

GSTR 2006/D1 - Goods and services tax: appropriations



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There is an Erratum notice for this document.

This document has been finalised.



Draft Goods and Services Tax Ruling

Goods and services tax: appropriations

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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. This Ruling deals with the application of paragraph 9-15(3)(c) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act), to payments made between government related entities that are specifically covered by an appropriation under an Australian law.
2. For a discussion on grants of financial assistance see Goods and Services Tax Ruling GSTR 2000/11.
3. All legislative references in this Ruling are to the GST Act unless otherwise specified.

Date of effect

4. 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 officially released, it will explain our view of the law as it applies from 1 July 2000.
5. The final Ruling will be a public ruling for the purposes of section 37 of the *Taxation Administration Act 1953* and may be relied upon, after it is issued, by any entity to which it applies. Goods and Services Tax Ruling GSTR 1999/1 explains the GST rulings system and our view of when you can rely on our interpretation of the law in GST public and private rulings.
6. If the final public ruling conflicts with a previous private ruling that you have obtained, the public ruling prevails. However, if you have relied on a private ruling, you are protected in respect of what you have done up to the date of issue of the final public ruling. This means that if you have underpaid an amount of GST, you are not liable for the shortfall prior to the date of issue of the later ruling. Similarly, you are not liable to repay an amount overpaid by the Commissioner as a refund.

Previous ruling

7. This draft Ruling will replace Goods and Services Tax Ruling GSTR 2004/5 when it is released as a final Ruling. GSTR 2004/5 will be withdrawn with effect from the date of issue of the final Ruling. You can rely upon GSTR 2004/5 until the date of issue of the final Ruling. This means that if you have relied on GSTR 2004/5 to determine whether a payment is consideration, then you are protected in respect of that treatment for payments made prior to the release of the final Ruling.

Context for appropriations

Goods and services tax

8. Each government related entity¹ that is registered or required to be registered for GST needs to consider whether there are any GST consequences in relation to its activities. There will be a GST liability if the requirements under section 9-5 for a taxable supply are met.

9. The requirements in section 9-5 are:

- (a) the supply is made for consideration;
- (b) the supply is made in the course or furtherance of an enterprise that is carried on;
- (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.

10. Paragraph 9-5(a) requires three things: a supply, consideration and that the consideration is for that supply.²

11. Where there is no supply, there cannot be a taxable supply as the requirements of paragraph 9-5(a) are not met. Therefore, there are no GST consequences in relation to the payment made by a government related entity to another government related entity if there is no supply for which that payment is consideration. That is, where there is no supply, there is no need to consider whether or not the appropriation provision applies.

¹ The meaning of 'government related entity' is discussed in paragraphs 40 to 43.

² See for example, Goods and Services Tax Ruling GSTR 2000/11 for a discussion on supplies made in relation to grants of financial assistance, and Goods and Services Tax Ruling GSTR 2001/4 for our view of the GST consequences of court orders and out-of-court settlements.

12. Whether there is a supply for consideration when there is a payment of financial assistance is discussed in Goods and Services Tax Ruling GSTR 2000/11. The principles from GSTR 2000/11 may be used to determine if there is a supply where a payment is made in relation to appropriations. In particular, GSTR 2000/11 discusses whether there is a supply in various scenarios and, if there is, whether the payment is consideration for that supply.

13. Therefore, this Ruling does not discuss whether there is a supply for which a payment made under an appropriation is consideration. This Ruling only discusses paragraph 9-15(3)(c). Hence, to determine whether a payment made under an appropriation is subject to GST, it is necessary to look not just to this Ruling, but also to GSTR 2000/11.

14. Where there is a supply and it is otherwise taxable, it is necessary to consider whether paragraph 9-15(3)(c) applies. If paragraph 9-15(3)(c) is met the payment is not consideration for a supply, and hence there is no taxable supply. This is because the requirements of paragraph 9-5(a) are not met.

Policy for paragraph 9-15(3)(c)

15. The policy intent behind the appropriations provision can be found in the following statement in *'Tax reform: Not a new tax, a new tax system'*.³

The Government's intention would be to apply the GST to the commercial activities of all levels of government in the normal manner. However, there are Constitutional limitations on subjecting some activities of government to the GST. The non-commercial activities of government will be outside the scope of the GST. For example, appropriations for general government activities will not be taxable, nor will grants from one level of government to another, as neither constitutes consideration for a supply.

16. The appropriations provision is intended to exclude funding payments, which are non-commercial in nature, from the operation of GST, while not excluding payments which represent fees for goods, services and similar things. This is reflected in paragraph 1.16 of the Senate Supplementary Explanatory Memorandum to the A New Tax System (Goods and Services Tax) Bill 1998:

For example, if a State government makes an appropriation to a State Crown department, there would be no GST on this payment as it would be covered by **new paragraph 9-15(3)(c)**. If the department makes a further payment to a State authority under the appropriation, there would be no GST on this payment. If the authority distributes the money to various registered community bodies and the community bodies have to use the money for particular purposes (that is, the payments are not unconditional gifts), the payments to the community bodies will be consideration for a supply, and hence will be taxable.

³ Tax Reform: Not a new tax, a new tax system, Commonwealth of Australia 1998, at page 98.

17. In addition, not exempting government from GST on payments or fees for goods, services and similar things is also reflected in the *Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations* (Intergovernmental Agreement). Section 10 of the *A New Tax System (Commonwealth-State Financial Arrangements) Act 1999* and various Acts of the States and Territories give effect to that Intergovernmental Agreement. Paragraph 17 of that Intergovernmental Agreement states:

The Parties intend that the Commonwealth, States, Territories and local government and their statutory corporations and authorities will operate as if they were subject to the GST legislation. They will be entitled to register, will pay GST or make voluntary or notional payments where necessary and will be entitled to claim input tax credits in the same way as non-Government organisations.

Ruling with explanation

18. Paragraph 9-15(3)(c) provides that:

a payment made by a government related entity to another government related entity is not the provision of consideration if the payment is specifically covered by an appropriation under an Australian law.⁴

Therefore, the following requirements have to be met for a payment not to be consideration under that paragraph:

- there has to be an appropriation under an Australian law;
- the payment must be made by a government related entity to another government related entity; and
- the payment must be specifically covered by the appropriation.

These requirements are discussed below in paragraphs 23 to 62.⁵

19. It should be noted however that even if these requirements are not met and paragraph 9-15(3)(c) does not apply GST may still not be applicable.

20. For GST to apply the payment has to be consideration for a taxable supply. One of the requirements for a taxable supply is that there is a supply made for consideration (paragraph 9-5(a)).⁶ Hence, there has to be a supply for there to be a taxable supply.⁷ If a payment is not made for a supply then there cannot be a taxable supply and GST is not applicable.

