GSTR 2000/25 - Goods and services tax: GST-free supplies of water, sewerage and sewerage-like services, storm water draining services and emptying of a septic tank

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From 1 July 2015, the term 'Australia' is replaced in nearly all instances within the GST, Luxury Car Tax, and Wine Equalisation Tax legislation with the term 'indirect tax zone' by the *Treasury Legislation Amendment (Repeal Day) Act 2015*. The scope of the new term, however, remains the same as the now repealed definition of 'Australia' used in those Acts. This change was made for consistency of terminology across the tax legislation, with no change in policy or legal effect. For readability and other reasons, where the term 'Australia' is used in this document, it is referring to the 'indirect tax zone' as defined in subsection 195-1 of the GST Act.

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Goods and Services Tax Ruling

Goods and services tax: GST-free supplies of water, sewerage and sewerage-like services, storm water draining services and emptying of a septic tank

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Preamble

This document was published prior to 1 July 2010 and was a public ruling for the purposes of former section 37 of the ***Taxation Administration Act 1953*** *and former section 105-60 of Schedule 1 to the* ***Taxation Administration Act 1953****.*

From 1 July 2010, this document is taken to be a public ruling under Division 358 of Schedule 1 to the ***Taxation Administration Act 1953****.*

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you - provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

*[**Note:** This is a consolidated version of this document. Refer to the Legal Database (http://law.ato.gov.au) to check its currency and to view the details of all changes.]*

What this Ruling is about

1. Subdivision 38-I of *A New Tax System (Goods and Services Tax) Act 1999* ('GST Act') makes **GST-free** a **supply** of:

- water;
- sewerage (and sewerage-like) services; and

a service that consists of

- the emptying of a septic tank; or
- draining storm water.[1]

2. This Ruling explains the Commissioner's view of what activities are covered by the relevant supplies in Subdivision 38-I.

3. A supply of water may come under Subdivision 38-A of the GST Act, dealing with supplies of food. This Ruling does not consider the operation of Subdivision 38-A, which may be the subject of other Rulings.

4. Suppliers of water, sewerage (and sewerage-like) services, septic tank emptying and storm water draining services impose various fees and charges as consideration for or in connection with the supplies referred to in Subdivision 38-I. This Ruling also outlines the Commissioner's view on how a number of common fees and charges are treated for purposes of the GST Act.

5. However, this Ruling does not consider the GST treatment of Australian taxes or Australian fees or charges under Division 81 of the GST Act.

6. Certain terms used in this Ruling are defined or explained in the **Definitions** section of this Ruling. These terms, when first mentioned elsewhere in the body of the Ruling, will appear in **bold**.

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

Date of effect

8. This Ruling applies both before and after its date of issue. However, this Ruling will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

[1] Sections 38-285, 38-290, 38-295 and 38-300

8A. Changes made to this Ruling by Addenda that issued on 9 May 2018 have been incorporated into this version of the Ruling.

Background

9. GST is *payable* on any **taxable supply** that you make.[2] A supply is not a taxable supply to the extent that it is GST-free or input taxed.[3] A supply is GST-free if it is GST-free under Division 38 or under a provision of another act.

10. A supply is also not a taxable supply if it is not for consideration. For example, payment of certain Australian taxes or Australian fees and charges are prescribed by Division 81 as not being consideration for a supply.

11. Accordingly, some supplies may not be taxable supplies because the tax, fee or charge that is payable for each supply is not the provision of consideration under Division 81, even though the supply is not covered by Subdivision 38-I.

12. [Omitted].

13. Subdivision 38-I makes GST-free a supply of:

- water;
- sewerage (and sewerage-like) services; and

a service that consists of

- the emptying of a septic tank; or
- draining storm water.[4]

A supply of a right to receive a GST-free supply, such as a GST-free supply of water, is also GST-free.[5]

14. In Australia, water, sewerage services and storm water draining services are provided by public and private entities. Septic tanks are used in areas that are not connected to sewers.

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[2] Section 7-1 and section 9-40
[3] Section 9-5
[4] Sections 38-285, 38-290, 38-295 and 38-300
[5] Paragraph 9-30(1)(b)

Ruling with explanations

A supply of water

15. A supply of water is GST-free.[6] However, a supply of water is not GST-free under Subdivision 38-I if it is supplied in a container, or transferred into a container, that has a capacity of less than 100 litres.

Water

16. Water is not defined in the GST Act and takes its ordinary meaning.[7] Usually this means referring to current dictionary definitions.

17. The Macquarie Dictionary defines 'water' as

> 1. the liquid which in a more or less impure state constitutes rain, oceans, lakes, rivers, etc., and which in a pure state is a transparent, odourless, tasteless liquid, a compound of hydrogen and oxygen,…..
>
> and 'liquid' as
>
> 2. …neither gaseous nor solid…[8]

18. Therefore, water includes:

- drinkable water;
- untreated bulk water;
- salt water; and
- recycled water,

but does not include:

- ice; or
- steam.

Ice and steam do not fall within the ordinary meaning of water, as they are not liquids.

