

Jack: The Indigenous Artist

This case study provides an example of the effect of GST on an Indigenous artist. Not all issues that may arise in respect of all Indigenous artists can be dealt with here.

If you have any queries regarding the application of GST to your own circumstances, you should seek professional advice or contact the Australian Taxation Office. Further information is also available on the ATO website at www.taxreform.ato.gov.au

Jack's situation

Jack is a traditional artist, living in his community in a remote region of the Northern Territory. The local Community Art Centre provides Jack with blank ceramic pieces and canvases for his artworks.

Jack is under no obligation to provide any output for the Art Centre. He paints whatever and whenever it suits him. When he takes completed works to the Art Centre, his account is credited with an amount representing an advance payment of the total earnings he is expected to make upon sale of the work. Once the Art Centre sells the piece, (either through its retail outlet to tourists, or to galleries and other collections), the proceeds of Jack's works, less the Art Centre's commission, are credited to Jack's account. Jack draws on his account when he needs to, to provide him with money for living.

To register or not to register?

The first issue to consider is whether Jack is eligible to register for GST. To be eligible to register, he must be carrying on an enterprise. An enterprise is an activity or series of activities carried on in the form of a business, or in the nature of trade, but does not include private recreational pursuits or hobbies. Arguably, Jack does his art to please himself and to make some money, but it might not be sufficient for his activity to be classified as an enterprise by the ATO.

If Jack is carrying on an enterprise, he should apply for an ABN. Without an ABN, the Art Centre would be obliged to withhold 48.5% tax from any payments over \$50 made to him. Although Jack gets an ABN, he need not register for GST unless his turnover exceeds \$50,000 per annum. If he does not register for GST Jack will not be entitled to any input tax credits on his purchases. But likewise, he will not have to account for GST on his sales.

If Jack obtains an ABN to avoid having 48.5% tax withheld from payments made to him by the Art Centre, he will need to comply with the instalment system of the new Pay As You Go (PAYG) system. This means Jack will need to make instalment payments of his tax liability to the ATO. As Jack is not registered for GST, he will have an annual instalment liability if his tax liability is less than \$8,000 per annum. (If his tax liability was more than \$8,000 per annum, he would have to pay quarterly income tax instalments).

Without an ABN, Jack runs the risk of having the 48.5% tax withheld. However, if he provides the payer (in this case the Art Centre) with a written statement that the payment is in respect of a hobby or recreational pursuit, the payer will not have to

withhold tax. Statements of that nature may have other implications, such as the quarantining of losses from the hobby activity. That should not affect Jack's situation.

If Jack does not have an ABN, he will not be able to claim input tax credits for any GST charged to him for his purchases.

Summary

If you are carrying on a business, you should still obtain an ABN even if you do not need to register for the GST.

If you do not quote your ABN for a business supply, tax will be withheld at 48.5%.

If you do not have an ABN because you are not carrying on an enterprise, you can provide the payer with a statement that the payment is in respect of a hobby or recreational activity and tax will not be withheld. Losses from hobby or private recreational activities cannot be offset against other income.

Antonia: The Sculptor

This case study provides an example of the effect of the GST on a sculptor. Not all issues that may arise in respect of all sculptors can be dealt with here.

If you have any queries regarding the application of GST to your own circumstances, you should seek professional advice or contact the Australian Taxation Office. Further information is also available on the ATO website at www.taxreform.ato.gov.au

Antonia's situation

Antonia is a sculptor. Her income comes from a number of sources, including architectural commissions, direct sales at a local market stall, and some consignment sales through a gallery.

Antonia also provides consultation services about public art to various businesses and local government bodies. Antonia used to work from the garage at her home. However, she now rents a studio space at an old warehouse.

Much of the raw material for Antonia's work is collected from rubbish tips. Occasionally, she buys scrap metal from local steel merchants and, where necessary (particularly for some of her commissioned works), she purchases new materials from relevant suppliers.

To explore some new ideas in the field of ceramic sculptures, Antonia has received a grant from the Australia Council. She intends to use the grant to pay for a short course in ceramics at a Community College. Antonia also intends to buy a new kiln for her studio.

To register or not to register?

The first issue to consider is whether Antonia is required to register for GST. The facts indicate that she is carrying on a business. If the turnover of that business is more than \$50,000 per annum, then registration for GST will be compulsory. If the turnover is less than \$50,000 per annum, registration is voluntary.

GST effect

The impact of GST on Antonia's activities may be summarised as follows:

ANTONIA'S GST REGISTRATION STATUS

Activity	Registered	Not registered
Architectural commissions	<p>The sale would be subject to GST. Antonia would have to remit 1/11th of the sale proceeds to the ATO as GST collected on the supply.</p> <p>As the purchaser in such a case (ie the architect) would normally be registered for GST, the purchaser would be entitled to GST input tax credits. This means that an increase in the overall cost of the supply by Antonia because of GST should not affect the decision to buy, as the net price for the purchaser would be the same.</p>	<p>The sale would not be a taxable supply and, therefore, not subject to GST.</p> <p>No part of the consideration received needs to be remitted to the ATO. The purchaser would not be entitled to input tax credits, although the purchaser is registered.</p> <p>Pricing decision is important because a registered purchaser would prefer to purchase from a registered supplier and get input tax credits. To be competitive in this market, Antonia would need to charge no more than 10/11th of the amount charged by her GST registered competitors.</p>
Sales at local market stall	<p>Sales will be subject to GST and 1/11th of the consideration would need to be remitted to ATO.</p> <p>As most purchasers in this situation would be individuals and therefore not registered, they will not get input tax credits. Therefore, any increase in price by Antonia to recover GST and protect her net sale position will be met with resistance by the purchasers.</p> <p>Being registered, Antonia will get input tax credits for her inputs, so the cost of sales should not change. This allows her the choice to reduce sale price and profit margin slightly to retain sales volume.</p>	<p>Sales not subject to GST.</p> <p>Unregistered purchasers will be reluctant to pay more than pre-GST prices. However, Antonia would not get input tax credits for the cost of her materials. Therefore, her costs will go up (as she bears GST) and unless she puts up her prices, her profit margin will fall.</p>
Gallery sales	<p>Sales will be subject to GST. The mix of purchasers may result in some being registered and others not, with the results being the same as discussed above.</p> <p>Included in the cost structure would be the gallery's commission. This would be a supply to Antonia and subject to GST (assuming the gallery is registered). Antonia would get an input tax credit for GST paid on the commission.</p>	<p>Sales will not be subject to GST. The mix of purchasers may result in some being registered and others not, with the results being the same as discussed above.</p> <p>GST charged by the gallery on the sales commissions would be an additional cost borne by Antonia (as she cannot get the input credit) unless she can increase her prices for the artwork.</p>
Consultation fees	<p>The consultation fees are fees for service and would be subject to GST. The councils and businesses would be entitled to input tax credits, so a price increase due to GST would be neutral to them.</p>	<p>The consultation fees would not be subject to GST. The businesses and councils could not receive input tax credits. Any attempt by Antonia to recover increased costs due to her not obtaining input tax credits on her inputs, would be met with resistance by the businesses and councils.</p>





