

# ***GSTR 2002/3A2 - Addendum - Goods and services tax: prizes***

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## Addendum

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### Goods and Services Tax Ruling

#### Goods and services tax: prizes

This Addendum amends Goods and Services Tax Ruling GSTR 2002/3 in light of the decision in *TAB v. Federal Commissioner of Taxation* [2005] NSWSC 552; 2005 ATC 4512, 59 ATR 430.

The Addendum amends GSTR 2002/3 to clarify the GST treatment, under the GST global accounting system for gambling supplies, of monetary prizes that have been declared by the gambling supply provider, but not paid. It also provides guidance on the GST treatment of cancelled refundable bets, and unclaimed amounts.

#### **GSTR 2002/3 is amended as follows:**

##### **1. Paragraph 8 and note**

Omit the paragraph and note; substitute:

8. This Ruling applies from its date of issue. You can rely on 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. Changes made to this Ruling by Addenda that issued on 11 July 2007 and 18 June 2008 have been incorporated into this version of the Ruling.<sup>2</sup> You can rely on the changes made to the Ruling by each Addendum for the purposes of section 105-60 of Schedule 1 to the TAA from the date of issue of the relevant Addendum. If the Addendum conflicts with a previous private ruling that you have obtained or a previous public ruling, the Addendum prevails.

8B. If you have relied on a previous ruling (including the public ruling that the Addendum amends), you are protected in respect of what you have done up to the date of issue of the relevant Addendum or, if there is a change to the legislation, you are protected in respect of what you have done up to the date the legislative change takes effect. This means that if you have relied on the previous ruling and have underpaid an amount of GST, you are not liable for the shortfall prior to either the issue date of the relevant Addendum or the date the legislative change takes effect, as appropriate. Similarly, if you

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<sup>2</sup> Refer to each Addendum to see how that Addendum amends this Ruling.

have relied on the previous ruling you are not liable to repay an amount overpaid by the Commissioner as a refund.

## 2. Paragraph 183

After the paragraph insert:

### **Whether 'total monetary prizes' includes prizes that have been declared but not yet paid**

183A. In calculating the global GST amount, 'total monetary prizes' includes prizes that have been declared in the tax period regardless of when they are paid.<sup>65A</sup> It is not necessary to establish that a winner of a monetary prize has been paid, merely that a liability to pay the prize exists.

### **Whether 'total amounts wagered' includes bets that are subject to refund**

183B. Depending upon the legislation or rules that apply, money wagered may be subject to refund if a gambling event does not take place (for example, the gambling event is cancelled due to adverse weather conditions) or if a contestant on which money has been invested does not take part in the gambling event (for example, withdrawal of a particular horse from a horse race).

183C. The money wagered, that the gambling supply provider is obligated to refund, no longer constitutes consideration for a gambling supply and is therefore excluded from 'total amounts wagered' as defined in subsection 126-10(1).<sup>65B</sup>

### **Unclaimed monetary prizes and refunds of bets**

183D. Monetary prizes or refunds of bets may not be claimed within the time frame prescribed by the rules or legislation that govern the gambling supply provider's treatment of such monies. After the expiration of that specified period of time, the unclaimed monetary prize or refund becomes the property of the gambling supply provider. The gambling supply provider does not take unclaimed prize or refund money into account in working out the global GST amount under section 126-10.<sup>65C</sup>

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<sup>65A</sup> *TAB Ltd v. FC of T* [2005] NSWSC 552, 2005 ATC 4512, 59 ATR 430 at [2005] NSWSC 552 paragraph 90.

<sup>65B</sup> *TAB Ltd v. FC of T* [2005] NSWSC 552, 2005 ATC 4512, 59 ATR 430 at [2005] NSWSC 552 paragraph 89.

<sup>65C</sup> *TAB Ltd v. FC of T* [2005] NSWSC 552, 2005 ATC 4512, 59 ATR 430 at [2005] NSWSC 552 paragraph 87.

**3. Legislative references**

Omit:

TAA 1953 37

Insert:

ANTS(GST)A99 9-5(a)

TAA 1953 Sch 1 105-60

**4. Case references**

Insert:

TAB Ltd v. Federal Commissioner of Taxation [2005] NSWSC 552; 2005 ATC 4512, 59 ATR 430

This Addendum explains our view of the law as it applies both before and after its date of issue. You can rely upon this Addendum on and from its date of issue for the purpose of section 105-60 of Schedule 1 to the *Taxation Administration Act 1953*. If this Addendum conflicts with a previous private ruling that you have obtained or a previous public ruling, this Addendum prevails. However, if you have relied on a previous ruling (including the public ruling that the Addendum amends), you are protected in respect of what you have done up to the date of issue of this Addendum or, if there is a change to the legislation, you are protected in respect of what you have done up to the date the legislative change takes effect. This means that if you have relied on the earlier ruling and have underpaid an amount of GST, you are not liable for the shortfall prior to either the issue date of this Addendum or the date the legislative change takes effect, as appropriate. Similarly, if you have relied on the earlier ruling you are not liable to repay an amount overpaid by the Commissioner as a refund.

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**Commissioner of Taxation**18 June 2008

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## ATO references

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Goods and Services Tax ~~ Racing and gambling ~~ gambling

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