19. Water is commonly supplied in a number of forms. Its source may lie in oceans, rivers, dams, or streams (surface water), or it may be accessed from aquifers (groundwater). Water that has been used may also be recycled or treated for a number of uses, such as for the irrigation of flora and parkland.

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[6] Section 38-285

[7] This is a well established rule of statutory interpretation. If the ordinary meaning of words tends to an absurdity or inconsistency within the context in which they appear, then the ordinary meaning may be modified.

[8] The Macquarie Dictionary (Macquarie University, 3rd Ed 1998)

A supply of water

20. 'A supply of water,' in section 38-285, refers to the delivery or the making available of water, as goods, to a recipient's premises. In State Electricity Commission of Victoria & Anor v. FC of T, (the SECV case) Heerey and Merkel JJ found that electricity and electrical power were 'goods' for the purposes of the *Sales Tax Assessment Act 1992*, being tangible personal property capable of being bought and sold in quantifiable amounts.[9] Evidence given equated voltage with the pressure under which water flows through a pipe and current with the rate of flow of water in a pipe.

21. Appropriate analogies can be drawn between the system for the distribution of electricity discussed in the SECV case and the 'supply of water' referred to in section 38-285. A 'supply of water' is the provision of tangible personal property - that is, goods. In other words, the supply of water means the change in ownership or control and transfer of physical possession of water from a supplier to a recipient. In this Ruling, we refer to this as a delivery of water.

22. In an urban environment, the delivery of water may occur through reticulated pipes that provide a continuously available supply of water at adequate pressure. It may also occur through other means, such as by access to natural watercourses and aquifers, access to canal and channel systems, or by delivery by road vehicle to the storage facility of recipients not serviced by reticulated pipes. Access to water systems can be provided by the opening of an **outlet** to obtain irrigation water or by pumping water from a dam directly into a recipient's premises.

23. A supply of water to an **end recipient** through reticulated pipes is made at that part of the recipient's premises where the supplier's responsibility for the supply ceases. This is the point of supply to end recipients. In an urban environment, a supplier's responsibility for the supply of water usually ceases at the water meter, a property boundary or a point close to a property boundary. For end recipients receiving water through a canal and channel system, a supplier's responsibility usually ceases at that part of the system where the flow of water is physically regulated or timed by the supplier, for example, at an irrigation outlet. Appendix 1 shows a schematic view of how water may be delivered.

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[9] *State Electricity Commission of Victoria & Anor v. FC of T* 99 ATC 5007; (1999) 42 ATR 820.

24. Activities performed by the supplier of water up to and including the point of supply to the recipient of water are GST-free if they are integral to the physical delivery of water to the recipient. The system for the physical delivery of water to an end recipient may be the responsibility of more than one supplier of water. For example, a supplier of bulk water may supply bulk water to another supplier who makes retail supplies of water to end recipients. The following will be GST-free:

- initial connection, re-connection, disconnection, water meter installation, and **tapping and tee insertion**;
- irrigation channel water scheduling and channel attendance (including channeling from natural water courses);
- irrigation channel maintenance up to and including the point of supply (where it is charged to the water supply recipient); and
- water meter reading and testing.

Supply of a right to receive a GST-free supply of water

25. Paragraph 9-30(1)(b) applies to make the supply of a right to receive a supply of water GST-free. A supply of a right to receive a supply of water includes:

- a right to receive a supply of a quantity of water; or
- a right to receive a supply of water for a specified period; or
- a tradeable right to receive a supply of water.

26. Where a recipient of a right to receive a GST-free supply of water trades that right, for example, by making a supply of the right to a third party, that supply is also GST-free. Water rights may be capable of being exercised for a specified period or for a specified quantity of water from a designated source of supply. A water quota may have been acquired by a water authority from a dam holder and be sold on to an irrigator without any delivery of the water while the water authority held the right.

27. Another example of a right to receive a supply of water is where a ratepayer is provided with a right to receive an urban supply. This is frequently the case with vacant allotments.

28. A supply of a right to receive a supply of water is made when the right is granted or transferred by the supplier of water.

Supplies that are not supplies of water

29. There are a number of supplies that involve either water itself or its use that do not fall within the meaning of a supply of water. These supplies may be grouped into three main categories.

Supplies that are separate supplies to a supply of water

30. Some activities that are performed by suppliers of water may have some connection with a supply of water, but remain separate supplies. These separate supplies include:

- selling information, such as plans of water pipe locations;
- performing site inspections on request or as required;
- granting approvals for building or development as part of a supplier's statutory duties; and
- issuing permits.

Supplies made in connection with the end recipient's use or application of water

31. A supply that enables an end recipient to use, store or treat water, once it has been supplied, is not a supply of water. These supplies may be furnished by a plumber, for example, in installing or repairing the water pipes and fittings on a recipient's property, or by a hardware outlet that supplies taps, shower fittings and bathroom accessories. Consulting services that provide advice on flow rates, design and operation of farm irrigation systems and the supply of fittings, sprinkler parts, piping, hoses, pumps and valves are not GST-free. These are not supplies of the good, water. They relate to the application of water by the end recipient rather than to the supply of water.

