


GSTR 2000/6 - Goods and Services Tax: special credit for sales tax paid on alcoholic beverages

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Goods and Services Tax Ruling

Goods and services tax: special credit for sales tax paid on alcoholic beverages

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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. This Ruling explains the meaning of terms in section 3 of the *A New Tax System (Wine Equalisation Tax and Luxury Car Tax Transition) Act 1999* (the WET & LCT Transition Act). It also provides guidance as to how the provision operates in determining the extent of the special credit available in respect of wine on hand at 1 July 2000.

2. Alcoholic beverages not covered by the *A New Tax System (Wine Equalisation Tax) Act 1999* (the WET Act) will be subject to excise or be the subject of a Customs Tariff after 1 July 2000. Many of these goods are already subject to excise or are the subject of a Customs Tariff. However, the duty amounts are set to change on 1 July 2000. Accordingly, this ruling explains the meaning of the terms used in sections 16A and 16B of the *A New Tax System (Goods and Services Tax Transition) Act 1999* (the GST Transition Act). It also explains how to calculate the special credit available in respect of these alcoholic beverages which are on hand at 1 July 2000. A separate Goods and Services Tax Ruling, GSTR 2000/8, explains the meaning of terms used in section 16 of the GST Transition Act.

3. This Ruling provides methods for calculation where it is likely that difficulties will be experienced in identifying the wholesale sales tax (WST) embedded in stock. If you act in accordance with the methods in this Ruling you will be afforded the protection available under Division 357 of Schedule 1 to the *Taxation Administration Act 1953*.

Date of effect

4. This Ruling applies [to tax periods commencing] 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).

Background

5. As part of the Government's initiative of a new tax system, the goods and services tax (GST) replaces the WST from 1 July 2000. To help the transition from the WST system to the GST, a series of transitional measures have been provided.

6. One transitional measure is the making available of a special credit of a portion of the WST that you have borne on alcoholic beverages that you have on hand at the start of GST. This credit is made available through section 3 of the WET & LCT Transition Act for wine and section 16 of the GST Transition Act for other alcoholic beverages. These provisions recognise that GST is applied in addition to the WST that will have already been charged on goods held for sale or exchange at the start of 1 July 2000.

Ruling

7. You are entitled to the special credit under section 3 of the WET & LCT Transition Act or section 16 of the GST Transition Act if you are registered as at 1 July 2000 and you have on hand, at the start of that date, alcoholic beverages you have acquired or imported that are held for the purposes of sale or exchange (but not for manufacture) in the ordinary course of business.

8. Alcoholic beverages held for sale under a retention of title clause and as returned goods are eligible for the special credit. However, alcoholic beverages held under consignment arrangements are not eligible for the special credit (see paragraphs 28-34 below). Paragraph 16(2)(b) of the GST Transition Act excludes opened stock of alcoholic beverages from the special credit available under section 16.

9. Section 3 of the WET & LCT Transition Act provides that:

- if you have borne sales tax in respect of wine at a rate of more than 26%, the amount of the special credit is equal to 12/41 of the amount of sales tax that you have borne in respect of the wine;
- if you have borne sales tax in respect of wine at a rate of not more than 26% but at least 20%, the amount of the special credit is as follows:

$$\text{Sales tax amount} \quad \times \quad \frac{\text{Sales tax rate} - 14\%}{\text{Sales tax rate}}$$

where:

sales tax amount is the amount of sales tax that you have borne in respect of the wine.

sales tax rate is the rate at which you have borne sales tax in respect of the wine.

10. A special credit for other alcoholic beverages is provided by section 16 of the GST Transition Act. The amount of this special credit may be reduced by sections 16A and 16B of that Act. In general terms, where the goods were subject to excise duty or customs duty prior to 1 July 2000, the special credit is reduced under section 16A by an amount equal to the difference between the new duty amount and the old duty amount. However, there is no special credit available if the difference between the new duty amount and the old duty amount equals or exceeds what would otherwise be the amount of the credit.

