A New Tax System (Goods and Services Tax Transition) Bill 1998

No. , 1998

(Treasury)

A Bill for an Act to implement A New Tax System by making transitional provisions for the start of the goods and services tax, and for related purposes
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A Bill for an Act to implement A New Tax System
by making transitional provisions for the start of
the goods and services tax, and for related purposes

The Parliament of Australia enacts:

Part 1—Introduction

1 Short title

This Act may be cited as the A New Tax System (Goods and
Part 1  Introduction

Section 2

2 Commencement

(1) This Act commences, or is taken to have commenced:
   (a) after all the Acts listed in subsection (2) have received the Royal Assent; and
   (b) on the day after the last day on which any of those Acts received the Royal Assent.

(2) These are the Acts:
   (a) the A New Tax System (Goods and Services Tax) Act 1998;
   (b) the A New Tax System (Goods and Services Tax Imposition—Excise) Act 1998;
   (c) the A New Tax System (Goods and Services Tax Imposition—Customs) Act 1998;
   (d) the A New Tax System (Goods and Services Tax Imposition—General) Act 1998;
   (e) the A New Tax System (Goods and Services Tax Administration) Act 1998.

3 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

4 Overview

The following provisions deal with the transition from sales tax to GST, as well as other matters relating to the start of the GST.

This Act should be read in conjunction with the GST law and the sales tax law.
5 Definitions

(1) In this Act:


(2) Other expressions in this Act have the same meaning as in the GST Act.

(3) However, the table lists expressions that have the same meaning as in another Act.

<table>
<thead>
<tr>
<th>Item</th>
<th>This expression...</th>
<th>has the same meaning as in...</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>assessable dealing</td>
<td>Sales Tax Assessment Act 1992</td>
</tr>
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<td>2</td>
<td>assessable goods</td>
<td>Sales Tax Assessment Act 1992</td>
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<tr>
<td>3</td>
<td>borne tax</td>
<td>Sales Tax Assessment Act 1992</td>
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<td>4</td>
<td>motor vehicle</td>
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<td>5</td>
<td>passed on</td>
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<td>6</td>
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</tr>
<tr>
<td>8</td>
<td>trading stock</td>
<td>Income Tax Assessment Act 1997</td>
</tr>
</tbody>
</table>

6 Time of supply or acquisition

(1) This section sets out how to determine when a supply or acquisition is made for the purposes of this Act.

Note: Many of the rules in this Act rely on this concept.

(2) A supply or acquisition of goods is made:

(a) when the goods are removed; or
(b) if the goods are not to be removed—when the goods are made available to the recipient; or
(c) if the goods are removed before it is certain that a supply will be made (for example, if the goods are given or taken on...
Part 1  Introduction

Section 6

1 approval, sale or return, or similar terms)—when it becomes
2 certain that a supply has been made.

3 (3) A supply or acquisition of real property is made when the property
4 is made available to the recipient.

5 (4) A supply or acquisition of services is made when the services are
6 performed.

7 Note: However, section 11 provides a different rule for progressive and
8 periodic contracts.

9 (5) A supply or acquisition of any other thing is made when the thing
10 is performed or done.

11 Note: However, section 11 provides a different rule for progressive and
12 periodic contracts.
Part 2—Start of GST

7 Start of GST

(1) GST is only payable on a supply or importation to the extent that it is made on or after 1 July 2000.

(2) An entitlement to an input tax credit only arises on an acquisition or importation to the extent that it is made on or after 1 July 2000.

Note: There are special rules about input tax credits for motor vehicles etc.: see section 19.

(3) An entitlement to a diesel fuel credit only arises on an acquisition or importation of diesel or like fuel to the extent that it is made on or after 1 July 2000.

8 Effect on sales tax

(1) No sales tax is payable on an assessable dealing to the extent that a supply or importation in respect of the dealing is made on or after 1 July 2000.

