.

138. Kent subsequently determines that his actual use of the computer for a creditable purpose, since the end of his 2005 year of income, has increased. As a result, Kent will need to make a decreasing adjustment under Division 129 in his first adjustment period, which will be the adjustment period ending 30 June 2006. This adjustment will decrease the net amount on Kent's BAS in that adjustment period.

139. Kent determines that from 1 March 2005 to 30 June 2006, his use of the computer in carrying on his enterprise is 75% of its total use (the 75% is its 'actual application' under section 129-40). This is greater than the 60% (which is its 'intended or former application' under section 129-40). The amount of this decreasing adjustment, calculated in accordance with section 129-75, will be $30 ($200 × [75% - 60%]).

Example 11 – input based indirect method

140. XYZ Pty Ltd (XYZ) owns a number of commercial premises. XYZ leases the buildings to various businesses (taxable supplies). As part of its business, XYZ also owns a number of residential premises which are rented to private individuals (input taxed supplies). Some of the costs of the company's business are overheads which cannot be directly allocated to making either taxable supplies or input taxed supplies. XYZ can directly allocate its other costs to making either taxable supplies or input taxed supplies. XYZ could use an input based method as follows:

INPUTS		
Acquisitions – making taxable supplies	A	30,000
Acquisitions – making input taxed supplies	B	20,000
Acquisitions – overheads	C	10,000

Extent of creditable purpose	=	$\frac{A}{A + B}$
	=	$\frac{30,000}{(30,000 + 20,000)}$
Extent of creditable purpose (expressed as a percentage)	=	60%

XYZ applies the extent of creditable purpose of 60% to the overheads of $10,000 and claims input tax credits on $6,000 of overheads as well as on the acquisitions for making taxable supplies of $30,000.

Example 12 – output based indirect method

141. Roger makes input taxed supplies and taxable supplies from his enterprise. Some of his costs are overheads which he cannot directly allocate to making either taxable supplies or input taxed supplies. Roger could use an output based method as follows:

INPUTS		
Overheads		1,000
OUTPUTS		
Taxable supplies	D	2,000
Input taxed supplies	E	3,000
TOTAL	F	5,000

$$\text{Extent of creditable purpose} = \frac{D}{F}$$

$$= \frac{2,000}{5,000}$$

Extent of creditable purpose (expressed as a percentage) = 40%

Roger applies the extent of creditable purpose of 40% to the overheads of $1,000 and claims input tax credits on $400 of overheads as well as on any creditable acquisitions directly used in making taxable supplies.

Example 13 – comparing input and output based indirect methods

142. Daniel operates a building business which makes supplies of building services (taxable supplies). The business also owns a number of residential rental properties (input taxed supplies).

143. Daniel has kept separate records of materials acquired to make taxable supplies and also of expenses incurred in making input taxed supplies. However, the business has various overhead expenses for the office that cannot be directly allocated to specific supplies. Daniel has also kept a separate record of the total income from each activity.

144. The business's total supplies and acquisitions are as follows:

	Taxable supplies $	Input taxed supplies $	Total $
Sales	70,000	40,000	110,000
Direct expenses	35,000	15,000	50,000
Gross profit	35,000	25,000	60,000
Overheads			11,000
Net Profit			49,000

145. Daniel is able to allocate input tax credits on direct costs according to his record of their usage to make taxable or input tax supplies. However, as there is no direct basis of allocating the input tax credits on the overhead expenses, he needs to adopt some indirect basis. The possibilities are:

(i) an input based method: based on the costs of inputs solely used for making taxable and input taxed supplies (called direct costs); or

(ii) an output based method: based on the value of the taxable supplies and input taxed supplies.

146. *Input based method:* this method assumes that the overheads are consumed (for a creditable purpose) in the same proportion as the direct costs of making taxable supplies bears to the total direct costs. Therefore, Daniel should include only direct costs in the calculation. This calculation requires that the extent of creditable purpose and the extent of non-creditable purpose, as percentages, should add up to 100%.

147. Before Daniel uses this method, the amount of the direct costs already allocated should be sufficient so as to give some reliability to the calculation.

148. If Daniel uses all direct costs, he works out the extent of creditable purpose for overhead expenses as follows:

$$\frac{\text{direct cost of making taxable supplies}}{\text{total direct costs}}$$

$$= \frac{35{,}000}{50{,}000}$$

$$= 70\%$$

149. *Output based method:* this method gives a reasonably reliable result when overheads are used (for a creditable purpose) in the same proportion that the revenue derived from taxable supplies bears to total revenue. This calculation requires that the extent of creditable purpose and the extent of non-creditable purpose, as percentages, should add up to 100%.

150. Applying the output based method using revenue gives the following percentage of creditable purpose:

$$\frac{\text{revenue from taxable supplies}}{\text{total revenue}}$$

$$= \frac{70{,}000}{110{,}000}$$

$$= 63.64\%$$

151. As Daniel can directly allocate other costs to making either taxable or input taxed supplies, he can use an input based method to allocate the input tax credits on the overhead expenses. Daniel applies the extent of creditable purpose of 70% to the overheads and claims input tax credits on $7,700 of overheads as well as on the acquisitions for making taxable supplies of $35,000.