⁴ Refer to Attachment A of this Ruling for an overview of the main funding transfers for the Commonwealth, State and Territory levels of government.

⁵ Refer to the flowchart in Attachment B of this Ruling for a diagrammatical summary of the decision making process.

⁶ The other requirements are listed in section 9-5.

⁷ Assuming the other requirements in section 9-5 are met.

21. Where paragraph 9-15(3)(c) does not apply and there is a supply, then the supply is subject to the basic GST rules. To determine whether a payment made by one government related entity to another should be GST-inclusive or not, it will be necessary to consider other factors such as the GST status of the supply and whether the payment is for financial assistance.

22. Whether or not there is a supply for consideration is out of the scope of this Ruling, but has been discussed in other GST rulings.⁸

Appropriation under an Australian law

‘Appropriation’

23. The term ‘appropriation’ is not defined in the GST Act. The Macquarie Dictionary⁹ defines appropriation as:

1. anything appropriated for a special purpose, as money; 2. the act of appropriating; 3. an act of a legislature authorising money to be paid from the treasury.

24. The Oxford Dictionary of Law¹⁰ defines appropriation as:

The allocation of a sum of money to a particular purpose. The annual Appropriation Act authorises the issue from the Consolidated Fund of money required to meet government expenditure and allocates it between departments and by reference to itemized heads of expenditure.

25. The dictionary definitions indicate that the term appropriation has a general meaning and a ‘government specific’ meaning which refers to Acts appropriating money. Having regard to the qualification ‘under an Australian law’, we regard the ‘government specific’ meaning as the relevant meaning in the context of paragraph 9-15(3)(c).

‘Australian law’

26. For the appropriations provision to apply the payment must be specifically covered by an appropriation made under an ‘Australian law’. The GST Act defines an Australian law by reference to the dictionary to the *Income Tax Assessment Act 1997*,¹¹ which in turn refers to the definitions in that Act of ‘Commonwealth law’, ‘State law’ and ‘Territory law’.

⁸ See for example, as noted above, Goods and Services Tax Ruling GSTR 2000/11 for a discussion of whether there is or is not a supply in the context of grants of financial assistance.

⁹ Rev. 3rd edn, The Macquarie Library Pty Ltd, NSW. .

¹⁰ 2002, Oxford University Press, Melbourne.

¹¹ That is, section 995-1 of the *Income Tax Assessment Act 1997*. See section 195-1 of the GST Act.

27. When the above definitions are read together, ‘an Australian law’ means:

- a law of the Commonwealth;
- a law of a State; or
- a law of a Territory.

28. The term ‘Australian law’ would encompass Acts and laws made under law making powers which are delegated by Parliaments, such as regulations, by-laws, proclamations and orders made under Acts. However, appropriations are normally made by Acts of Parliament.

29. On this basis, we consider that an ‘appropriation under an Australian law’ means an allocation of monies by a statute of the Commonwealth, a State or a Territory, or by delegated legislation. Throughout this Ruling, we refer to the delegated legislation and statutes as an ‘appropriation Act’.

30. An appropriation under an Australian law provides the Parliamentary authority for the expenditure of government monies. An appropriation is not in itself a payment. It is an authorisation for an arm of government to draw funds from a specified fund, such as a consolidated revenue fund, in furtherance of the particular purpose.

Payment by a government related entity to another government related entity

‘Payment’

31. Paragraph 9-15(3)(c) applies to payments of a funding nature. As noted in paragraphs 29 and 30, an ‘appropriation under an Australian law’ is the authority for the expenditure of government monies; it is the allocation of monies by statute. In the context of paragraph 9-15(3)(c) the hallmark of a payment made with this authority is that it is of a funding nature. Such payments are not commercial in character. This is because the payments are an allocation of monies by a statute of the Commonwealth, a State or a Territory, or by delegated legislation to allow the particular government related entity to meet its expenditure.

32. The purpose of the payment will be integral in characterising the payment as being of a funding nature or otherwise.

33. Not all payments between government related entities will be payments made under an appropriation.

34. Accordingly, an agency may be funded by the allocation of government monies under the authority of an appropriation Act, but when the funds are subsequently expended on goods and services to further the agency’s operations, the funds will not retain their non-commercial character. At this point paragraph 9-15(3)(c) no longer has application and the basic GST rules apply.

35. Therefore, once the funds are transferred to the particular government related entity to be used in the course of its operations any further payments by that particular government related entity are not made as an allocation of government monies under the law appropriating the funds. The use of those funds, that is, payments made with the funds, to meet the particular government related entity's expenditure in the course of its operations will not be payments of a funding nature.

36. This accords with the intention as given in the Senate Supplementary Explanatory Memorandum,¹² as noted in paragraph 16 of this Ruling. Where the funding transfer from the department to the State authority was meant to be covered by paragraph 9-15(3)(c), but the use of those funds by the State authority in its operations, such as payments to the community bodies for services, those payments are meant to be subject to the basic GST rules.

37. This remains the case even when the subsequent transaction is documented in the other relevant documents, such as the Portfolio Budget Statements, because the payment does not have the character of being made to specifically fund an activity. The payment could now be characterised as part of the entity's operating account for administration purposes. The payment is no longer made to fund the entity's operations; instead it is used by the entity in its operations.

38. The same conclusion applies even where the supplier of the relevant goods and services is another government related entity.

39. Where the paying agency receives something in return for the payment, the payment will be consideration for a supply. That is, the basic GST rules will apply to the payment.

'Government related entity'

40. The payment must be made by a government related entity, and it must be made to another government related entity. The term 'government related entity' is defined in the dictionary to the GST Act.¹³ That definition builds on the 'government entity' definition in section 41 of the *A New Tax System (Australian Business Number) Act 1999* (the ABN Act).

¹² Senate Supplementary Explanatory Memorandum to the A New Tax System (Goods and Services Tax) Bill 1998.

¹³ Section 195-1.

