



Prepared by Maria Benardis

Bag Issues Log Item 07-004: Division 81 of the GST Act and the labels on the BAS

Log Item sent: 11/07/2007

Under section 81-5(2) of the GST Act it states that the payment of any Australian tax, fee or charge that is specified in a written determination of the Treasurer is not the provision of consideration. Therefore the consideration would be zero and not recorded at the G14 box in the BAS.

On the web-site the ATO has the following useful information:

"Where on the BAS do I include Australian taxes, fees and charges that are excluded from the GST by Determination 2000 of the Treasurer?"

*If you collect revenue relating to Australian taxes, fees and charges that are excluded from the GST by Determination 2000 of the Treasurer, **you do not include this revenue at any label on the BAS.***

*If you make payments that include Australian taxes, fees and charges that have been excluded from the GST by Determination 2000 of the Treasurer, you do not include the amount of the Australian taxes, fees and charges at any label on the BAS. The payment, **less the amount of the Australian taxes, fees and charges, is reported at label G10 or G11 and if there is no GST in the price, at label G14.***

For more information refer to page 18 and 29 of NAT 7392

[Goods and services tax – how to complete your activity statement](#)

Web-site link:

http://www.ato.gov.au/businesses/content.asp?doc=/content/17199.htm&page=1#P295_30572

AAPB has had feedback from members that the two underlined sentences are causing some confusion as to whether they include these fees and charges or not? The first sentence states that you do not and further down it states that you report these at G14 (please see the underlined wording above).

Whilst AAPB appreciates that the amount that would appear at G14 would be zero in any case because there is no consideration there are bookkeepers who are assuming that they should still report the fees and charges because of the sentence that outlines "and if there is no GST in the price, at label G14."

i.e. at page 29 of the publication it gives instructions on completing G14 on the BAS. The last sentence under G14 states *"Also include payments of Australian taxes, fees and charges where GST was not included in the price charged."*

Page 26 of the same publication gives instructions on completing G11. It states that stamp duty on insurance policies is not included at G11. Is this an Australian tax, fee or charge that on Page 29 says should be reported at G14? The page 29 instructions also include the statement that all amounts reported at G14 should be included at G11.

Can the ATO please clarify whether fees and charges that are exempt from Division 81 are reportable in the BAS? Could the ATO please consider amending the working of this information sheet to eliminate any confusion on this issue. Could the ATO please comment?"



Draft response received from ATO 16/10/2007

"In July you made an enquiry about Division 81 of the GST Act and the labels on the BAS. A response to your enquiry was delayed because we were waiting on an update on the publication NAT 7392 Goods and services tax – how to complete your activity statement which was due to be updated in October. That update is nearing completion but as yet not finished, however the technical team which has been working on this matter has advised that the issues are out of scope for this review (which was for simplified accounting methods) and as such would need to be progressed on the next version of the document. Due to the technical nature of the query, this enquiry will need to be progressed through the GST technical clearance process once the October version has been finalised. I understand I will receive a response once this occurs and of course I will forward it to you immediately I receive it".

ATO response received 27/03/2008

Hi Maria

1. The following paragraph from the ATO web site (in red) has caused some confusion with your members, the Tax Office has agreed to amend this paragraph (suggested amendment shown in blue) is this O.K..

"If you make payments that include Australian taxes, fees and charges that have been excluded from the GST by Determination 2000 of the Treasurer, you do not include the amount of the Australian taxes, fees and charges at any label on the BAS. The payment, less the amount of the Australian taxes, fees and charges, is reported at label G10 or G11 and if there is no GST in the price, at label G14."

"If you make payments that include Australian taxes, fees and charges:

- If the Australian taxes, fees and charges are listed in the Determination 2000 of the Treasurer, they will not include GST and you do not include the amount of the Australian taxes, fees and charges at any label on the BAS.*
- However, payment of any Australian taxes, fees and charges, that have not been listed in the Determination 2000 of the Treasurer will include GST and should be reported at label G10 or G11 on the BAS."*

2. The following paragraph from the ATO web site is O.K. and does not require amendment.

If you collect revenue relating to Australian taxes, fees and charges that are excluded from the GST by Determination 2000 of the Treasurer, you do not include this revenue at any label on the BAS.

David



AAPB response 28/03/2008

Dear David

Thank you for your email.

I agree with the following two paragraphs:

If you make payments that include Australian taxes, fees and charges:

- *If the Australian taxes, fees and charges are listed in the Determination 2000 of the Treasurer, they will not include GST and you do not include the amount of the Australian taxes, fees and charges at any label on the BAS.*
- *However, payment of any Australian taxes, fees and charges, that have not been listed in the Determination 2000 of the Treasurer will include GST and should be reported at label G10 or G11 on the BAS."*

and

If you collect revenue relating to Australian taxes, fees and charges that are excluded from the GST by Determination 2000 of the Treasurer, you do not include this revenue at any label on the BAS.

The above two paragraphs will ensure clarity.

I will communicate this to our members.

Kind Regards

Maria Benardis



Further and final response received from ATO 02/05/2008

DIVISION 81 - Transactions involving exempt taxes, fees and charges

REVENUE (Expanded explanation for instructions contained on page 18 of NAT 7392 Goods and Services tax - how to complete you activity statement)

Section 81-5 of the GST Act specifically treats the payment of any Australian tax (other than the GST), fee or charge as the provision of consideration for a supply. However, the payment is not treated as the provision of consideration if the tax, fee or charge is specified in a written determination of the Treasurer (Treasurer's determination). The current Treasurer's determination is the A New Tax System (Goods and Services Tax) (Exempt Taxes, Fees and Charges) Determination 2007 (No 1).

Under section 195-1 of the GST Act, 'Australian tax, fee or charge' means a tax (however described) imposed under an Australian law, or a fee or charge (however described) imposed under an Australian law and payable to an Australian government agency.