Activity	Registered	Not registered
Australia Council grant	<p>The grant is a taxable supply made by Antonia. Therefore, she will need to remit GST collected with respect to the grant (ie 1/11th of the grant) to the ATO.</p> <p>Any input tax credits that arise during the GST period in which the grant is made could offset against the amount to be remitted.</p>	<p>The grant is not subject to GST as the supply is not being made by a registered entity. Therefore, the amount received from the Australia Council is not topped up.</p> <p>If Antonia is carrying on a business and does not quote her ABN to the Australia Council, tax of 48.5% of the payment would have to be withheld (although this would be credited against her income tax liability when Antonia lodges her tax return).</p> <p>If Antonia is not carrying on a business and does not have an ABN, she could provide a written statement to the Australia Council that the amount is being received in respect of a hobby. Therefore, the Australia Council would not have to withhold 48.5% tax. This will affect Antonia's claims for deductions in her tax returns (particularly if she makes a loss on the activity).</p>
Studio costs	<p>Input tax credits would be available in respect of any GST paid on items such as rent or services to the studio (electricity, gas etc). These input tax credits would offset GST to be remitted from sales items.</p>	<p>No input tax credits available. The increased costs for GST charged on rent, electricity, would increase the overall costs of Antonia's business.</p>
Community College course	<p>As the course is not for obtaining qualifications, GST will be charged. Antonia will, however, be entitled to input tax credits.</p>	<p>No input tax credits available. The additional cost of GST on the course is a further expense to be borne by Antonia.</p>
New kiln	<p>Although the new kiln is expected to last several years, Antonia will receive an input tax credit of GST paid on its purchase in the first GST return after acquisition.</p> <p>That is, there is no attempt to match GST with the life of the asset bought.</p>	<p>The additional cost of GST on the equipment is a further expense to be borne by Antonia.</p>
Raw materials	<p>Where purchased from registered suppliers, Antonia will be entitled to an input tax credit for GST paid.</p>	<p>The additional cost of any GST paid on materials purchased is a further expense to be borne by Antonia.</p>

Making dollars and cents of it all!

The table below shows the impact of the GST when compared with the pre-GST position on artists such as Antonia. The following assumptions are made:

There is no adjustment to the prices paid/charged other than passing on GST at 10%.

Antonia passes on the full 10% increase in GST on commission sales and consultation fees, as the purchasers are registered and could get input tax credits.

Market and gallery sales are not subjected to any GST-inspired price rises, as the market is price sensitive.

The Gallery charges a 20% commission on gross sales, GST inclusive.

Income tax payable is calculated using the appropriate pre and post-GST rates.

Antonia's GST Registration Status			
Activity	Pre-GST situation	Registered	Not registered
Architectural commissions	20,000	22,000	20,000
Market sales	6,000	6,000	6,000
Gallery sales	11,000	11,000	11,000
Consultation fees	3,000	3,300	3,000
Australia Council grant	5,000	5,500	5,000
Studio costs	(6,000)	(6,600)	(6,600)
Gallery commission	(2,200)	(2,200)	(2,200)
Community College course	(500)	(550)	(550)
New kiln	(1,500)	(1,650)	(1,650)
Raw materials	(10,000)	(11,000)	(11,000)
GST remitted to ATO	-	(2,345)	-
Adjustment for depreciation of kiln	1,200	1,200	1,200
Taxable Income	26,000	24,655	24,200
Income Tax Payable	(4,862)	(3,777)	(3,640)
Cash adjustment for kiln	(1,200)	(1,200)	(1,200)
Net Cash Position	19,938	19,678	19,360

Overall, Antonia is marginally worse off under GST than she would have been without GST. (However, the example does not take into account savings on costs related to the abolition of sales tax embedded in the suppliers costs). Antonia is slightly better off if she registers for GST, although the difference is marginal. However, other factors, such as the cashflow effect and the cost of compliance need to be considered in order to make the decision to register or not.

Damian: The Composer

This case study provides an example of the effect of GST on a composer. Not all issues that may arise in respect of all composers can be dealt with here.

If you have any queries regarding the application of GST to your own circumstances, you should seek professional advice or contact the Australian Taxation Office. Further information is also available on the ATO website at www.taxreform.ato.gov.au

Damian's situation

Damian is a composer and musician. His income comes from a number of sources, including commissions for advertising jingles and film scores. Damian is in constant contact with a number of advertising agencies and actively pursues commissions from them. Damian is occasionally engaged as musical director of theatre productions. As the musical director, Damian may be required to arrange the music and either perform in or conduct the orchestra in performances. He is treated as an employee of the production company in this situation.

Damian has a small recording studio in his house. He uses this to record rough versions of jingles or scores, before moving into a professional studio for final recordings. In making the recording in his home studio, he occasionally gets in session musicians, each of whom is paid \$200 for the gig.

A production for which Damian composed the music is currently being performed overseas. Damian receives some royalties for this under a contract entered into in May 1999, which gives the producers the right to his music for a period of ten years in all countries outside Australia at a fixed amount of \$4,000 each year. This is in addition to some small ongoing royalties for the use of a few of his themes in local television commercials.

Damian has received a grant from the Australia Council. He intends to use the money to go on an overseas study tour.

To register or not to register?

It would appear from the facts that Damian is carrying on an enterprise. Therefore, registration for GST is compulsory if his turnover is greater than \$50,000, and voluntary if it is less than \$50,000 per annum. Where Damian is engaged as a musical director for a show, that is considered salary and wages, which is not subject to GST and is, therefore, not included in the definition of turnover.

