



# WORKSHOP NOTES

## PART B

Arts Issues

# WORKSHOP NOTES

## B.1

### Donations

- A donation or gift made without any conditions attached, made either in cash or by the supply of goods or services, is not subject to GST.

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- What is important is the nature of the agreement or arrangement, regardless of what it is called.

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GST only applies to agreements where “consideration” exists. Consideration is the element of an agreement which gives parties the right to enforce that agreement against each other. There is no such thing as a contract without consideration. Consideration is usually the money that is paid for something, but it is broader than just money. Consideration is the exchange of one thing for another between the parties to an agreement or arrangement which, by the nature of the agreement or arrangement, results in the parties becoming obliged to perform their part of the agreement or arrangement.

#### EXAMPLES

Your arts organisation is bumping in a show at the Cummins Theatre in Merridin. A Merridin resident and theatre buff, Richard, offers to lend you his ute to assist with the bump in. You say thank you, take the ute and bump in your show. After using the ute, you provide Richard and some of his friends with free tickets to the show.

#### Gift or supply?

Your organisation is bumping in a show at the Cummins Theatre in Merridin. Richard offers to lend you his ute to assist with the bump in in return for a couple of free tickets. You say thank you, take the ute and bump in your show.

#### Gift or supply?

An arts festival is given \$5000 cash sponsorship by a local accounting firm. The firm has made no conditions on the provision of the “sponsorship”, nor has it requested anything in return.

#### Gift or supply?

An arts festival is given a \$5000 gift by a local accounting firm on the basis that an advertisement of the firm’s services will appear on all promotional material.

#### Gift or supply?

If it is a gift, GST does not apply, if a supply, GST may apply.

# WORKSHOP NOTES

## B.2

### Sponsorship

- Payment for goods or services to arts organisations in exchange for goods, such as free tickets, or services, such as advertising or promotion, are common types of sponsorship.
- Sponsorships are subject to GST on the basis that there is consideration in the arrangement or agreement.
- The GST implications of sponsorship are different for cash sponsorship and sponsorship provided in the form of goods or services.

#### Sponsorship provided in money

Cash sponsorship is a payment in return for goods or services provided by you. The goods or services most commonly provided are advertising and promotional services, access to free tickets, special subscriptions and other packages.

Where both you and the organisation providing the sponsorship are registered for GST, 1/11th of the amount of the sponsorship will be GST payable to the ATO, and your sponsor will be entitled to an input tax credit equivalent to 1/11th of the amount of the sponsorship.

Wheatfields Contemporary Art Space is registered for GST. The art space receives sponsorship of \$22,000 from a local rural supplies firm in return for signage.

**Does Art Space have a GST liability?**

**For how much?**

**What is the rural supplies firm's GST responsibility?**

What if you are not registered for the GST?

**What happens to the actual amount of the sponsorship received by you?**

**Do you have to account for any part of it as GST?**

**What might happen to the purchasing power of your sponsorship after 1 July 2000?**

**What impact would your not being registered have on your sponsor?**

#### Sponsorship provided in goods or services - non-monetary sponsorship

Where a sponsor provides you with goods and services in return for goods and services from you, there are two supplies being made.

**EXAMPLE**

A theatre is given timber by the local hardware store to rebuild a stage. The GST inclusive market value of the timber is \$5,500. In return, the theatre provides free tickets to its next production and includes advertising for the hardware store in all promotional material. In this case, the hardware store is supplying timber to the theatre. At the same time, the theatre is supplying the hardware store with tickets and advertising.

The law provides that where there is a contra deal, the consideration received is the GST inclusive market value of what is provided. Where the thing that you are providing has no pre-determined value (eg advertising) the GST inclusive market value of that supply is the GST inclusive market value of what you receive, eg the value of advertising space is commonly determined by what the sponsor is prepared to pay for the signage. Therefore, the consideration will be the GST inclusive value of what you receive. Contrast that with timber with a GST inclusive value of \$1,100 exchanged for tickets with a GST inclusive value of \$550, where both supplies have a particular GST inclusive market value.

Where both you and your sponsor are registered for GST, each is liable to pay GST on their supply. Where the supply has no particular GST inclusive value, ie where it is determined by the market, each will issue the other with a tax invoice for the same amount. The GST inclusive market value of what is being supplied is the same as the GST inclusive market value of the goods or services you agree to accept. Both you and your sponsor will still have to account for the GST payable and claim the input tax credits to which you are entitled. However, when non-monetary sponsorships are constructed in this way, the GST and input tax credits on the transaction net each other out and the end result is nil.

A theatre is given timber by the local hardware store to rebuild a stage. In return, the theatre is providing free tickets to its next production and including advertising for the hardware store in all promotional material.