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41. For the purposes of this Ruling the two definitions are read together and the term ‘government related entity’ is taken to mean:

- a Department of State of the Commonwealth;
- a Department of the Parliament;
- an Executive Agency, or Statutory Agency, within the meaning of the *Public Service Act 1999*;
- a Department of State of a State or Territory;
- an organisation, whether or not it is an entity, that:
 - (i) is either established by the Commonwealth, a State or a Territory (whether under a law or not) to carry on an enterprise or established for a public purpose by an Australian law; and
 - (ii) can be separately identified by reference to the nature of the activities carried on through the organisation or the location of the organisation, whether or not the organisation is part of a Department or branch described in the first four dot points above or of another organisation of the kind described in (i) or (ii);¹⁴ or
- a local governing body established by or under a State law or Territory law.¹⁵

42. The ability to separately register ‘government related entities’ means that the GST may apply to supplies made between what are separate entities for GST purposes that are both, for example, in the same State, Department or other body. Each registered government related entity is regarded for GST purposes as a separate entity, and supplies among such entities are subject to the GST law in the same way as supplies among separate legal entities.¹⁶ In particular, transactions that would not normally be thought to involve any supply or payment from one entity to another may be treated for GST purposes as though they did involve a supply or payment from one government related entity to another. Such payments could be consideration for a supply unless paragraph 9-15(3)(c) applies. Note that paragraph 9-15(3)(c) applies to government related entities, which includes some entities that are not included as government entities.

¹⁴ Subparagraph 41(e)(i) of the definition of ‘government entity’ in section 41 of the ABN Act limits points (i) and (ii) to organisations which are not entities; this limitation does not apply for the definition of ‘government related entity’ in section 195-1 of the GST Act (paragraph (b) of that definition).

¹⁵ This element of the definition does not appear in the ABN Act definition of ‘government entity’ and is only part of the definition of ‘government related entity’ in section 195-1 of the GST Act (paragraph (c) of that definition).

¹⁶ Section 149-15.

43. Interactions between parts of a government that are not separately registered for GST do not involve supplies or acquisitions between separate entities. Consequently, supplies within a government agency or department cannot be subject to GST unless they are supplies made between separately registered government entities as defined in the GST Act.

44. In the following discussion and examples the entities are government related entities that are individually registered for GST, unless stated otherwise.

Specifically covered

45. Paragraph 9-15(3)(c) requires that the payment be 'specifically covered by an appropriation' under an Australian law. The phrase 'specifically covered' is not defined in the GST Act.

46. To be specifically covered by an appropriation does not mean that the payment must be specified **in the wording of** the appropriation made under the relevant Australian law. Rather, the payment has to be specifically covered **by** the appropriation which is the authority for the payment. For the Commonwealth, this authority is required by section 83 of the *Commonwealth of Australia Constitution Act* (Commonwealth Constitution) and is conferred by the provision of the relevant Act under which the monies for the payment are appropriated from the Commonwealth Consolidated Revenue Fund (CRF). There are similar requirements for the States and Territories.¹⁷

What has to be specified?

47. A payment authorised by an appropriation is an allocation of monies by a statute or by delegated legislation. For Parliament to allocate the monies it needs to specify the amount allocated. The allocation is made so that particular outcomes or other purposes desired by Parliament are achieved.¹⁸ Hence, to be specifically covered the following must be specified:

- the purpose of the payment; and
- the amount of the payment.

48. If the 'specifically covered' requirement is not met then the basic GST rules will apply.

¹⁷ For example section 66 of *Constitution of Queensland 2001*, section 45 of *Constitution Act 1902* (for New South Wales), section 92 of *Constitution Act 1975* (for Victoria), paragraph 72 of *Constitution Act 1889* (for Western Australia), section 57 of the *Australian Capital Territory (Self-Government) Act 1988*, section 44 of the *Northern Territory (Self-Government) Act 1978* and section 63 of the *Constitution Act 1934* (for South Australia) section 38 of *Constitution Act 1934* (for Tasmania).

¹⁸ Refer to paragraphs 31 to 39 which explain when a payment is not made as an allocation of government monies under the law, and is therefore, not a payment that is made under by an appropriation.

GSTR 2006/D1***Where does this have to be specified?***

49. Although the authorisation for the payment derives from an appropriation Act, that Act may only be based on a higher-level 'Outcomes' approach. This Outcomes approach commenced for the Commonwealth at the time of implementation of the GST. Under the Outcomes approach only a brief outline of funding arrangements is given in the appropriation Act. The Act sets out line items showing various programs of government expenditure and the amounts related to those programs. For example, a typical line from Schedule 1 to the Commonwealth *Appropriation Act (No. 1) 2005-2006* is:

Page reference	Portfolios	Total \$'000
19	Attorney-General's	2,858,450

This brevity does not allow for specific details of the payment to be included in the appropriation Act. The States and Territories may use a similar approach.

50. In some cases, 'special' or 'standing' appropriations from the CRF may be authorised by Acts other than those considered annually by Parliament. While a 'special' or 'standing' appropriation may be mentioned in budget papers, this is not always the case.

51. In practice, the specifics of an appropriation, such as its purpose, will not always be specified by the appropriation Act. In many cases, the purpose will be specified in very general terms in the appropriation Act, but explained further in relevant supporting documents.

52. For this reason the specifics relevant to a payment, being its purpose and amount, that can show it is specifically covered by an appropriation have to be specified in the appropriation Act taken together with the relevant supporting documents.

53. Relevant supporting documents are those documents which explain the purpose of the payment, that is, how it is to be used by the relevant agency or department. Those documents may also show the amount of the payment.

54. The relevant documents are on their own insufficient to establish whether the payment is specifically covered by an appropriation. The relevant documentation, in conjunction with the relevant appropriation Act, must show how the payment is sourced from an appropriation and how it is to be used by the government related entity. For example, although a letter from a Minister to a government related entity will not itself provide authority for an expenditure and may not itself provide sufficient information to show a payment is specifically covered by the appropriation, it may, together with other documents, such as a Portfolio Budget Statement, provide further explanation of an amount in the appropriation Act with authority for the expenditure coming from the appropriation Act.

55. Budget papers, Portfolio Budget Statements and Agency Budget Statements are relevant supporting documents because they explain the specific purpose of the appropriation. Other documents that are a part of the appropriation process may also be relevant to substantiating the specifics of the appropriation. These documents do not need to exist prior to the finalisation of the appropriation process. It is sufficient that they relate to the appropriation process. They are also relevant supporting documents. For example, the following documents may provide additional information that further explains the amounts given in an appropriation Act and can be relevant supporting documents:

- Ministerial Statements or Speeches related to the Budget, or appropriation Act or policy to which the appropriation Act relates;
- Government released Budget overview documents;
- Ministerial media releases related to the Budget and/or policy to which the appropriation Act relates;
- Budget documentation (background documents prepared at an agency level in the process of seeking funds to be included in that budget) related to the appropriation Act;
- Written agreements such as Funding Deeds, Deeds of Agreements or Memorandums of Understanding between government related entities;
- Computer records and accounts which link payments to appropriation sources through mechanisms such as cost codes; or
- Letters from a Minister to government related entities.