A supply that involves an incidental use of water

32. Certain supplies of goods or services involve an incidental use or provision of water. An example is the use of water as an aid in a supply of a service of shampooing or cleaning carpet. In this instance there is no contract to supply water to the recipient, the contract is merely to provide a cleaning service. The fact that the water is used as an aid in the cleaning process further suggests that water is not the subject of a supply in its own right. This principle also applies to comparable situations including laundry services and car washing services.

Input activities of a supplier of water

33. It is often necessary for a supplier of water to treat water for the purpose of bringing it into, or maintaining it, in a condition that is necessary for its supply to an end recipient, for example, by fluoridation or desalination. These processes may be performed either by the water supplier, on an in-house basis, as part of carrying on its enterprise, or by an outside contractor. The water supplier is entitled to input tax credits for a creditable acquisition of chemicals and other goods used in an in-house treatment process, or for a creditable acquisition of a service performed by a contractor. The supply of the service performed by the contractor for the water supplier is not a GST-free supply of water.

A supply of sewerage (and sewerage-like) services

34. Subsection 38-290(1) provides that 'a supply of sewerage services is GST-free.'

35. Subsection 38-290(2) further provides that 'a supply that consists of removing waste matter from residential premises is GST-free if:

(a) the premises are not serviced by sewers; and

(b) the waste matter is of a kind that would normally be removed using sewers if the premises were serviced by sewers.'

36. A supply that consists of servicing a domestic self-contained sewage system is GST-free under subsection 38-290(3).

37. The term 'sewerage services' is not defined in the GST Act and takes its ordinary meaning.[10] This Ruling does not consider the meaning of the term 'residential premises', which is the subject of another Ruling.[11]

38. The Macquarie Dictionary defines the following:

'sewerage' **1**. the removal of waste water and refuse by means of sewers. **2**. a system of sewers. **3**. the pipes and fittings conveying sewage.

'sewer' an artificial conduit , usually underground, for carrying off waste water and refuse, as from a town or city.

'sewage' the waste matter which passes through sewers.[12]

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[10] See footnote 7
[11] See Goods and Services Tax Ruling GSTR 2012/5 *Goods and services tax: residential premises.*
[12] The Macquarie Dictionary (Macquarie University, 3rd Ed 1998)

39. The supply of a service that enables an end recipient to discharge waste water, including water containing human waste, into a network of sewer pipes connected to the recipient's premises is the supply of a sewerage service. The discharge may be of either domestic or commercial trade waste origin. The carriage of the discharge through the network to a treatment plant, and the treatment of the sewage, are also sewerage services. The supply commences at the point where an end recipient's pipes connect with or feed into the supplier's network. This is the point of supply to end recipients. The system for the supply of sewerage services to end recipients may be the responsibility of more than one supplier. For example, a supplier of bulk sewage removal services may supply those services to another supplier who makes retail supplies of sewerage services to end recipients.

40. The removal of waste matter from residential premises is also GST-free where the premises are not connected to a system of sewers and the waste matter is of a kind that would normally be removed by sewers.[13] That is, it cannot be toxic waste or any other waste that is not permitted to be disposed of by means of sewers. Therefore, residential premises that use units such as 'night cans', sullage tanks and **biosystems** will not pay GST on the service of emptying those units. The cleaning of residential greasetraps is also GST-free. While the waste may not pass through sewers, to be GST-free, it must be of a kind that would normally be removed using sewers.

41. In addition, the servicing of a domestic biosystem is GST-free. This includes the servicing of an aerated septic tank and bioseptic tank. However, any chemicals or other additives that are purchased in relation to the servicing of a biosystem are not GST-free.

42. A sewerage service includes a service of accepting and treating sewage and waste water at a sewage treatment plant. However, this does not include accepting and treating toxic waste that cannot be accepted into the sewerage system.

Supply of a right to receive a GST-free supply of sewerage services

43. Charges for sewerage services are often calculated independently of actual use. A charge for the right to use a sewerage service, or a right to discharge waste water, is GST-free.[14]

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[13] Subsection 38-290(2). However, the emptying of a septic tank is GST-free regardless of whether it is on residential premises (see section 38-295 and paragraph 55 of this ruling).

[14] Paragraph 9-30(1)(b); refer to the discussion of rights to receive a supply of water at paragraph 25ff of this ruling.

Supplies that are not supplies of sewerage services

44. A supply of a sewerage service does not include supplies made to enable the end recipient to collect, direct the flow of, store, or transfer waste water or refuse to the point where it is accepted into a supplier's network.

45. For example, services of installation, maintenance or repair of a building's toilet systems, sullage tanks or water disposal systems are supplies that are not GST-free.

46. A supply of goods, such as a toilet suite (sometimes referred to as a prime cost item) or an alternative toilet system, for example a chemical toilet or a biosystem, is not a sewerage service, nor is the supply of garbage disposal units used in kitchens.

