

**BUSINESS**

SEGMENT

MEMBERS OF THE  
RACING INDUSTRY  
AUDIENCE

GUIDE

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**Australian Taxation Office**

# GST for the racing industry

This guide explains what owners, lessees, jockeys, drivers, trainers and breeders of racing animals need to do to meet their goods and services tax (GST) obligations.



This guide supplements  
*GST for small business*  
(NAT 3014).



**MORE INFORMATION**  
Visit [www.ato.gov.au](http://www.ato.gov.au)

To find any of the rulings referred to in this guide visit [www.ato.gov.au](http://www.ato.gov.au) and select Rulings, law and objections – Public Rulings.

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We are committed to providing you with advice and information you can rely on.

We make every effort to ensure that our advice and information is correct. If you follow advice in this publication and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we must still apply the law correctly. If that means you owe us money, we must ask you to pay it. However, we will not charge you a penalty or interest if you acted reasonably and in good faith.

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You are protected under GST law if you have acted on any GST advice in this publication. If you have relied on GST advice in this publication and that advice later changes, you will not have to pay any extra GST for the period up to the date of the change. Similarly, you will not have to pay any penalty or interest.

If you feel this publication does not fully cover your circumstances, please seek help from the Tax Office or a professional adviser.

### The information in this publication is current at July 2007.

We regularly revise our publications to take account of any changes to the law, so make sure that you have the latest information. If you are unsure, you can check for a more recent version on our website at [www.ato.gov.au](http://www.ato.gov.au) or contact us.

## ! TERMS WE USE

Some terms used in this guide may be new to you. They are shown in **bold** when first used, and are explained in 'Definitions' on page 29.

In this guide we use the term:

- **racing bodies** to describe **racing boards, controlling bodies** and/or **individual race clubs**
- **racing animals** to describe **thoroughbred** and **standard bred horses** and **greyhounds**
- **sale** and **purchase** to describe the GST terms **supply** and **acquisition**
- **GST credit** to describe the term **input tax credit**.

When we describe **payments received** or **payments made**, we are referring to the GST term **consideration**.

For the purposes of this guide, we assume that racing bodies are registered for GST.

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This section provides basic information about GST and will help you to work out:

- what type of entity you conduct your activities as
- if your activities are an enterprise
- if your activities are a hobby
- your GST turnover, and
- if you should apply for an Australian business number (ABN).

### WHAT IS GST?

Goods and services tax (GST) is a broad-based tax of 10% on most goods, services and other items sold or consumed in Australia.

To meet your GST obligations, it is important that you understand:

- how the GST system works, and
- what you need to do to meet your GST obligations.

You also need to know:

- if you have to register for GST
- how to register for GST
- what being registered for GST means, and
- how to apply for an ABN.

To help you decide whether or not you should register for GST, you will need to work out:

- what type of entity you conduct your activities as
- whether your activities are an enterprise or a hobby, and
- your GST turnover.

➤ We have issued a guide called *GST for small business* (NAT 3014). This guide contains important information about the topics mentioned above and explains what businesses need to do to meet their GST obligations.

For more information, refer to:

- *Tax basics for small business* (NAT 1908)
- *Income tax and deductions for small business* (NAT 10710)
- *Fringe benefits tax for small business* (NAT 8164), and
- *Guide to capital gains tax concessions for small business* (NAT 8384).

For a copy of these publications phone **13 28 66** or visit [www.ato.gov.au](http://www.ato.gov.au)

### WHAT TYPE OF ENTITY DO YOU CONDUCT YOUR ACTIVITIES AS?

It is important to identify your **entity** type so you can work out whether or not you are conducting your activities as an **enterprise**. Depending on your entity type, the activities you conduct may mean you are carrying on an enterprise for GST purposes.

➤ For more information about whether or not you are carrying on an enterprise, refer to 'Are your activities an enterprise?' on page 4.

➤ Many types of entity conduct racing activities, but this guide only provides information about some entity types. You should contact us for assistance if you are uncertain of your exact entity type.