GST effect

The impact of GST on Damian's activities may be summarised as follows:

DAMIAN'S GST REGISTRATION STATUS

Activity	Registered	Not registered
Commissions for ads and film scores	<p>The work performed would be a "service" supplied by Damian, which is a taxable supply and therefore subject to GST.</p> <p>Therefore, 1/11th of the amount paid would be the output tax to be remitted to the ATO (Net of any input tax credits).</p> <p>As the recipients of these services (eg advertising agencies and production companies) would normally be registered for GST, the purchaser would be entitled to GST input tax credits for GST charged by Damian. Therefore, an increase in the overall cost of the supply by Damian because of GST should not affect the decision to use Damian's services, as the net result for the purchaser would be the same.</p>	<p>If Damian is not registered, the service would not be subject to GST. He may have to consider his position under the PAYG provisions if he does not have an ABN.</p> <p>The recipient of the service would not be entitled to any input tax credits, although the purchaser is registered.</p> <p>As a registered purchaser would prefer to purchase from a registered supplier and get input tax credits, Damian would need to charge less than a registered competitor or he may lose market share.</p>
Work as musical director	<p>If Damian is an employee of the production company, there will be no GST, notwithstanding Damian's registered status. The payments would be subject to instalment deductions under the PAYE system (replaced by PAYG from 1 July 2000).</p> <p>If Damian is held to be an independent contractor rather than an employee, the considerations are exactly the same as for the commissioned scores.</p>	<p>The outcome is the same for an unregistered person. If the arrangement is one of employment, GST does not apply. If it is a contractual relationship, see the result for commissioned pieces.</p>
Recording studio at home	<p>Costs incurred in connection with the studio after 1 July 2000 will generate input tax credits that could be offset against GST to be remitted to the ATO. Some costs, such as magazine subscriptions, insurance premiums may also give rise to some input tax credits</p> <p>The input tax credits on any equipment purchased after 1 July 2000 will be available in the first GST return after acquisition, regardless of the effective life of the item purchased.</p> <p>Fees paid to session musicians, if they are registered, may generate input tax credits.</p>	<p>Any GST charged to Damian by suppliers of equipment or session musicians will have to be taken in as additional costs of his business. The ability to pass on those costs is dictated by the factors referred to above.</p>
Royalties from overseas producer	<p>These would be subject to GST as consideration for a supply. 1/11th of the amount received would have to be remitted. If the contract was entered into prior to 8 July 1999, the amount will be GST-free until whichever comes first 1 July 2005 or an opportunity to review the contract.</p>	<p>Not subject to GST.</p>
Australia Council grant	<p>1/11th of the grant amount is GST. The Australia Council would have topped up the grant to allow for this.</p>	<p>The grant is not subject to GST, so the amount received from Australia Council is not topped up.</p>
Overseas travel costs	<p>Airfares paid for in Australia for overseas travel are GST-free. The expenses incurred overseas will not be subject to Australian GST, so there will be no GST input tax credits available in respect of these expenses.</p>	<p>Not subject to GST</p>

Making dollars and cents of it all!

The table below shows the impact of GST when compared with the pre-GST position of Damian. The following assumptions are made:

There is no adjustment to the prices paid/charged other than passing on GST at 10%.

Damian passes on the full 10% increase in GST on commissioned works, as the purchasers are registered and could get input tax credits.

Income tax payable is calculated using the appropriate pre- and post-GST rates.

Damian's GST Registration Status			
Activity	Pre-GST situation	Registered	Not registered
Commissioned works	20,000	22,000	20,000
Musical Director work	40,000	40,000	40,000
Overseas royalties	10,000	10,000	10,000
Australia Council grant	15,000	16,500	15,000
Studio costs	(4,000)	(4,400)	(4,400)
General Expenses	(14,000)	(15,400)	(15,400)
Local travel	(1,500)	(1,650)	(1,650)
Overseas travel	(18,000)	(18,000)	(18,000)
GST remitted to ATO ⁺	—	(1,550)	—
Taxable Income	47,500	47,500	45,550
Income Tax Payable	(13,027)	(10,630)	(10,045)
Net Cash Position	34,473	36,870	35,505

⁺GST remitted to the ATO is not deductible for income tax purposes. However, for the purposes of this analysis, treating it as an expense has the same effect as separating, if GST were charged to a clearing account.

Overall, Damian's taxable income should be the same if he is registered for GST as it was before GST, because his income is either from taxable supplies or not subject to GST. He benefits from cuts to the income tax rates. However, if Damian is not registered, the GST charged to him from his various suppliers will be a cost to be borne by him, which will reduce his after-tax cash position.

Rebecca: The Dancer

This case study provides an example of the effects of GST on a dancer. Not all issues that may arise in respect of all dancers can be dealt with here.

If you have any queries regarding the application of GST to your own circumstances, you should seek professional advice or contact the Australian Taxation Office. Further information is also available on the ATO website at www.taxreform.ato.gov.au

Rebecca's situation

Rebecca is a dancer and completed her training three years ago. She performs regularly with a small dance company. However, this work is not full-time (ie 52 weeks per year), so Rebecca supplements her income with some casual work at a local restaurant.

Rebecca has been asked to choreograph a new production for another small dance company. Rather than engage Rebecca as an employee, she is hired as a contractor.

Rebecca and some other dancers have also received an Australia Council grant to assist in the development of a new work.

As with most dancers, Rebecca is prone to the occasional minor injury. Because this affects her performance (and consequently her income), Rebecca has regular physiotherapy and massage sessions. Rebecca also spends a large proportion of her spare time at the gym.

Costumes for Rebecca's performances are provided by the various dance companies she works with. However, like most dancers, Rebecca spends a lot of money on shoes, both for rehearsal practice, as well as ensuring that any street shoes she buys provide the correct support, a necessity given the punishment her feet endure in her dancing activities.

To register or not to register?

In order to register for GST, Rebecca must first be able to show that she is conducting an enterprise. Her activities as a dancer with the dance companies, for which she is paid a salary, do not fall within the definition of taxable supply for the purposes of GST law. The only activities of Rebecca's which may qualify as supplies for GST purposes are her contract choreography work and the undertakings made in connection with her Australia Council grant.