**What tax invoices are required, for what, from whom, to whom?**

**Nominate the amounts to be included on the tax invoices, then answer the following:**

The hardware store is liable to the ATO for \$ \_\_\_\_\_ GST collected on its invoice for \_\_\_\_\_, and is entitled to a \$ \_\_\_\_\_ input tax credit on the invoice provided by the theatre for \_\_\_\_\_.

The GST collected less the input tax credit = \$ \_\_\_\_\_.

The ATO owes the hardware store \$ \_\_\_\_\_. The hardware store should remit \$ \_\_\_\_\_ to the ATO.

The theatre is liable to the ATO for \$ \_\_\_\_\_ GST collected on its invoice for \_\_\_\_\_, and is entitled to a \$ \_\_\_\_\_ input tax credit on the invoice provided by the hardware store for \_\_\_\_\_.

The GST collected less the input tax credit = \$ \_\_\_\_\_. The ATO owes the theatre \$ \_\_\_\_\_. The theatre should remit \$ \_\_\_\_\_ to the ATO.

**When should you and your sponsor provide each other with your tax invoices?**



# WORKSHOP NOTES

## B.3

### Fundraising

- Generally GST will be payable on fundraising activities. The GST treatment of fundraising activities varies according to the nature of the activity, and each will need to be assessed individually.
- Most non-profit organisations will be able to access flexible registration arrangements so that GST does not necessarily apply to activities such as fetes or fundraising dinners.
- Raffles and lotteries are treated as gambling and must comply with State or Territory laws. Raffles and lotteries undertaken by charities and deductible gift recipients (for Income Tax purposes) will be treated as GST-free supplies.

Raffles - unless you are a charity or deductible gift recipient, GST will apply. However, the method of calculating the GST liability depends upon the type of prizes being provided. Where cash is paid out, the amount of cash prizes deducted from the gross takings. GST is calculated on the net amount. Where a non-cash prize is paid out, GST is calculated on the gross takings and an input tax credit allowed for the GST included in the cost of the prizes (where applicable).

### Fundraising

- > If registered, GST applies
- > Includes raffles and auctions
- > Raffles by charities or deductible gift recipients are GST-free

Fundraising via a gambling event		
Prizes	Cash	Non-cash
Receipts	330	330
Cash Prizes of \$110	110	Nil
Net cash	220	330
GST payable @ 1/11	20	30
ITC for non-cash prize of \$110	Nil	10
Net GST payable	20	20

**CASH PRIZE**

You are registered for the GST and you run a fundraising raffle with a cash only prize of \$550. A total of \$1210 was collected from the raffle.

**What is the margin on the raffle?**

**What is the amount of GST payable?**

**How much do you make on the raffle?**

**NON-CASH PRIZE**

You raffle a television purchased for \$550. In purchasing the television, you paid GST of \$50 to the television store. A total of \$1210 was collected from the raffle.

**What is your margin?**

**What is the amount of GST?**

**What GST is payable on the raffle?**

**How much do you make on the raffle?**

**Auctions**

If you are registered for GST, you would normally stipulate in the conditions of the auction whether the bidding is GST inclusive or exclusive.

If you only ever auction your own goods and you are registered, then the conditions of auction will always be GST inclusive.

If you are a gallery or agent and are auctioning other person's goods, you should stipulate whether the auction lot is GST inclusive or exclusive. This will depend on the status of the owner for whom you are selling. If the owner is registered for GST, the bidding should be specified as GST inclusive or that GST needs to be added to the bid. If the owner is not registered for GST, then the bidding will be GST exclusive.

Normally, in charity auctions, you are auctioning goods that are yours through donation or similar transfer or ownership.

**If you are a non-profit organisation with gift deductible status**

If you are a non-profit organisation with smaller branches or units to your operation, you have the option of treating units as separate entities for the purpose of GST. If a unit has a turnover of less than \$100,000 per annum, it may choose not to register for GST, and its fundraising activities would not then be subject to GST.



## B.4

### Ticketing

- If registered for GST, 1/11th of the ticket price will be GST. Discount or concession rate, GST 1/11th of the discounted price or concession.

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- Free tickets

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- Sponsorship agreement, in return for services, or otherwise related to something done on the part of the person or organisation receiving the tickets, consideration may apply and therefore the arrangement could be subject to GST.

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You provide free tickets to a number of journalists and theatre critics to your show in the hope that they will attend and write something favourable.

**Are the tickets subject to GST?**

You provide free tickets to a journalist and for a number of his or her friends in exchange for an article to be written and placed in an agreed publication.

**Are the tickets subject to GST?**

#### **What about tickets provided in relation to someone's employment with you?**

You provide free tickets to some staff as part of their employment contract. If the staff members are employees, this transaction is not subject to GST. The provision of the tickets is part of the employees' salary and wages, and will be subject to Fringe Benefits Tax.