An entity can be:

- an individual
- a partnership
- a company, or
- an unincorporated association or body of persons.

#### An individual

An individual is a person and is an entity in their own right.

#### A partnership

For GST purposes, a partnership is an association of persons that:

- carry on business as partners, or
- receive income jointly.

➤ A partnership for GST purposes is the same as that for income tax purposes. See 'Definitions' on page 29 for the 'indicators of a partnership' for income tax purposes.

⚠ Any GST obligations of a partnership are shared equally by all partners, however the obligations may be discharged by any of the partners.

### A company

A company is a legal entity separate from its shareholders. For GST purposes, a company means a body corporate or any other unincorporated association or body of persons, but does not include a partnership or non-entity joint venture.

### An unincorporated association or body of persons

Generally an unincorporated association or body of persons is a group of people who do not have the protection of limited liability, but have a common purpose or goal.

Your group may be an unincorporated association or body of persons if some of the following indicators are present:

- there are members of the association
- there is a contract binding the members amongst themselves
- there is a moment in time when a number of persons combined to form the association
- there is a constitutional arrangement for meetings of members and for appointing officers
- members are normally free to join or leave the association
- the association normally continues to exist independently from any change to the composition of the association, or
- there is a separate bank account and financial records for the association.

You can use these indicators to work out if your entity is an unincorporated association or body of persons.

⚠ Any GST obligations of an unincorporated association or body of persons are shared equally by each member of the committee of management of that association.

### A racing syndicate

In the racing industry it is common for a group of persons to form a syndicate. The structure of a syndicate and the provisions of syndicate agreements vary from case to case.

In some cases, a syndicate may meet the partnership definition for income tax purposes because they are in joint receipt of ordinary income (for example prize money), in which case the partnership is the entity for GST purposes.

Alternatively, a syndicate may form a company. This may be the case for syndicates with large numbers of members/ shareholders.

You will need to determine your entity structure based on your syndicate agreement.

➔ Contact us for further assistance in determining your entity structure.

### Can the same racing animal be supplied by more than one entity?

It is possible for more than one entity to supply the same racing animal. In such cases, each entity needs to consider their entitlement to an ABN and GST registration. In some cases, some members of the group supplying the animal may be registered or required to be registered for GST while others may not.

#### EXAMPLE: Supply by more than one entity

Six friends with an interest in racing lease an animal to race. They engage a trainer to train and prepare the animal for racing. They open a joint bank account from which all expenses are paid.

If the group is not a partnership, the absence of the other indicators of an unincorporated association or body of persons (see left) would indicate the ownership group will not be a single entity.

In this case, there are six individuals, each supplying their interest in the animal to race.

In the racing industry, the supplier of an animal for racing or breeding may be one entity (for example, an individual or a partnership) or multiple entities (for example, several individuals). Each case involving multiple entities needs to be carefully considered to work out if they are one entity conducting their racing industry activities.

### ARE YOUR ACTIVITIES AN ENTERPRISE?

⚠ The definition of an enterprise for GST purposes is broader than the definition of a business for income tax purposes. Therefore, it is possible for you to be carrying on an enterprise for GST purposes, yet not be considered to be a business for income tax purposes.

Determining whether an activity is an enterprise or not depends on the individual circumstances of each entity. For example, the activities of one entity may be similar to another entity, however the intentions of the activity and the way the activity is conducted may be different in each case.

The following questions will help you work out if you are conducting your racing industry activities as an enterprise:

**1 Are you an owner, lessee, trainer, jockey, driver or breeder?**

**YES** – go to question 2

**NO** – you are not carrying on an enterprise for the purposes of the activities referred to in this guide.

**2 Do you conduct your activities as:**

- an **employee** or in connection with earning **withholding payments**
- a private recreational pursuit or hobby, or
- an individual, or partnership (all or most of the members of which are individuals), without a **reasonable expectation of profit or gain**?

