

Sample of Issue Spotting Table:

Event	Issues to Discuss
Timing	GST: After 1 July 2000 CGT: After 1985 <ul style="list-style-type: none"> • Pre-CGT asset not apply 104-10(5) = no capital gain and no capital loss
Directing payments to another person	<ul style="list-style-type: none"> • Taken to receive amount as soon as it is applied or dealt with on your behalf 6-5(4) • Recipient not assessable
Lease of Property	<ol style="list-style-type: none"> 1. GST for Lessor <ul style="list-style-type: none"> • Taxable supply 9-5 = provision of premises • Lease is in the course of enterprise 9-20(c) • Lessor must therefore charge GST 9-40; 7-1 UNLESS it is an input tax supply such as a supply of a lease of residential premises 40-35 2. ITC for Lessee <ul style="list-style-type: none"> • Creditable purpose 11-20 3. Assessable income for Lessor <ul style="list-style-type: none"> • Rent is ordinary income 6-5; Adelaide Fruit • Rent value = income; 10/11 x rent value = assessable income because non-assessable, non-exempt income (i.e. GST 17-5) must be deducted 4. Deduction for Lessee 8-1 <ul style="list-style-type: none"> • Rent is deductible if there is a business nexus <i>South Australian Batter Makers</i> • Lessee won't get a deduction for rent that relates to 7-5
Purchase/Sale of Property	<ol style="list-style-type: none"> 1. GST for Vendor <ul style="list-style-type: none"> • Enterprise involves adventure in the nature of trade 9-20(1)(b) = GST applies • Sale of a residential premises is input taxed to the extent that it is to be used for residential purposes 40-65 • Not input taxed supply to the extent that a new residential premises s40-65(2), in which case it would be a taxable supply 2. ITC for Purchaser <ul style="list-style-type: none"> • Creditable purpose test 3. Income for Vendor <ul style="list-style-type: none"> • Income for value (excluding GST) assessable under 6-5 (Myer) • Was it a profit making scheme - the purpose of selling a land for a profit is analogous to <i>Moana Sands</i> 4. Deductions for purchasing the property under 8-1 <ul style="list-style-type: none"> • This is a profit making scheme, so Purchase will get assessed on the net profit 5. CGT <ul style="list-style-type: none"> • Land is a CGT asset • CGT event A1 • Cost base does not include GST 103-30 • If a supply for GST purposes, capital proceeds do not include any GST charged on the supply 116-20(5) • Reduce capital gain by amount that is assessable as ordinary income

GOODS AND SERVICES TAX

1. Is [SUPPLIER] required to charge GST on the supply, and is [ACQUIRER] required to pay GST on the supply?

Per s 7-1(1) GSTA, GST is payable on taxable supplies and taxable importations.

- a. The test in 9-5 shall be used to determine whether [ITEM] is a taxable supply. This sets out the following four requirements:

- i. Supply for **consideration** 9-10

1. 'Supply' is broadly defined in 9-10(1) as 'any supply whatsoever' and takes on ordinary dictionary meaning, including specifically 9-10(2)
 - a. Goods (a) or services (b)
 - b. Provision of advice or information (c)
 - c. Grant, assignment or surrender of real property (d)
 - d. Creation, grant, transfer, assignment or surrender of any right (e)
 - e. Financial supply (f)
 - f. Entry into or release from an obligation to do anything, or refrain from an act, or tolerate an act or situation (g)
 - the lawfulness of the supply is irrelevant 9-10(3)
 - a supply does not include supplies of money or digital currency 9-10(4)
2. Consideration means any payment or any act or forbearance in connection with the supply of anything or in response to or for the inducement of a supply of anything 9-15
 - a. Gifts, deposits and taxes (Barkoczy, p 152)

- ii. **In course or furtherance of an enterprise** 9-20

1. Per s9-20(1), an enterprise is an activity or series of activities done
 - a. In the form of a business (a)
 - b. In the form of an adventure or concern in the nature of trade (b)
 - c. On a regular or continuous basis in the form of a lease, licence or other grant or interest in property (c)
 - d. By the trustee of a fund (d) or complying superannuation fund (da)
 - e. By a charity (e)
 - f. In s195.1, 'carrying on' includes 'doing anything in the course of the commencement or termination of the business', which includes selling/buying a business and the underlying goods/services in the business.

2. However, 'enterprise' does not include any activity done:
 - a. By a person as an employee (9-20(2)(a))
 - b. As a private recreational pursuit or hobby (b)
 - c. By an individual or partnership without a reasonable expectation of profit or gain (c)
3. Does **not** include hobbies or the activities of an employee 9-20(2)
- iii. **Connected with the indirect tax zone 9-25**
 Goods are connected with the indirect tax zone if they are [delivered to/removed from/brought to] the indirect tax zone, per 9-25. **It shall be assumed that all of the transactions occur within Australia, and therefore the supply is connected with the indirect tax zone.**
- iv. **[X] must be registered for GST, or required to be registered for GST under s9-5(d). 23-5, 23-10 :**
 1. An entity **may** be registered for GST if it is carrying on an enterprise 23-10
 2. An entity **must** be registered if it is carrying on an enterprise (see above) and the GST turnover meets the registration turnover threshold, which is defined in s195.1 to reference s23.15 creating the threshold of \$50,000. 23-5

b. Is the supply GST-free? 38-2

A supply is not a taxable supply if it is GST free or input taxed 9-5

- i. The supply will be GST-free if it falls into one of the following categories:
 1. Food (38.2), excluding food listed in s38-3 such as
 - a. Food for consumption on the premises from which it is supplied (a)
 - b. Hot food for consumption away from those premises (takeaway food) (b)
 - c. Food of a kind specified in clause 1 of Schedule 1 (c)
 - i. Prepared food
 - ii. Confectionary
 - iii. Savoury snacks
 - iv. Bakery products
 - v. Ice-cream food
 - vi. Biscuit goods
 - d. A beverage other than those beverages listed in clause 1 of Schedule 2 (d)
 - i. Milk products (including soy and rice milk)
 - ii. Tea, coffee, etc
 - iii. Fruit and vegetable juices
 - iv. Beverages for infants or invalids
 - v. Natural, non-carbonated water without any additives