If the total receipts of those potentially GST taxable supplies exceed \$50,000 per annum Rebecca would have to register. Otherwise, registration is optional. In determining whether or not she should register, Rebecca should consider not only the potential cost savings under GST to her as a registered entity, but also the additional compliance costs that GST registration would entail.

GST effect

The impact of GST on Rebecca's activities may be summarised as follows:

REBECCA'S GST REGISTRATION STATUS

Activity	Registered	Not registered
Dance Salary	Not subject to GST.	Not subject to GST.
Restaurant Salary	Not subject to GST.	Not subject to GST.
Choreography contract payment	<p>The amount charged for the choreography services would be subject to GST and 1/11th of the amount should be remitted to the ATO.</p> <p>GST on items purchased in connection with the enterprise (ie the choreography) would be eligible for an input tax credit. Items purchased personally would not be eligible for the credit.</p>	<p>If Rebecca is not registered, there is no requirement to remit any GST in respect of the payment received. This may affect the amount charged to the dance company, as the dance company may seek input tax credits itself, because if Rebecca were not registered, it would not get any input tax credits in respect of the payment to her.</p> <p>If Rebecca does not have an ABN, the situation regarding withholding 48.5% tax would be the same as discussed in respect of the Australia Council grant over the page.</p>
Physiotherapy and other medical costs	These medical/health services are GST-free. The service provider does not charge Rebecca any GST and therefore, there are no input tax credits available in respect of the amount spent.	The result is the same whether Rebecca is registered or not.
Shoes, clothing etc.	Without commenting on the income tax deductibility of the items, if they are purchased in connection with Rebecca's enterprise, they would generate input tax credits which would be offset against the GST to be remitted to the ATO. However, purchases relating to her salary income would not generate input tax credits.	No input tax credits are available. Rebecca will have to bear the additional costs of GST included in the price of such items.
Australia Council grant	<p>The grant is a taxable supply made by Rebecca. Therefore, she will need to remit GST collected with respect to the grant (ie 1/11th of the grant) to the ATO.</p> <p>Any input tax credits that arise during the GST period in which the grant is made could offset against the amount to be remitted.</p> <p>The Australia Council would have topped up the grant to allow for the GST, so the net amount available to Rebecca is unchanged.</p>	<p>The grant is not subject to GST as the supply is not being made by a registered entity. Therefore, the amount received from Australia Council is not topped up.</p> <p>However, there are no input tax credits available in respect of the items that the grant is spent on, which reduces the spending power of the grant, as the items purchased with the grant would be expected to include GST.</p> <p>If Rebecca is carrying on a business and does not quote her ABN to the Australia Council, tax of 48.5% of the payment would have to be withheld (although this would be credited against her income tax liability when Rebecca lodges her tax return).</p> <p>If Rebecca is not carrying on a business and does not have an ABN, she could provide a written statement to the Australia Council that the amount is being received in respect of a hobby. Therefore, the Australia Council would not have to withhold 48.5% tax. This will affect Rebecca's claims for deductions in her tax returns (particularly if she makes a loss on the activity).</p>

Making dollars and cents of it all!

The table below demonstrates the impact of GST when compared with the pre-GST position of Rebecca. The following assumptions are made:

There is no adjustment to the prices paid/charged other than passing on the GST at 10%.

Income tax payable is calculated using the appropriate pre and post-GST rates.

It is assumed that the expenses shown are allowable deductions for income tax purposes.

Rebecca's GST Registration Status			
Activity	Pre-GST situation	Registered	Not registered
Australia Council grant	5,000	5,500	5,000
Choreography contract	6,000	6,600	6,000
Salary - Dancer	12,500	12,500	12,500
Salary - Restaurant	14,000	14,000	14,000
Physiotherapy	(1,000)	(1,000)	(1,000)
Shoes - (re Contract/Grant)	(500)	(550)	(550)
Shoes - (re salary)	(300)	(330)	(330)
GST remitted to ATO	—	(1,050)	—
Taxable Income	35,700	35,670	35,620
Income Tax Payable	8,160	7,081	7,066
Net Cash Position	27,540	28,589	28,554

NB: For the purposes of this example, all the listed expenditure has been treated as income tax deductible. This may not necessarily be the true position under income tax law.

From this analysis, it appears that Rebecca's position under The New Tax System will be better than under the old system. This is due to the tax rate cuts that have been introduced to offset the effect of GST. The difference to Rebecca between registering and not registering is marginal, but when the additional costs of complying with GST are taken into account, Rebecca would probably choose not to register.

CASE STUDY

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Pradeep: The New Media Artist

This case study provides an example of the effect of GST on a new media artist. Not all issues that may arise in respect of all new media artists can be dealt with here.

If you have any queries regarding the application of GST to your own circumstances, you should seek professional advice or contact the Australian Taxation Office. Further information is also available on the ATO website at www.taxreform.ato.gov.au

Pradeep's situation

Pradeep is a new media artist. He creates graphic images on the internet and publishes them on web pages, which are the target of a number of hot links from a variety of other arts sites on the web. He carries out these activities in the spare room of his flat.

As a result of following the hot links, a small number of web surfers have contacted Pradeep to ask him to do the graphic design for their web pages. For this, Pradeep charges a fee and is able to include a link to his own web page on his client's web page. Pradeep is still not totally proficient with the software for web pages and occasionally engages a contract programmer to write the software component of his assignments. The contract programmer is registered for GST.

Pradeep spends a considerable amount of money on software, making sure that he has the most up-to-date versions. He also upgrades his computer hardware at regular intervals. On 1 January 2001 he purchases a new computer for the GST-inclusive price of \$5,500 and software for the GST-inclusive price of \$2,200.

Pradeep receives a grant from the Australia Council to assist with the development of his art form. The grant constitutes the majority of his income from his artistic activities. To supplement his income, Pradeep teaches computing at the local Adult Education College. This is on top of the salary he receives as a bicycle courier.

To register or not to register?

Pradeep's turnover from his artistic endeavours is less than \$50,000 per annum. This does not include the salary from either the courier company or the Adult Education College, because salary is excluded from the definition of turnover.

Although registration for GST is not compulsory because Pradeep's turnover is less than \$50,000, the question that arises is whether Pradeep is conducting a business and is therefore eligible to register should he choose to do so. Pradeep is publishing his works on the internet, which is freely available. The commissions he has received as a result of that work could be considered to be more incidental than a direct result of any strategic marketing plan. The Commissioner of Taxation could argue that there is no profit-making motive underlying Pradeep's activities, such motive being the hallmark of an enterprise.