If you answer **YES** to any of these questions, you are not carrying on an enterprise for the purposes of GST.

**NO** – go to question 3

**3 Do you conduct your activities:**

- in the form of a business
- in the form of an adventure or concern in the nature of trade, or
- on a regular or continuous basis, in the form of a lease, licence or other grant of an interest in property?

If you answer **YES** to any of these questions, it is likely that you are carrying on an enterprise for GST purposes.

**NO** – it is not likely that you are carrying on an enterprise for the purposes of the activities referred to in this guide.

See 'Definitions' on pages 29–32 for the full definition of 'enterprise' and the 'indicators of a business' for income tax purposes.

**!** The enterprise status of an entity can change over time. For example, an individual may start off as a **hobbyist** but over time puts more time, effort and expertise into their ownership interests or training activities. The entity will need to assess their activities regularly and, at some point, may change from a hobbyist to an enterprise.

**>** For more information refer to Miscellaneous Taxation Ruling MT 2006/1 The New Tax System: the meaning of entity carrying on an enterprise for the purposes of entitlement to an Australian business number.

**>** Section 6 of this guide contains more information to help specific members of the animal racing industry work out if their activities are an enterprise.

### Conducting multiple activities

If you conduct more than one activity in the racing industry (for example, you are a trainer, breeder and owner of racing animals), you must consider each activity separately when determining if the activity is an enterprise.

Similarly, if you conduct a business outside the racing industry and you conduct racing activities, you are conducting two separate activities. Therefore your racing activities may not necessarily be an enterprise. You must look at each activity separately and work out if you are conducting either activity as an enterprise.

### EXAMPLE: Conducting multiple activities

John is a sole trader and operates a grocery store. He enjoys going to the races and placing a few bets. John decides it would be fun to race his own animal, so he purchases an animal and races it. John must look at his animal racing activity separately from his grocery enterprise in determining if his racing activity is conducted as an enterprise.

Given the unprofitable nature of racing animals, John would not have a reasonable expectation of profit or gain. Also, John's interest in racing is more an enjoyable pastime and may be a private recreational pursuit or hobby. Therefore while John is entitled to GST registration for his grocery enterprise, he is not entitled to GST registration for owning and racing animals.

**ARE YOUR ACTIVITIES A HOBBY?**

It is likely that you are conducting your activities as a hobby if:

- it is evident that you do not intend to make a profit from your activities
- you incur financial losses because your activity is motivated by personal pleasure (not profit) and there is no plan in place to show how a profit can be made
- you have no system to allow a profit to be produced when conducting your activity
- you have an intention to carry on a hobby, a recreation or a sport rather than a business or an activity in the form of a business
- you do not make commercial sales as part of your activity
- you do not make repeat or regular commercial sales, or
- you do not conduct your activity in the same manner as a normal, ordinary commercial activity of a similar type.

**!** Unless you can show otherwise, your animal racing activity will generally be a hobby unless you also conduct training or breeding activities.

**EXAMPLE: Activities classified as a hobby, not an enterprise**

Sue enjoys racing animals as a hobby. Sue's animal wins a big race and she receives prize money of \$60,000. Sue can't register for GST as she is not carrying on an enterprise, irrespective of her turnover.

**EXAMPLE: Activities conducted as an enterprise, not a hobby**

Peter has been a horse breeder for several years. Peter owns two broodmares that he keeps on a property he owns when they are not in foal. Peter uses the knowledge he has gained over a long period to select and purchase additional mares to replace those that are no longer suitable for breeding.

Peter sends his mares to a stud property to be covered by a well-known stallion and pays a substantial amount for the stallion service fees. When in foal the mares remain at the stud property and are cared for by the stud master. The resulting foals are sold each year at a major yearling sale and a reserve of at least \$80,000 is placed on each foal. By placing a reserve on each foal, Peter ensures he covers all his costs in breeding the foal and allows a significant profit to be made from the sale.

