


# ***GSTR 2003/16A2 - Addendum - Goods and services tax: inducements to enter into a lease of commercial premises***

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## Addendum

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### Goods and Services Tax Ruling

#### Goods and services tax: inducements to enter into a lease of commercial premises

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Goods and Services Tax Ruling GSTR 2003/16 to clarify the facts of *Case S41 17 NZTC 7280* referred to in paragraph 51 of the Ruling.

#### **GSTR 2003/16 is amended as follows:**

##### **1. Paragraph 51**

Omit the paragraph; substitute:

51. As the New Zealand *Case S41*<sup>33</sup> illustrates, it is important to determine the capacity in which a recipient receives an inducement. In that case, the partners in a partnership were paid an amount of \$137,500, pursuant to a Deed. The Deed provided that this amount 'was by way of inducement for the partners to procure the partnership to enter into and execute' a Heads of Agreement to lease certain office premises. A formal Deed of Lease was entered into at a later date, as required under the Heads of Agreement.

51A. The partners argued that they had negotiated the inducement as individuals in their own right and that their concerns in this regard 'were those of individuals and their families'. The Taxation Review Authority held that there was a supply of services by the partnership in agreeing to (or in procuring the partnership to) enter into a lease. The supply was made by the partnership and not by the partners as individuals in isolation from the professional partnership. By entering into the lease, the partnership (the taxpayer) was acting in the course or furtherance of its taxable activities.

##### **2. Paragraph 52**

- (a) After 'Authority'; insert 'also'.
- (b) Omit 'of Lease'.
- (c) Omit ', TRA No 31/95' from footnote 34.

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<sup>33</sup> *Case S41 17 NZTC 7280*.

# GSTR 2003/16

### 3. Paragraph 53

Omit the last dot point; substitute:

- the premises are located in the indirect tax zone.<sup>34A</sup>

### 4. Case references

Omit:

- S41, TRA No 31/95 17 NZTC 7280

Insert:

- Case S41 17 NZTC 7280

This Addendum applies both before and after its date of issue.

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## Commissioner of Taxation

9 September 2015

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ATO references

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<sup>34A</sup> See subsection 195-1 of the GST Act for the definition of 'indirect tax zone'.