47. Suppliers of sewerage services may also supply a range of other goods and services. It may be said that these supplies are connected with the business of the supply of sewerage services but they are not in themselves sewerage services. The sale of plans of sewer pipe locations, administrative services for photocopying and site inspection are examples of such supplies that are not GST-free.

A supply of a service of draining storm water

48. Section 38-300 provides that a service that consists of draining storm water is GST-free. The term, 'draining storm water' is not defined in the GST Act and takes its ordinary meaning.[15]

49. The Macquarie Dictionary defines the following:

> 'stormwater' a sudden, excessive run off of water following a storm.
>
> 'drain' **2.** to draw off or take away completely.[16]

50. Butterworths Australian Legal Dictionary describes 'stormwater' as follows:

> **1.** Runoff of excessive rainfall from an impervious surface such as a roof…**2**. Water which is carried in storm water drains other than sewage water: (Qld) Health Act 1937 s5(1).[17]

[15] See footnote 7.
[16] The Macquarie Dictionary (Macquarie University, 3rd Ed 1998)
[17] Butterworths Australian Legal Dictionary

51. A supply of a service of draining storm water is the acceptance by the supplier of excess run-off of water (caused by heavy rainfall) from an end recipient's premises into a network of drains or pipes, sometimes in conjunction with a run-off into a natural water course. The acceptance occurs at the point where the pipes or drains controlled by the end recipient meet the pipes or drains that form part of the network controlled by the supplier of the service. This is the point of supply to end recipients. The system for the supply of a service of draining storm water may be the responsibility of more than one supplier. For example, a supplier of bulk storm water draining services may supply those services to another supplier who makes retail supplies of storm water draining services to end recipients.

Supply of a right to receive a GST-free supply of services of draining storm water

52. Charges for draining storm water may be calculated independently of actual usage. Where such charges are in respect of a right to use a storm water draining service, the supply of the right is GST-free.[18]

Supplies that are not supplies of services of draining storm water

Supplies that are separate supplies to a supply of draining storm water

53. Some activities that are performed by suppliers of a service of draining storm water may have a connection with draining storm water, but remain separate supplies. An example is the supply of information to the public as a client service. Such information includes the supply of plans, maps and other statistical information to licensed tradespeople. These supplies are not GST-free. Other supplies such as approvals given for building or development applications are also not GST-free.

Supplies that collect, direct the flow of, store or transfer storm water

54. Supplies of goods or services made to a recipient to enable the recipient to collect, direct the flow of, store or transfer storm water to a point where it is accepted into a network of pipes is not a supply of a service of draining storm water. Examples of these types of supplies are the installation of, repairs to, and replacement of, gutters, pipes, drain covers and grates on the storm water recipient's property.

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[18] Paragraph 9-30(1)(b); refer to the discussion of rights to receive a supply of water at paragraph 25ff of this ruling.

A service of emptying a septic tank

55. Section 38-295 provides that the emptying of a septic tank is GST-free. This is regardless of whether it is on residential premises.

56. The Macquarie dictionary defines a 'septic tank' as:

> a tank in which solid organic sewage is decomposed and purified by anaerobic bacteria.

57. The supply, installation or repair of a septic tank is not GST-free.

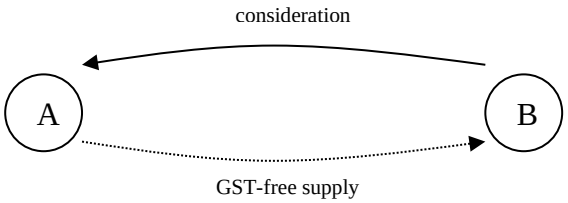
Subcontracted supplies

58. A supplier (A) who makes a supply covered by Subdivision 38-I may engage a subcontractor (C) to fulfill some or all of A's contractual obligations to the recipient of the supply (B).

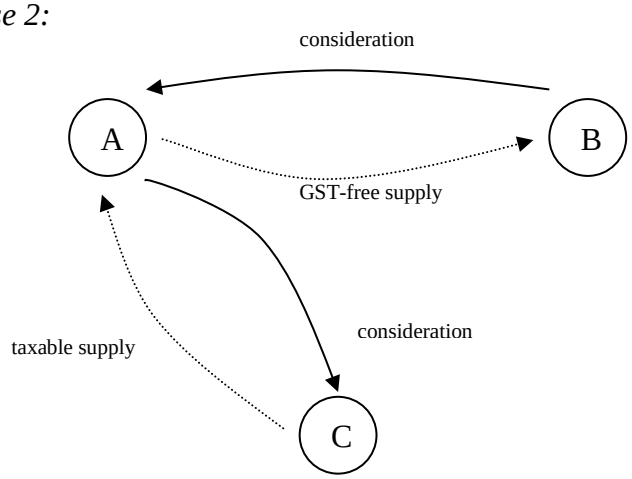
59. Where only A is involved in making the supply (Case 1, below), there is only one supply: the GST-free supply from A to B.