However, if the staff are contractors, the provision of the tickets will be subject to GST.

## Subscriptions

- If you are registered for GST, 1/11th of your subscription receipts such as for annual membership or season theatre tickets will be GST.
- Transitional issues. Subscriptions that apply for any period, either wholly or partly, after 30 June 2000 will be subject to GST if paid for after 2 December 1998.

Where a contract entered into prior to 1 July 2000 relates to activity that will span 1 July 2000, subject to the special transitional rules, there is a requirement for an apportionment of the price of subscriptions and GST between the amount of the supply occurring before 1 July and the amount occurring after 30 June 2000.

### EXAMPLE

Membership annual fee is \$400 for the 2000 calendar year.

The organisation is liable to the ATO for 1/11th of membership revenue for the period 1 July 2000 to 31 December 2000.

On apportionment, the price of membership would be \$200 for the first 6 months, and \$200 for the last 6 months of the calendar year.

In order to accommodate the GST, the organisation should increase the membership price for the last 6 months by 10%, which is \$20.

The total membership price for 2000 should be \$420.

The total membership price for 2001 should be \$440.

You are City Opera Company. What are your options if you have received payments for a subscription series of 4 performances, 2 before and 2 after 1 July 2000, and you have not included GST in the price of the subscriptions?

**What is the amount of any GST liability?**

**Who will meet that GST liability?**

**What happens if the subscription is for any four performances in the calendar year but City Opera will not know when a subscriber will be attending a performance until they order a ticket?**

The ACCC has permitted the averaging of GST across pre and post 1 July activities where such cannot be identified at the time the consideration is collected.

# WORKSHOP NOTES

## B.6

### Pricing

- If registered for GST, 1/11th of your price will be GST. If you do not add 10% to the value of things you sell, you will be out of pocket. However, you must also make some assessment of the impact of new prices on your market.
- Before adding 10%, you must review all your prices to take into account any reductions in costs resulting from abolition of WST.
- If registered for GST, you will include GST in your published prices, although the GST component need not be separately identified. For example, the cost of a ticket may be described as \$66 includes GST of \$6, or simply as \$66 includes GST.

Under The New Tax System, you must review your cost base for the goods and services you supply, taking into account the abolition of wholesale sales tax and other tax reforms. On that reviewed cost base, you will be adding your current dollar mark-up NOT percentage, and to that new value for the goods and services you provide you will be adding the 10% GST.

You are a local theatre group and are registered for GST. Pre GST, the price charged by you for a theatre ticket was \$20. The \$20 was made up of \$15 production costs, with a \$5 mark-up to go towards maintenance of the theatre and other costs of the theatre group. Post GST, production costs are \$14, due to the abolition of wholesale sales tax.

**What is the new value of your tickets?**

**What GST is payable on that value?**

**What is the GST inclusive price of your tickets after GST?**

What are the answers to the above example if you are not registered for GST?

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# WORKSHOP NOTES

## B.8

### Art sales on consignment

If you provide artwork to a gallery or other outlet on consignment, it is likely that the gallery is acting as your agent. There is no transfer of ownership in your work to the gallery, and the gallery is selling directly to the customer on your behalf.

Whether GST applies to the sale that the gallery makes on your behalf is subject to whether you as the owner are registered for GST. If you are registered the work will be sold by the gallery at a GST inclusive price. The gallery will issue a tax invoice on your behalf to the purchaser, if necessary.

The gallery will forward the proceeds of the sale to you less their commission.

You are liable to pay GST based on the price the purchaser paid for the work. You will be entitled to an input tax credit for the amount, if any, of GST included in the commission paid to the gallery.

#### YOU ARE REGISTERED FOR GST.

The Red Gallery takes 3 of your paintings on consignment. One sells for \$110,000.

**Is there GST payable on placement of the paintings on consignment?**

**Is there any GST in relation to the return of unsold works to the artist?**

**Who is responsible for the GST on the sale of the painting?**

**What is the GST liability on the sale of \$110 000?**

Red Gallery's commission on the sale was agreed at 30% of the GST exclusive sale price. The agreement also provides that the amount to be paid to you is to be grossed up for GST.

**How much is paid to you by Red Gallery?**

**What are Red Gallery's GST liabilities and entitlements to input tax credits?**

**What are your GST liabilities and entitlements to input tax credits?**

**What about the tax invoices?**



## Royalties

- **When registered for GST, royalties you receive for the use of your work by others will be subject to GST.**

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- **Define your current royalties entitlements, to assess the implications of The New Tax System, and possibly renegotiate current royalties arrangements.**

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- **There may be different outcomes, depending on whether you register for GST or not.**

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- > Pre GST, you are entitled to royalties of 25% on the production of a play you have written. If income from the performance is \$20,000, you are entitled to \$5,000 and the producer would receive \$15,000.
- > Post GST, what would the GST inclusive income from the production be if the producer is registered and has increased prices by 10%?