Frequently used terms

Adjustments

152. Adjustments are changes you need to make on your BAS to increase or decrease your net amount payable or refundable for a tax period. The changes may be needed to:

(i) increase or decrease the GST payable on supplies you made because something happened so that the amount of GST payable by you included on a previous BAS is no longer correct; or

(ii) increase or decrease the input tax credits for acquisitions or importations because something happened so that the amount of input tax credits you claimed for an acquisition or importation on a previous BAS is no longer correct.[73]

Adjustment period

153. An adjustment period for an acquisition or importation is a tax period applying to you that:[74]

(a) starts at least 12 months after the end of the tax period to which the acquisition or importation is attributable (or would be attributable if it were a creditable acquisition or creditable importation); and

[73] Section 195-1.
[74] Section 129-20.

(b) ends:

(i) on 30 June in any year; or

(ii) if none of the tax periods applying to you in a particular year ends on 30 June, ends closer to 30 June than any of the other tax periods applying to you in that year.

In addition, a tax period provided for under section 27-40 is an adjustment period for the acquisition or importation.[75]

Apply

154. Apply, in relation to a thing acquired or imported, includes:

(a) supply the thing;

(b) consume, dispose of or destroy the thing; and

(c) allow another entity to consume, dispose of or destroy the thing.[76]

Creditable acquisition

155. A creditable acquisition is an acquisition you use in your enterprise. You are entitled to an input tax credit for these acquisitions. You make a creditable acquisition if:

(a) you acquire anything solely or partly for a creditable purpose;

(b) the supply of the thing to you is a taxable supply;

(c) you provide, or are liable to provide, consideration for the supply; and

(d) you are registered, or required to be registered.[77]

Creditable importation

156. The term 'creditable importation' relates to goods you import to use in your enterprise. You are entitled to an input tax credit for these importations. You make a creditable importation if:

(a) you import goods solely or partly for a creditable purpose;

(b) the importation is a taxable importation; and

(c) you are registered or required to be registered.[78]

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[75] Section 27-40 deals with concluding tax periods.
[76] Section 129-55.
[77] Section 11-5.
[78] Section 15-5.

Exceed the financial acquisitions threshold[79]

157. Under Division 189, you exceed the financial acquisitions threshold in a particular month if, assuming that all the financial acquisitions[80] you have made, or are 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 you would be entitled for your financial acquisitions would exceed $50,000 or such other amount specified in the A New Tax System (Goods and Services Tax) Regulations 1999 (GST regulations);
- the amount of the input tax credits to which you would be entitled for your financial acquisitions would be more than 10% of the total input tax credits to which you would be entitled for all your acquisitions and importations (including the financial acquisitions) during the relevant months.[81]

Financial supplies

158. Subsection 40-5(2) provides that the term 'financial supply' has the meaning given by the GST regulations. Under regulation 40-5.09 of the GST regulations, the provision, acquisition or disposal of an interest mentioned in subregulations 40-5.09(3) or (4) is a financial supply where that provision, acquisition or disposal satisfies the requirements set out in regulation 40-5.09. Regulation 40-5.02 defines 'interest' as anything that is recognised at law or in equity as property in any form.

GST-free supply

159. GST-free supply means a supply that is GST-free under Division 38 or under a provision of another Act, or the supply of a right to receive such a GST-free supply.[82] Division 38 provides that exports and supplies of certain things such as food, health, education, child care, religious services and farm land are GST-free. If a supply is GST-free, you do not charge GST on the supply, but you are entitled to input tax credits for things acquired or imported to make the supply.

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[79] Division 189.
[80] 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)'.
[81] For members of a GST group, the financial acquisitions threshold is calculated under subsections 189-5(2) and 189-10(2) as if the whole group were a single entity.
[82] Subsection 9-30(1).

Input tax credit

160. The term 'input tax credit' relates to the GST included in the price you pay for an acquisition or the GST paid on an importation. An entitlement arises under section 11-20 (about creditable acquisitions) or section 15-15 (about creditable importations).

Input taxed supplies

161. Input taxed supplies means supplies that are input taxed under Division 40 or under a provision of another Act, or the supply of a right to receive such an input-taxed supply.[83] That Division sets out the supplies that are input taxed. They are financial supplies (section 40-5), residential rent (section 40-35), residential premises (section 40-65), certain supplies of precious metals (section 40-100) and school tuckshops and canteens (section 40-130). If a supply is input taxed, you do not charge GST on the supply, but you are not entitled to input tax credits for anything acquired or imported to make the supply.

Net amount

162. Net amount is the difference between your total GST payable and your total input tax credits for a tax period.[84] It can be increased or decreased by adjustments arising in the same tax period. You include your net amount for a tax period on your BAS.

Taxable supply

163. Taxable supply has the meaning given by sections 9-5 (the basic definition), 78-50 (about taxable supplies relating to insurance claims), 84-5 (about intangible supplies from offshore) and 105-5 (about supplies by creditors in satisfaction of debts).

164. Section 9-5 provides that:

> You make a taxable supply if:
>
> (a) you make the supply for consideration; and
>
> (b) the supply is made in the course or furtherance of an enterprise that you carry on; and
>
> (c) the supply is connected with Australia; and
>
> (d) you are registered, or required to be registered.
>
> However, the supply is not a taxable, supply to the extent that it is GST-free or input taxed.

[83] Subsection 9-30(2).
[84] Section 17-5.

Your comments

165. We invite you to comment on this draft Goods and Services Tax Ruling. Please forward your comments to the contact officer by the due date.

Due date:	**18 November 2005**
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- acquisition
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- Business Activity Statement
- carrying on your enterprise
- creditable acquisition
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- creditable purpose
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- taxable supplies
- taxable supply

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