GSTR 2000/8 - Goods and Services Tax: special credit for sales tax paid on stock

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Goods and Services Tax Ruling

Goods and services tax: special credit for sales tax paid on stock

Contents Para

What this Ruling is about 1
Date of effect 5
Background 6
Ruling 8
Explanations (this forms part of the ruling) 25
Definitions 137
Detailed contents list 143

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

2. This Ruling provides methods for calculation of certain types of **goods** where it is likely that difficulties will be experienced in identifying the wholesale sales tax (WST) embedded in stock. If you act in accordance with it you will be afforded the protection available under Division 358 of Schedule 1 of the *Taxation Administration Act 1953.*

3. This Ruling does not apply to alcoholic beverages except certain low alcohol products. Information about calculating the

special credit for WST embedded in stocks of alcoholic beverages is provided in GST Ruling GSTR 2000/6.

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

Date of effect

5. 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

6. 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. This is the date of commencement of the GST. To help the transition from the WST system to the GST, a series of transitional measures are provided.

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

Ruling

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

9. Goods that you hold for disposal under hire purchase agreements are held for purposes of sale or exchange (see paragraph 32 below). However, goods that you hold for lease are not eligible for the special credit because they are not held for purposes of sale or exchange. If you hold stocks of goods that are either for sale **or** for lease, you are only entitled to the special credit for that part of your

stock that you reasonably expect will be sold (see paragraph 33 below).

10. If you are a tradesperson, repairer or a similar service provider, you may hold materials and spare parts for supply as an essential part of performing your services. When the services are performed, the goods will be disposed of and property in them will pass to your customer. Goods that come within the meaning of trading stock for the purposes of the *Income Tax Assessment Act 1997* (the ITAA 1997) are held for sale or exchange. If you hold them at the start of 1 July 2000, and you satisfy the other criteria explained in this Ruling, you are entitled to the special credit (see paragraphs 34-37 below).

11. If you are a builder constructing a building or civil engineering work on land owned by another person, you may hold goods with the intention of permanently incorporating them in or affixing them on the site of the building or work. Provided you own them (that is, they have not become the property of the person with whom you have contracted), these goods are held for the purposes of sale or exchange until they are permanently incorporated or affixed. If you hold them at the start of 1 July 2000, and you satisfy the other criteria explained in this Ruling, you are entitled to the special credit (see paragraphs 38-40 below).

12. If you are a builder constructing on your own land, goods that you hold with the intention of permanently incorporating in or affixing on the site of the building or civil engineering work, are held for sale or exchange where the **real property** will be sold by you. If you hold them at the start of 1 July 2000, and you satisfy the other criteria explained in this Ruling, you are entitled to the special credit (see paragraphs 38-40 below).

13. You are entitled to claim the special credit on alcoholic beverages listed in subsection 15A(1) of the *Sales Tax (Exemptions and Classifications) Act 1992* (the ST(E&A) Act) that have not been opened. GST Ruling GSTR 2000/6 provides information on special credits for alcoholic beverages. You are entitled to the special credit for low alcoholic wine, cider, mead, perry, sake or similar fermented beverages under this Ruling (see paragraphs 77–78 below).

14. However, the special credit does not apply to **second-hand goods**, other than if you imported second-hand goods and:

- nobody could quote under the *Sales Tax Assessment Act 1992* for their importation; and
- you did not hold them prior to 1 July 2000 for a purpose other than sale or exchange

15. Second-hand goods are those goods that are not new or have been previously used. They do not have to be previously owned. Demonstration goods and used plant and equipment that are held for

purposes of sale or exchange are second-hand and are not eligible for the special credit (see paragraphs 57-76 below).

16. Consumable goods (for example, office stationery or cleaning rags) by their very nature are not held for purposes of sale or exchange and are not stock on hand. They are not eligible for the special credit (see paragraph 41-42 below).

17. Goods held for sale under a retention of title clause, under lay-by terms and as returned goods are eligible for the special credit. However, goods held under consignment or similar arrangements are not eligible for the special credit (see paragraphs 43-55 below).

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

(a) identifying the amount of the WST borne on the quantity of goods from stock records or other source documents (see paragraph 83 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 86-88 below).