Peter keeps detailed records to account for his breeding activities. Peter opened a separate bank account to pay expenses and deposit income as a result of his breeding activities.

As Peter pays substantial stud fees and makes a significant profit from his breeding activities, his activities can be considered an enterprise.

**Do you have a reasonable expectation of profit or gain from your racing industry activities?**

If you conduct your racing activities as an individual or a partnership, you will not be carrying on an enterprise for GST purposes if you do not have a reasonable expectation of profit or gain from your activities. Your expectation must be more than a possibility, risk or chance that your racing activities will be profitable.



**EXAMPLE: Activities conducted without a reasonable expectation of profit, not an enterprise**

John is an individual and owns 12 horses. Of these, he uses three broodmares for breeding and he uses nine geldings for racing.

John purchased his racing stock, therefore his racing and breeding activities are not connected.

John's racing horses have won four races in the last year and he has received total prize money of \$50,000. However, John's racing expenses exceed his income.

John's broodmares are by sires with very limited success at stud and in racing (one sire won a country maiden race) and none of the mares have any black type in the first four generations of their pedigree.

Including stud and agistment fees, each foal costs John \$27,000 before the foal is sold at a yearling sale. As the quality of John's mares will not secure a listing in a premier yearling sale, the sale price of each foal does not cover his costs.

As John has no reasonable expectation of profit from his breeding or racing activities, neither activity is conducted as an enterprise.

**EXAMPLE: Activities conducted without a reasonable expectation of profit, not an enterprise**

Bob owns several greyhounds and engages a trainer to train and care for them while they are racing. The trainer does not charge Bob a weekly training fee, but rather Bob has entered into an arrangement whereby the trainer is entitled to 50% of any prize money won for training the greyhounds.

Bob doesn't keep a record of all his expenses, however, he has recorded how much each greyhound cost to purchase and how much prize money he has won. To date, Bob has not won sufficient prize money to cover the cost of purchasing his greyhounds. If a greyhound is not good enough to win races, he provides the animal for adoption by a caring family at no charge.

Bob is not considered to be carrying on an enterprise because, as an individual, he does not have a reasonable expectation of profit. This is because racing greyhounds is generally considered to be an unprofitable activity.

**WORKING OUT YOUR GST TURNOVER**

You must register for GST if your enterprise has a **GST turnover** of \$75,000 or more (\$150,000 or more for non-profit organisations).

If you are conducting an enterprise but have a GST turnover of less than \$75,000 (or \$150,000 for non-profit organisations), you can choose to register for GST. Generally you must then stay registered for at least 12 months.

Your GST turnover is your gross income (not your profit) from your enterprise, excluding any:

- GST included in sales to your customers
- input taxed sales you make
- sales not connected with Australia, and
- supplies that are made for no payment, unless they are made to associates (such as friends or relatives).

If your activities are an enterprise and you aren't registered for GST, each month you need to review your GST turnover to make sure it's less than \$75,000 (\$150,000 for non-profit organisations).

Your GST turnover is \$75,000 or more if:

- your turnover for the current month and the previous 11 months is \$75,000 or more, or
- your turnover for the current month and the next 11 months is likely to be \$75,000 or more.

If your GST turnover is \$75,000 or more (\$150,000 for non-profit organisations), you must register for GST within 21 days. However, if your turnover for the current and previous 11 months is \$75,000 or more (\$150,000 for non-profit organisations), but we are satisfied that your turnover for the current and next 11 months will be below \$75,000 (\$150,000 for non-profit organisations), you don't have to register for GST.


Non-residents of Australia do not need to include supplies that are not connected with Australia when working out their GST turnover.

**SHOULD YOU APPLY FOR AN ABN?**

You will need an ABN to be part of the GST system. Before you apply for an ABN, you should first work out if you are an entity carrying on an enterprise for GST purposes.

You are entitled to an ABN if you are:

- an entity carrying on an enterprise in Australia, or
- a company registered under the Corporations Act in Australia.