11. The amount of the special credit is reduced differently under section 16B for goods that, prior to 1 July 2000, were not excisable goods, or were not the subject of a Customs Tariff or customs Tariff proposed by Parliament, and, immediately after 1 July 2000, became excisable goods or became subject to a Customs Tariff or Customs Tariff proposed by Parliament. In that case, the special credit is reduced by an amount equal to the amount of excise duty or customs duty if that amount was to become payable immediately after 1 July 2000. However, there is also no special credit available for these goods if the new duty amount equals or exceeds what would otherwise be the amount of the credit.

12. For purposes of section 3 of the WET & LCT Transition Act and sections 16A and 16B of the GST Transition Act, you can ascertain the amount of the special credit by:

- (a) identifying the amount of the WST borne on the quantity of goods from stock records or other source documents (see paragraph 45 below); or
- (b) calculating the amount of WST using the methods shown below if you:
 - (i) can identify:
 - the WST-inclusive cost of the goods purchased in Australia; or
 - the WST and customs duty inclusive cost of the goods imported into Australia;

and

- (ii) know the rate of WST applicable to these goods (see paragraphs 45-48 below).

After determining the amount of WST you have paid on the goods, you then insert this WST amount into the appropriate method to calculate the amount of your special credit.

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

- (a) exclude any costs on which WST was not charged (see paragraphs 57-58 below); and
- (b) take into account adjustments of WST borne because of discounts, rebates and returns (see paragraphs 59-63 below).

14. This Ruling sets out a standard method for calculating the amount of the special credit where the amount of WST borne in respect of goods can be readily ascertained (see paragraphs 73-74 below). In addition to the standard method this Ruling sets out two methods which you may rely on in calculating your special credit where the WST is difficult to identify. The first method is suitable for use by retailers who have a computerised inventory system and are holding less than \$5 million in stock at the start of 1 July 2000. The second method may be used by retailers who are holding less than \$2 million in stock at the start of 1 July 2000 and who want a simpler method to calculate their special credit entitlement. These are set out in more detail below at paragraphs 75 to 85.

15. You identify your special credit claim by entering it in a designated field in one GST return for a tax period that ends before 7 January 2001. Lodgement of the GST return/Business Activity Statement (BAS) for the tax period that ends on the 7 January is required by 4 February 2001 for businesses reporting quarterly.

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

Explanations

17. Section 3 of the WET & LCT Transition Act provides for the special credit on alcoholic beverages covered by the WET Act and states:

- (1) You are entitled to a special credit for GST purposes if:
 - (a) you are registered as at 1 July 2000; and
 - (b) you have on hand, at the start of 1 July 2000, wine you acquired or imported that is held for the purposes of sale or exchange (but not for manufacture) in the ordinary course of business.
- (2) However, this section;
 - (a) does not apply if you have borne sales tax in respect of the wine at a rate that is less than 20%; and
 - (b) does not apply to second-hand goods.
- (3) If you have borne sales tax in respect of the wine at a rate of more than 26%, the amount of the special credit is equal to $\frac{12}{41}$ of the amount of sales tax that you have borne in respect of the wine.

- (3A) If you have borne sales tax in respect of the wine at a rate of not more than 26% but at least 20%, the amount of the special credit is as follows:

$$\text{Sales tax amount} \quad \times \quad \frac{\text{Sales tax rate} - 14\%}{\text{Sales tax rate}}$$

where:

sales tax amount is the amount of sales tax that you have borne in respect of the wine.

sales tax rate is the rate at which you have borne sales tax in respect of the wine.

- (4) The special credit is treated as though it were an input tax credit attributable to any one period of your choice. However, you are not entitled to it unless you separately identify it in a GST return that you lodge before 22 January 2001.
- (5) The Commissioner may make a written ruling determining methods for working out the amount of sales tax that you have borne in respect of specified goods in cases where that amount is not readily ascertainable.
- Note:** wine may be specified by name, by inclusion in a specified class or in any other way.
- (6) In this section:
wine has the meaning given by Subdivision 31-A of the *A New Tax System (wine Equalisation Tax) Act 1999*.
- (7) Other expressions in this section have the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999*.