60. However, where A subcontracts with C to fulfill some or all of A's contractual obligations to make the supply to B, there are two separate supplies (Case 2). First, a supply from C to A, for which C receives consideration from A. This supply from C to A is taxable. The second supply is the GST-free supply from A to B.

Case 1:



Case 2:



Fees charged for supplies

61. Suppliers of water, sewerage services and storm water draining services impose various fees and charges as consideration for or in connection with supplies that they make. These fees and charges may be for, or in connection with, the supplies referred to in Subdivision 38-I or for, or in connection with, separate supplies that are not GST-free.

62. It is important to recognise that the description of the fee or charge, by itself, may not be conclusive in determining the nature of any particular supply. However, the method of fee calculation can provide positive guidance in some situations as to whether or not a fee or charge is consideration for a GST-free supply.

63. Where a GST-free and a taxable supply are charged for in the one fee, the supplier needs to separate out the fees for the taxable supply.[19] For example, where there is a GST-free supply of water, together with a supply of purification chemicals for a single price, the supplier needs to separately identify the price charged for the chemicals. This contrasts with a supply of water by delivery by road vehicle if the cost of the transport of that water is part of the supplier's obligations under the contract of supply. In the first case, two distinct supplies are made. In the latter case, the consideration paid by the recipient for the supply of the water includes the transport of the water.

64. However, where the delivery of water is clearly not one of the obligations of the supplier under the contract for a supply of water, this shows that a separate transport or delivery fee is not being included as an input to the business of supplying water. The recipient is being separately charged for the supply of the transport service which is not GST-free.

65. Where an entity makes a supply that is not covered by Subdivision 38-I, the cost to that entity of acquiring a Subdivision 38-I supply becomes a business cost. The Subdivision 38-I supply cannot be passed on to the recipient of the supply as a GST-free supply. For example, a supplier of commercial accommodation cannot attribute a portion of the value of the supply to the supply of water. The supplier is not supplying water, but commercial accommodation. One of the inputs to the business of supplying the accommodation is the cost of the supply of water.

Charges for GST-free supplies

66. The broad categories of fees and charges discussed at paragraphs 67 to 76 are designed to assist a supplier to determine whether or not the related supply is subject to GST. A more specific list of fees is included in Appendix 2. Both the fees and charges at paragraphs 67 to 76 and those listed in Appendix 2 are to be read subject to this Ruling.

GST-free charges made by suppliers of water, sewerage or drainage services

Standard ongoing fees

67. **Volumetric charges** and use fees for the supply of water, sewerage or drainage services (fees charged to water, sewerage or drainage service recipients on a use basis) and fixed periodic charges (often termed **access charges**, or fees), are GST-free.

[19] Section 9-80

Valuation based charges

68. Charges or fees for the making of Subdivision 38-I supplies that are calculated by reference to land values, meter size or a level of capital improvement to land, either in their own right or in combination with variable use, fixed fee or other fees, are GST-free.

Facilities charges

69. A fee for the supply of sewerage services based on the number of flushing devices is a fee for a GST-free supply of sewerage services.

Irregular fees

70. A fee charged by a supplier of water to cover a connection from the border of the recipient's property to an adjacent existing water, sewer or storm water main or pipe controlled by the supplier is consideration for a GST-free supply. This fee may include the installation of a meter on the supplier's property, and tapping and tee insertion into the main pipe.

Fees that are not for a GST-free supply

Developer contributions

71. Various planning legislation governs how the land development process operates in each State and Territory. Relevant local authorities administer the particular process in each State and Territory. As part of complying with the requirements that a local authority imposes in relation to each land development, a land developer often will install pipes on land being developed and provide these capital works to the local authority on completion of the development. In some cases, the local authority may require a cash contribution to be made by the developer towards the installation of these and other works. The various stages of the land development process are summarised by Emmett J in *FC of T v. Kurts Development Ltd*.[20]

72. Cash contributions, or the transfer on completion, of capital works, made by developers to local authorities to obtain various rights and approvals to develop land or construct buildings, are not consideration for any supply of water, sewerage services or a service of draining storm water. Therefore, they are not GST-free under Subdivision 38-I.[21]

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[20] 98 ATC 4877, at 4880-1; (1998) 39 ATR 493, at 497.

[21] These contributions and capital works transferred may be the subject of another Ruling.

73. In relation to cash payments, or the transfer of capital works, by a land developer to a water, sewerage or storm water draining supplier, when a plan of subdivision is sealed by a local authority, there is an argument that this is consideration for one or more supplies made under Subdivision 38-I. This argument is based on the rights and obligations that are said to flow from the legislation that governs the activities of the water, sewerage or storm water draining supplier.

74. The argument proceeds that, while the costs paid or works transferred have some connection with the subdivision approval granted by the local authority, they are more proximately said to be paid or transferred in return for the supply by a water, sewerage or storm water draining supplier of a right to receive one or more supplies made under Subdivision 38-I. The argument is said to be supported by various facts. Firstly, that the costs are paid or the works are transferred by the developer to the water, sewerage or storm water draining supplier (and not to the local authority). Secondly, that the supplier usually calculates any payment by reference to the cost of any infrastructure that it must provide because of the development. Finally, an owner of land may be provided with the right to a supply of water, sewerage services or a service of draining storm water when the owner is physically connected to a water or sewerage main.