If Pradeep is not carrying on a business, he will not be able to obtain registration for an ABN or for GST. Although failure to obtain an ABN will not preclude Pradeep from his activities, any payments made to him for a commercial supply (eg commissions) would require the payer to withhold tax at the rate of 48.5% from the payment if he cannot provide an ABN to the payer.

This withholding tax is set at the top marginal tax rate, which is a lot higher than Pradeep's marginal tax rate. To prevent the payer withholding tax at that rate, Pradeep could provide a statement to the payer that he is undertaking a hobby activity. Although this will not prevent the payment from being assessable income, it will exclude any income tax deductions that Pradeep may otherwise claim in connection with the depreciation of his computer hardware and software, as well as other expenses incurred in connection with the new media work. At the very least, any losses incurred by Pradeep on the new media activities may be quarantined and could not be used to offset other income. Based on his commission work alone, Pradeep would make a loss. It is only the Australia Council grant which makes his activities cash positive, and unless he is able to make the hobby statement or quote an ABN to the Australia Council on receipt of the grant, the Australia Council would also be obliged to withhold tax at the rate of 48.5% from the payment.

The tax withheld would be allowed as a credit against Pradeep's assessed income tax liability and any excess would be refunded to him.

GST effect

The impact of GST on Pradeep's activities may be summarised as follows:

PRADEEP'S GST REGISTRATION STATUS		
Activity	Registered	Not registered
Australia Council grant	1/11th of the grant amount is the GST to be remitted to the ATO. The Australia Council would have topped up the grant to allow for this.	The grant is not subject to GST, so the amount received from the Australia Council is not topped up. If Pradeep does not have an ABN, the Australia Council would be obliged to withhold 48.5% income tax from the payment, unless Pradeep provides a written statement that he is undertaking a hobby activity and not a business. Such a statement would preclude income tax deductions claimed in connection with the activities.
Hardware and software expenses	GST on the hardware and software would be allowed to Pradeep as an input tax credit in the GST return following the acquisition. There is no requirement to amortise the input tax credits over the life of the item purchased.	GST included in the cost of the hardware software would be an additional cost to be borne by Pradeep. He would, however, be able to deduct depreciation. If Pradeep is not carrying on a business, any deductions may only be allowed against his income relating to the artistic sources, and losses could not offset other income (ie salary). Instead, it would have to be carried forward to offset future hobby activity income.
Teaching income	Not subject to GST.	Not subject to GST.

Making dollars and cents of it all!

The table below shows the impact of GST when compared with the pre-GST position of Pradeep. The following assumptions are made:

There is no adjustment to the prices paid/charged other than passing on GST at 10%.

It is assumed that the price of the computer is increased by 5% as a result of the impact of GST and the abolition of sales tax.

Income tax payable is calculated using the appropriate pre- and post-GST rates.

Pradeep's GST Registration Status			
Activity	Pre-GST situation	Registered	Not registered
Australia Council grant	5,000	5,500	5,000
Commissioned works	8,000	8,800	8,000
Teaching income	3,500	3,500	3,500
Courier income	22,000	22,000	22,000
Allocation of rent for spare room	(940)	(940)	(940)
General Expenses of New Media work ⁺	(3,500)	(3,850)	(3,850)
Contract programmer	(3,000)	(3,300)	(3,300)
Cost of computer hardware & software	(7,000)	(7,700)	(7,700)
Tax Depreciation Adjustment	5,600	5,600	6,160
GST remitted to (refunded by) ATO	—	50	—
Taxable Income	29,660	29,660	28,870
Income Tax Payable	(6,106)	(5,278)	(5,041)
Cash Adjustment for Computer Equipment	(5,600)	(5,600)	(6,160)
Net Cash Position	17,954	18,782	17,669

⁺(internet access fees, portion of electricity bill, stationery insurance etc)

Overall, Pradeep's net cash position post-GST is better if he is registered for GST. However, it is important that he consider whether the cash savings outweigh the additional costs of compliance that will be incurred. Given that Pradeep is computer literate and already owns a computer, the additional costs may not be as great as for others.

This also assumes that Pradeep is able to register for GST. If he does not, he should still seek an ABN, otherwise PAYG tax of \$6,305 would be withheld from his Australia Council grant and commission sales. This will severely affect Pradeep's cash flow.

In this example, Pradeep has made an overall profit on his new media activities. However, under new rules, any losses from activities that do not meet an objective test for carrying on a business will not be able to offset other income. Pradeep would fail the objective tests as his turnover from the activity is less than \$20,000 and he has less than \$100,000 of assets committed to the venture.

Ming-Na: The Painter

This case study provides an example of the effect of GST on a painter. Not all issues that may arise in respect of all painters can be dealt with here.

If you have any queries regarding the application of GST to your own circumstances, you should seek professional advice or contact the Australian Taxation Office. Further information is also available on the ATO website at www.taxreform.ato.gov.au

Ming-Na's Situation

Ming-Na is a painter living in a small town about two hours drive from a capital city. She runs a small art supply store and gallery, where she sells her own works as well as those of other local artists. She charges a 20% commission on sales of other artists' work.

Ming-Na had an inspiring tour of Europe and while she was away created a number of paintings. She brought all of these back with her to Australia, with a view to mounting a large exhibition of her own works. The portfolio that came back from Europe included paintings that had been completed as well as a number that were still at the draft stage. The materials used to create these paintings (paints and canvases) were all acquired in Europe and cost the equivalent of \$A500. Ming-Na estimates that the two completed paintings could be sold for \$1,200 each (or \$1,800 if she frames them at a cost to her of \$100 each). The incomplete works can be considered "worthless" in the state they are in. Once completed, Ming-Na expects them to sell for \$800 each (unframed). It has cost her \$50 to bring the paintings back to Australia.

Ming-Na received a small grant from the Australia Council to help her to promote emerging artists in the local area.

To further stock her gallery, and to provide a wider variety of works for customers to choose from, Ming-Na has taken to sourcing artwork on the secondhand market. She attends auctions, garage sales, and deceased estate sales. On a number of occasions, she has been able to obtain the works of some notable artists for a relatively small outlay. The sale of these works contribute heavily to Ming-Na's profit margin. In the year in review, she spent \$2,000 on these paintings, all being acquired from sellers who were not registered for GST.