Therefore, where an Australian government agency makes a supply and the fee or charge payable by the recipient is a fee or charge specified in the Treasurer's determination, the supply is outside the scope of the GST. This is because the first criterion under section 9-5 of the GST Act is not satisfied. That is, the payment for the supply is not treated as the provision of consideration and consequently the supply is not made for consideration.

If you collect revenue relating to Australian taxes, fees and charges that are excluded from the GST by a Treasurer's Determination, you do not include this revenue at any label on the BAS.

PAYMENTS (Expanded explanation for instructions contained on page 29 of NAT 7392 Goods and Services tax - how to complete you activity statement)

GST applies to payments of taxes, fees and charges, except for those taxes fees and charges that are excluded from the GST by a determination of the Treasurer. Normally the payment of any Australian tax, fee or charge (other than GST) that you make, or the discharging of your liability to make such a payment, is to be treated as the provision of consideration, to the entity to which the tax, fee or charge is payable, for a supply that entity makes to you. However, the payment of any Australian tax, fee or charge that is specified in a written determination of the Treasurer, or the discharging of a liability to make such a payment, is not the provision of consideration.

The A New Tax System (Goods and Services Tax) (Exempt Taxes, Fees and Charges) Determination 2007 (No.1) stipulates the taxes, fees or charges that are exempt from GST in Australia.

If these Australian taxes, fees and charges are exempt from GST under the Division 81 determination detailed previously, no GST is payable on the supply. Therefore, an entity is not entitled to input tax credits for this supply, as they have not paid any GST.

Therefore, if you make payments that include Australian taxes, fees and charges that have been specified in the Treasurer's Determination, you do not include the amount of the Australian taxes, fees and charges at any label on the BAS. The payment, less the amount of the Australian taxes, fees and charges, is reported at label G10 or G11 and if there is no GST in the price, at label G14.



EXAMPLES

1. Client receives an invoice with the following mixed supplies.

Australian taxes, fees and charges not specified in the Treasurer's Determination. \$110 includes GST of \$10 as it is not listed in Treasurer's Determination.

Australian taxes, fees and charges specified in the Treasurer's Determination. \$100 no GST as it is listed in Treasurer's Determination.

Total Invoice \$210
Includes GST \$ 10

Business activity statement - GST amounts the tax office owes you from purchases				
G10	Capital purchases (including any GST)			G10 on the BAS
G11	Non-capital purchases (including any GST)	210		G11 on the BAS
G12	G10 + G11		210	
G13	Purchases for making input taxed sales			
G14	Purchases without GST in the price	100		
G15	Estimated purchases for private use or not income tax deductible			
G16	G13 + G14 + G15		100	
G17	Total purchases subject to GST (G12 minus G16)		110	
G18	Adjustments (if applicable)			
G19	Total purchases subject to GST after adjustments (G17 + G18)			
G20	GST on purchases (G19 divided by 11)		110	1B in the summary section of the BAS



2. Client receives an invoice with the following mixed supplies.

Australian taxes, fees and charges specified in the Treasurer's Determination. \$100 no GST as it is listed in Treasurer's Determination.

Total Invoice \$100
 GST Nil

In this instance the supply may be included in the BAS as follows. Alternatively, it can be excluded from the BAS all together.

Business activity statement - GST amounts the tax office owes you from purchases				
G10	Capital purchases (including any GST)			G10 on the BAS
G11	Non-capital purchases (including any GST)	100		G11 on the BAS
G12	G10 + G11		100	
G13	Purchases for making input taxed sales			
G14	Purchases without GST in the price	100		
G15	Estimated purchases for private use or not income tax deductible			
G16	G13 + G14 + G15		100	
G17	Total purchases subject to GST (G12 minus G16)		0	
G18	Adjustments (if applicable)			
G19	Total purchases subject to GST after adjustments (G17 + G18)			
G20	GST on purchases (G19 divided by 11)		0	1B in the summary section of the BAS



INSURANCE PREMIUMS (Expanded explanation for instructions contained on page 26 of NAT 7392 Goods and Services tax - how to complete you activity statement)

An insured entity, registered for GST, may claim input tax credits (ITCs) when taking out general insurances. If the policy of the insured is a creditable acquisition, the insured is entitled to an ITC equal to the GST paid on the creditable acquisition.

Generally, you make a creditable acquisition if you acquire anything for the purpose of carrying on your business and the supply to you is a taxable supply.

Car insurance and public liability insurance come under general insurance. There are also various forms of compensation schemes established under the laws of the Commonwealth, States and Territories that fulfil the same function as insurance. The statutory compensation schemes listed in the regulations made under the A New Tax System (Goods and Services Tax) Act 1999 [The GST Act] are treated the same as other types of insurance. Workers' compensation schemes and compulsory third party motor vehicles (CTP) schemes are examples of the schemes that have been listed in the regulations.

Note, however, that there are special transitional rules for CTP schemes. No ITCs can be claimed for a premium, contribution, or similar payment paid before 1 July 2003 in connection with a CTP scheme that is listed in the regulations made under the GST Act. Examples of compulsory schemes include:

- Compensation scheme for victims of motor accidents
- Compulsory third party transport accident compensation scheme
- Statutory insurance scheme
- Compulsory third party insurance scheme
- Third party insurance scheme
- Motor accidents compensation scheme

If an entity is registered for GST, it may claim ITCs on the GST paid on the insurance premiums paid on car insurance, workcover insurance, public liability insurance, and third party compulsory insurance subject to the proviso above.

Disclaimer

This document provides general information current at the time of writing. It is not intended that the information provide advice and should not be relied on as such. Professional advice should be sought prior to actions on any of the information contained herein.

May 2008