


GSTR 2001/8A2 - Addendum - Goods and services tax: Apportioning the consideration for a supply that includes taxable and non-taxable parts

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Addendum

Goods and Services Tax Ruling

Goods and services tax: apportioning the consideration for a supply that includes taxable and non-taxable parts

This Addendum amends Goods and Services Tax Ruling GSTR 2001/8 to reflect a change in the Commissioner's view on the goods and services tax (GST) treatment of the labour component of a supply of car parts for the purposes of Subdivision 38-P of the *A New Tax System (Goods and Services) Act 1999* (GST Act) – Cars for use by disabled people.

The original Example 13 in paragraph 81 of GSTR 2001/8 illustrates the Commissioner's former view that a supply of labour services in fitting a car part to the car of an eligible disabled person is only GST-free if those services are integral, ancillary or incidental to the supply of the car part.

Having regard to the legislative purpose, as identified by reference to Subdivision 38-P and section 38-45 of the GST Act, that a functioning car for suitable transportation is to be supplied to an eligible disabled person GST-free, the Commissioner considers that 'a supply of car parts' for the purposes of subsections 38-505(4) and 38-510(4) of the GST Act includes the fitting of that part.

This change in the Commissioner's view means that a supply of labour in fitting a car part to the car of an eligible disabled person that was regarded as a taxable supply is now GST-free, even if those fitting services are not integral, ancillary or incidental to the supply of the car part.

Example 13 is modified because of this change in view.

This Addendum also amends GSTR 2001/8 to: update the date of effect clause; and section number references from the *Taxation Administration Act 1953*, which is as a result of amendments to that Act.

GSTR 2001/8 is amended as follows:

1. Preamble

Omit 'section 37 of'; substitute 'section 105-60 of Schedule 1 to'.

2. Paragraph 8

Omit the paragraph; substitute:

8. This Ruling explains the Commissioner's view of the law as it applies both before and after its date of issue. You can rely upon this Ruling on and from its date of issue for the purposes of section 105-60 of Schedule 1 to the *Taxation Administration Act 1953* (TAA). Goods and Services Tax Ruling GSTR 1999/1 explains the GST rulings system and the Commissioner's view of when you can rely on this interpretation of the law in GST public and private rulings.

8A. The Addendum to this Ruling that issued on 29 April 2009 explains the Commissioner's view of the law as it applies both before and after its date of issue. You can rely upon this Addendum on and from 29 April 2009 for the purposes of section 105-60 of Schedule 1 to the TAA.

3. Paragraph 54

After the paragraph, insert:

54A. Further, separately identifiable parts of a supply may not be individually recognised because of the effect of a specific provision of the GST Act. For example, a supply to an eligible disabled person of a car part and labour services in fitting that part may be considered to have separately identifiable parts due to their relative significance in the supply. However, in subsections 38-505(4) and 38-510(4), the expression a 'supply of car parts' includes the labour services in fitting the car parts to the car of an eligible disabled person. There is a single GST-free 'supply of car parts'.

54B. The inclusion of labour services gives effect to the legislative purpose, as identified by reference to Subdivision 38-P and section 38-45, that a functioning car for suitable transportation is to be supplied to an eligible disabled person GST-free.

54C. A supply is GST-free under subsections 38-505(4) and 38-510(4) only if the supply is a 'supply of car parts'. Car parts supplied as an integral, ancillary or incidental component of a car service are not a supply of car parts under either of those subsections. For example, spark plugs supplied in the course of a routine service of a car are not a supply of car parts. Those car parts are only an incidental part of a supply that is properly regarded as a supply of services, not a supply of car parts.

4. Paragraph 81

Omit the paragraph and footnote; substitute:

81. *Justine sells tyres for a price that includes fitting and balancing. The fitting and balancing of the tyres are necessary procedures in providing the tyres, and are not supplies in their own right. The fitting and balancing represents a small proportion of the value of the transaction for the supply of tyres and is integral, ancillary or incidental to the supply of the tyres. The essential character of the transaction between Justine and Madge is the taxable supply of tyres.⁴⁴ In similar circumstances, the fitting of a windscreen, battery or muffler would also be integral, ancillary or incidental to the supply of those parts.*

5. Legislative references

(a) Insert:

- ANTS(GST)A99 38-45
- ANTS(GST)A99 Subdiv 38-P
- ANTS(GST)A99 38-505(4)
- TAA 1953 Sch 1 105-60

(b) Omit:

- TAA 1953 37

This Addendum explains the Commissioner's view of the law as it applies both before and after its date of issue, 29 April 2009. You can rely on this Addendum, for the purposes of section 105-60 of Schedule 1 to the *Taxation Administration Act 1953*, on and from 29 April 2009.

Commissioner of Taxation

29 April 2009

ATO references

NO: 2006/20258

ISSN: 1443-5160

ATOlaw topic: Goods and Services Tax -- General rules and concepts --
mixed supplies
Goods and Services Tax -- General rules and concepts --
supply

⁴⁴ In contrast, the balancing of previously fitted tyres is a supply in its own right.