56. The initial payment specifically covered by an appropriation can be to several government related entities. Once the funds are allocated to a government related entity, further payments made by that government related entity may be specifically covered by an appropriation. However, for subsequent payments by that government related entity to be specifically covered by an appropriation, that payment must be specified as discussed above in an appropriation Act or in the relevant supporting documents. That is, the amount of that subsequent payment and the purpose of the payment must be specified in an appropriation Act or in the relevant supporting documents.

57. To be specifically covered it is not necessary for the name of each government related entity to be listed in the appropriation Act or relevant supporting documents – it is sufficient that the payment is made by one government related entity to another government related entity. This will be a question of fact.

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58. Whether or not the funds have left the relevant CRF is not relevant to determining whether there has been a payment by a government related entity to another government related entity specifically covered by an appropriation under an Australian law. There has still been a payment for GST purposes.

59. If a government related entity uses monies sourced from an appropriation to make a funding payment to another government related entity, and this payment is not specifically covered in an appropriation Act or in the relevant supporting documents, then the basic GST rules apply to the payment. As noted in paragraphs 8 to 14 there will need to be a supply for which the payment is consideration for the payment to be subject to GST.

60. The initial source of funds being from a payment covered by an appropriation is not relevant. What is important is that the payment be to another government related entity and is specifically covered by an appropriation under an Australian law as shown by reference to the appropriation Act and relevant supporting documents. It is not enough for the payment to be merely linked to or associated with the appropriation or to another payment that is specifically covered by the appropriation. Payments that are not so specified are subject to the basic GST rules.

61. If a payment made in a particular tax period is not specifically covered in the tax period to which the Business Activity Statement relates, but subsequently becomes specifically covered because the relevant supporting document comes into existence in a later tax period, and paragraph 9-15(3)(c) is then met, an adjustment under Division 19 may be required.¹⁹ This is because the payment may be consideration for a taxable supply during the initial tax period, but may stop being a taxable supply if paragraph 9-15(3)(c) is met in the later tax period, as the payment would no longer be consideration for the supply.

62. However, if the payment is not of a funding nature then paragraph 9-15(3)(c) will not be met. It does not matter whether the payment meets the requirements for being specifically covered. The basic GST rules will apply. This is discussed at paragraphs 31 to 39. In these circumstances, if there is no supply made for the payment then there are no GST consequences. However, if there is a supply made then it will be taxable if the other requirements of section 9-5 are met.²⁰

¹⁹ See Goods and Services Tax Ruling GSTR 2000/19 for a discussion on making adjustments under Division 19 for adjustment events.

²⁰ Refer to the flowchart in Attachment B of this Ruling.

Examples**Example 1 – payments are specifically covered**

63. A Portfolio Budget Statement contains information about a State Government Department of Education allocation of \$10 million to the State's government schools to upgrade the schools' information technology facilities. The objectives of the upgrade listed in the Portfolio Budget Statement include increasing the schools' online resources and replacing old computers with new computers.

64. An appropriation allocates funds from the State's Consolidated Revenue Fund to the State Government Department of Education.²¹ The payment is of a funding nature. Further, as it is specified in the Portfolio Budget Statement (that is, the purpose and the amount are stated) the payment is specifically covered by an appropriation under an Australian law.

65. The State Government Department of Education then makes payments to the schools. These payments by the State Government Department of Education are also funding payments and they are also specifically covered by the appropriation.

66. It is not necessary for the name of each government school to be listed in the Portfolio Budget Statement as it will be a question of fact as to whether the payment by the State Government Department of Education is made to a government related entity (the government schools). If this funding payment is made from one government related entity to another government related entity, and, is specifically covered by an appropriation, it will not be consideration.

Example 2 – payment to a non-government related entity

67. The same Portfolio Budget Statement from Example 1 provides for a payment of \$2 million to be made to non-government schools. The allocation of funds from the CRF to the State Government Department of Education is a funding payment and is specifically covered by an appropriation (that is, the purpose and amount is stated in the relevant supporting documents) and therefore is not consideration.

68. Although the payments by the State Government Department of Education to the non-government schools also have a funding character and are specified in the Portfolio Budget Statement, these payments do not satisfy paragraph 9-15(3)(c) because the payments are made to non-government schools which are not government related entities. Therefore, the payments from the State Government Department of Education to the non-government schools are consideration.

²¹ When the funds are allocated to the Department of Education they may not leave the Consolidated Revenue Fund, and may not do so until paid outside of the government. However, for GST purposes there has still been a payment to the Department of Education and from the Department of Education to the government schools.

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Example 3 – not a payment specifically covered by an appropriation – government supplier

69. Using the same facts from Example 1, when the money has reached a government school it has reached the particular government related entity for use in its operations. Any further payments with that money by the particular school are not of a funding nature and are not specifically covered by the appropriation. If a government school enters into a contract with another government school for acquisitions to upgrade its information technology facilities the use of the money is not a funding payment. This is because the purpose of the payment by the school is not to fund the activities of the other school, but rather to pay for goods or services supplied to it by the other school.

70. When the school expends the funding allocated to it under the Appropriation Act the basic GST rules will apply to the supply and acquisition of the upgrades to the school's information technology facilities. This outcome is the same whether or not the school contracts with another government related entity or a not.

Example 4 – specified payment which is part of another specified payment can be specifically covered

71. The schedule to the annual Appropriation Act (No. 1)2003-2004 specified an amount of \$1 billion to be appropriated to the Portfolio administered by the Department. The schedule also specified an amount of \$26 million to be appropriated to the Tribunal within the Department's portfolio as part of the aggregate amount appropriated to the Department. That is, the Department is to pay the \$26 million out of the \$1 billion appropriated to it. These payments are of a funding nature and are not commercial in character. The following payments will be specifically covered by that appropriation as the purpose and amount are specified in the other relevant supporting documents, and consequently are not consideration by virtue of paragraph 9-15(3)(c) as the payments are made from one government related entity to another government related entity:

- the payment of \$1 billion to the Department; and
- the payment of \$26 million from the Department to the Tribunal.

Example 5 – payment is consideration

72. Newly created Department A is established with the sole function of investigating how to improve the level of exports by Australian enterprises. It received a payment specifically covered by an appropriation to 'investigate export impediments' to Australian businesses. As part of Department A's function it enters into an agreement with Department B to look into law improvement and the existing controls on exports for \$500,000. This \$500,000 is sourced from the funds Department A received that were funding payments and were specifically covered by the appropriation.

73. Although the payment to Department B is related to and paid for with funds sourced from the appropriation payment for Department A, the purpose and the amount of the payment to Department B is not specified in the Appropriation Act or the relevant supporting documents. Furthermore, the payment by Department A to Department B is a use of the funds in its operations and is therefore not of a funding nature. The purpose of the payment by Department A to Department B remunerates Department B for supplies made to Department A as part of Department A's investigation into export impediments. Department A is not funding Department B's activities.