If you are not registered for the GST, and your 25% royalty is calculated on the GST inclusive income of the production:

**How much would you receive?**

**How much GST does the producer owe?**

**What would the producer make?**

Alternatively, if your 25% royalty is calculated on the GST exclusive income of \$20,000:

**How much would you receive?**

**How much would the producer make after accounting for GST?**

If you are registered for the GST:

If your 25% royalty is calculated on the GST inclusive income of \$22,000, describe the receipts and GST liabilities and input tax credit entitlements of yourself and the producer.

**What would the outcomes be if your 25% royalty is calculated on the GST exclusive income of \$20,000?**



## Contractors

- **If you contract artists and other people who are registered for GST to perform work for you, they will include GST in their contract price, and will issue you with a tax invoice. You will be entitled to input tax credits for GST they have included in the price for their services.**

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- **If the contractor does not provide an ABN, you may be required to withhold 48.5% of their fee under the PAYG system.**

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The Winery Jazz Festival contracts a jazz band to provide services at its festival. The band charges the festival \$660, including \$60 GST, per day.

**What amount does the band include on its tax invoice for the three days?**

**Who has a GST liability, and for how much.**

**Who has an input tax credit, and for how much?**

### **What happens if you are reimbursing the costs of someone who is not an employee or agent?**

The River Blues Festival has been supported for years by the volunteer work of a dedicated local, Rhonda. Rhonda has always coordinated staging, accommodation, catering, builders, and the other of other housekeeping tasks essential to the Festival's success. For years, the Festival has always made a payment to Rhonda as a contribution to her costs. The payment has never been specifically allocated to costs incurred by Rhonda personally, and is unlikely to actually cover the total of those costs in any event.

Rhonda is not on the books as an employee of the River Blues Festival.

**What is the position if Rhonda is a contractor?**

**What is the position if Rhonda has been acting as an agent of the Festival?**

The Festival may consider making Rhonda an employee, but in that case there would be legal requirements businesses salary, worker's compensation and superannuation at least that would need to be addressed.

The ATO is considering the position regarding reimbursement of volunteer workers. It is anticipated that legislative amendments will be passed treating reimbursements to volunteers as acquisitions of the registered entity.



## Artist's agents

### ● Where your agent is an agent at law

All contracts entered into by your agent on your behalf are the same as if you had actually entered into those contracts yourself.

### ● What if your agent is not an agent at law

Where your agent contracts directly with businesses wanting to hire talent or purchase your work, and then contracts you to provide that talent or that work, the agent is separately liable to the business wanting the artist or the work, and separately liable to you. There is no contractual relationship between you and the ultimate hirer.

You are an actor registered for the GST. Your agent identifies opportunities for you, negotiates your contracts, and finally enters into contracts on your behalf.

The commission charged by your agent is 10%.

Your agent negotiates a contract for you to provide a voiceover in a commercial for \$605 including GST. Your agent takes his or her commission from your fee exclusive of GST.

**What amount is your agent paid?**

**What is your agent's GST liability?**

**What are your GST liabilities and input tax credit entitlements?**

**What do you make on the deal?**

**What would the pre GST position have been?**

**What would the position have been if you are not registered for GST?**

**What if your "agent" had not acted as an agent, but had separately contracted to provide a service to the advertising firm, and contracted with you to provide a service for him?**

**Is there anything to watch out for if my agent, or the person I call my agent, always collects the money on any deal and forwards the proceeds on to me after taking his or her commission?**

Your agent receives \$605 from the advertising firm on 14 October. The agent draws his or her commission on that payment on 1 November, and sends you the proceeds on 14 November. If the contract is between you and the advertising firm, either direct or because your agent has entered into the contract on your behalf, when are you liable to account for GST?

**When have you actually received payment for your services?**

**When are you entitled to claim your input tax credit?**

**If you have nominated a monthly tax period what is the effect of the above dates?**

# WORKSHOP NOTES

## How well will you cope with the change to GST?

A useful planning tool is called a SWOT Analysis. SWOT stands for:

**Strengths:** things your business does well or advantages you have

**Weaknesses:** things your business does less well or disadvantages you have

**Opportunities:** positive external influences that might help you

**Threats:** negative or unhelpful external influences that might make things harder

Try a SWOT analysis to start to identify the ways GST may impact on your organisation, based on what you know already.

STRENGTHS

WEAKNESSES

OPPORTUNITIES

THREATS