

# ***GSTR 2006/10A3 - Addendum - Goods and services tax: insurance settlements and entitlement to input tax credits***



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## Addendum

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### Goods and Services Tax Ruling

#### Goods and services tax: insurance settlements and entitlements to input tax credits

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Goods and Services Tax Ruling GSTR 2006/10 to reflect amendments made to the *A New Tax System (Goods and Services Tax) Act 1999* by the *Tax and Superannuation Laws Amendment (2012 Measures No. 1) Act 2012*.

#### **GSTR 2006/10 is amended as follows:**

**1. Paragraph 6**

After the second dot point contained in the note; insert:

- The Addendum to this Ruling that issued on 10 July 2013 explains the Commissioner's view of the law as it applied on and from 1 July 2013. You can rely on this Addendum from its date of issue for the purposes of section 357-60 of Schedule 1 to the *Taxation Administration Act 1953*.

**2. Paragraph 6C**

Omit the paragraph; substitute:

6C. From 1 July 2012, some of the supplies referred to in paragraph 9A are GST-free under section 38-60.<sup>1B</sup>

**3. Paragraph 6D**

Omit the paragraph.

**4. Paragraph 46**

In the first sentence omit the word 'recent'.

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<sup>1B</sup> Section 38-60 was inserted by *Tax and Superannuation Laws Amendment (2012 Measures No. 1) Act 2012*. See paragraphs 75A to 75D of this Ruling.

## 5. Paragraph 48

Omit the paragraph; substitute:

48. In these cases, the insurer makes an acquisition as defined in section 11-10 and the acquisition is a creditable acquisition where the requirements of section 11-5 are satisfied.

## 6. Paragraph 75

After the paragraph insert:

### **GST-free health supplies made under tripartite arrangements**

75A. Under certain tripartite arrangements, an entity may make a GST-free supply of goods or services to an individual which results in the supplier making a further supply to a third party.<sup>28A</sup> Under section 38-60, certain supplies made to an insurer, a statutory compensation scheme operator or an operator of a compulsory third party scheme<sup>28B</sup> that arise when an entity makes GST-free supplies of goods or services under Subdivision 38-B to an individual are GST-free.<sup>28C</sup>

75B. Where an entity makes a supply to an insured person that is either wholly or partly GST-free under Subdivision 38-B (the underlying supply), a supply of the service of making the underlying supply by the entity to an insurer, in the course of settling insurance claims under an insurance policy (including private health insurance policies and taxable insurance policies) of which the insurer is an insurer, is GST-free under subsection 38-60(1) to the extent that the underlying supply is GST-free. For the purposes of subsection 38-60(1), an operator of a statutory compensation scheme is treated as an insurer and a claim for compensation under the statutory compensation scheme is treated as a claim under an insurance policy.<sup>28D</sup>

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<sup>28A</sup> See paragraphs 60 to 64C of this Ruling which discuss when two or more supplies may arise from the one set of activities.

<sup>28B</sup> Although not specifically applicable to insurance arrangements, certain supplies made to an Australian government agency that arise when an entity makes GST-free supplies of goods or services under Subdivision 38-B to an individual are GST-free under subsection 38-60(3).

<sup>28C</sup> Section 38-60 was inserted by *Tax and Superannuation Laws Amendment (2012 Measures No. 1) Act 2012*. Subsections 38-60(1), (2) and (3), and other associated amendments, apply in relation to supplies of services to insurers, operators of compulsory third party schemes, and Australian government agencies made on or after 1 July 2012. Subsection 38-60(4) applies in relation to agreements made before, on or after 1 July 2012. For further information see paragraphs 156A to 176H of GSTR 2006/9.

<sup>28D</sup> See subsections 78-100(1) and (2).

75C. Where an entity makes a supply to an individual that is either wholly or partly GST-free under Subdivision 38-B (the underlying supply), a supply of the service of making the underlying supply by the entity to an operator of a compulsory third party scheme, is GST-free under subsection 38-60(2) to the same extent as the underlying supply.