74. Because the payment is not of a funding nature it does not matter whether it meets the requirements for being specifically covered. In this example it is not specifically covered by an appropriation and the payment to Department B is subject to the basic GST rules. It is insufficient that there is merely a link between the payments. The payment from Department A to Department B is consideration for a supply.

Example 6 – input taxed government related entity

75. The Department of Residential Accommodation (DRA) of a Territory supplies housing. The DRA is a government related entity. The supplies of housing it makes are input taxed supplies of residential premises under section 40-35. A funding payment is allocated to DRA and the amount of the payment and its purpose is specified in relevant supporting documents to the Territory's Annual Appropriation Act. Therefore, this payment to the DRA meets paragraph 9-15(3)(c) and is not consideration.

76. During the course of the year, the DRA requires corporate services which are provided by the Territory's Administration Agency. The corporate services are supplies under section 9-10. When the DRA pays the Territory's Administration Agency for the corporate services, this is a use of the funds by the DRA in its operations and is therefore not a funding payment. The payment by the DRA is consideration for the supply of corporate services.

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Example 7 – not a payment specifically covered by an appropriation

77. Local councils receive funding allocated under Appropriation Act from their State Government for the purpose of improving the State's roads. Once the funds have been distributed to each of the local councils by the State government the money is for the use of the local councils in their operations. Therefore, any further payments made by the local councils are not of a funding nature.

78. Paragraph 9-15(3)(c) is not met in relation to those further payments by the local councils. It does not matter whether or not they meet the requirements for being specifically covered.

79. One local council uses this money to hire earthmoving equipment from another local council. The expenditure on the earthmoving equipment will be consideration for a supply, and subject to GST if the other requirements of section 9-5 are met. It is irrelevant whether the other local council is a government related entity.

Example 8 – not a payment specifically covered by an appropriation – cost recovery basis

80. Department A occupies a building in the city centre. As one level of the building is unoccupied by Department A it leases the space to Department B. The rent that Department B pays to Department A is calculated on a cost recovery basis. The rent is paid using funds allocated to Department B in an Appropriation Act for its general running costs. The payment from Department B to Department A is not of a funding nature. Paragraph 9-15(3)(c) is not met and it is irrelevant whether or not it meets the requirements for being specifically covered.

81. Department A makes a supply of accommodation to Department B for consideration. The supply of accommodation is subject to the basic GST rules and will be a taxable supply if the other requirements of section 9-5 are satisfied. It does not matter that the rent is calculated on a cost recovery basis.

Example 9 – not a payment specifically covered by an appropriation – funding deed

82. A funding payment of \$2 million is made from the Consolidated Revenue Fund to the Parks Department for the purpose of irrigating parks. This payment is also specifically covered by an appropriation as the purpose and amount are specified in the relevant supporting documents.

83. *The Parks Department in turn enters into a Funding Deed with a Council. The Funding Deed says the provision of funds is subject to the Council's compliance with the terms and conditions of the Funding Deed. This Funding Deed includes various milestones the Council is required to satisfy and performance indicators to show the milestones have been met. The Council is also required to prepare reports under the Funding Deed such as reports on the performance of irrigation systems, proposed methods to improve irrigation effectiveness and the acquittal of funds. If the milestones are not met by the Council the Funding Deed allows the Parks Department to recover monies from the Council.*

84. *In this case, the use of the funds by the Parks Department will be in furthering its operations. When it pays the funds to the Council, the funds are not of the character of a funding payment. The payment made by the Parks Department to the Council is not covered by paragraph 9-15(3)(c). The next step is to determine if the Council has made a supply for consideration. GSTR 2000/11 may assist in the context of grants of financial assistance.*

Specific Purpose Payments

85. Payments made from the Commonwealth CRF to the States and Territories are governed by a provision in the relevant Commonwealth Appropriation Act. For example, section 7 in *Appropriation Act (No. 2) 2004-2005* (No. 2 Act) provides that the Finance Minister may issue a specified amount from the Commonwealth CRF for a State payment item. This amount may only be used for the purpose of contributing to a certain outcome. Section 3 of the No. 2 Act defines 'State' to include the Australian Capital Territory and the Northern Territory, therefore the payment may only be made to State and Territory entities. There is a further link to Schedule 2 to the No. 2 Act which sets out amounts against outcomes under the heading 'Specific Payments to the States and Territories'. Due to this collective documentation these Specific Purpose Payments are specifically covered by an appropriation.

86. Where the payments are made through the States and Territories to reach local government entities, it will be a question of fact as to whether the relevant supporting documentation contains the purpose and amount of the payment, and whether the payment is made to a government related entity. In these circumstances it will be necessary to also look at the relevant Appropriation Act and relevant supporting documents of the State or Territory that relate to the payment to the local government entities to determine whether these requirements are satisfied.

87. In cases where the purpose and amount of the payment is not contained in the relevant supporting documents, and/or the payment is not made to a government related entity, the basic GST rules will apply. If the payment is made for a supply it will be subject to GST if the other requirements of section 9-5 are met.

Example 10 – specific purpose payment

88. *The Appropriation Act (No. 2) 2020-21 (Act) provides for a State payment item to be made from the Commonwealth CRF to the Best State in furtherance of outcome 1. Schedule 2 to this Act shows the amount of the payment against the Best State column, and also documents the purpose as helping local governments to provide child care. The local governments are essentially a conduit for the funding to the Child Care Centres.*

89. *The payment is of a funding nature and as the amount and the purpose are documented in the Act this payment is also specifically covered by an appropriation. Further, the payment is made from the Commonwealth CRF to a government related entity (Best State). Paragraph 9-15(3)(c) is met and the payment is not consideration.*

90. *When the Best State distributes part of the payment to the local government it still has a funding nature. The payment will be specifically covered if Best State's Appropriation Act (or other act that gives effect to the payment to local government entities for the program) or relevant supporting documents show the purpose and amount of the payment. As well as Best State's documentation, the documents supporting the Specific Purpose Payment (from the Commonwealth CRF to the Best State) are also relevant supporting documents for the purpose of ascertaining whether the payment to the local government is specifically covered. Both sets of documents are relevant because they are both part of the appropriation process for payments to help local governments provide child care. If the local government is a government related entity, then the payment meets paragraph 9-15(3)(c). Therefore, the payment to the local government is not consideration.*

91. *The local government then uses the payment from the Best State to provide funding to two child care centres in the form of financial assistance. Child Care Centre A is a government related entity and Child Care Centre B is a privately run enterprise.*

