

# GST alert

Grant Thornton periodical reporting  
on Goods and Services Tax issues  
for clients in business.

Grant Thornton 

This edition of GST Alert examines **GST matters relevant to most businesses** that should be regularly reviewed...

## GST and Entertainment

Entertainment expenditure is generally non-deductible unless FBT has been paid. The GST treatment is practically identical - any entertainment expense that is non-deductible is ineligible for an input tax credit. The same rule is true even if the 50/50 split method or the twelve week register method is used in relation to meal entertainment for FBT purposes.

It is worth noting however, that the benefit of an input tax credit on entertainment expenditure is short-lived as the gross-up rate for FBT purposes has been increased to recover the input tax credits claimed on such expenses.

## Entitlement to credits

It is generally thought that an entitlement to an input tax credit is almost automatic for businesses. However, there is no general entitlement to an input tax credit on any expense which relates to the making of an "input taxed" supply.

The supplier making an input taxed supply does not need to remit GST, however in contrast to a GST-free supply, the GST legislation prevents any input tax credits from being claimed by the supplier in respect of costs incurred (ie inputs used) in making the input taxed supplies.

The correct claiming of input tax credits is high on the ATO's audit list and care should be taken to ensure that transactions are correctly characterised and credits correctly claimed. Should you be in any doubt as to the correct characterisation of a transaction please do not hesitate to contact your Grant Thornton advisor.

The GST legislation provides that the following are input taxed:

- financial supplies
- residential rent

- residential premises
- precious metals
- school tuckshops and canteens
- fund-raising events conducted by charitable institutions

## Financial supplies

These supplies include the supply of banking services, loans, mortgages, life insurance, indemnities, interest charges on hire purchases, foreign currency conversion and transfers, shares, debentures and other securities as well as derivatives. Despite this however, there are provisions which can allow partial and even full input tax credits in relation to certain financial supplies. Consideration should be given to these rules where financial supplies are made.

## Residential rent

The supply of a residential premises by way of a lease (ie a rented premises) is input taxed. Note, however, that this does not apply to "commercial" residential premises (such as hotels and caravan parks) - the supply of those premises is subject to GST.

## Residential premises

The sale of real property is input taxed to the extent that the property is to be used predominantly for residential accommodation. However, this does not apply to "new" residential property or to "commercial residential" property.

A residential property is considered to be "new" if either:

- the property has not previously been sold as a residential premises
- the property has been created through substantial renovations
- the property has been built to replace demolished premises on the same land.

### Precious metals

The supply of a precious metal, such as gold with at least 99.5% fineness, silver with at least 99.9% fineness or platinum with at least 99% fineness is input taxed. Please however note that the metal must be in "an investment form".

### School tuckshops and canteens

School tuckshops/canteens operated by a non-profit body can elect to treat the activity as input taxed in order to prevent the need to charge GST.

### Fund-raising events conducted by charitable institutions

Fund-raising events held by a charity, gift-deductible entity or a government school can elect to treat the event as input taxed.

### Exporting and GST

Although it is well understood that exports are GST-free, the application of this rule to the export of services is less so. In order to be able to "export" free of any GST, the service must fall within one of the following categories:

- the service is directly connected to goods or real property located outside of Australia
- the service is provided to a non-resident who is outside Australia at the time of supply and the work is neither a supply of physical work on goods in Australia nor a service directly connected to Australian real property
- the service is supplied to someone who is not in Australia and the effective use and enjoyment takes place outside Australia
- the service relates to the repair, renovation, modification or treatment of goods from outside Australia that are also destined for somewhere outside of Australia.

Be aware, however, that there are provisions which require GST to be charged on services that would otherwise fall into one of the above categories, but where the service is provided under an agreement with a non-resident that requires the service to be provided to an entity in Australia. In this scenario the provision of the service will be subject to GST.

#### For further information please contact:

**Adelaide**  
Philip Paterson  
67 Greenhill Road  
Wayville SA 5034  
T 08 8372 6666  
F 08 8372 6677  
E info@gtsa.com.au

**Brisbane**  
Peter Godber  
Grant Thornton House  
102 Adelaide Street  
Brisbane QLD 4000  
T 07 3222 0200  
F 07 3222 0444  
E info@gtqld.com.au

**Melbourne**  
Mark Cummings  
Rialto Towers  
525 Collins Street  
Melbourne VIC 3000  
T 03 9611 6611  
F 03 9611 6666  
E info@gtvic.com.au

**Sydney**  
John Ross  
383 Kent Street  
Sydney NSW 2000  
T 02 8297 2400  
F 02 9299 4445  
E info@gtnew.com.au

**Perth**  
Peter Fallon  
256 St George's Terrace  
Perth WA 6000  
T 08 9481 1448  
F 08 9481 0152  
E pfallon@gtwa.com.au

### NSW land tax and other changes

Turning our minds to a different indirect tax, the NSW Government has updated the definition of 'fixed trust' for land tax purposes and in the process has effectively removed the land tax threshold for all unit trusts.

In previous years, a typical unit trust would meet the definition of a 'fixed trust', thus entitling the trustees to the land tax threshold. On the other hand, all other trusts, including typical family discretionary trusts, were considered to be 'special trusts' for land tax purposes and ineligible for a threshold.

However, the definition of a fixed trust has now been tightened, meaning that typical unit trusts will be ineligible for a land tax threshold. **Furthermore, this amendment has been made retrospectively to cover all land held as at 31 December 2005**, meaning that some trustees may already have an additional land tax liability.

We note however that certain 'family unit trusts' are excluded from being a special trust in some circumstances, therefore qualifying for a land tax threshold.

A family unit trust is any unit trust where at least 95% of the units are owned by members of the same family. Where a trust is deemed to be a family unit trust, the family members are assessed to land tax personally as if they directly owned the relevant property.

Recognising the additional land tax burdens that may be placed on property owners, the NSW Government has amended the stamp duty law to provide an exemption for variations made to trust deeds that result in a trust satisfying the now much narrower fixed trust definition. This exemption ceases to apply on 1 August 2008.

For further information on the amendments required to be made to your trust deed in order to obtain the exemption, please contact your Grant Thornton advisor.

**Grant Thornton**   
[www.grantthornton.com.au](http://www.grantthornton.com.au)

#### DISCLAIMER

This newsletter is general in nature and its brevity could lead to misrepresentation. No responsibility can be accepted for those who act on its content without first consulting us and obtaining specific advice.

Each office listed is a business operated independently of other firms and entities who use the trademark Grant Thornton. Grant Thornton is a trademark owned by Grant Thornton International and used under licence by independent firms and entities throughout the world. Liability limited by a scheme approved under Professional Standards Legislation.