 Employees and hobbyists, as well as individuals and partnerships (where most of the members are individuals) without a reasonable expectation of profit or gain, are not entitled to an ABN as they are not carrying on an enterprise.

### **WHAT HAPPENS IF YOU QUOTE AN ABN FOR AN ENTERPRISE THAT IS NOT INVOLVED IN ANIMAL RACING ACTIVITIES?**

You may only quote an ABN to the racing body if the ABN is for an enterprise that is racing animals as part of the enterprise. If you quote an ABN for an enterprise whose activities do not include racing animals, you will be making a false or misleading statement. This is the case even if the racing animal is owned by individuals who are associated with the enterprise.

Making a false or misleading statement is an offence under taxation law.

### **Non-resident GST registration**

It is possible for non-residents who are not carrying on an enterprise in Australia, but are carrying on an enterprise in the animal racing industry in their own country of residence, to apply for GST registration only.

If you are a non-resident of Australia and you wish to apply for GST registration, it is important that you obtain a 'Certificate of status of enterprise' from your home tax authority.

This is a letter or form that includes:

- the name of the enterprise/business
- the nature or industry of the enterprise/business
- the date that the enterprise/business commenced, and
- the VAT/GST number of the enterprise in their home country.

➤ For more information about non-residents refer to:

- 'Non-residents of Australia' on page 28
- ABN essentials (available on our website at [www.ato.gov.au](http://www.ato.gov.au))
- *Who is entitled to an ABN?* (NAT 3015)
- *Cancelling your GST registration* (NAT 3844), and
- *Cancellation of registration application* (NAT 2955).

This section provides information relating to common accounting and record keeping events in the racing industry. These events include:

- issuing and receiving tax invoices
- accounting for monetary and non-monetary prizes
- imports
- exports, and
- auction sales.

## ACCOUNTING FOR GST

There are two methods of accounting for GST – on a cash basis or on a non-cash basis. It is important that you are familiar with the accounting method you adopt when completing your activity statement.

- For more information on accounting for GST refer to:
- *GST for small business* (NAT 3014). Section 4 contains important additional information about accounting for GST and keeping proper records, and
  - *Record keeping for small business* (NAT 3029).

## TAX INVOICES

Tax invoices are an important part of the GST system. To claim a GST credit you must be registered for GST and have a tax invoice (or recipient created tax invoice) for purchases that cost more than \$82.50 (including GST).

If you make taxable supplies (for example, you are an owner supplying your horse to race), you must issue a tax invoice within 28 days if the recipient of your supply (such as a racing body) requests one. You should keep a copy of all tax invoices that you issue to help you prepare your activity statements.

If you are a racing body and you make sales to a participant (for example, an owner or trainer) for which you charge a fee, these sales should be included in a tax invoice you issue to the recipient. For example, you may provide entry into a race in exchange for nomination and acceptance fees. These charges will be included in the tax invoice that you issue to the owner of the racing animal.

## RECIPIENT CREATED TAX INVOICES

In certain circumstances, the racing body may issue you with a **recipient created tax invoice (RCTI)**. These are tax invoices you receive for services you supply to the racing body.

Racing bodies may only issue RCTIs if:

- both you and the racing body are registered for GST at the time the RCTI is issued
- there is a written agreement between you and the racing body specifying the sales to which the agreement relates and agreeing that the racing body can issue the RCTI, and
- you, as the supplier, do not issue tax invoices for the sales specified in the agreement.

! If you are not required to be registered for GST (for example, your activities are a hobby), the racing body will issue you with details of the prize money you have won in a statement or remittance advice. This document is not an RCTI.

Supplies you receive from a racing body (for example, entry into a race on payment of a nomination or acceptance fee) cannot form part of an RCTI the racing body issues to you. These supplies must be listed in a tax invoice issued by the racing body.

The types of supplies that may appear on an RCTI include supplies:

- of an animal to race for which prize money or an unplaced starter's rebate is paid to an owner
- by a trainer for which they receive their percentage of prize money, and
- by a jockey or driver for which they receive a riding/driver fee or their percentage of prize money.