75. However, the Commissioner considers that the better view is that the costs paid or works transferred by a land developer to a water, sewerage or storm water draining supplier are not consideration for the right to receive one or more supplies under Subdivision 38-I. While these actions may have some connection with the supplies under Subdivision 38-I, the Commissioner considers that they more properly have occurred as part of the supplier's statutory responsibilities under the planning frameworks set out in various State and Territory legislation. In other words, those statutory responsibilities are not part of the supply of water, sewerage services or a service of draining storm water through the physical infrastructure of the water, sewerage and storm water draining systems.

76. Whether or not the costs paid or works transferred by a land developer to a water, sewerage or storm water draining supplier are consideration for the granting by the local authority to the developer of a right to subdivide the land, the Commissioner considers that the grant of the right to subdivide, objectively, is a more proximate cause for the payments or the works transferred than any right to be physically connected to the water, sewerage or storm water draining systems.

Definitions

77. The following terms are defined for the purposes of this Ruling. Terms with asterisks are defined in section 195-1 of the GST Act.

Access charge
78. A fixed rate charge by the supplier for access to a supply.

Australian tax, fee or charge*
79. A tax imposed under a law of the Commonwealth, a State or a Territory, or a fee or charge imposed under such a law and payable to the Commonwealth, a State or a Territory, or to an authority of such.

Biosystem

80. A domestic self-contained sewage system.

End recipient

81. Includes either a resident or a business.

*GST-free**
82. A supply is GST-free if:

(a) it is a GST-free under Division 38 or under a provision of another Act; or

(b) it is a supply of a right to receive a supply that would be GST-free under paragraph (a).[22]

Outlet
83. A point where irrigation water is delivered from a network of channels or canals controlled by the supplier to a channel or canal controlled by the recipient.

Rate and encumbrance certificates
84. Certificates issued by a supplier to indicate accrued fees, charges and encumbrances that apply to a property.

[22] Section 9-30

Sludge
85. Solids generated or separated during the treatment of sewage.

Standpipe

86. A vertical pipe which can be connected directly into a water supplier's infrastructure to access a water supply. It can be a metered or unmetered pipe.

Sub-meter

87. A meter installed on the recipient's premises past the point of supply to the recipient. It is owned by the supplier.

Supply*

88. A **supply** is any form of supply whatsoever.[23]

1) Without limiting subsection 9-10 (1), *supply* includes any of these:

(a) a supply of goods

(b) a supply of services

(c) a provision of advice or information.

(d) a grant, assignment or surrender of real property;

(e) a creation, grant, transfer, assignment or surrender of any right;

(f) a financial supply;

(g) an entry into, or release from , an obligation;

(i) to do anything; or

(ii) to refrain from an act; or

(iii) to tolerate an act or situation;

(h) any combination of any 2 or more of the matters referred to in paragraphs (a) to (g).[24]

2) It does not matter whether it is lawful to do, to refrain from doing or to tolerate the act or situation constituting the supply.[25]

3) For the avoidance of doubt, the delivery of:

[23] Subsection 9-10 (1)
[24] Subsection 9-10 (2)
[25] Subsection 9-10 (3)

(a) livestock for slaughtering or processing into food; or

(b) game for processing into food;

under an arrangement under which the entity making the delivery only relinquishes title after food has been produced, is the supply of the livestock or game (regardless of when the entity relinquishes title). The supply does not take place on or after the subsequent relinquishment of title.[26]

4) However, supply does not include:

(a) a supply of money unless the money is provided as consideration for a supply that is a supply of money or digital currency, or

(b) a supply of digital currency unless the digital currency is provided as consideration for a supply that is a supply of digital currency or money.[27]

Tapping and tee insertion

89. The process of gaining access to a water main and making a connection to enable water to be drawn.

*Taxable supply**

90. 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.[28]

Tip leachate

91. Waste water emanating from garbage tips or other filled ground.

[26] Subsection 9-10(3A)
[27] Subsection 9-10(4)
[28] Section 9-5

Volumetric charge
92. A compulsory charge based on the degree of use of a supply.

Detailed contents list

93. Below is a detailed contents list for this Ruling:

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Supply of a right to receive a GST-free supply of services of draining storm water	***52***
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Commissioner of Taxation
30 June 2000

Previously released:

Previously released in draft from as GSTR 2000/D8

Related Rulings/Determinations:

TR 2006/10; GSTR 2012/5

Subject references:

- access charge
- aquifers
- Australian tax, fee or charge
- biosystem
- canals
- channels
- dams
- developer contributions
- drainage
- end recipient
- gst
- gst-free
- gst-free supplies
- irrigation
- outlet
- rate and encumbrance certificates
- reticulated pipes
- rights
- septic tank
- sewage
- sewer
- sewerage
- sewerage services
- sludge
- standpipe
- storm water
- sub-meter
- sullage
- supply
- tapping and tee insertion
- taxable supply
- tip leachate
- trade waste
- volumetric charge
- water
- water courses
- water meter