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

(a) exclude any costs on which WST was not charged (see paragraphs 98-101 below); and

(b) take into account adjustments of WST borne because of discounts, rebates and refunds (see paragraphs 102-107 below).

20. If the amount of WST borne in respect of goods cannot be readily ascertained, you can calculate your entitlement to the special credit using methods provided by the Commissioner. Where you acquire goods under a retail sale from a retailer and the invoice does not show the amount of WST, you can calculate the WST included in your purchase price by estimating the taxable value on which tax

would have been charged as being either 50% of the total purchase price (or some greater percentage submitted by an industry association and approved by the Commissioner) (see paragraphs 116-121 below).

21. Other methods for calculating the special credit will be explained in a GST Bulletin ('Special credit for sales tax paid on stock'). The GST Bulletin will provide a practical method for small mixed business to calculate WST borne on stock on hand held at the start of 1 July 2000.

22. 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.

23. 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.

24. You must keep sufficient records that identify the quantity of stock on hand at the start of 1 July 2000. You must keep those records for five years.

Explanations (this forms part of the Ruling)

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

> '(1) You are entitled to a special credit for GST purposes if:
>
> (a) you are registered as at 1 July 2000; and
>
> (b) you have on hand, at the start of 1 July 2000, goods you acquired or imported that are held for the purposes of sale or exchange (but not for manufacture) in the ordinary course of business.
>
> (2) However, this section does not apply to the following:
>
> (a) second-hand goods, unless:
>
> (i) you imported them; and
>
> (ii) nobody was entitled to quote under the *Sales Tax Assessment Act 1992* for the importation); and
>
> (iii) you did not hold goods, at any time prior to 1 July 2000, for a purpose other than for sale or exchange in the ordinary course of business.
>
> (b) goods mentioned in subsection 15A(1) (alcoholic beverages) of the *Sales Tax*

(Exemptions and Classifications Act 1992) Act, if those goods are opened stock;

(c) wine within the meaning of the *A New Tax System (Wine Equalisation Tax) Act 1999.*

(3) The amount of the special credit is equal to the amount of sales tax that you have borne in respect of the goods.

(3A) However, if the amount of sales tax you have borne in respect of the goods changes after 1 July 2000, the amount of the special credit changes accordingly.

(4) The special credit is treated as though it were an input tax credit attributable to any one tax period of your choice. However, you are not entitled to it unless you separately identify it in a GST return that you lodge for a tax period that ends before 7 January 2001.

(4A) If the amount of the special credit changes under subsection (3A) after you lodged that return, you must lodge with the Commissioner an amended GST return for that tax period. You must lodge it on or before the 21st day of the month following the end of the tax period in which the change happens.

(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.'

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

'Goods on hand'

27. Goods are on hand if you are in a position to dispose of those goods: *Farnsworth v. FC of T* (1949) 78 CLR 504 and *All States Frozen Foods v. FC of T* (1990) 21 FCR 457; 90 ATC 4175; (1990) 20 ATR 1874. In most cases, you have a 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; (1985)16 ATR 567, at 570-571. For example, if you are a contractor and you retain

the power to dispose of goods that are on site, but are not affixed to, or permanently incorporated in, the real property, these goods are on hand even though they are not located on your premises. Therefore, you can claim the special credit provided you have borne WST on the goods (and you satisfy the following requirements of section 16).

'Sales tax borne'

28. You are taken to have borne WST on goods 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.

'At the start of 1 July 2000'

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

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

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

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

32. Goods that you hold to supply to customers under hire purchase arrangements are regarded as being held for purposes of sale or exchange. This is consistent with income tax, accounting and commercial treatments. Although a hire purchase agreement has two basic features – an agreement to rent and an option to purchase - people usually enter into hire purchase arrangements for the primary purpose of purchasing the goods by deferred payments (see *Warman v. Southern Counties Car Finance Corporation Ld. W. J. Ameris Car Sales (Third Party)* [1949] 2 KB 576, at 582.

33. You may have goods at the start of 1 July 2000 that you intend to sell or to lease, but you do not know which goods will be sold and which will be leased. You can claim the special credit in respect of the proportion of your current stock that you can reasonably expect

will be sold on the basis of your sales from this type of stock in previous years.