18. Wine has been subject to various tax rates at different times. For the purposes of subsection (3A) we have provided the following table of tax rates for wine to assist you in calculating the amount of tax borne on the wine:

| <u>Period</u> | <u>Tax Rate</u> |
|---------------------|-----------------------------------|
| Pre 20/8/86 | 10% (no special credit available) |
| 20/8/86 to 17/8/93 | 20% |
| 18/8/93 to 20/10/93 | 31% |
| 21/10/93 to 30/6/94 | 22% |
| 1/7/94 to 30/6/95 | 24% |
| 1/7/95 to 5/8/97 | 26% |
| 6/8/97 to 30/6/2000 | 41% |

19. Section 16 of the GST Transition Act provides for a special credit on certain alcoholic beverages other than wine. Sections 16A and 16B of the GST Transition Act may reduce the amount of this special credit and state:

16A Special GST credit for certain alcoholic beverages on which duty has increased.

- (1) This section applies to goods if:
 - (a) you are entitled to a special credit under section 16 in respect of the goods (or would be so entitled apart from subsection (3) of this section); and
 - (b) they are goods mentioned in subsection 15A(1) (alcoholic beverages) of the *Sales Tax (Exemptions and Classifications) Act 1992*; and
 - (c) either:
 - (i) an amount of excise duty or customs duty (the **old duty amount**) in respect of the goods was paid before 1 July 2000; or
 - (ii) the goods were delivered into home consumption before 1 July 2000 under a permission given under subsection 61C(1) of the *Excise Act 1901* or granted under subsection 69(3) of the *Customs Act 1901*, and an amount of excise duty or customs duty (the **old duty amount**) was or is payable in respect of the goods; and
 - (d) were excise duty or customs duty (whichever is applicable) instead to become payable on the goods immediately after 1 July 2000, the amount of that duty (the **new duty amount**) would be greater than the old duty amount
- (2) The amount of the special credit in respect of the goods is reduced by an amount equal to the difference between the new duty amount and the old duty amount.
- (3) However, there is no special credit in respect of the goods if the difference between the new duty amount and the old duty amount equals or exceeds what would (apart from this section) be the amount of the special credit.

16B Special GST credit for certain alcoholic beverages on which duty would not previously have been paid.

- (1) This section applies to goods if:
 - (a) you are entitled to a special credit under section 16 in respect of the goods (or would be so entitled apart from subsection (3) of this section); and
 - (b) they are goods mentioned in subsection 15A(1) (alcoholic beverages) of the *Sales Tax (Exemptions and Classifications) Act 1992*; and
 - (c) immediately before 1 July 2000 the goods were not:
 - (i) excisable goods (within the meaning of the *Excise Act 1901*); or
 - (ii) goods of a kind in respect of which customs duty was imposed by the Parliament, or goods the subject of a Customs Tariff or Customs Tariff proposed in the Parliament; and
 - (d) immediately after 1 July 2000, the goods became goods of a kind referred to in subparagraph (c)(i) or (ii).
- (2) The amount of the special credit in respect of the goods is reduced by an amount (the ***new duty amount***) equal to what would be the excise or customs duty (whichever is applicable) in respect of the goods if that duty were to become payable immediately after 1 July 2000.
- (3) However, there is no special credit in respect of the goods if the new duty amount equals or exceeds what would (apart from this section) be the amount of the special credit.
- (4) To avoid doubt, goods that are subject to a 'free' rate of duty, or which, under a Customs Tariff proposed in the Parliament, would be subject to a 'free' rate of duty, are not goods of a kind referred to in subparagraph (1)(c)(ii).

20. Some of the terms used in section 3 of the WET & LCT Transition Act and sections 16, 16A and 16B of the GST Transition Act are explained below. These explanations should be read in conjunction with the above legislation.

‘products covered by sections 16A and 16B’

21. Apart from wine with 1.15% or less of alcohol by volume, all alcoholic beverages which are not covered by the definition of wine in subdivision 31-A of the WET Act are covered by section 16A and 16B of the GST Transition Act.

‘retailer’

22. For the purposes of this Ruling a retailer is a person who is holding alcoholic beverages for sale to the end consumer. This includes liquor stores, hotels, licensed restaurants and licensed cafes.