To register or not to register?

The first issue to consider is whether Ming-Na is required to register for GST. The facts indicate that she is carrying on a business. If the turnover of that business is more than \$50,000 per annum, then registration for GST will be compulsory. If the turnover is less than \$50,000, registration is voluntary.

GST effect

The impact of the GST on Ming-Na's activities may be summarised as follows:

MING-NA'S GST REGISTRATION STATUS

Activity	Registered	Not registered
Sale of own works through gallery	<p>The sale would be subject to GST. Ming-Na would have to remit 1/11th of the sale proceeds to the ATO as GST collected on the supply.</p> <p>If the purchaser is registered, he or she could obtain input tax credits. However, if the purchaser were not registered, no input tax credits would be allowed. In view of the price sensitive market and the fact that the majority of clients are not registered, Ming-Na has only been able to increase her prices by 5% to pass on GST. She is absorbing the rest in her profit margin.</p>	<p>The sale would not be a taxable supply and therefore, not subject to GST.</p> <p>No part of the consideration received needs to be remitted to the ATO. The purchaser would not be entitled to input tax credits, although the purchaser may be registered.</p> <p>Pricing decision is important because a registered purchaser would prefer to purchase from a registered supplier and get input tax credits. Also, GST paid by Ming-Na is not going to give her any input tax credits, so her profit margin will decrease unless she can increase her prices. A 2% price rise is put in place to reduce the cost of GST to Ming-Na.</p>
Sale of other artists' works/commission income	<p>If the other artist is registered, the sale proceeds would be subject to GST. The commission would be subject to GST with an input tax credit being allowed to the artist for the GST amount, but only if the artist is registered.</p>	<p>Sale will not be subject to GST and nor will the commission income.</p>
Sale of art supplies	<p>Sales will be subject to GST. The mix of purchasers may result in some being registered and others not, with the results as discussed above.</p> <p>Ming-Na would get an input tax credit for GST paid on the purchase of the art supplies for the shop. As she is registered in respect of her art, there is no need to apportion any part of the input tax credits as being of a private nature.</p>	<p>Sales will not be subject to GST. The mix of purchasers may result in some being registered and others not, with the results as discussed above.</p> <p>GST charged by her suppliers would be an additional cost borne by Ming-Na (as she cannot get the input tax credit) unless she can increase the prices she charges for the art supplies.</p>
Importation of created works	<p>Ming-Na will be required to pay GST at the time of importation (ie while at the airport). The amount payable is 1/11th of the value of the goods.</p> <p>Although it is not clear, the preferred view is that the value of the goods that are created by the importer should be the cost of their creation. That is, the cost of the materials used in their creation. Therefore, the total GST payable would be 1/11th of \$500 plus \$50 costs. The inherent value of the completed works should be ignored at this point.</p> <p>Ming-Na would be entitled to an input tax credit for the GST paid. In calculating the overall GST position, the GST paid and the input tax credit cancel out.</p>	<p>Although Ming-Na is unregistered, she will still be required to pay GST on the importation. However, she will not be entitled to claim an input tax credit for the amount paid.</p>





Activity	Registered	Not registered
Australia Council grant	As the grant is paid as consideration for Ming-Na's continued promotion of local artists, which is a taxable supply, the grant would be subject to GST. Therefore, 1/11th of the grant amount is GST, which should be remitted to the ATO in the GST return following the receipt of the grant. In view of the impact of GST, the Australia Council would have topped up the grant to allow for GST, so the net result to Ming-Na is the same.	The grant is not subject to GST, so the amount received from Australia Council is not topped up.
Secondary market transactions	The sale proceeds will be subject to GST. As the goods are purchased with a view to reselling as a taxable supply, an input tax credit is allowed. The credit is the lesser of 1/11th of the price paid for the goods or GST payable when the goods are on-sold.	No input tax credit is available and the sale is not subject to GST.

Making dollars and cents of it all!

The table below shows the impact of GST when compared with the pre-GST position of Ming-Na. The following assumptions are made:

There is no adjustment to the prices paid/charged for art supplies other than passing on GST at 10%.

In respect of all sales from her gallery and store Ming-Na passes on only a 5% price increase where she is registered, and a 2% increase where she is not, due to the price sensitivity of her market.

GST remitted includes the importation of created works.

Costs of creating artworks are included in general expenses as they were all (with exception of overseas paintings) sourced from Ming-Na's own stock.

Income tax payable is calculated using the appropriate pre- and post-GST rates.

Ming Na's GST Registration Status			
Activity	Pre-GST situation	Registered	Not registered
Sale of own works	15,000	15,750	15,300
Commission income	8,000	8,400	8,160
Sale of art supplies	7,000	7,350	7,140
Australia Council Grant	5,000	5,500	5,000
Sales on secondary market	12,000	12,600	12,240
Costs of art supplies	(6,000)	(6,600)	(6,600)
General expenses of store	(5,000)	(5,500)	(5,500)
Costs of overseas created works	(500)	(500)	(500)
Costs of second hand artwork	(2,000)	(2,000)	(2,000)
GST remitted to ATO ⁺	—	(3,227)	(45)
Taxable Income	33,500	31,773	33,195
Income Tax Payable	(7,412)	(5,912)	(6,339)
Net Cash Position	26,088	25,861	26,856

⁺GST remitted to the ATO is not deductible for income tax purposes. However, for the purposes of this analysis, treating it as an expense has the same effect as separating, if the GST were charged to a clearing account.

Overall, Ming-Na is marginally worse off under GST than she would have been without GST, if she chooses to register. This is because she has not been able to pass on the full effect of GST as price increases. Because she has been able to slightly increase her prices though, even if she does not register, there is a preference here for her not to register.

Max: The Performer

This case study provides an example of the effect of GST on a performer. Not all issues that may arise in respect of all performers can be dealt with here.

If you have any queries regarding the application of GST to your own circumstances, you should seek professional advice or contact the Australian Taxation Office. Further information is also available on the ATO website at www.taxreform.ato.gov.au

Max's situation

Max is a musician. With the aid of an Australia Council grant, he has developed a program for taking contemporary folk music to schools for performance. For this, Max charges the school a fee of \$200 per show. This is fixed under a contract, which does not allow for any change in price for GST. Under an arrangement with the State Education Department, Max receives \$20 per night for accommodation where pre-approved travel is undertaken to schools in remote areas. The Education Department does not gross-up the payments for GST.