Materials or spare parts of a service provider

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

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

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

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

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

(b) separately identifiable things which retain their character or nature before and after the services are provided, that is, they are not used up or significantly changed in performing the services; and

(c) disposed of under a contract in which a separate charge is made for the materials and spare parts supplied; and

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

37. For both income tax and GST purposes, these requirements:

(a) include as trading stock, for example, oil and grease held by a motor mechanic for supply in the ordinary course of business of maintaining or servicing motor vehicles; and

(b) exclude from trading stock, for example, paint held by an artist (see paragraph 15 Taxation Ruling TR 98/8),

paint held by a panel beater or materials used by a tyre repairer to retread tyres.

Builders

38. If you are a builder, you may hold stocks of goods with the intention of permanently incorporating them in or affixing them on the site of the building or work. Where the property in the goods will pass, either because the building or work is on land owned by another person, or because you intend to sell the real property on which the building is located in the ordinary course of your business, the goods are held for sale or exchange.

Example

39. At the start of 1 July 2000, a builder has a house under construction on land owned by that builder. On completion, the house and land will be sold in the ordinary course of business. The builder has on hand at the start of 1 July 2000, materials that will be incorporated in or affixed to the house under construction. The builder is eligible for a special credit for sales tax borne on the materials on hand if the builder is registered as at 1 July 2000.

40. Once goods have been permanently incorporated in, or affixed on a building or work owned by another person, they become part of that person's property and are no longer owned by you or held by you for sale or exchange. Also, if you are a builder constructing on your own land, goods that you have permanently incorporated or affixed have become part of your real property and are no longer held for sale or exchange. However, Division 75 of the *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act) contains special rules for certain taxable supplies that mean that you do not have to pay GST (when you sell your interest in the land) on the value of those goods that were part of your property before 1 July 2000 (see subsection 75-10(3) of the GST Act).

Consumable goods

41. Consumable goods (for example, office stationery or cleaning rags) by their very nature are not held for purposes of sale or exchange and are not stock on hand (see Taxation Rulings IT 333 and TR 93/20, paragraphs 26, 105 and 106). They are destroyed, consumed or expended by use in carrying on your business. Therefore, you cannot claim the special credit for consumable goods.

42. However, materials that service providers may have accounted for as 'consumables' in their records may be stock on hand for the

purposes of section 16 of the Transition Act. For example, oil or grease supplied by a motor mechanic in the ordinary course of business are an essential part of performing the service of maintaining motor vehicles and are stock on hand (see paragraph 37 above).

Consignments, retention of titles, lay-bys and returns

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

44. Examples of these types of arrangements are:

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

(b) arrangements with a retention of title clause;

(c) goods put aside on lay-by;

(d) returns by customers; and

(e) returns to suppliers.

(a) Goods held under consignment, on approval, sale or return, commission agency, trial or similar arrangements.

45. You may hold goods for sale by you even though they are currently owned by your supplier. For instance, in *FC of T v. Suttons Motors (Chullora) Wholesale Pty Ltd*, the Court stated (1985) 157 CLR 277, at 282 that the fact that particular goods may not have been paid for or may not be owned by the trader did not preclude them being stock on hand in relation to the business, if notwithstanding the lack of payment or ownership they are:

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

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

(b) Arrangements with a retention of title clause

47. 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.

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

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

(c) Goods put aside on lay-by

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

(d) Returns by customers

51. 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.

52. You can treat the returned goods as having been held for sale on 1 July 2000 and you can include any WST borne on them in your special credit claim. If you have already claimed your special credit, you can lodge an amended GST return to claim the additional credit. Paragraph 133 of this Ruling explains how to do this.

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

(e) Returns to suppliers

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

55. Accordingly, if you return goods to your supplier after 1 July 2000 that were held for sale at the start of 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 134 of this Ruling explains how to do this.

Goods excluded from the provision for the special credit

56. Section 16 excludes some goods from the special credit. They are second-hand goods (other than certain imported second-hand goods), certain alcoholic beverages and goods held for purposes of manufacture that are discussed below.

Second-hand goods

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

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

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

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

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

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

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

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

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

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

> Starke J. – '… second-hand goods – that is goods which have already been distributed or gone into use';
>
> Dixon J. - '… second-hand goods, that is, goods which have already been retailed and have gone into use';
>
> McTiernan J. – '… goods were second-hand because they have been discarded or acquired from persons who bought them for use'.