**EXAMPLE: RCTI issued by racing body**

Phil is registered for GST in relation to his racing activities. He enters a horse into a race and pays the nomination fee of \$110. The horse wins the race and Phil receives prize money of \$2,200. Both of these transactions occur within the same tax period and these are the only transactions for Phil in this tax period. Phil has an RCTI written agreement with the racing body.

Phil can't issue a tax invoice for these transactions. The racing body will issue an RCTI and will separately identify the transactions. Phil must account for GST of \$200, that is, one-eleventh of the \$2,200 prize money. Phil is entitled to a GST credit of \$10, that is, one-eleventh of the \$110 nomination fee.

➤ There are other matters you may need to consider in relation to RCTIs.

For more detailed information, refer to GST ruling GSTR 2000/10 *Goods and services tax: recipient created tax invoices*.

**MONETARY PRIZES**

If you are a GST-registered owner, lessee, trainer, driver or jockey, any monetary prizes paid to you by a racing body will be subject to GST.

**Monetary prizes as payment for your supplies**

If you are a GST-registered owner, lessee, trainer, driver or jockey making racing related supplies to a racing body, you will need to account for GST on any monetary payments that you receive for your supplies.

Racing bodies set the amount of prize money for each race. If a GST-registered participant wins prize money, the racing body will generally, though not always, increase the amount paid by 10% for that participant's share of the prize.

⚠ Racing bodies are not required to increase prize money by 10% for GST-registered participants. Any decision to do so is made by the racing body. If a racing body does not increase prize money, you are still required to account for GST of one-eleventh of the money received. **Payments received without a 10% increase are not GST-free and you should not include these as GST-free supplies on your activity statement.**

**NON-MONETARY PRIZES**

A trophy or any other non-monetary prize that is paid by a racing body to you as an owner, lessee, trainer, driver or jockey may be subject to GST.

**Non-monetary prize as payment for your supplies**

If you are a GST-registered owner, lessee, trainer, driver or jockey making racing related supplies to a racing body, you may need to account for GST on any non-monetary payments that you receive for your supplies. (See page 11 for information on when you are not required to account for GST when you receive non-monetary prizes.)

If you receive non-monetary payments, you need to work out the GST-inclusive market value of the non-monetary payments you receive. As the supplier, you are responsible for determining this value using a reasonable method.

Examples of reasonable methods include:

- the market value of an identical good, service or thing
- the market value of a similar good, service or thing
- the market value of the supply, or
- a professional appraisal.

**EXAMPLE: Determining the GST-inclusive market value of a non-monetary prize**

Jenna is a GST-registered jockey who recently participated in a racing event in the course of her racing enterprise. Jenna received a non-monetary payment in the form of a new saddle for participating in a racing event. To work out the GST-inclusive market value of the saddle, Jenna visits a local equestrian supplies store. Jenna does not find an identical saddle, however she finds a saddle that is very similar. Jenna determines that her saddle has the same GST-inclusive market value as the saddle she found in the store.

Because the equestrian supplier conducts an enterprise that ordinarily sells saddles, and the saddle Jenna found is similar in every way to her own, Jenna can feel confident that she has used a reasonable method for determining the GST-inclusive market value of her saddle.

Generally, the racing body will list the value of the non-monetary prize on the RCTI they issue to you.

It is important to understand that if you are registered or required to be registered for GST and you receive a prize intended as a non-monetary payment from a racing body in return for your supplies, there have been two separate transactions:

**1 You have made a taxable supply to the racing body.**

In this instance, you must account for GST on the GST-inclusive market value of the non-monetary prize the racing body provides to you.

**2 The racing body has supplied you with goods or services.**

The supply of goods or services to you are taxable supplies by the racing body in addition to being a payment to you for your supplies. You will be entitled to claim a GST credit equal to the amount of GST you pay on the prize.