92. *The payment to Child Care Centre A is specifically covered because relevant documents and Appropriation Acts combined show the purpose and the amount of the payment. Further, Child Care Centre A is a government related entity. As the payment is for financial assistance and it remains of a funding nature, all the elements of paragraph 9-15(3)(c) are met. The funding received from the local government is not consideration. When Child Care Centre A uses the money to run the centre the basic GST rules will apply.*

93. *As Child Care Centre B is not a government related entity paragraph 9-15(3)(c) does not apply. The funding it receives from the local government is subject to the basic GST rules. That is, if Child Care Centre B is making a supply to the local government then GST may apply. Child Care Centre B can refer to GSTR 2000/11 for guidance on whether it is making a taxable supply to the Chocolate Basin local government in return for the payment.*

Contingency funds

94. A contingency fund is a sum appropriated for no specified purpose but used to cover shortfalls in agency budgets. Contingency funds are used by government related entities to obtain additional funding for unforeseen expenditure, for example, when already appropriated funds for a particular program run out before the next budget and extra 'top-up' funding is required. These contingency funds are established by the relevant appropriation Act. Due to the nature of this type of fund, the payments sourced from a contingency fund are usually sought by government related entities outside the normal budget process.

Commonwealth

95. Commonwealth Agencies may apply for additional funding in the interim between the Budget and the Additional Estimates processes. They do this by completing an application for monies from the Advance to the Finance Minister. The Advance to the Finance Minister is a contingency fund that is authorised by the annual appropriation Acts. It is available to the Finance Minister as a contingency fund for urgent funding subject to certain requirements.

96. If an Agency makes an application for funds for unforeseen expenditure, and the requirements for an advance are met, the Minister for Finance can release funds from the Advance to the Finance Minister. For example, the release of funds is made pursuant to section 12 of the *Appropriation Act (No. 1) 2005-06*. Section 12, in conjunction with the approval of the application by the Minister for Finance, constitutes sufficient authority for the Minister of Finance to make the payment.

97. When the Agency receives the payment it will be necessary to establish whether the payment is of a funding nature, as discussed at paragraphs 31 to 39. Where the unforeseen expenditure represents additional funds for an existing appropriation, it will be a funding payment if the original funding is of a funding nature, as long as the additional funding only alters the amount of the payment and not the purpose.

98. Because the information contained in the approved application form will contain the purpose and amount of the payment, a funding payment will be specifically covered by an appropriation at the Advance to the Finance Minister to Agency level. It is not necessary for additional documentation to appear in a later appropriation Act.

States and Territories

99. Each jurisdiction has a contingency fund²² to cater for unforeseen expenditure which is administered by the relevant Treasurer or Minister of Finance. In some cases, the upfront approval of the payment is sufficient authority to make the payment, similarly to the Commonwealth Advance to the Finance Minister scenario discussed above. In other circumstances, the payment is made prior to a special Appropriation Bill being tabled and passed through Parliament. Allowance can also be made for payments directly from a CRF when the contingency fund is not sufficient or appropriate to cover the additional payment sought. In these circumstances it is generally required that a special Appropriation Bill be tabled before the relevant Parliament within a certain time frame.

100. As noted above for Commonwealth contingency funds, if the additional funding is for an existing appropriation, it will be of a funding nature if the original funding is of a funding nature, as long as the purpose of the payment remains the same. The payment will be specifically covered if the purpose and amount are contained in the appropriation Act or relevant supporting documents, including subsequent relevant supporting documents that are part of the appropriation process. See paragraphs 49 to 62 of this Ruling for what are relevant supporting documents.

101. As noted at paragraph 61 of this Ruling, if a payment made in a tax period is not specifically covered in the tax period to which the Business Activity Statement relates, but subsequently becomes specifically covered because the relevant supporting document comes into existence in a later tax period, and paragraph 9-15(3)(c) is then met, an adjustment under Division 19 may be required. This is because the payment may be consideration for a taxable supply during the initial tax period, but may stop being a taxable supply if paragraph 9-15(3)(c) is met in the later tax period, as the payment would no longer be consideration for the supply.

Example 11 – additional funding for a program

102. *The State Treasurer (the Treasurer) has a contingency fund where funds were appropriated into it under Appropriation Act 2. This funding payment for the purpose of the contingency fund is specifically covered by Appropriation Act 2 as the amount and purpose are stated as a line item in the Schedule to the Act.*

²² Which may also be known as a Treasurer's Advance or Treasurer's Reserve.

103. *Department A runs out of funds without completing Program X and forwards an application to the Treasurer stating the purpose and amount of the request to the Treasurer for additional funds. The original payment made for Program X was of a funding nature and was specifically covered by an appropriation. The application meets the requirements for a payment to be made from the contingency fund. The approval of the application allows the Treasurer to make the payment to Department A, a government related entity.*

104. *The payment from the contingency fund to Department A (a government related entity) is specifically covered by Appropriation Act 2 because the application and the documents lodged with the application that form part of the application for contingency funding together contain the purpose and amount of the funding. In addition, as the original payment had a funding nature, this additional payment has a funding nature. Therefore, as both entities are also government related entities, the payment from the State to Department A is not subject to GST as it meets all the requirements of paragraph 9-15(3)(c).*

Example 12 – payment is specifically covered

105. *Department XYZ, a government related entity, received a funding payment to build a community hall in a rural area and this funding was specifically covered by an appropriation. Due to an increase in building costs the original funding payment is insufficient to complete the construction of the community hall, so Department XYZ makes a request to the Minister for additional funding from the contingency fund.*

106. *The Minister writes to the Department XYZ to notify approval for additional funding from the contingency fund for the construction of the community hall. Like the original funding payment, this payment for additional funds also has a funding nature. The letter is issued by the Minister after Appropriation Bills No. 1 & No. 2 are enacted but before the Additional Estimates process commences. The application was approved because it satisfied the requirements stipulated in Appropriation Act No. 2 to release funds from the contingency fund. In addition to the approved application, the letter also details the funding amount for the Department XYZ's undertaking to construct the community hall and the payment is drawn from the Minister's contingency fund.*

107. *The Minister's letter is a document that is part of the appropriation process, and the monies used by the Minister's Department to fund the construction of the community hall are taken from a general appropriation to the Minister's portfolio. Therefore, the funding payment by the Minister's Department to the Department XYZ is specifically covered by an appropriation.*

108. *As all the requirements in paragraph 9-15(3)(c) are met the payment is not consideration. When Department XYZ uses the monies to complete the construction of the community hall the basic GST rules will apply.*

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Exigencies

109. Emergency funding payments may also be made in the event of unforeseen emergencies such as natural disasters. These payments from the Commonwealth CRF or the States and Territories' CRF are funds that have not yet been appropriated. An exigency is an unforeseen emergency which is met by spending money that has not been appropriated at the time it is spent.