‘Goods on hand’

23. Goods are on hand if you are in a position to dispose of those goods: *Farnsworth v. FC of T* (1949) 78 CLR 504; (1949) 9 ATD 33, and *All States Frozen Foods Pty Ltd v. FC of T* (1990) 21 FCR 457; 90 ATC 4175; (1990) 20 ATR 1874. In most cases, you have dispositive power over goods if you have property in them, even though you may not have physical possession of them. This includes cases where you give an agent power to dispose of goods that you own and where the goods are in transit. If you do not have property in goods, you may still have the power to dispose of them if they are held in your possession for the purpose of sale or exchange in the ordinary course of trade of your business: *FC of T v. Suttons Motors (Chullora) Wholesale Pty Ltd* (1985) 157 CLR 277, at 282; 85 ATC 4398, at 4400; 16 ATR 567, at 570-1.

‘At the start of 1 July 2000’

24. Section 3 of the WET & LCT Transition Act and section 16 of the GST Transition Act entitle you to the special credit for goods on hand at the start of 1 July 2000, (the date of commencement of the GST), that are held for the purposes of sale or exchange in the ordinary course of business.

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

‘wine’

26. ‘wine’ includes both Australian and imported wine and will cover:

- grape wine (includes table wine, sparkling wine and fortified wine);
- grape wine products such as vermouth, marsala, wine cocktails and wine creams;
- fruit wine and vegetable wine;
- cider;
- perry;
- mead; and
- sake

For the purposes of this Ruling ‘wine’ does not include:

- products with less than 1.15% alcohol by volume
- beer;
- spirits;
- liqueurs;
- designer drinks;
- ready-to-drink products.

‘tax borne’

27. You are taken to have borne sales tax on alcoholic beverages you have in stock if you purchased the goods for a price that included sales tax. The amount of tax borne is to be reduced by any amount of the tax included in the price that has been refunded or credited to you.

Consignments, retention of titles and returns

28. There are a number of commercial arrangements, practices and terms of trade that are relevant in determining whether you have borne tax on the goods.

29. Examples of these types of arrangements are:

- (a) where goods are held under consignment, ‘on approval’, ‘sale or return’ or ‘trial or agency’ arrangements;
- (b) arrangements with a retention of title clause;
- (c) returns by customers; and
- (d) returns to suppliers.

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

30. You may hold goods for sale by you even though they are currently owned by your supplier. For instance, in the passage from the *Suttons Motors (Chullora) case*, referred to in paragraph 23 of this Ruling, the Court stated that the fact that particular goods may not have been paid for or may not be owned by the trader did not preclude them being stock on hand in relation to the business, if notwithstanding the lack of payment or ownership they are:

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

31. Goods held in these circumstances at 1 July 2000 will not have been the subject of an assessable dealing between the supplier and you. Further, subsection 8(2) of the GST Transition Act does not apply to bring the assessable dealing forward because it is not certain that an acquisition or supply has been made before 1 July 2000 (refer paragraph 6(2)(c) of the GST Transition Act). Accordingly, as you have not borne WST on the goods, there is no special credit available.

Arrangements with a 'retention of title' clause

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

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

34. The effect of paragraph 6(2)(a) and subsection 8(2) of the GST Transition Act is that where goods are removed for delivery prior to 1 July 2000 and the assessable dealing, e.g., when title passes, takes place on or after 1 July 2000, the assessable dealing is taken to have occurred on 30 June 2000 and the supply is subject to WST. That being the case, the retailer effectively would have borne the WST before 1 July 2000.

Returns by customers

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

36. You can treat the returned goods as having been held for sale on 1 July 2000. If these goods satisfy all of the other conditions for claiming a special GST credit, and you have already claimed your special credit, you can lodge an amended GST return to claim the additional credit. Paragraph 91 of this Ruling explains how to do this.

Returns to suppliers

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

38. Accordingly, if you return goods that were held for sale on 1 July 2000, you cannot claim a special credit for those goods. If you have claimed a special credit and you subsequently return the goods so that tax has not been borne on them, you must lodge an amended GST return and repay the overclaimed special credit. Paragraph 91 of this Ruling explains how to do this.

'taxable value'

39. The most common taxable value is the price for which the goods are sold by wholesale. If the taxable dealing is not a wholesale sale, then there are alternative taxable values which apply. The most common alternative taxable value is the *notional wholesale selling price* of the goods, i.e., the price for which the taxpayer could reasonably have been expected to sell the goods by wholesale under an arm's length transaction.