75D. However, the supplier and the recipient of the supply may agree for a supply not to be treated as GST-free under section 38-60.<sup>28E</sup>

#### **7. Paragraph 83**

In the first sentence omit 'paragraph 9-15(3)(a)'; substitute: 'subsection 9-17(1)'<sup>31A</sup>

#### **8. Paragraph 85**

Omit footnote 31; substitute 'Subsection 9-17(1).'

#### **9. Paragraph 86**

In the last sentence, after 'Division 11'; insert: 'where the requirements of section 11-5 are satisfied.'

#### **10. Paragraph 117**

At the end of the last sentence, insert footnote 43A:

43A. The insurer will not be entitled to an input tax credit for an acquisition that is supplied to the insurer as a GST-free supply under subsection 38-60(1) – see paragraph 11-5(b). The application of subsection 38-60(1) is discussed at paragraph 75B of this Ruling.

#### **11. Paragraph 119**

Omit the first sentence; substitute: '*Sam's employee, Nick, is injured at work on 1 May 2013.*'

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<sup>28E</sup> See subsection 38-60(4).

<sup>31A</sup> As inserted by *Tax and Superannuation Laws Amendment (2012 Measures No. 1) Act 2012*. Section 9-17 replaced former subsection 9-15(3).

## 12. Paragraph 126

Omit the paragraph; substitute:

126. *For the purposes of subsection 38-60(1), Sam's workers' compensation insurer, as an operator of a statutory compensation scheme, is treated as an insurer and Nick's claim for compensation is treated as a claim under an insurance policy.<sup>43B</sup> Anne makes a supply to the insurer being the service of making the supply of physiotherapy treatment to Nick. The supply Anne makes to Nick is GST-free under section 38-10 and is made for settling a claim under the worker's compensation insurance policy the insurer issued to Nick's employer. The insurer and Anne have not entered into an agreement to treat the supply Anne makes to the insurer as not being GST-free. The supply that Anne makes to the insurer is therefore GST-free under subsection 38-60(1). A decreasing adjustment is not available to the insurer because Nick's employer is entitled to a full input tax credit for his workers' compensation insurance premium.*

## 13. Paragraph 132D

After the first sentence insert footnote 44A:

44A. As the supplies the masseuse makes to Nick are not GST-free under Subdivision 38-B, the supply the masseuse makes to the insurer is not GST-free under subsection 38-60(1).

## 14. Paragraph 141 and 142

Omit the paragraphs and the footnotes; substitute:

141. *While stopping at a set of traffic lights, Scott's car is hit by David's car on 1 April 2013. Scott sustains a minor neck strain and makes a claim against David's CTP insurer (that is, the operator of the compulsory third party scheme). The CTP insurer refers Scott to a chiropractor for treatment. There is a binding obligation between the CTP insurer and the chiropractor concerning the treatment supplied to Scott. The supply the chiropractor makes to Scott is made under the compulsory third party scheme. The CTP insurer and the chiropractor have not entered into an agreement to treat the supply the chiropractor makes to the insurer as not being GST-free.*

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<sup>43B</sup> See subsection 78-100(1) and (2).

142. *In this scenario, the chiropractor is supplying a service to the CTP insurer. The supply of the service by the chiropractor to the CTP insurer is GST-free under subsection 38-60(2) to the extent that the underlying supply by the chiropractor to Scott is GST-free under Subdivision 38-B. The CTP insurer is only entitled to an input tax credit under Division 11 to the extent that the service it acquires from the chiropractor is a taxable supply.*

## **15. Detailed contents list**

Insert:

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## **16. Legislative references**

(a) Omit:

- ANTS(GST)A 1999 9-15(3)(a)

(b) Insert:

- ANTS(GST)A 1999 9-15(3)
- ANTS(GST)A 1999 9-17
- ANTS(GST)A 1999 9-17(1)
- ANTS(GST)A 1999 38-60(1)
- ANTS(GST)A 1999 38-60(2)
- ANTS(GST)A 1999 38-60(4)
- Tax and Superannuation Laws Amendment (2012 Measures No. 1) Act 2012

This Addendum applies on and from 1 July 2012.

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**Commissioner of Taxation**

10 July 2013

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ATO references

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