64. Their Honours indicate that prior ownership is necessary, (although Starke J seems to regard prior ownership *or* prior use as necessary) for goods to be second-hand.

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

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

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

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

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

68. Judge Barber also said (at 623):

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

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

Demonstration goods

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

71. Goods that are used for demonstration purposes may or may not be used for their intrinsic purpose. For example, a refrigerator on display in a department store has not been used for its intrinsic purpose to refrigerate food.

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

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

Plant and equipment

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

75. Plant and equipment that changes its status is used and, therefore, is second-hand. For example, computers used as plant and equipment in the business of a computer retailer but later held by the retailer as stock on hand are regarded as goods held for purposes of sale or exchange.

76. However, these goods are **not** eligible for the special credit because they are second-hand goods. Also, these goods may not have been held for sale or exchange in the ordinary course of business. Accordingly, the special credit is not available for such goods held at the start of 1 July 2000.

Alcoholic beverages

77. Paragraph 16(2)(b) of the Transition Act excludes alcoholic beverages listed in subsection 15A(1) of the ST(E&A) Act, that have been opened, from the goods that you would be entitled to claim the special credit.

78. Subsection 15A(1) of the ST(E&A) Act, in conjunction with Item 1 of Schedule 7 of that Act list the following alcoholic beverages:

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

(b) beer;

(c) spirits, liqueurs or spirituous liquors; or

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

79. Goods and Services Taxation Ruling GSTR 2000/6 provides more information on special credits for alcoholic beverages.

Not for manufacture

80. Paragraph 16(1)(b) of the Transition Act excludes goods you acquired or imported that are held for manufacture. The word 'manufacture' is not defined in the '*A New Tax System (Goods and Services Tax*) *Act 1999*'. Accordingly, it must be given its ordinary understood meaning. The *Macquarie Dictionary, 3rd Ed.*, defines '*manufacture'*, when used as a verb, to mean 'to make or produce by hand or machinery, esp on a large scale; to make in any manner; to work (material) into form for use…'. Also, Williams J stated in *Adams v. FC of T* (1948) 8 ATD 332, at 334-335 that:

> 'The question of the meaning of an ordinary English word such as 'manufacture' used in a Statute is one of fact and the question whether the facts proved in evidence come within this meaning is also one of fact.'

81. Whether goods you acquired or imported are held for manufacture depends upon whether a different thing has been produced. If the work done is more than a repair, renovation or modification of old materials and changes the goods into something of a different character, there has been a manufacture of goods (see *FC of T v Jack Zinader Pty Ltd* (1949) ATD 46; (1949) 78 CLR 336 and *FC of T v Jax Tyres Pty Ltd* 85 ATC 4001; (1985) 5 FCR 257). Therefore, if you are a repairer, renovator or reconditioner who is not involved in manufacture and hold goods for the purposes of sale or exchange at the start of 1 July 2000, you are eligible for the special credit.

How to ascertain the special credit

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

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

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

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

83. 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.

84. 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.

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

Calculating the amount of WST from your tax-inclusive cost

86. 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 108 below).

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

(a) identify the quantity of goods held;

(b) use an acceptable stock valuation method (see paragraph 92 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.

88. You then can calculate the amount of WST borne by applying a formula to the tax-inclusive cost. However, you will have to use one series of formulas for goods purchased in Australia (see paragraph 108 below) and another series for goods you have imported into Australia (see paragraph 110 below).

Rates of WST

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

Identify the quantity of goods held

90. The methods of identifying the quantity of goods held are discussed in paragraphs 83-85 above**.** If you do not have a stock recording system of the kind described in paragraph 86 above, you will have to carry out a physical stocktake to determine the quantity of goods on hand.

91. However, you can choose to undertake a physical stocktake within the period of 1 June 2000 to 31 July 2000. In addition, if your stocktake is carried out by, or under the control of a stocktaking professional, it may be undertaken within the period 18 May 2000 to 14 August 2000. 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

92. 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.

93. Some stock valuation methods use the value of the most recent purchases or the value at which the stock could be replaced. Unless the price of goods on hand have not increased 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

94. The FIFO ('first in, first out') and average cost methods 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

95. 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.