110. For example, the government related entity requiring the exigency funding will usually make an application to the relevant Treasurer. The Treasurer's authority for making such payments may come from, for example, the Finance Act for a State. The Treasurer may be required to account to Parliament for the funds and table an Appropriation Bill for those funds after drawing them from Consolidated Revenue. In any event, the payment will usually be appropriated under a later retrospective appropriation Act.

111. The purpose of the payment will assist in establishing whether it is of a funding nature. If the application to the Treasurer, in conjunction with the later retrospective appropriation Act, states the purpose and amount of the exigency payment, this, as discussed in paragraphs 45 to 62 of this Ruling, will be sufficient to satisfy the 'specifically covered by an appropriation' requirement in paragraph 9-15(3)(c).

Example 13 – exigencies

112. *Due to a heavy monsoon season some remote parts of the State were flooded. The Emergency Services Agency budget was fully committed so an application for \$5 million in funding was made to the State's Treasurer to provide drinking water to affected residents.*

113. *Because the application met the requirements for emergency funding the Treasurer approved the application. This approval resulted in the authority to draw the \$5 million from the State's CRF. The State subsequently enacted the 'Drinking Water (Special Funding) Act'. The application together with this subsequent appropriation Act is sufficient to satisfy the 'specifically covered by an appropriation' element in paragraph 9-15(3)(c). If the other requirements in paragraph 9-15(3)(c) are also met, the payment will not be consideration.*

114. *When the Emergency Services Agency uses the funds to purchase drinking water and transport services to take the water to affected areas, the payment it makes for these services will be subject to the basic GST rules. This is because the funds are now used in the agency's operations and are no longer of a funding nature.*

Instalments

115. If a payment is made in instalments it can still be covered by paragraph 9-15(3)(c). That is, the payment does not have to be one lump sum made to the intended recipient. The important factors are that the payment is of a funding nature, it is made by one government related entity to another government related entity and is specifically covered by an appropriation.

116. If the instalments are specifically covered by an appropriation in the first year, the subsequent payments, as per that documentation, are also specifically covered by the original appropriation documentation.

Payment after expenditure

117. A payment can still be covered by paragraph 9-15(3)(c) if it is made after the expenditure by the recipient to which the payment relates. A payment made on such a basis may be of a funding nature when it is made as a lump sum or by instalments. As for payment by instalments, the payment must be made by one government related entity to another government related entity, and must be specifically covered by an appropriation.

Example 14 – payments after expenditure

118. *Included in the annual appropriation to a State Health Department is \$10 million for financial assistance which is to be provided to a public hospital for the purpose of its mental health program. The Portfolio Budget Statement for the Health Department states this purpose and that the payment will be made to the public hospital.*

119. *The payment by the State Health Department to the public hospital is made when the public hospital requests payments for expenses already incurred associated with providing mental health services. The public hospital requests a payment of \$2 million after the first quarter of the year. When the State Health Department makes this payment to the public hospital it is not consideration due to the operation of paragraph 9-15(3)(c). Further payments by the State Health Department to the public hospital for the remaining \$8 million will also not be consideration.*

Redirection of funding

120. At both the Commonwealth and States and Territories levels payments originally authorised under appropriation Acts are sometimes redirected for various reasons, including where:²³

- the responsibility for a function may be moved from one government related entity to another, or a new government entity may be created to perform the function; or
- a government entity may undergo a name change or could merge with another government entity.

121. The Act giving authority to make payments from the relevant consolidated revenue fund may provide for the redirection of funds.

122. At the Commonwealth level an Administrative Arrangement Order to redirect annual appropriations is tabled in Parliament to record the relocation of legislation from one Agency to another Agency. Where special appropriations are redirected the changes are recorded by the Department of Finance and Administration. This process is a movement of money and does not involve a supply.

123. The Act at the States and Territories level may state that the appropriation does not lapse and may be issued or applied against the service or function that is the subject of the transfer. Further, the redirection usually requires prior formal approval from the Finance Minister or relevant Treasurer.

124. At both levels of government, if the relevant Act states that the appropriation will not lapse if the funding is applied for the same purpose and paragraph 9-15(3)(c) was originally met, then the redirected funding payment will continue to be specifically covered by an appropriation. That is, the funding payment will be specifically covered by the redirecting Act, and if relevant, in conjunction with the relevant supporting documents for the original appropriation. Further, if the payment is redirected to a government related entity then paragraph 9-15(3)(c) will apply and subsequent payments made under the redirected appropriation will not be consideration.

125. In addition, it is considered that the act of transferring unspent funds held by the original government related entity to the government related entity that now has responsibility for the function, is a transfer of money and not itself a supply.

²³ This is not an exhaustive list of events.

Example 15 – funding for a function is redirected

126. *Part of the way through the financial year a State Government decides to centralise all its stationery purchasing functions which are currently carried out by each individual Department. The funding payments to each individual Department for stationery needs previously satisfied paragraph 9-15(3)(c) and were not consideration. The payments were to be made in six instalments during the course of the year and there are five payments remaining.*

127. *The State Government requires that each Department is to transfer its unspent funding monies for this purpose to a new government related entity, 'Stationery Services Provider'. That entity will then undertake all stationery purchasing functions for the State. The Public Finance and Audit Act specifies that the appropriation will stand where the funding is still applied for the same purpose, and provides for the redirection of the funding to the Stationery Services Provider.*

128. *The transfer of unspent funding monies of the first instalment from the individual Departments to Stationery Services Provider is a transfer of money and not itself a supply.*

129. *The redirected funding (remaining five instalments) for stationery purchasing functions is still specifically covered by an appropriation as it is supported by the Public Finance and Audit Act which states the purpose and amount of the funding. Further, the funding payment is redirected from each Department, as government related entities, to Stationery Services Provider, another government related entity. Consequently, as paragraph 9-15(3)(c) was originally met, and the payment is still of a funding nature (the purpose was not changed), paragraph 9-15(3)(c) applies and the remaining five instalments are not consideration.*

No choice of supplier

130. *The fact the entity has no choice of supplier is not enough to make the payment for that supply 'specifically covered by an appropriation'. The payment needs to be specifically covered by an appropriation by having the relevant information specified in an appropriation Act or in the relevant supporting documents.*

Example 16 – no choice of supplier

131. *Using the same facts as in example 15, all of the State's Departments must use Stationery Services Provider for their stationery purchasing activities. The fact that there is no choice of supplier for the Departments does not mean that the transfer of the funds is specifically covered. Instead, the appropriation Act together with the relevant supporting documentation should be examined to ascertain whether the funding is specifically covered by an appropriation.*

GSTR 2006/D1**Your comments**

132. We invite you to comment on this draft Goods and Services Tax Ruling. Please forward your comments to the contact officer(s) by the due date. (Note: The Tax office prepares a compendium of comments for the consideration of the relevant Rulings Panel. The Tax Office may use a sanitised version (names and identifying information removed) of the compendium in providing its responses to persons providing comments. Please advise if you do not want your comments included in a sanitised compendium.)

