

APPLICATION OF THE GST APPROPRIATION RULING, GSTR 2004/5 - ACT EXAMPLES

Section 9-15(3)(c) of the GST Act (*A New Tax System (Goods and Services Tax) Act 1999*) provides that 'a payment made by a government related entity to another government related entity is not the provision of consideration if the payment is specifically covered by an appropriation under an Australian law'.

The ATO has replaced the previous Final Ruling GSTR 2000/4 with GSTR 2004/5. The new GST Ruling does not alter the ATO's overall position on what payments are covered by appropriations, however, it provides further clarity (mostly by way of additional examples) as to what types of appropriation payments are intended to be covered by Section 9-15(3)(c). Chapter 5.1 of the Victorian GST Manual (which can be assessed at www.treasury.gov.au/accounting, select "Taxation", then "GST Manual") provides further explanation of GSTR 2004/5.

The points below are aimed at providing agencies with specific ACT examples to assist in effectively applying the appropriation ruling. A diagram, provided by KPMG, has also been attached to assist in the application of the appropriation ruling.

1. *Government Payment for Output from CFU to the Department of Urban Services.*

This transaction would not be subject to GST as it represents a payment specifically covered by an appropriation, and therefore is not considered a payment for GST purposes.

2. *Service Purchase Payment from the ACT Health to The Canberra Hospital.*

This transaction would not be subject to GST as it represents a funding transaction between two government related entities, the direct benefit of which does not return to the department making the payment.

3. *Service Purchase Payment from the Department of Education and Training to Non Government Schools.*

This transaction would be subject to GST as it represents a transaction between a government registered entity and a non government registered entity, and therefore falls outside the scope of the appropriation provision.

4. *Capital Injection from CFU to the Department of Education and Training, which is on passed to CIT.*

The first transaction would not be subject to GST as it represents a payment specifically covered by an appropriation.

The second transaction would not be subject to GST as it represents a funding transaction (capital transfer payment) between two government related entities, for which no goods, services or property rights return to the Department of Education and training.

5. *Capital Grant from ACT Health to Calvary Public Hospital.*

This transaction would be subject to GST as it represents a transaction between a government registered entity and a non government registered entity, and therefore falls outside the scope of the appropriation provision.

6. *Payment from CIT to InTACT for the provision of computing services.*

This transaction represents a payment for an input (good or service) that is provided directly back to the purchaser, and therefore is subject to GST.

GSTR 2004/5 - Appropriations

