

# GST

## GST Basics

- Broad-based consumption tax, designed to impose tax on final private consumers
- Main rules
  - 10 % tax on supplies and importations unless 'input-taxed' or 'GST-free'
  - Only charged and credits claimed by entities registered for GST
  - Imposed each time the goods/services are supplied or imported
  - Borne by consumers
  - Remitter by suppliers

### Taxable supply

Defined in *s95 as*

- A SUPPLY
- Made for consideration
- In the course of furtherance of an enterprise
- Where the supply is connected with AUSTRALIA ( indirect tax zone)
- By a person REGISTERED or should be registered for GST
- And is NOT 'input-taxed' or 'GST-free'

## Supply

- Any form of supply whatsoever : *s9-10 (1)*
- Includes *s9-10 (2)*
  - Supply of goods and services
  - Provision of advice of information
  - Grant, assignment or surrender of real property or an interest in real property
  - Creation, grant, transfer, assignment or surrender of any right
  - A 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'
- Illegality of supply is irrelevant: *s9-10 (3)*
- Does not include a supply of money unless consideration for a supply that is the supply of money : *s9-10 (4)*
- ***Reliance Carpet (2008); Qantas Airways (2012)***

## Consideration

- Any payment or act or forbearance in connection with the supply or for the inducement of the supply *s9-15(1)*

- Payment = cash or in kind
- Does not matter whether the payment was voluntary or whether it was by the recipient of the supply s9-15(2)

### Enterprise

- Any activities conducted in the form of business s9-20(1) (a)
  - E.g **Stone Ferguson TR97/11 TR2005/1**
- Isolated commercial activities in the form of adventure or concern in the nature of trade s9-20(1)(b)
  - E.g **Whitfords Beach, Westfield, Myer**
- Leasing property on a regular/ continuous basis : s9-20(1) (c)
- Activities carried out by trustees, charities, religious institutions and government bodies : s9-20 (1) (d)- (g)

### BUT NOT

- The provision of labour as an employee
- Private, recreational pursuits or hobbies : s9-20(2)

### Indirect tax zone (Australia)

- s9-25
- A supply will be connected with Australia if
  - Goods are delivered or made available to the recipient in Australia
  - The supply involves those goods being removed from Australia (NB: exemption or exports)
  - Goods are imported into Australia or installation/ assembly of goods is in Australia or
  - The supply is of Australian Land
- If not goods/ real property the thing is done in Australia or the supply is made through an enterprise carried on Australia

### Registered

- Any entity can register for GST if carrying on an enterprise s23-10
- Entities must register for GST if GST turnover exceeds registration turnover threshold s23-5
  - GST turnover → ss188-10 188-15 188-20; GSTP 2001/7
  - Registration turnover threshold
    - Non profit TPs > 150000 s23-15 ; Regulation 23-15.01
    - All other TPs > 75000 s23-15 Regulation: s23-15.02
- Exception: Taxi drivers: s144-5; Ride sharing : **Uber (2017)**

## Exemptions

- GST-free supplies (*Division 38*)
  - Food : *s38-2, 38-3 Schedule 1 : Lansell House (2011)*
  - Health
  - Education
  - Childcare
  - Exports & other supplies for consumption outside Australia
  - Religious service
  - Activities of charities etc
  - Water and sewerage
- GST free supplies ( *Divison 38*)
  - Supplies of going concerns
  - Transport and related matters
  - Precious Metals
  - Supplies through inward duty free shops
  - Grants of land by government
  - Farm land
  - Cars for use by disabled people
  - International mail
  - Telecommunication supplies made under global roaming arrangements
  - Eligible emission units
- Input-taxed supplies (*Division 40*)
  - Financial supplies ( *GSTR 2002/2*)
  - Residential rent
  - Sale existing residential premises
  - Precious metals
  - School tuckshops / canteens
  - Fund-raising events conducted by charitable institutions

## Consequences

- Taxable supply ( not “exempt”)
  - GST is payable by the supplier on 10% of the value of taxable supply *s9-70*
- GST-FREE or INPUT TAXED supplies
  - NO GST is payable on the supply

## Creditable acquisition

Defined in s11-5

- ACQUISITION solely or partly for a creditable purpose ( s11-15)
- The supply made to you was taxable supply
- You have provided or are liable to provide consideration for the acquisition
- You are registered or required to be registered for GST.

## Acquisition

- Acquisition in 'any form' including s11-10
  - Acquisition of goods and services
  - Receipt of advice or information
  - Acceptance of a grant, assignment or surrender of real property
  - Acceptance of a grant, transfer , assignment or surrender of any right
  - Acquisition of financial supply
  - Acquisition of a right to require another person to do something, to refrain from an act, or to tolerate an act.

## Consequences

- An entity can claim input tax credit in respect of the amount of GST paid on creditable acquisitions s11-5 & 11-20
- BUT no entitlement to input tax credits if creditable acquisition relates to the provision of *input taxed supplies* s11-15 & 15-10
- ALSO → **no entitlement to input tax credits** for *non-deductible expenses* ( Div 69)
  - Penalties
  - Relatives travel expenses (note FBT interaction)
  - Entertainment (note FBT interaction)
  - Recreational club expense (note FBT interaction)

<u>SUMMARY</u>		
	GST PAYABLE?	Entitled to input tax credits on acquisitions?
Taxable supply	✓	✓
GST-free supply	✗	✓
Input- taxed supply	✗	✗

## Special rules

1. Importations ( *Division 13*)
2. Adjustments

## Importations

- Subject to GST regardless of registration or carrying on enterprise ( *note to s13-5*)
- Must be a taxable importation ( *s13-5*)
  - Low- value goods ( <\$1000)
  - Digital supplies ( ‘ Netflix tax’)
- Importer liable for GST on importation *s13-15*
- GST payable is calculated based on the custom value of the goods plus certain other cost (*s13-20*)
- Entitled to input tax credits if creditable importations ( *s15-5*)

## Adjustments

- *Division 19 and 129*
- Adjustment events
  - Cancelling a supply or acquisition
  - Changing the consideration for a supply or an acquisition
  - Causing a supply or acquisition to become or stop being, a taxable supply or creditable acquisition
- Increasing and decreasing adjustments

## GST Administration

- GST is remitted 免除 using a Business Activity Statement (BAS)
- Entities that are registered or required to be registered for GST include on its BAS
  - Entitlement to input tax credits ( ie GST paid)
  - GST payable ( i.e GST collected)

For the period and is either in net GST payable / refund position

- An entity completes and lodges a BAS either quarterly or monthly

## Interaction with other taxes

- Income tax
- Fringe benefit tax

Australian resident	Foreign resident
- Is a resident of Australia for tax purposes : <i>s995-1 ITAA36</i>	- Is not a resident of Australia for tax purposes: <i>s995-1 ITAA36</i>
- All ordinary income and statutory income of an “ Australian resident” taxpayer derived directly or indirectly from <b>all sources</b> , whether in or out in Australia, during the income year: <i>s6-5(2) →ordinary income; s6-10(4) → statutory income</i>	- All ordinary income and statutory income of a ‘foreign resident’ taxpayer derived directly or indirectly from <b>all Australian sources</b> during the income year and any other amounts specifically included: <i>s6-5(3) &amp; s6-10 (5)</i>