Note 1: If sales tax has been paid, a credit will arise for the amount overpaid, to the extent that the claimant has not passed it on: see CR1 in Table 3 in Schedule 1 to the Sales Tax Assessment Act 1992.

Note 2: For the end of sales tax generally, see the A New Tax System (End of Sales Tax) Act 1998.

(2) Despite the A New Tax System (End of Sales Tax) Act 1998, if:

(a) all or part of a supply or importation in respect of an assessable dealing is made before that Act commences (even if it is also made before this Act commences); and

(b) the time of the dealing is on or after 1 July 2000;

for the purpose of determining the extent (if any) to which sales tax is payable on the dealing, the time of the dealing is taken to be immediately before that Act commences.
Part 2  Start of GST

Section 9

9 GST registration before 1 July 2000

(1) Parts 2-5 and 4-5 of the GST Act, and any other provisions of the GST law so far as they relate to registration, apply on and after the day determined by the Commissioner (even if that day is before the commencement of the GST Act).

Note: From that day, you may apply to be registered if you are entitled to do so under section 23-10 of the GST Act.

(2) However, you are not required to be registered before 1 June 2000.

Example: On 1 May 2000, you start carrying on a business whose annual turnover meets the registration turnover threshold. Although you would normally be required to apply within 21 days, you can apply anytime before 1 June 2000. But if instead you start carrying on a business on 20 May, you have until 10 June (21 days later) to apply to be registered.

10 Invoice or consideration before 1 July 2000

If, before 1 July 2000:

(a) any consideration is received in connection with a supply, or provided in connection with an acquisition, that you will make on or after that day; or

(b) an invoice is issued relating to a supply or acquisition that you will make on or after that day;

for the purposes of determining the tax period to which GST or input tax credits are attributable, the consideration is taken to have been received or provided, or invoice taken to have been issued, during your first tax period after that day.

Note: Division 29 of the GST Act contains rules about attributing GST and input tax credits to tax periods.
Part 3—Agreements spanning 1 July 2000

11 Progressive or periodic supplies

(1) This section applies if:
   (a) you supply services or any other things (other than goods or real property) under an agreement, or an enactment, that provides (expressly or impliedly) that the services or things are to be supplied progressively over a period or otherwise on a periodic basis (whether or not at regular intervals); and
   (b) that period begins before 1 July 2000 and ends on or after 1 July 2000.

(2) For the purposes of this Act, the services or things are taken to be performed or done continuously and uniformly throughout that period.

12 Existing agreements: no opportunity to review

(1) This section applies if:
   (a) a written agreement specifically identifies a supply and identifies the consideration in money, or a way of working out the consideration in money, for the supply; and
   (b) the agreement was made before the day on which this Act received the Royal Assent.

(2) The supply is GST-free to the extent that it is made before the earlier of the following:
   (a) 1 July 2005;
   (b) if a review opportunity arises on or after the day of Royal Assent—when that opportunity arises.

(3) If all of the consideration was paid before 2 December 1998, the supply is also GST-free to the extent it is made on or after 1 July
Part 3  Agreements spanning 1 July 2000

Section 13

2005 but before a review opportunity has arisen as mentioned in paragraph (2)(b).

(4) However, if the recipient of the supply would not be entitled to a full input tax credit for it, treat the references in paragraphs (1)(b) and (2)(b) to the day of Royal Assent as references instead to 2 December 1998.

(5) In this section:

review opportunity, for an agreement to which this section applies, means an opportunity that arises under the agreement to change the consideration directly or indirectly because of the imposition of GST or to conduct a general review, renegotiation or alteration of the consideration.

13 Rights granted for life

(1) This section applies if:

(a) you supply services or any other things (other than goods or real property) under an agreement or enactment; and

(b) the agreement or enactment provides (expressly or impliedly) that a right is to be granted or exercisable for the rest of an individual’s life; and

(c) the right is granted or first exercisable before 1 July 2000.

(2) For the purposes of this Act, so much of the supply as is made before 1 July 2000 is instead taken to be made on 1 July 2000.