As the payment takes the form of goods or services, the racing body must also account for the GST on the value of the prize.

**Non-monetary prizes not included as payment for your services**

You don't have to account for GST on non-monetary payments where the prize is purely a symbolic recognition of your achievement (such as a medal, ribbon, trophy or similar prize). We consider that such prizes have no market value and as such are not considered payment for your services. Therefore you are not entitled to claim a GST credit as the prize has no value.

**!** If your medal, ribbon, trophy or similar prize is unique, contains valuable metal or gems, or exhibits quality artistic design or craftsmanship, it will be subject to GST.

Non-monetary prizes that are designed for a practical use are not purely a symbol of recognition. For example, a prize of a crystal decanter, a computer or an item of sporting equipment has a market value that is included as payment for your services, even though a racing body may describe it as a 'trophy'.

**>** For more information refer to:

- GST ruling GSTR 2002/3 Goods and services tax: prizes, and
- GST ruling GSTR 2001/6 Goods and services tax: non-monetary consideration.

**EXAMPLE: Supply of a prize that is only a symbolic recognition of achievement and has no market value**

At a race meeting, the AAA Race Club provides a silk rug (GST-inclusive market value \$330), along with the prize money as first prize in a race. The silk rug is embroidered with the race name and the year of the race.

Mary owns the horse that wins the race and she is presented with the silk rug. Mary is registered for GST and is participating in the race in the course of her horse racing enterprise.

Whilst Mary must account for GST on any prize money she receives, she is not required to account for GST on the value of the silk rug. This is because the prize is not received as payment for the participation of Mary's horse. The prize is purely symbolic – it recognises the winner's achievement and has no value other than its personal or sentimental value to Mary.

The AAA club is not required to account for GST when they provide the silk rug to Mary as they have not made a taxable supply. This is because the silk rug is merely provided as a symbolic recognition of the winner's achievement and has no market value.

**EXAMPLE: Supply of a prize that is more than a symbolic recognition of achievement and has a market value**

The AAA Race Club also presents a trophy (GST-inclusive market value \$22,000) to Mary as the winner of the AAA Race Club Cup. The cup is partly made from gold and has been elaborately designed and engraved requiring a high quality of craftsmanship.

The trophy is more than symbolic recognition of Mary's achievement and its GST-inclusive market value is included in the price of the racing supply Mary made.

The requirements for accounting for GST and any entitlement to GST credits are the same as in example 'Determining the GST-inclusive market value of a non-monetary prize' on page 10.

**EXAMPLE: Supply of a prize to a participant that is registered for GST**

A GST-registered racing club conducts a race meeting. Bob's horse wins the Country Mile as part of the race meeting. Bob is registered for GST and is participating in the race in the course of his horse racing enterprise.

The racing club supplies prize money to Bob for winning the Country Mile. In addition to the money, the racing club also provides a non-monetary prize of a horse rug. The rug is designed to protect a horse from the elements and has a GST-inclusive market value of \$440.

Bob must account for GST on the prize money and on the value of the horse rug as both are payments received for the supply he has made to the race club. The horse rug is included as a payment as it is designed for a practical use and is more than a symbolic recognition of Bob's achievement.

As Bob is registered for GST, he can claim a GST credit of one-eleventh of the GST-inclusive market value of the horse rug.

The import of goods is also non-taxable if the importer purchased or imported the goods before 1 July 2000 and:

- the goods were subsequently exported and returned to Australia on or after 1 July 2000 in an unaltered condition since their export, and
- the ownership of the goods when they are returned to Australia is the same as their ownership on 1 July 2000.

In the racing industry, any treatment to (or training of) an animal whilst overseas means that it is unlikely that the animal will be returned in an unaltered condition. This includes a mare returning to Australia in foal. Therefore, it is unlikely that the re-importation of race animals or animals used for breeding would be a non-taxable import.

**When is the value of a taxable import nil?**

You must pay GST on the value of a taxable import. If the value of the import is nil, you do not have to pay GST on the import.