Goods excluded from the provision for the special credit

40. Paragraph 16(2)(b) of the GST Transition Act excludes opened stock of alcoholic beverages from the special credit available under section 16.

How to ascertain the amount of WST borne

41. You can ascertain the amount of WST borne on goods held for sale or exchange at the start of 1 July 2000, by:

- (a) identifying the quantity of goods held and the amount of WST borne on those goods from stock records or source documents, such as invoices; or
- (b) calculating the amount of WST by applying formulas to your tax-inclusive cost if the WST cannot be readily ascertained from stock records or source documents.

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

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

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

- (a) maintained a continuous, accurate record of your stock on hand by recording all stock movements and losses such as purchases, sales, returns, spoilage, breakage, shoplifting and theft;
- (b) undertaken stocktake(s) so that you count all items of stock at least once during the period 1 July 1999 to 30 June 2000; and
- (c) adjusted your stock records for discrepancies identified by your stocktakes.

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

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

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

Calculating the amount of WST from your tax-inclusive cost

46. If your stock system or source documents do not record WST as a separate component of cost, you can calculate the amount of tax borne by determining the WST-inclusive cost price and applying appropriate formulas (see paragraph 48 below).

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

- (a) identify the quantity of goods held for the purposes of sale or exchange;
- (b) use an acceptable stock valuation method (see paragraph 51 below);
- (c) exclude any costs on which you were not charged WST; and
- (d) take into account adjustments to the recorded or calculated amount of tax borne.

48. You can then calculate the amount of WST borne by applying a formula to the tax-inclusive cost. However, you will have to use one series of formulas for goods purchased in Australia (see paragraphs 64-65 below) and another series for goods you have imported into Australia (see paragraphs 66-71 below).

Identify the quantity of goods held

49. The methods of identifying the quantity of goods held are discussed in paragraphs 42-44 above. If you do not have a stock recording system of the kind described in paragraph 45 above, you will have to carry out a physical stocktake to determine the quantity of goods on hand.

50. However, you can choose to undertake a physical stocktake within the period of 1 June 2000 to 31 July 2000. In these circumstances, you will need to maintain an accurate record of purchases, sales, returns, spoilage and breakage, so that the result of your physical stocktake is adjusted for stock movements to calculate the amount of stock on hand at the start of 1 July 2000. If you wish to carry out your stocktake after 1 July 2000 and you use the retail inventory method of stock valuation to calculate your cost, you must value the stock at the selling prices that applied before you adjusted your prices to take account of WST having ceased and GST becoming payable.

Stock valuation methods

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

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

FIFO and average cost

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

Retail inventory method

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

- (a) your gross profit margin is set to take account of the items of stock on hand at the start of 1 July 2000 that you purchased at a price lower than your most recent purchases; or
- (b) you turn your stock over in a short period of time so that your current retail prices (when reduced by your gross profit margin) equate to your actual purchase prices; or
- (c) a further adjustment is made (after your selling prices are reduced by your gross profit margin) to reflect movements in cost prices while the stock was on hand; and
- (d) mark-downs to retail selling prices are added back.

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

Other methods

56. The LIFO ('last in, first out') and base cost methods are not acceptable for determining the WST component of your stock.

Costs that have not been taxed

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

Separately contracted costs

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

Adjustments to the recorded or calculated amount of tax borne***Discounts and rebates***

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

60. Price reductions such as settlement discounts or trade discounts are usually deducted in advance of payment. Deferred credits and volume rebates are not calculated until after the transaction has been completed and may be paid as a refund to the purchaser. Consequently, the credit reduces the taxable value and, therefore, the amount of sales tax payable by the supplier.

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

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

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

Formula for goods you purchased in Australia

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

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

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

Example

65. WST-inclusive cost price of \$400
WST rate of 41%.

Calculation:

$$\begin{aligned} \text{Sales tax borne} &= \frac{\text{WST rate}}{(\text{WST rate} + 100\%)} \times \text{tax-inclusive cost price} \\ &= \frac{41\%}{41\% + 100\%} \times \$400 \end{aligned}$$

$$\text{Sales Tax} = \$116.31$$

Having calculated the amount of sales tax borne on the goods you can now proceed to calculate your special credit entitlement as described in the standard method below.