(3) However, in the case of an agreement entered into before 2 December 1998 that is also covered by section 12:

(a) subsections 12(2) and (3) do not apply; and

(b) instead, the supply is GST-free to the extent that the consideration for the supply is paid before the earlier of the following:

(i) 1 July 2005;

(ii) if a review opportunity as mentioned in paragraph 12(2)(b) arises—when that opportunity arises.
Section 14

14 Funeral agreements made before 2 December 1998

If, before 2 December 1998, you entered into an agreement for a supply consisting of the provision of a funeral and the agreement is covered by section 12:

(a) subsections 12(2) and (3) do not apply; and

(b) instead, the supply is GST-free to the extent that the consideration for the supply is paid before the earlier of the following:

(i) 1 July 2005;

(ii) if a review opportunity as mentioned in paragraph 12(2)(b) arises—when that opportunity arises.
Part 4—Stock on hand on 1 July 2000

15 Special GST credit for sales tax paid on stock

(1) You are entitled to a special credit for GST purposes if:
   (a) you are registered as at 1 July 2000; and
   (b) you have on hand, at the start of 1 July 2000, goods you
       acquired or imported that are held for the purposes of sale or
       exchange (but not for manufacture) in the ordinary course of
       business.

(2) However, this section does not apply to the following:
   (a) second-hand goods;
   (b) goods mentioned in subsection 15A(1) (alcoholic beverages)

(3) The amount of the special credit is equal to the amount of sales tax
    that you have borne in respect of the goods.

(4) The special credit is treated as though it were an input tax credit
    attributable to any one tax period of your choice. However, you are
    not entitled to it unless you separately identify it in a GST return
    that you lodge before 22 January 2001.

(5) The Commissioner may make a written ruling determining
    methods for working out the amount of sales tax that you have
    borne in respect of specified goods in cases where that amount is
    not readily ascertainable.

   Note: Goods may be specified by name, by inclusion in a specified class or
   in any other way.

16 Stock later applied for private or domestic purpose

(1) If:
Section 17

(a) you have on hand, at the start of 1 July 2000, assessable goods that are held for the purposes of sale or exchange (but not for manufacture) in the ordinary course of business; and

(b) on or after 1 July 2000, you apply the goods to any extent for a private or domestic purpose; and

(c) you are registered, or required to be registered, when you apply the goods;
you are taken, for the purposes of the GST law, to have made a taxable supply that is attributable to the tax period during which you apply the goods.

(2) The value of the supply is the market value of the goods (to the extent that they are applied for that purpose) when they were applied.

(3) If:

(a) you have on hand, at the start of 1 July 2000, assessable goods that are held for the purposes of sale or exchange (but not for manufacture) in the ordinary course of business; and

(b) on or after 1 July 2000, you cease to be registered; and

(c) you still hold the goods at the time of the cessation;
you are taken, for the purposes of the GST law, to have made a taxable supply that is attributable to the tax period that was in progress immediately before the cessation.

(4) The value of the supply is the market value of the goods as at the time of the cessation.

17 Second-hand goods

Division 66 of the GST Act applies to second-hand goods you acquired before 1 July 2000 only if you held them at the start of that day for the purposes of sale or exchange (but not for manufacture) in the ordinary course of business.
Part 5—Special transitional rules

Section 18

18 Construction agreements made before 1 July 2000

(1) This section applies to the extent that a supply of goods or real property is the construction, major reconstruction, manufacture or extension of a building or of a civil engineering work by the supplier, and the goods or real property are:

(a) supplied in accordance with a written agreement made before 1 July 2000; and

(b) made available to the recipient on or after 1 July 2000.

(2) The value of all work and materials permanently incorporated in or affixed on the site of the building or civil engineering work in accordance with the agreement must be determined, as at the start of 1 July 2000.

(3) GST is only payable on the supply to the extent that the value of the supply exceeds the value determined under subsection (2).