96. 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

97. 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

98. 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 WST. 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 WST borne. The reason the more common of these costs are not included in the taxable value is discussed in the following paragraphs.

Separately contracted costs

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

Tax advantaged computer programs

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

Instruction manuals and AC adaptors

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

Adjustments to the recorded or calculated amount of tax borne

Court cases and refunds

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

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

Discounts and rebates

104. 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.

105. 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.

106. 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.

107. 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. 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

108. 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:

- the taxable value on which sales tax was borne; and
- the sales tax.

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

Example

109. WST-inclusive cost price of $933

WST rate of 12%.

Calculation:

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

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

$$= \$99.96$$

Formula for goods you have imported

110. 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.

111. 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 112 below to ascertain the amount of the WST borne on imported goods:

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

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

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

113. 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 98-101 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

114. *Tax-inclusive cost of import* *$345.*

WST rate *12%*

Factor *12.59%*

Calculation:

Tax borne = *Tax-inclusive cost x Factor*

= $345 x 12.59%

= *$43.44*

115. 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 108-109 above).

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

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

117. This Ruling provides a method for determination of the special credit where the WST is difficult to identify. This method may be used in respect of goods where the sale to you was a retail sale and the invoice does not show the amount of WST.

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

Purchase price x 50% x the sales tax rate

119. This method reduces the total purchase price by 50% to arrive at an estimated taxable value on which tax would have been charged to your suppliers. However, motor vehicle smash and mechanical repairers can use the alternate rate of 64% to estimate taxable value and to work out their special credit in the following formula:

Special credit = Purchase price x 64% x WST rate

The use of this alternate rate is subject to the following conditions:

- The rate applies to goods acquired directly from retailers where the WST paid is not disclosed on the retailers' invoices;
- The rate does not apply for, or in connection with, motor vehicle smash and mechanical repairs undertaken in or by new or used car dealerships; and
- The Method 1 conditions required in Goods and Services Tax Bulletin GSTB 2000/1.

Example 1

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

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

Calculation:

Special credit = Purchase price x 50% x WST rate

= $900 x 50% x 12%

= $54

Example 2

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

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

Calculation:

Special credit = Purchase price x 50% x WST rate

= $240 x 50% x 22%

= $26.40

Examples of tax rates

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

Kind of service provider	What is subject to WST		What is exempt
	at 12%	at 22%	
Repairers	Parts for; - Washing machines - Refrigerators - Dryers	Parts for: - Motor vehicles - Boats - TVs - Sound equipment - Computers - Watches - Cameras - Lawn mowers	

Plumbers	Baths Sinks Toilets Cisterns Hot water systems and parts Shower screens		Piping Pipe fittings Cement Most builders hardware Water tanks
Electricians	Domestic light fittings Light bulbs and tubes Hot water system parts	Commercial lighting	Fixed wiring Switches GPOs

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

124. Other methods will be provided in a GST Bulletin that will issue after this Ruling.

Small business retailers

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

126. However, it is anticipated that many small retailers will not have recorded either the rate of sales tax or the amount of tax for each stock item. Therefore, if you are a small retailer it is recommended that you plan for your stocktake by identifying the rate of WST on each item of stock. You could do this over a period of several months leading up to 1 July 2000. In almost all cases, the rate of WST for each item will be shown on invoices and price lists from your suppliers. Alternatively, your supplier may be able to assist you in identifying the particular WST rates and the actual amount of tax included in the purchase price of each item.

127. Retailers with only a few stock items should not have difficulty in calculating the special credit. However, retailers of mixed businesses that have a wide range of stock items with different rates of WST may find identifying the WST rate for each item both difficult and time consuming at stocktake time. A GST Bulletin will issue after this Ruling explaining other methods of determining sales tax borne.

How to claim your special credit

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

129. Under subsection 16(4), 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.

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

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

132. 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 you adjust the calculation of the tax borne to allow for any discounts and returns (that you are aware of at the time) that alter the amount you are entitled to claim.

Amending your claim for the special credit

133. 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 (subsection 16(4A) of the Transition Act).

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

- inadvertent mistakes in completing the BAS in which the special credit claim is made; or
- goods returned from customers and placed back into stock (see paragraphs 51-53 above).