Formula for goods you have imported

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

67. The following factors, for each of the WST rates, have been determined from the algebraic equation that expresses as a percentage, the proportion of WST in the tax and customs duty inclusive cost of the imported goods. These factors have been developed in conjunction with Customs. They can be used in the formula in paragraph 68 below to ascertain the amount of the WST borne on imported goods:

| <u>WST Rate</u> | <u>Factor</u> |
|-----------------|---------------|
| 20% | 19.35% |
| 22% | 20.89% |
| 24% | 22.36% |
| 26% | 23.78% |
| 31% | 27.11% |
| 37% | 30.75% |
| 41% | 32.98% |

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

$$\text{Sales tax borne} = \text{Tax and duty inclusive cost} \times \text{Factor.}$$

69. You can only use these factors if you first exclude from your total cost, any other costs that have not been included in the customs value. In addition to the costs detailed in paragraphs 57-58 above, your recorded value for the cost of goods you have imported may include other costs such as overseas freight, agents' fees, wharf charges and storage which usually are not subject to tax because they do not form part of the customs value set by Customs. These should also be excluded from the total cost before applying these factors.

Example

| | | |
|-----|-------------------------------------|--------|
| 70. | <i>Tax-inclusive cost of import</i> | \$700. |
| | <i>WST rate</i> | 41% |
| | <i>Factor</i> | 32.98% |

Calculation:

$$\begin{aligned} \text{Tax borne} &= \text{Tax-inclusive cost} \times \text{Factor} \\ &= \$700 \times 32.98\% \\ \text{Sales Tax} &= \$230.86 \end{aligned}$$

Having calculated the amount of sales tax borne on the goods you can now proceed to calculate your special credit entitlement as described in the standard method below.

71. If you have imported goods, you may decide that it is uneconomical to separately identify the imported goods from those you purchased locally. If so, you may apply the formula for locally purchased stock to all your stock (see paragraphs 64-65 above).

72. In addition to the standard method for calculating the special credit described below, this Ruling details two other methods which may be relied on for calculating the special credit where the WST is difficult to identify. The first method is suitable for use by retailers who have a computerised inventory system. The second method may be used by retailers who are holding less than \$2 million in stock at the start of 1 July 2000 and want a simpler method to calculate their special credit entitlement. Both of these methods have been negotiated in consultation with relevant industry bodies

How to calculate your special credit

Standard Method

Alcoholic Beverages covered by WET Act

73. As mentioned at paragraph 18 above, the rate of sales tax on wine has varied. Therefore, the amount of your special credit will vary according to when you purchased the wine.

Example 1

A wine retailer who started trading in June 1994 is holding stocks of wine which it purchased at various times. After completing a stocktake the retailer determines that he is holding the following stocks of wine (the prices used in this example are the sales tax-inclusive wholesale purchase prices paid by the retailer after adjusting for non-taxable charges as discussed at paragraphs 57-58 above):

3 cases of wine purchased in March 1995 for \$80 per case including tax

2 cases of wine purchased in June 1996 for \$90 per case including tax

5 cases of wine purchased in July 1997 for \$90 per case including tax

25 cases of wine he purchased during the 1999/2000 financial year for \$100 per case including tax.

Step 1

To calculate the special credit the retailer first needs to determine how much tax has been borne on the wine.

| Purchase Date | Quantity | Purchase Price | WST Rate | WST Ratio | WST Borne |
|---------------|----------|----------------|----------|-----------|-----------|
| March 95 | 3 cases | \$240 | 24% | 24/124 | \$46.45 |
| June 96 | 2 cases | \$180 | 26% | 26/126 | \$37.14 |
| July 97 | 5 cases | \$450 | 26% | 26/126 | \$92.85 |
| 99/2000 | 25 cases | \$2,500 | 41% | 41/141 | \$726.95 |

