

Taxation Law 1
BLAW30002
Semester 2, 2016
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Goods and services tax (NEW TAX SYSTEM (GST TAX) ACT 1999)

- Tax on final PRIVATE consumption
- 10% tax on supplies and importation unless input taxed or GST free
- Only charged and credits claimed by GST entities registered for GST
- Imposed each time when goods and services supplied or imported
- Born by consumers
- Remitted by suppliers

Taxable supply (9-5)

- 9-40 company required to pay GST on taxable supplies
- 9-70 GST is payable by the supplier on 10% of the value of the taxable supply.
- 9-75 Value of taxable supply = 10/11 of price

1. SUPPLY (9-10)	<ul style="list-style-type: none">• 9-10 (1) include any form of supply whatsoever• 9-10(2) includes<ul style="list-style-type: none">▪ Supply of goods and services▪ Provision of advice or information▪ Grant, assignment or surrender of real property or an interest in real property.▪ Creation, grant, transfer, assignment or surrender of any right▪ Financial supply▪ Entry into, or release from, an obligation “to do anything, or to refrain from an act, or to tolerate an act or situation”.• 9-10 (3) illegality of the supply is not relevant
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	<ul style="list-style-type: none"> • 9-10(4) does not include supply of money unless consideration of the supply that is the supply of money (e.g. foreign currency transactions). • <i>FCT V Reliance Carpet Co Pty (2008)</i> – Non refundable Deposit for a commercial property which was not bought is supply as it provide the right to enter in to contract which is the supply. • <i>FCT V Qantas Airways (2012)</i> - Non refundable fee for flights when customer doesn't turn up is taxable as supply is making sure that the passenger gets a seat to travel to particular destination.
2. Made for CONSIDERATION (9-15)	<ul style="list-style-type: none"> • 9-15(1) Any payment or act or forbearance in connection with the supply or for the inducement of the supply (payment = Cash or ANY KIND). • 9-15(2) Does not matter whether the payment was voluntary or whether it was by the recipient of the supply.
3. In the course of furtherance of ENTERPRISE (9-20)	<ul style="list-style-type: none"> • 9-20 (1)(a) any activity conducted in the form of a business (<i>stone (2005); Ferguson (1979)</i>). • 9-20(1)(b) Insolated commercial activities in the form of an adventure or concern in the nature of trade (<i>whitfords beach (1982); Westfield (1991); Myer Emporium (1987)</i>). • 9-20 (1)(c) leasing a property in regular and continuous basis • 9-20(1)(d)-(g) Activities carried out by trustee, charities, religious institutions and government bodies. • BUT NOT the provision of labor as an employee or hobbies (9-20(2)).
4. Where the supply is connected with AUSTRALIA (9-25)	<ul style="list-style-type: none"> • Goods are delivered or made available to the recipients in Australia. • The supply involves those goods being removed from Australia (EXCLUDING EXPORTS)

	<ul style="list-style-type: none"> • Goods are imported in to Australia or installation. Assembly of goods in Australia. • The supply is of Australian land. • If it's a service the thing is done in Australia or the supply is made through an enterprise carried in Australia.
5. By s person REGISTERED or should be registered for GST	<ul style="list-style-type: none"> • 23-10 can register for GST if carry on an enterprise • Must register if the annual turn over exceeds the threshold (23-5; 23-15; Regulations 23-15.01 & 23-15.02). <ul style="list-style-type: none"> ▪ Non profit: > 150,000 ▪ All Other: > 75,000 (Annual turn over; 188-15 GSTR 2001/17).
6. And is NOT input taxed (Div 40) or GST free (Div 38)	<ul style="list-style-type: none"> • GST free supplies (Division 38) <ul style="list-style-type: none"> ▪ Food (s38-2, 38-3. Schedule 1, Lansell House (2011)). ▪ Health ▪ Education ▪ Childcare ▪ Exports and other supplies for consumption outside Australia ▪ Religious activities ▪ Non commercial activities by charitable institutions ▪ Raffles and bingo conducted by charitable institutions ▪ Supplies of going concern ▪ Transport and related matters ▪ Precious metals ▪ Supplies through inwards duty free shops ▪ Grants and land by government ▪ Farm and land ▪ Cars used by disabled people ▪ International mail • Input taxed supplies (Division 40) <ul style="list-style-type: none"> ▪ Financial supplies (GSTR 2002/2)

	<ul style="list-style-type: none"> ▪ RESIDENTIAL RENT ▪ Sale of EXISTING RESIDENTIAL premises ▪ Precious metals ▪ School tuck shops ▪ Fund raising events conducted by charitable institutions
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Credible acquisition (11-5)

- An entity can claim input tax credits in respect of the amount of GST paid on creditable acquisitions (11-5 & 11-20)
- But no entitlement to input tax credits if creditable acquisition relates to provision of input taxed supplies (11-15 & 15-10).
- No entitlement to input tax credits for non deductible expenses (div 69)
 - Penalties
 - Relatives travel expenses → FBT
 - Entertainment → FBT
 - Recreational club expenses → FBT

1. Acquisition (11-10) solely or partly for CREDITABLE purpose (11-15) (acquired in carrying out the enterprise and NOT input taxed or private or domestic in nature)
2. TAXABLE SUPPLY and liable to provide CONSIDERATION (9-5)
3. REGISTERED or required to be registered for GST purpose (23-5; 23-15)

	GST Payable?	Entitled to input tax credits on acquisitions?
Taxable supply	✓	✓ (if creditable acquisition)
GST-free supply	x	✓ (if creditable acquisition)
Input taxed supply	x	x

Taxable importation (13-5)

- Subjected to GST regardless of carrying on enterprise (13-5)
- Must be taxable importation (13-5) not GST free or input taxed supply
- For home consumption
- Must be > \$1000
- Importer is liable for GST on importation (13-5)
- GST payable = Custom value + certain other costs

Creditable importation (15-5) entitled to input tax credits

- Creditable purpose (11-5)
- Taxable importation (13-5)
- Registered for GST or required to be registered for GST (23-5; 23-15).
- Input tax credits = GST payable on importation (15-20)

Adjustment (division 9 and Division 129)

- Cancelling supply or acquisition
- Changing the consideration for the supply or acquisition
- Cause a supply or acquisition to become, or stop being, a taxable supply or creditable acquisition.

GST Administration

- GST is remitted using BAS (business activity statement)
 - Entities that are registered or required to be registered for GAT includes in their BAS
 - Entitlements to input tax credits (GST paid)
 - GST payable (GST collected)
- ** So for the period there is either net GST payable or refund position
- An entity lodges BAS either quarterly or monthly
 - Quarterly: Other companies
 - Monthly: annual turnover > 20 million, companies with bad history

Interaction with other taxes

- 17-5 ITAA97; Seller exclude GST amount when calculating AI
- 27-5 ITAA97: If get refund claim expenses excluding GST
- FBT : Type 1 OR Type 2