Max and his brothers, Todd and Leo, have formed a band, which plays at a variety of venues. The band occasionally plays at weddings and other private functions, as well as corporate events. Although the band is generally fully booked, the income is insufficient to support its members. So, Todd and Leo each have full-time jobs, as a clerk and plumber respectively. Max's school program generates sufficient income for him.

In August 2000, Max purchases a secondhand panel van from a licensed dealer. Max estimates that the van will be used 90% for business purposes and 10% for private use. Max sets aside one week every month for regional schools' concerts. This results in a large outlay for travelling expenses.

Max has used part of his grant funds to buy a number of new instruments, as well as some old instruments, which he has found in the classified ads and garage sales. His interest in European folk music and its role in his schools program was boosted when a friend travelling in Europe rang to tell him of a farmer in Switzerland wanting to sell his very rare mountain horn. Max arranged to send money for his friend to buy and ship the horn to him.

For further promotion, Max has organised mini-concerts, hiring out local halls and giving performances for token admission prices. Toward the end of the year, a promoter organises a concert featuring Max. He pays him \$5,000 for the performance.

Inspired by this, Max finances a recording of some of his own music. He will approach independent record labels with the demo tape, with a view to obtaining a recording contract. By the end of the financial year, there has been no interest in his demo tape.

To register or not to register?

In order to be able to register for GST, Max must first be able to show that he is conducting an enterprise. The facts would indicate that this is the case, as Max's activities extend beyond a hobby or recreational pursuit.

Whether or not Max registers is a matter to determine, based on his turnover. Registration for GST is compulsory if his turnover is greater than \$50,000 per annum and voluntary if it is less than that amount.

GST effect

The impact of GST on Max's activities may be summarised as follows:

MAX'S GST REGISTRATION STATUS

Activity	Registered	Not registered
Australia Council grant	<p>The grant is paid as the consideration for a taxable supply made by Max. Therefore, he will need to remit the GST collected with respect to the grant (ie 1/11th of the grant) to the ATO.</p> <p>Any input tax credits that arise during the GST period in which the grant is made could be offset against the amount to be remitted.</p> <p>The Australia Council would have topped up the grant to allow for GST, so the net amount available to Max is unchanged.</p>	<p>The grant is not subject to GST, so the amount received from the Australia Council is not topped up. However, there are no input tax credits available in respect of the items that the grant is spent on.</p>
Education Department per diem payment	<p>This is the consideration received for a supply to the Education Department, being the undertaking to travel to non-metropolitan schools. Therefore, 1/11th of the amount received is GST. Input tax credits may be used to offset this amount.</p>	<p>The amount received is not subject to GST and no input tax credits are available.</p>
Performance fees from schools	<p>These are fees for service and part of Max's business, so they would be subject to GST. The fees are paid by the schools, which may or may not seek contributions from the students.</p> <p>If GST were charged, the school would be able to obtain a GST input tax credit. As schools are generally making GST-free supplies, they would get a refund of GST included in Max's fee.</p> <p>If the fee were to be charged direct to the students, they would not get any input tax credits.</p>	<p>Not be subject to GST.</p>
Share of Band's income	<p>If the band is registered for GST in its own right, the distribution from the partnership to Max would not be subject to GST.</p>	<p>There should be no impact, regardless of whether the band is registered in its own right or not.</p>





Activity	Registered	Not registered
Panel van purchase	<p>Special rules phase in the amount of input tax credits available for motor vehicle purchases. These deny any input tax credits for purchases made in the period 1 July 2000 - 30 June 2001. For the year 1 July 2001 - 30 June 2002, half of the input tax credits will be allowed. These rules do not apply to the purchase of secondhand vehicles.</p> <p>Max will be entitled to input tax credits in the GST return following his acquisition. The input tax credits are not amortised over the life of the vehicle. As the intended use is only 90% business, Max will only be entitled to 90% of the input tax credits. At a review period, if his actual use of the van is found to be different an adjustment will be made accordingly.</p>	No input tax credits available. Max will have to bear the additional costs as a result of GST.
Travel expenses - food, fuel & accommodation	<p>GST included in these items will generate input tax credits to offset against the GST to be remitted on Max's supplies.</p> <p>Although basic food items are GST-free, prepared meals are not. Therefore, any meals consumed by Max while travelling will generate input tax credits.</p>	No input tax credits available. Max will have to bear the additional costs as a result of GST.
New instruments	Where GST is paid on the acquisition of an instrument, the input tax credit is allowed in the next GST return lodged, although the instrument will be used over a number of years. There is no matching of GST over the life of a capital asset purchased.	No input tax credits available. Max will have to bear the additional costs as a result of GST.
Instruments from garage sales etc	As the instruments are acquired from non-registered suppliers, they are not "creditable acquisitions" and therefore, no input tax credits arise.	No impact
Swiss mountain horn	<p>Max will have to pay GST on the import value of the horn, which is the sum of its cost plus the cost of freight and insurance in getting it to Australia.</p> <p>This GST will have to be paid by Max before the horn is allowed to leave the port. GST paid will be available as an input tax credit in the next GST return.</p>	Max will still have to pay GST on importation of the horn, but will not be able to claim input tax credits for that GST.
Concert costs	Max will be entitled to input tax credits for the costs of staging the performance.	No input tax credits available. Max will have to bear the additional costs of GST.
Concert ticket sales	The sale of tickets to Max's concerts will be subject to GST. 1/11th of the amount received will be the amount to be remitted to the ATO.	There will be no GST on the tickets.
Concert performance fee	Subject to GST.	Not subject to GST.
Recording of demo tape	Although no sale arises, the costs of the recording session will generate input tax credits.	No input tax credits available. Max will have to bear the additional costs because of GST.

Making dollars and cents of it all!

The table below shows the impact of GST when compared with the pre-GST position of Max. The following assumptions are made:

There is no adjustment to the prices paid/charged other than passing on the GST at 10%.

Income tax payable is calculated using the appropriate pre- and post-GST rates.

It is assumed that the expenses shown are allowable deductions for income tax purposes.