Step 2

Having determined the amount of WST borne on the wine the retailer can then determine the amount of special credit he is entitled to. As stated at paragraph 9 above the special credit entitlement for wine which has borne tax at a rate between 20% and 26% is determined by:

$$\text{Sales tax amount} \quad \times \quad \frac{\text{Sales tax rate} - 14\%}{\text{Sales tax rate}}$$

$$\text{March 95} \quad \$46.45 \times (24\% - 14\%)/24\% = \$19.35$$

$$\text{June 96} \quad \$37.14 \times (26\% - 14\%)/26\% = \$17.14$$

$$\text{July 97} \quad \$92.85 \times (26\% - 14\%)/26\% = \$42.85$$

And for the wine purchased at 41% the amount of the special credit is 12/41 of the tax borne so the credit entitlement for the wine purchased during the 1999/2000 financial year is:

$$\$726.95 \times 12/41 = \$212.76$$

Therefore the retailer's total special credit entitlement is \$292.10.

Other alcoholic beverages

74. At the date of this Ruling, the new duty rates for other alcoholic beverages have not been announced. **Accordingly, the following examples are provided for the purposes of illustration only.**

Example 2

John is a retailer and holds stocks of spirits for resale at the start of 1 July 2000. The amount of excise that was included in the price of the spirit was \$125.03 and the amount of sales tax was \$80.88. The amount of excise that would have been paid if the stock was subject to excise after 1 July 2000 is \$178.75. John satisfies the conditions set out in section 16 and would be entitled to claim a special credit of \$80.88 if section 16A did not apply. However, section 16A will operate to reduce the special credit by \$53.72 (i.e. \$178.75 - \$125.03). John will be able to claim a section 16 special credit of \$27.16 (i.e. \$80.88 - \$53.72).

Example 3

Dianne is a retailer and holds stocks of spirit based pre-mix beverages for resale at the start of 1 July 2000. The amount of excise that was included in the price of the beverages was \$16.74 and the amount of sales tax was \$15.70. The amount of excise that would have been paid if the stock was subject to excise after 1 July 2000 is \$14.80. Dianne satisfies the conditions set out in section 16 and would be entitled to claim a special credit of \$15.70 if section 16A did not apply. In Dianne's situation section 16A will not operate and there will be no reduction to the special credit as the new excise amount is less than the old excise amount. Dianne will be able to claim a section 16 special credit of \$15.70. *(Note: the special credit cannot be increased by the difference between the old excise amount and the new excise amount as the special credit is limited to the amount of sales tax borne in respect of the goods).*

Example 4

Margaret is a retailer and holds stocks of designer drinks for resale at the start of 1 July 2000. These drinks were not subject to excise prior to 1 July 2000 and the amount of sales tax included in the purchase price was \$12.30. The amount of excise that would have been paid if the stock was subject to excise after 1 July 2000 is \$14.33. Margaret satisfies the conditions set out in section 16 and would be entitled to claim a special credit of \$12.30 if section 16B did not apply. However, section 16B will operate to deny a special credit as the new excise amount exceeds the amount of the special credit. Margaret will not be able to claim a section 16 special credit in respect of these goods.

Example 5

Alan is a retailer and holds stocks of beer for resale at the start of 1 July 2000. The amount of excise that was included in the price of the beer was \$48.69 and the amount of sales tax was \$63.70. The amount of excise that would have been paid if the stock was subject to excise after 1 July 2000 is \$92.07. Alan satisfies the conditions set out in section 16 and would be entitled to claim a special credit of \$63.70 if section 16A did not apply. However, section 16A will operate to reduce the special credit by \$43.38 (i.e. \$92.07 – \$48.69). Alan will be able to claim a section 16 special credit of \$20.32 (i.e. \$63.70 – \$43.38).

Alternative Method 1

75. This method is intended for retailers who have a computerised inventory system and are holding less than \$5 million of alcoholic beverages which have borne sales tax.

76. Following our discussions with industry bodies we understand that most retailers work from a landed unit cost (LUC). It is from this LUC that the retailer then calculates their mark-up and determines the price for which the product is to be sold.