Due date: 31 March 2006

Contact officer: Brian Menezes

E-mail address: brian.menezes@ato.gov.au

Telephone: (08) 6213 8536

Facsimile: (08) 6213 8610

Address: Parmelia House
191 St Georges Terrace
Perth WA 6000

Detailed contents list

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Commissioner of Taxation

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Related Rulings/Determinations:

GSTR 1999/1; GSTR 2000/11;
GSTR 2001/4

Previous Rulings/Determinations:

GSTR 2000/4; GSTR 2004/5

Subject references:

- appropriations
- Australian law
- consideration
- government related entity
- taxable supply

Legislative references:

- ANTS(ABN)A 1999 41
- ANTS(CSFA)A 1999 10
- ANTS(CSFA)A 1999 Sch 2
- ANTS(GST)A 1999 9-5
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supply
Goods and Services Tax ~~ Government ~~ appropriations

Attachment A

Government funding arrangements are designed to meet Government policy initiatives and general operating requirements. Most of the funding available for Government spending is sourced from taxes. The following paragraphs give an overview of the main funding transfers for the Commonwealth, State and Territory levels of government.

Commonwealth

At the Commonwealth level funds are drawn from the Commonwealth Consolidated Revenue Fund (Commonwealth CRF) and distributed to Commonwealth Agencies.

Each payment made from the Commonwealth CRF must be authorised because section 83 of the *Commonwealth of Australia Constitution Act* states that 'no money shall be drawn from the Treasury of the Commonwealth except under appropriation made by law'. The necessary authority derives from Appropriation Acts which are enacted annually to appropriate funds from the Commonwealth CRF for government and parliamentary expenditure.

Appropriation Acts No. 1 and No. 2 are part of the annual Budget process and are enacted prior to the end of the financial year. Approximately six months after the Budget process the Additional Estimates process enables a reassessment of funding arrangements and additional funding is reflected in Appropriation Acts 3 and 4.

In the interim between the Budget and the Additional Estimates processes, Agencies may apply for additional funding from the Advance to the Finance Minister fund. This fund is authorised by the annual Appropriation Acts and is available to the Finance Minister as a contingency fund for urgent funding if certain prerequisites are met.

If an Agency makes an application for additional funds and the requirements are met the Minister for Finance can release funds to the relevant Agency. The funds must be sourced from the Advance to the Finance Minister and, for example, released pursuant to section 12 of Appropriation Bill (No. 1) (Cth) 2004-05. If the application for additional funding meets the requirements in section 12 and the Finance Minister approves the payment, this is sufficient authority to make the payment even if there is no appropriation in a later Appropriation Bill. However, if there is a subsequent appropriation the Advance to the Finance Minister may be reinstated accordingly.

Commonwealth to States and Territories

Apart from the payments from the Commonwealth CRF to Commonwealth Agencies there are payments to the States and Territories.²⁴ The two types of payments made by the Commonwealth to the States and Territories are known as:

- General purpose grants which have no conditions attached on how the funds are spent; and
- Specific purpose payments (SPPs) which are for specific activities and are conditional upon meeting certain requirements.

Payments made from the Commonwealth CRF to the States and Territories are governed by a provision in the relevant Commonwealth Appropriation Act. For example, item 7 in *Appropriation Act (No. 2) 2004-2005* (Act) addresses State payment items and says:

- 7 State payment items-basic appropriation
- (1) For a State payment item for an outcome of an entity, the Finance Minister may issue out of the Consolidated Revenue Fund amounts that do not exceed, in total, the lesser of:
 - (a) the amount specified in the item; and
 - (b) the amount determined by the Finance Minister in relation to the item, having regard to the expenses incurred by the entity in the current year in relation to the item.
 - (2) An amount issued out of the Consolidated Revenue Fund for a State payment item for an outcome of an entity may only be applied for the purpose of making payments to or for the States for the purpose of contributing to achieving that outcome.

Item 3 of this Act contains definitions of 'State' (includes the Australian Capital Territory and the Northern Territory) and 'State payment item' (means an amount set out in Schedule 2 opposite an outcome of an entity under the heading 'Specific Payments to the States and Territories').

The SPPs are made under section 96 of the Commonwealth Constitution and are made for policy purposes related to specific functional activities. The SPPs are made either directly to the States and Territories or through the States and Territories to reach local government, other bodies or individuals.

The payments to the States and Territories are sometimes referred to as grants, although this term is not considered to have the same meaning as grants for financial assistance which are discussed in GSTR 2000/11.

²⁴ These payments include funding originally sourced from GST revenue. The GST revenue is collected at the Commonwealth level and distributed to the States and Territories in accordance with the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations.

States and Territories

Similarly to the Commonwealth, the States and Territories have their own annual Budget process in which Acts are enacted as authority for the State/Territory's expenditure.

The authority to make payments from the consolidated revenue funds (CRF's) is contained in the relevant Act for each State and Territory, such as a Financial Management Act, Public Finance and Audit Act or Public Account Act.

In some cases, 'special' or 'standing' appropriations from the CRF may be authorised by Acts other than those considered annually by Parliament. While a 'special' or 'standing' appropriation may be mentioned in budget papers this is not always the case. Even if a special or standing appropriation does not form part of the annual budget appropriation to be approved by Parliament for the relevant government related entity, paragraph 9-15(3)(c) may still apply to it.

Each jurisdiction has a contingency fund²⁵ to cater for unforeseen expenditure which is administered by the relevant Treasurer or Minister of Finance. In some cases, the upfront approval of the payment is sufficient authority to make the payment, similarly to the Commonwealth Advance to the Finance Minister scenario discussed in paragraph 96 of this Ruling. In other circumstances the payment is made prior to a special Appropriation Bill being tabled and passed through Parliament. Allowance can also be made for payments directly from a CRF when the contingency fund is not sufficient or appropriate to cover the additional payment sought. In these circumstances it is generally required that a special Appropriation Bill be tabled before the relevant Parliament within a certain time frame.

²⁵ Which may also be known as a Treasurer's Advance or Treasurer's Reserve.

Attachment B**Appropriations Flowchart - draft for discussion**