Max's GST Registration Status			
Activity	Pre-GST situation	Registered	Not registered
Australia Council grant	15,000	16,500	15,000
Education department per diem	640	640	640
School performance fees	23,000	23,000	23,000
Share of band income	2,000	2,000	2,000
Ticket sales	1,000	1,000	1,000
Concert performance fee	5,000	5,000	5,000
Secondhand van	(12,000)	(13,200)	(13,200)
New instrument	(2,000)	(2,200)	(2,200)
Secondhand instruments	(600)	(600)	(600)
Swiss mountain horn	(1,000)	(1,100)	(1,100)
Concert costs	(1,150)	(1,265)	(1,265)
Demo tapes	(800)	(880)	(880)
General expenses	(3,000)	(3,300)	(3,300)
GST remitted to ATO	—	(2,320)	—
Tax Depreciation adjustment	13,530	13,530	13,530
Taxable Income	39,620	36,805	37,625
Income Tax Payable	(9,639)	(7,422)	(7,668)
Cash Adjustment for Van & Instruments	(13,530)	(13,530)	(13,530)
Net Cash Position	16,451	15,853	16,427

From the above analysis, it appears that Max will be worse off under The New Tax System, although he will be marginally better off were he to register for GST. The cash saving should be considered against the costs to him of compliance with GST.

David: The Writer

This case study provides an example of the effect of GST on a writer. Not all issues that may arise in respect of all writers can be dealt with here.

If you have any queries regarding the application of GST to your own circumstances, you should seek professional advice or contact the Australian Taxation Office. Further information is also available on the ATO website at www.taxreform.ato.gov.au

David's situation

David is a writer. His first novel was moderately successful and he has been invited to festivals and readings as a result. The novel has recently been published overseas. On signing the overseas publishing deal in January 2000, David received a royalty advance cheque. Because of a few delays in the printing process, the book did not appear in bookstores overseas until August 2000.

David is now working on his second novel. This will involve considerable research and other such things. He has been awarded an Australia Council grant to assist. He expects to travel overseas to examine the setting for his novel, as well as investigating some of the technical details of the plot. So he can write while travelling, David has bought a laptop computer. Normally, David writes on a desktop PC in his study at home.

David had been teaching English at a large private school. After his first novel was published, his employer granted him a leave of absence so he could do a promotional book tour. However, David has continued to do some casual teaching when he is available, until shortly before his departure in March 2001 for his research trip.

Shortly before David's departure, his tireless agent, Rhiannon, who receives a 10% commission on all David's royalty payments and appearance fees, advises him that European sales of his first novel have exceeded expectations. David is asked by his publisher to do a book tour of the major centres in Europe. David is paid a fee for these appearances.

To register or not to register?

Because David has already published a first novel and had some commercial success with it, it would be easier for him to establish that his writing constitutes an enterprise and that he is therefore eligible to register for GST.

Whether or not David does so is a matter to determine, based on his turnover. Registration for GST is compulsory if his turnover is greater than \$50,000 per annum and voluntary if it is less than that amount. David's income from teaching is salary and wages, and is not subject to GST.

GST effect

The impact of the GST on David's activities may be summarised as follows:

DAVID'S GST REGISTRATION STATUS

Activity	Registered	Not registered
Appearance fees for local events	These fees are subject to GST and he would have to remit 1/11th of the amount to the ATO.	Not subject to GST.
Royalties for Australian sales	These would be subject to GST as consideration for a supply. 1/11th of the amount received would have to be remitted. If the contract was entered into prior to 8 July 1999, the amount will be GST-free until whichever comes first 1 July 2005 or an opportunity to review the contract.	Not subject to GST.
Advance royalties	As these were received under a contract entered into after 8 July 1999 they would be subject to GST. However, as the royalties are in connection with a supply outside of Australia, they are GST-free.	Not subject to GST.
Royalties from overseas publisher.	They are GST-free as they are, in effect, exports. However, input tax credits obtained in connection with the supply will still be available.	Not subject to GST.
Australia Council grant	1/11th of the grant amount is GST. The Australia Council would have topped up the grant to allow for this.	The grant is not subject to GST, so the amount received from Australia Council is not topped up.
Overseas travel costs	Airfares paid for in Australia for overseas travel are GST-free. The expenses incurred overseas will not be subject to Australian GST, so there will be no GST input tax credits available in respect of these expenses.	No effect.
Overseas appearance fees	As the services are supplied overseas, these should not be subject to GST.	Not subject to GST.
Teaching income	Not subject to GST.	Not subject to GST.
Rhiannon's commission	Assuming Rhiannon is also registered for GST, an input tax credit is available for 1/11th of the commission paid to her.	No input credit is available in respect of the GST on the commission paid to Rhiannon.

Making dollars and cents of it all!

The table below shows the impact of GST when compared with the pre-GST position of David. The following assumptions are made:

There is no adjustment to the prices paid/charged other than passing on the GST at 10%.

Income tax payable is calculated using the appropriate pre and post-GST rates.

It is assumed that the expenses shown are allowable deductions for income tax purposes.

David's GST Registration Status			
Activity	Pre-GST situation	Registered	Not registered
Appearance fees- local	1,200	1,320	1,200
Appearance fees- overseas	4,000	4,000	4,000
Royalties - local	10,000	10,000	10,000
Royalties - overseas	5,000	5,000	5,000
Advance royalties - overseas	15,000	15,000	15,000
Teaching income	2,500	2,500	2,500
Australia Council grant	10,000	11,000	10,000
Overseas travel costs	(16,000)	(16,000)	(16,000)
Research fees in Australia	(3,000)	(3,300)	(3,300)
General expenses - Australia	(3,200)	(3,520)	(3,520)
Cost of laptop computer	(6,500)	(6,825)	(6,825)
Tax Depreciation Adjustment	4,940	4,715	4,715
Net GST refund	—	120	—
Taxable Income	23,940	24,010	22,770
Income Tax Payable	(4,162)	(3,583)	(3,211)
Cash adjustment for Laptop	(4,940)	(4,715)	(4,715)
Net Cash Position	14,838	15,712	14,844

The net GST refund arises because David gets a full input tax credit for 1/11th of the cost of the computer, although he only gets to depreciate part of it in the year. Overall, David's net cash position post-GST is significantly better than under the old tax system.