77. Industry have advised that the LUC represents a sales tax-inclusive cost to the retailer net of all on-invoice discounts. If your system does not account for these discounts (such as settlement discounts and volume rebates) you will need to adjust your LUC before you start. The adjusted LUC will normally include freight costs and some non-taxable charges which, as explained at paragraph 13 above, need to be excluded before the WST inclusive cost can be calculated. As a result, the ATO and industry bodies have negotiated an amount by which the LUC should be reduced to exclude these costs. The reduction which has been determined is:

Wine – 3%
 Beer – 2%
 Spirits – 2%
 Other alcoholic beverages – 2%

78. After reducing your LUC you are then able to calculate the amount of sales tax you have borne on each product. This is described at paragraphs 64-65 for goods you have purchased in Australia and paragraphs 68-71 for imported goods.

79. Alternatively, you can simply multiply your LUC by the following factors to determine the amount of sales tax you have borne:

Wine – $LUC \times .28205$ [(LUC – 3%) x 41/141]
 Beer – $LUC \times .26467$ [(LUC – 2%) x 37/137]
 Spirits – $LUC \times .26467$ [(LUC – 2%) x 37/137]
 Other – factor determined as above depending on current sales tax treatment.

80. Having determined the amount of sales tax you have borne you are now in a position to calculate your special credit. The calculation of the special credit for wine is described at paragraph 17 above and is illustrated at paragraph 73 above. If all of the wine you have in stock has borne sales tax at the rate of 41% you can calculate your special credit by simply multiplying your LUC by .08255 (.28205 x 12/41). If you are holding stocks of wine which has borne sales tax at a rate other than 41% you will need to follow the example at paragraph 73 above.

81. For all other alcoholic beverages, the amount of the special credit to which you are entitled will be limited to the amount of sales tax borne which exceeds the difference between the old duty rate and the new duty rate. This is discussed at paragraph 19 above and illustrated at paragraph 74 above.

82. As this calculation is more complicated than that for wine, the ATO will be providing assistance in working out your special credit entitlement.

Alternative Method 2

83. This is a simpler version of Alternative Method 1 outlined above. This method was proposed simply to allow retailers a simpler method for calculating their special credit without going to too much expense or effort for what may eventually be a relatively small claim. The use of this method is restricted to retailers who are holding less than \$2,000,000 of alcoholic beverages at 30 June 2000.

84. The basic approach is to group alcoholic beverages into broad categories such as:

Beer - full strength
- mid strength
- light

Spirits - scotch
- brandy
- other

Liqueurs - with 17% alcohol by volume
- greater than 17% but no more than 28% alcohol by volume
- greater than 28% alcohol by volume

Wine

Ready-to-drink products

Designer drinks

85. The claimant then identifies the Landed Unit Cost (LUC) in Australian dollar terms of each of these broad categories. If the claimant cannot identify the LUC from its own records, the claimant should approach its wholesale supplier who will be able to advise what LUC applied immediately prior to 30 June 2000. As mentioned at paragraph 77 above, if your stock system does not account for on-invoice discounts you will need to adjust your LUC for these discounts before you proceed with this method. The claimant then simply multiplies this LUC by a factor to calculate the special credit entitlement. The factors cannot be finalised until the new duty rates have been announced. The factors for this method will be announced separately after the new duty rates are known.

How to claim your special credit

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

87. Under subsection 16(4) of the GST Transition Act, you can only claim the credit by identifying it in one (and only one) GST return that you lodge for a tax period that ends before 7 January 2001.

88. The Commissioner has provided a concessional lodgement program for businesses reporting quarterly. Claims for special credits in the quarter ending 30 September 2000 have an extended lodgement date to 11 November 2000. Claims for special credits in the quarter ending 31 December 2000 have an extended lodgement date to 4 February 2001.

89. You identify your special credit claim in a GST return by entering it in the designated field in your BAS. Your one month or 3 month BAS incorporates your GST return.

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

Amending your claim for the special credit

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

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

inadvertent mistakes in completing or calculating your claim in the BAS in which the special credit claim is made; or

goods returned from customers and placed back into stock (see paragraphs 35-36 above).

93. Provided you lodge the amended BAS (and repay any credit that has been overclaimed) within the time explained in paragraph 91 above, you will not be liable for any penalty.

Retaining your records

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

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Subject references:

- alcoholic beverages
- amended business activity statement
- amended gst return
- annual turnover

- business activity statement
- calculation of special credit
- consignments
- costs of acquiring goods
- customs duty
- discounts
- goods held for sale or exchange
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- ANTS(GSTT)A99 16(2)(b)
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