Legislative references:

- ANTS(GST)A 7-1
- ANTS(GST)A 9-5
- ANTS(GST)A 9-10
- ANTS(GST)A 9-30
- ANTS(GST)A 9-30(1)(b)
- ANTS(GST)A 9-40
- ANTS(GST)A 9-80
- ANTS(GST)A Div 38
- ANTS(GST)A Subdiv 38-A
- ANTS(GST)A Subdiv 38-I
- ANTS(GST)A 38-285
- ANTS(GST)A 38-290
- ANTS(GST)A 38-295
- ANTS(GST)A 38-300
- ANTS(GST)A Div 81
- ANTS(GST)A 195-1
- TAA 1953 Sch 1 Div 358

Case references:

- State Electricity Commission of Victoria & Anor v FC of T 99 ATC 5007; (1999) 42 ATR 820
- FC of T v Kurts Development Ltd 98 ATC 4877; (1998) 39 ATR 493

ATO references:
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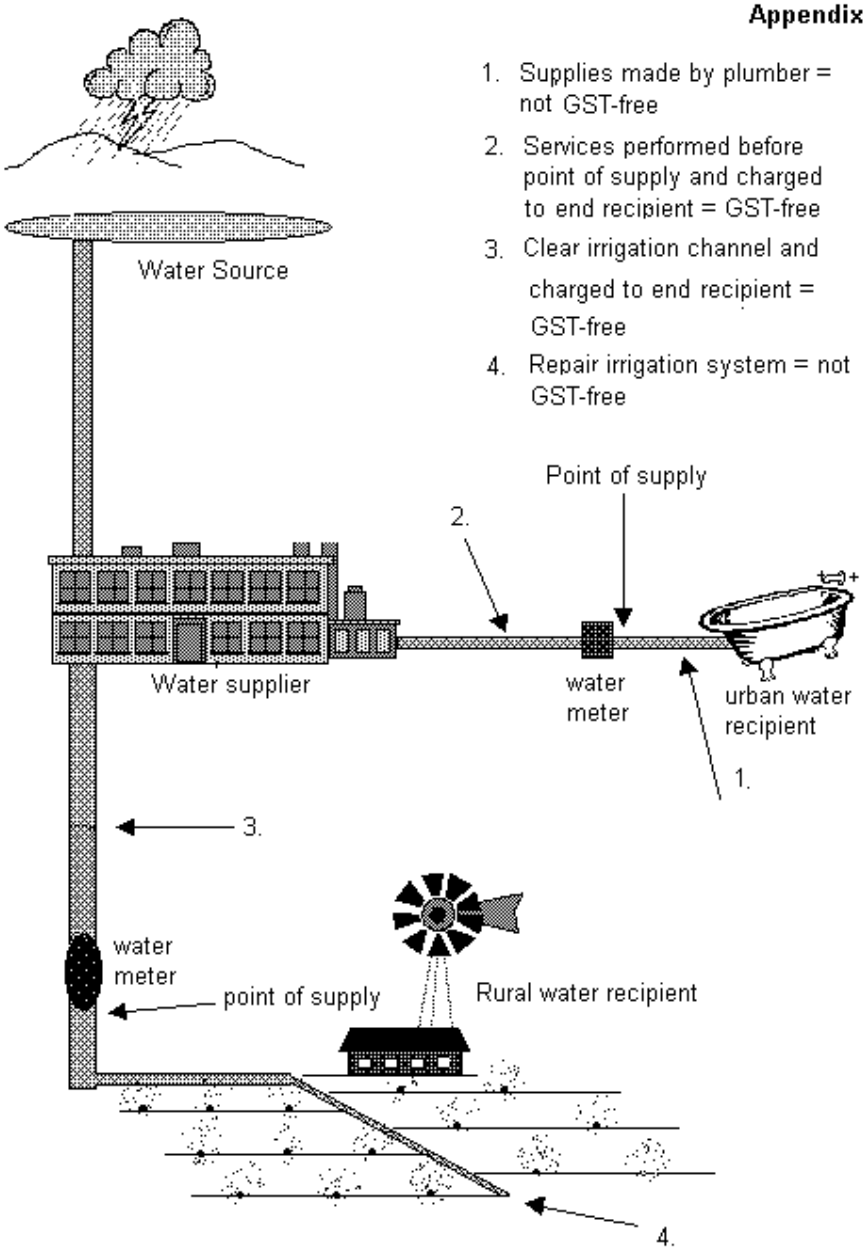
Appendix 1


1. Supplies made by plumber = not GST-free
2. Services performed before point of supply and charged to end recipient = GST-free
3. Clear irrigation channel and charged to end recipient = GST-free
4. Repair irrigation system = not GST-free
Water Source
Point of supply
2.
Water supplier
water meter
urban water recipient
1.
3.
water meter
point of supply
Rural water recipient
4.