Note: Division 29 of the GST Act and section 10 of this Act contain rules about attributing the GST to tax periods.

(4) This section only applies to the extent that the value mentioned in subsection (2) is determined:

(a) in a manner specified by the Commissioner; and

(b) on or before the end of the supplier's first tax period after 1 July 2000, or a later day allowed by the Commissioner.

(5) If section 12 applies to the agreement, treat the references to 1 July 2000 in subsections (2) and (4) of this section and in section 10 as references instead to the earlier of the following:

(a) 1 July 2005;

(b) the time when a review opportunity as mentioned in paragraph 12(2)(b) first arises.
Section 19

19 Phasing in input tax credits for motor vehicles etc.

(1) This section applies to the acquisition or importation of:
   (a) a motor vehicle; or
   (b) a detachable trailer designed to be towed by a prime mover
       of a kind prescribed in the regulations; or
   (c) a body for a motor vehicle, including an insulated body,
       tank-body, or other body designed for transporting goods of
       particular kinds.

(2) You are not entitled to an input tax credit on the acquisition or importation if the acquisition or importation is made before 1 July 2001.

(3) If the acquisition or importation is made on or after 1 July 2001 but before 1 July 2002, the amount of any input tax credit you are entitled to on the acquisition or importation is reduced by 50%.

(4) This section does not apply in any of the following cases:
   (a) you acquire or import the motor vehicle, trailer or body to hold as trading stock, unless it is held for hire;
   (b) the motor vehicle, trailer or body is second-hand;
   (c) no dealing in respect of the acquisition or importation would be taxable under the sales tax law (assuming sales tax had not been ended by the A New Tax System (End of Sales Tax) Act 1998 and by section 8 of this Act);
   (d) you are an insurer and, in settling a claim, you acquire the motor vehicle, trailer or body to replace an insured motor vehicle, trailer or body.

20 Insured event before 1 July 2000

(1) The settlement of an insurance claim is not a taxable supply to the extent that the event giving rise to the claim happened before 1 July 2000.
Part 5 Special transitional rules

Section 21

(2) You are not entitled to an input tax credit for an insurance claim you pay to the extent that the event giving rise to the claim happened before 1 July 2000.

21 Gambling

(1) If you make a gambling supply before 1 July 2000 relating to a gambling event that happens on or after 1 July 2000, the gambling supply is instead taken to have been made on 1 July 2000 and is attributable to your first tax period after that day.

(2) In applying section 126-10 of the GST Act to work out your global gambling GST amount, disregard all monetary prizes you are liable to pay at any time on the outcome of gambling events that happened before 1 July 2000.
22 Regulations

(1) The Governor-General may make regulations prescribing matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or
  giving effect to this Act.

(2) In particular, regulations may be made for other transitional
measures relating to the end of sales tax, the start of GST, or the
transition from sales tax to GST.
Schedule 1—Amendment of the sales tax law

Sales Tax Assessment Act 1992

1 At the end of subsection 16(2)

Add:

Note: Generally, no sales tax is payable on an assessable dealing if the time of the dealing (as specified in column 4 of Table 1) is after the commencement of the A New Tax System (End of Sales Tax) Act 1998.

2 After item TCR3 in Table 3A in Schedule 1

Insert:

TCR4 Transitional credit for reduction of rates from 32% to 22% Claimant has borne tax on assessable goods covered by any of items 4 to 14 of Schedule 5 to the Exemptions and Classifications Act, and holds the goods for sale on the day on which the GST Act receives the Royal Assent. not applicable the difference between the amount of tax borne and the amount that would have been borne had the rate of tax instead been 22% the day on which the GST Act receives the Royal Assent

Sales Tax (Exemptions and Classifications) Act 1992

3 Items 4 to 14 of Schedule 5

Repeal the items.

4 Application of amendment

The amendment made by item 3 applies to dealings with goods on and after the day on which the GST Act receives the Royal Assent.

A New Tax System (Goods and Services Tax Transition) Bill 1998
No. 1, 1998