135. Provided you lodge the amended BAS (and repay any credit that has been overclaimed) within the time explained in paragraph 133 above, you will not be liable for any penalty.

Retaining your records

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

Definitions

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

Goods

138. Goods means any form of tangible personal property.

Customs duty

139. Customs duty means any duty of customs imposed by that name under a law of the Commonwealth, other than:

(a) the *A New Tax System (Goods and Service Tax Imposition – Customs) Act 1999*; or

(b) the *A New Tax System (Wine Equalisation Tax Imposition – Customs) Act 1999*; or

(c) the *A New tax System (Luxury Car Tax Importation – Customs) Act 1999.*

Customs value

140. Customs value, in relation to goods, means the customs value of the goods for the purposes of Division 2 of Part VIII of the *Customs Act 1901*.

Real Property

141. Real property includes:

(a) any interest in or right over land; or

(b) a personal right to call for or be granted any interest in or right over land; or

(c) a licence to occupy land or any other contractual right exercisable over or in relation to land.

Second-hand goods

142. Second hand goods does not include:

(a) *precious metal; or

(b) goods to the extent that they consist of gold, silver, platinum, or any other substance which, if it were of the required fineness, would be precious metal; or

(c) animals or plants.

Detailed contents list

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

	Paragraph
What this Ruling is about	**1**
Date of effect	**5**
Background	**6**
Ruling	**8**
Explanations	**25**
'Goods on hand'	27
'Sales tax borne'	28
'At the start of 1 July 2000'	29
'Goods you acquired or imported that are held for the purposes of sale or exchange'	31
Materials or spare parts of a service provider	34
Builders	38
Example	39
Consumable goods	41
Consignments, retention of titles, lay-bys and returns	43
(a) Goods held under consignment, on approval, sale or return, commission agency, trial or agency or similar arrangements	45
(b) Arrangements with a retention of title clause	47
(c) Goods put aside on lay-by	50

(d) Returns by customers 51
(e) Returns to suppliers 54
Goods excluded from the provision for the special credit 56
Second-hand goods 57
Demonstration goods 70
Plant and equipment 74
Alcoholic beverages 77
Not for manufacture 80
How to ascertain the special credit 82
Identifying the quantity of taxable goods held and the amount of WST borne on those goods from stock records or source documents 83
Calculating the amount of WST from your tax-inclusive cost 86
Rates of WST 89
Identify the quantity of goods held 90
Stock valuation methods 92
FIFO and average cost 94
Retail inventory method 95
Other methods 97
Costs that have not been taxed 98
Separately contracted costs 99
Tax advantaged computer programs 100
Instruction manuals and AC adaptors 101
Adjustments to the recorded or calculated amount of tax borne 102
Court cases and refunds 102
Discounts and rebates 104
Formula for goods you purchased in Australia 108
Formula for goods you have imported 110
Claiming special GST credit where the amount of sales tax borne is difficult to ascertain 116
Purchase price x 50% x the sales tax rate 119
Example 1 120
Example 2 121

Examples of tax rates 122
Small business retailers 125
How to claim your special credit 128
Amending your claim for the special credit 133
Retaining your records 136
Definitions **137**
Goods 138
Customs duty 139
Customs value 140
Real property 141
Second-hand goods 142
Detailed contents list **143**

Commissioner of Taxation
19 April 2000

Previous draft:

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Related Rulings/Determinations:

IT 333; TR 93/20; TR 95/7; TR 98/8; TR 2006/10; SST 7

Subject references:

- alcoholic beverages
- amended business activity statement
- amended gst return
- annual turnover
- business activity statement
- calculation of special credit
- consignments
- consumable goods
- costs of acquiring goods
- customs duty
- demonstration goods
- discounts
- goods held for sale or exchange
- goods imported
- goods on hand
- gst return
- hire purchase
- input tax credit
- lay-bys
- materials or spare parts
- plant and equipment
- rates of wst
- rebates
- retaining records
- retention of title clauses
- returned goods
- sale or exchange
- sales tax
- sales tax borne
- sales tax rates
- second-hand goods
- small mixed business retailers
- special credit
- stock valuation methods
- tax advantaged computer programs
- transition act
- transitional measures
- volume rebates
- warranty
- wholesale sales tax

Legislative references:

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- ANTS(GSTT)A99 6(2)(c)
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