Appendix 2

WATER
Charges for supplies of water that are GST-free under Subdivision 38-I: 1 Volumetric charges 2 'Domestic and Stock' water supplies 3 Water access charges based on: a) property value/area; b) fixed rates; c) short term levies; and d) any combination of these 4 Water connection charges for works conducted between the border of the recipient's property and the existing water line of the supplier, when charged to the recipient of the water 5 Water meter installation (including a **sub-meter**); tapping and tee insertion; disconnection, re-connection; alteration, adjustment, relocation, replacement, maintenance and repair* 6 Charges for restriction or restoration of water supply 7 Charges for natural water course or irrigation channel scheduling, attendance and maintenance* 8 Valve opening fees 9 Water meter (including a sub-meter) reading, testing and service charges. 10 **Standpipe** charges 11 Inspection charges* 12 Pressure flow test* *Where the service occurs up to and including the point of supply of water and is charged to the recipient of the supply
Charges for supplies that are not GST-free under Subdivision 38-I: 1 **Rate and encumbrance certificates** 2 Application fees for: a) provision of water; b) plumbers' licenses; and c) building plan approvals 3 Statements of charges and payments 4 Plans, certificates and other documents including diagrams showing the location of premises in relation to various lines and connection points 5 Records searches and information requests

6 Inspection charges**
7 Pressure flow application and fire service tests post point of supply
8 Meter reading devices
9 Irrigation channel maintenance**
10 Repairs and alterations to assets belonging to water suppliers or to recipients**
11 Hydrant resealing
** Where the service occurs after the point of supply of water
SEWERAGE
Charges for supplies of sewerage and sewerage-like services that are GST-free under Subdivision 38-I:
1 Sewer access charges based on: a) property value; b) fixed rates; c) short term levies; and d) any combination of these
2 Sewage and other waste disposal charges, whether calculated on a) usage; b) strength and mass of waste; or c) a combination of these
3 Irrigation and irrigation waste water run-off charges
4 Sewer connection charges for works conducted between the border of the recipient's property and the existing sewer line of the supplier, when charged to the recipient of the sewerage service
5 Repair, maintenance, replacement and relocation of supplier's or recipient's assets (where the service occurs up to and including the point of supply) when charged to the recipient of the sewerage service
6 Quality tests and inspections (where the service occurs up to and including the point of supply) when charged to the recipient of the sewerage service
7 Servicing of biosystems
8 Charges for the acceptance and treatment of sewage and other waste water at a sewage treatment plant including: a) greasy waste; b) food waste; c) domestic waste; d) nightsoil e) septic tank waste; f) **tip leachate**; and g) **sludge**
However, this does not include a charge for accepting and treating toxic waste, which cannot be accepted into the sewerage system

Charges for supplies that are not GST-free under Subdivision 38-I:

1. Supply and installation of pre-treatment equipment such as pollutant traps (for example, grease traps)
2. Rate and encumbrance certificates
3. Statements of fees or charges
4. Administrative sewage and waste charges relating to application for or renewal of:
   a) waste agreements;
   b) waste permits; and
   c) variations to waste agreements
5. Quality tests and inspections (where the service occurs after the point of supply)
6. Repair, maintenance, replacement and relocation of supplier's or recipient's assets (where the service occurs after the point of supply)
7. Plans, certificates and other documents including diagrams showing the location of premises in relation to the various lines and connection points
8. Records searches and information requests
9. Sale of bio-degradable solids or sludge residue as a by-product of treatment of re-cycling water
10. Cleaning, maintenance and unblocking of sewer pipes on recipients premises
11. Application fees for provision of sewerage services

SEPTIC TANKS

Supplies of services that are GST-free under Subdivision 38-I:

1. Emptying of sludge and liquid from a septic tank

Supplies that are not GST-free under Subdivision 38-I:

1 Supply, installation and decommissioning of a septic tank

2 Repair and maintenance of a septic tank

DRAINAGE – STORM WATER

Charges for supplies that are GST-free under Subdivision 38-I:

1. Fixed access charges
2. Volumetric charges
3. Drainage connection charges for works conducted between the border of the recipient's property and the existing drainage line (or channel or canal) of the supplier, when charged to the recipient of the drainage service

4 Clearing storm water drains (where occurring up to and including the point of supply and is charged to the recipient of the supply)

5 Quality tests and inspections (where the service occurs up to and including the point of supply) when charged to the recipient of the sewerage service 6 Repair, maintenance, replacement and relocation of supplier's or recipient's assets (where occurring up to and including the point of supply and is charged to the recipient of the supply)
Supplies that are not GST-free under Subdivision 38-I: 1 Supply and installation of pipes, guttering, downpipes, drains and canals and similar (where the service occurs after the point of supply). 2 Application fees 3 Quality tests and inspections (where the service occurs after the point of supply). 4 Repair, maintenance, replacement and relocation of supplier's or recipient's assets (where the service occurs after the point of supply)
OTHER CHARGES for NON-GST-FREE SUPPLIES
1 **Developer contributions** of the kind discussed at paragraph 71ff