

# ***GSTR 2012/2A1 - Addendum - Goods and services tax: financial assistance payments***

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## Addendum

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### Goods and Services Tax Ruling

#### Goods and services tax: financial assistance payments

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Goods and Services Tax Ruling GSTR 2012/2 to reflect the amendments to the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) which were made by *Tax and Superannuation Laws Amendment (2012 Measures No. 1) Act 2012*. In particular it reflects the amendment that inserted section 9-17 into the GST Act. Section 9-17 contains exclusions from the meaning of 'consideration' formerly contained in subsection 9-15(3). Section 9-17 is now also referred to in the definition of 'consideration' as defined by section 195-1. The amendments apply to payments made on or after 1 July 2012.

#### **GSTR 2012/2 is amended as follows:**

**1. Paragraph 3**

Omit the paragraph; substitute:

3. This Ruling does not address the treatment of payments made between government related entities that are excluded from the definition of consideration.<sup>4</sup> However, where subsection 9-17(3) does not apply to a payment the principles in this Ruling may be relevant.

**2. Footnote 4**

Omit the footnote; substitute:

<sup>4</sup> Subsection 9-17(3).

**3. Footnote 18**

Omit the footnote; substitute:

<sup>18</sup> Subsection 9-17(2).

**4. Footnote 21**

Omit the footnote; substitute:

<sup>21</sup> Subsection 9-17(2).

## 5. Paragraph 86

Omit the paragraph; substitute:

86. This Ruling explains the Commissioner's view of the law as it applies both before and after its date of issue (subject to the transitional arrangements outlined in paragraphs 92 and 93). You can rely upon this Ruling on and from its date of issue for the purposes of section 357-60 of Schedule 1 to the *Taxation Administration Act 1953*.

## 6. Paragraph 87

(a) Omit the words 'The final'; substitute 'This'.

(b) After paragraph 87, insert:

87A. The Addendum to this Ruling that issued on 14 August 2013 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 357-60 of Schedule 1 to the *Taxation Administration Act 1953*.

87B. 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 the 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 the 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.

## 7. Paragraph 88

Omit the words 'As this final'; substitute 'This'.

## 8. Footnote 30

Omit the footnote; substitute:

<sup>30</sup> Sections 9-15 and 9-17.

**9. Paragraph 101**

Omit 'section 9-15'; substitute 'sections 9-15 and 9-17'.

**10. Paragraph 103**

Omit paragraph (a); substitute: 'certain payments made by a government related entity to another government related entity<sup>41</sup> or'.

**11. Footnote 41**

Omit the footnote; substitute:

<sup>41</sup> Subsection 9-17(3).

**12. Footnote 42**

Omit the footnote; substitute:

<sup>42</sup> Subsection 9-17(2).

**13. Footnote 43**

Omit the footnote; substitute:

<sup>43</sup> Subsection 9-17(2).

**14. Paragraph 121**

Omit 'consideration under section 9-15'; substitute: 'consideration<sup>63A</sup>'.

**15. Paragraph 128**

Omit 'supply under section 9-15'; substitute: 'supply<sup>70A</sup>'.

**16. Paragraph 129**

Omit the paragraph; substitute:

129. The nature of the connection between consideration and supply was considered by the High Court in *Federal Commissioner of Taxation v. Reliance Carpet Co Pty Ltd*<sup>73</sup> where it was noted that consideration, as defined, includes amongst other things any payment 'in connection with' a supply of anything. The Court further gave an indication that the connection need not be direct though it did not expand on what the extent of the connection needs to be.<sup>74</sup>

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<sup>63A</sup> Sections 9-15 and 9-17.

<sup>70A</sup> Subsection 9-15(2).

## 17. Related Rulings / Determinations

Omit; 'GSTR 2011/2'

## 18. Legislative References

Omit;

- ANTS(GST)A 1999 9-15(3)(b)
- ANTS(GST)A 1999 9-15(3)(c)

Insert:

- ANTS(GST)A 1999 9-17
- ANTS(GST)A 1999 9-17(1)
- ANTS(GST)A 1999 9-17(2)
- ANTS(GST)A 1999 9-17(3)

This Addendum applies on and from 1 July 2012.

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### Commissioner of Taxation

14 August 2013

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#### ATO references

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ATOlaw topic: Goods and Services Tax ~~ Charities and non-profit ~~  
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Goods and Services Tax ~~ Charities and non-profit ~~  
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