

# GST

The Australian Goods and Services Tax (GST) regime came into effect on the 1st of July 2000 after the A New Tax System 1999 Acts were passed through both houses of parliament.

The GST is levied at a rate of 10% on GST rated supplies. The GST rated supplies include almost all goods and services with the exception of fresh food, health care and education expenses which are zero rated. Financial supplies are input taxed, which means no tax is levied on the final supply of the good or service, but the tax on inputs used to produce that goods and service do not attract input tax credits.

GST Calculator

## Overview of the GST Act

The GST provisions in Australia come from the A New Tax System (Goods and Services Tax) Act 1999. The central provisions of this Act are contained in Division 7. The central provisions state that:

GST is payable on taxable supplies and taxable importations;

Input tax credits can be claimed on creditable acquisitions and creditable importations; and

GST and input tax credits are offset to produce a net amount for a tax period to be remitted by a registered taxpayer to the Australian Taxation Office.

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## Taxable Supplies

### A NEW TAX SYSTEM (GOODS AND SERVICES TAX) ACT 1999 - SECT 9.10

#### Meaning of supply

- (1) A supply is any form of supply whatsoever.  
 (2) Without limiting subsection (1), supply includes any of these:

- (a) a supply of goods;
- (b) a supply of services;
- (c) a provision of advice or information;
- (d) a grant, assignment or surrender of \* real property;
- (e) a creation, grant, transfer, assignment or surrender of any right;
- (f) a \* financial supply;
- (g) an entry into, or release from, an obligation:

- (i) to do anything; or
- (ii) to refrain from an act; or

(iii) to tolerate an act or situation;

(h) any combination of any 2 or more of the matters referred to in paragraphs (a) to (g).

(3) It does not matter whether it is lawful to do, to refrain from doing or to tolerate the act or situation constituting the supply.

(3A) For the avoidance of doubt, the delivery of:

(a) livestock for slaughtering or processing into \* food; or

(b) game for processing into \* food;

under an arrangement under which the entity making the delivery only relinquishes title after food has been produced, is the supply of the livestock or game (regardless of when the entity relinquishes title). The supply does not take place on or after the subsequent relinquishment of title.

(4) However, a supply does not include a supply of \* money unless the money is provided as \* consideration for a supply that is a supply of money.

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The legislative provisions show a very broad definition of supply for the purposes of the GST. It has been held that even if a supply is not lawful, it will still be considered a supply for the purposes of the Act.

Goods are defined as 'any form of tangible personal property.' The Act does not define 'services

#### Consideration

Consideration for the purposes of the GST is defined in s 9-15 very broadly. Where consideration is composed of taxable and non-taxable components, GSTR 2001/8 issued by the Australian Tax Office explains how the consideration is apportioned.

#### Departures from General Consideration Rules

##### Options

Where a supply occurs due to the exercise of a right or option, the consideration for the supply is limited to any additional consideration provided for the supply. Essentially, the grant of an option, and the exercising of that option are treated as separate supplies for GST purposes.

##### Donations

Donations to non-profit bodies is not the provision of consideration for the purposes of GST.

##### Payment of Tax

Payment of Australian taxes or fees (apart from GST itself) may be treated as the provision of consideration (s 81-5(1)). This means that the tax fee or charge is paid inclusive of GST - with the Government agency required to remit the GST to the Australian Tax Office. There are exceptions to this, and the list of such exemptions as determined by the Treasurer are available from the ATO website.

##### Deposits as Security

Taking of deposits for the purposes of security for the performance of an obligation is not considered consideration, unless that deposit is forfeited, which would mean consideration has taken place for GST purposes.

##### Vouchers

Vouchers, when purchased, are not treated as taxable supplies. When the voucher is redeemed, consideration is

deemed to have occurred.

#### Cancelled Lay-By sales

Consideration has been provided once a lay-by has been cancelled and the payments made have been forfeited.

#### Repayments of Gambling Losses by Supplier

Under s 126-32, a repayment of money by a supplier of gambling services to a gambler to cover part of all of the gambler's losses is not the provision of consideration.

#### Enterprise

For a supply to be considered a taxable supply for the purposes of the GST Act, a supply must be made "in the course or furtherance of an enterprise that you carry on" [s 9-5(b)].

Under the GST Act [s 9-20(2)], an enterprise does not include activities done:

as activities of an employees or employee like earnings that are taxed by relevant withholding payments as an employee or PAYE earner;

as a private recreational pursuit or hobby;

by individuals or partnerships of individuals without a reasonable expectation of profit or gain;

as a member of a local governing body as defined in the Act [s 9-20(2)(d)].

#### Carrying On

Carrying on an enterprise for the purposes of the GST Legislation includes doing anything in the course of the commencement or termination of the enterprise (s 195-1).

#### Isolated Activities

An isolated activity can be considered an 'enterprise' if it is done 'on a regular and continuous basis' [s 9-20(c)].

#### When an Activity in the form of a Business is Carried On

A 'business' is defined in the Act [s 195-1] as including any profession, trade, employment, vocation or calling, but does not include occupation as an employee. The definition is identical to that applied to income tax law, and so its parameters are set by the relevant case law.

Being an enterprise does not necessarily make you a business, but if you are a business, you are certainly considered an enterprise for GST purposes.