If a live animal is exported from Australia and then re-imported to Australia, GST will be payable on the import if the value of the animal is greater than its value prior to being exported from Australia. The amount of GST payable will be calculated on the amount by which the value of the live animal has increased.

**IMPORTS****When is GST payable on imports?**

GST is payable on all taxable imports. You make a taxable import if you import goods for use in Australia. GST may also be payable on some intangible supplies made to you such as a service.

Generally, GST will not be payable on imports if:

- they are non-taxable imports
- the value of a taxable import of a live animal that was exported has not changed, or
- the Australian Customs Service ('Customs') temporary import provisions apply.

**Non-taxable imports**

An import of goods can be a non-taxable import if:

- a** the goods were exported from Australia and are returned to Australia without being altered, treated, renovated or processed, and
- b** the importer was not entitled to, and did not claim, a tourist refund on the goods, and
- c** the importer:
  - i** is the manufacturer of the goods, or
  - ii** has previously purchased the goods by a taxable sale or taxable import.

**EXAMPLE: GST not payable on re-import of live animal**

XYZ Stud Farms wishes to re-import a stallion to Australia from New Zealand. The stallion was purchased in New Zealand several years ago and has been imported and exported between Australia and New Zealand for its services several times.

The stallion was valued at \$200,000 immediately before it was last exported to New Zealand. Prior to importing the stallion back to Australia, another valuation is conducted and XYZ Stud Farms finds that the stallion is still valued at \$200,000. Because the value of the stallion has not increased whilst in New Zealand, the value of the import is deemed to be nil. Therefore XYZ Stud Farms do not have to pay GST on the import.

**EXAMPLE: GST payable on re-import of breeding livestock**

A horse racing syndicate sends its best mare to New Zealand to be serviced by a past Melbourne Cup winning stallion. On export the mare is valued at \$250,000. When the syndicate re-imports the mare, her value has increased as she is in foal. Customs now values the mare at \$300,000 (this includes the cost of transport and associated insurance and may reflect such things as the stallion service fee paid). The value of the taxable importation is \$50,000 (\$300,000 less \$250,000). Therefore the racing syndicate must pay \$5,000 GST (10% of \$50,000).

**Customs temporary import provisions**

You may wish to import horses into Australia on a temporary basis for purposes such as racing or breeding. As the temporary import provisions are administered by Customs, we recommend you contact Customs direct for more information.

Generally, goods may be brought into Australia on a temporary basis without the payment of Customs duty or GST, providing a security deposit or undertaking is given and certain conditions are met. All temporary imports must be re-exported within the approved period, usually for a period of up to 12 months. The nature of the goods, what they will be used for while they are in Australia and who is importing them will determine whether they are eligible for temporary import.

In the racing industry, animals imported for racing may qualify under the temporary import provisions, however animals imported for breeding purposes will generally not qualify.

**EXAMPLE: GST not payable on imports under the Customs temporary import provisions**

Freddy is a non-resident of Australia and wishes to import his horse from New Zealand to compete in several Australian races. Harness Racing Promotions have applied for and received a Customs' special events exemption on these races.

Freddy applies to import his horse under the Customs temporary import provisions. If Freddy's application is approved, he will not have to pay GST on import, however he will need to provide a security deposit or bank guarantee and ensure that the horse is exported within an approved period of time.

**EXAMPLE: GST not payable on imports under the Customs temporary import provisions**

Sam is a jockey and is not a resident of Australia. Sam wishes to import his customised riding equipment for use during his rides in Australia. Sam applies to Customs to import his equipment as 'professional equipment' under the Customs temporary import provisions. Sam's application is approved with some conditions. He must also provide Customs with a security deposit that will cover duties and taxes payable.

If you have an issue relating to the import of goods (including animals), you should contact Customs. Other issues relating to import may include:

- the death of an animal imported under the Customs temporary import provisions, or
- the import of frozen or fresh animal semen.



You can contact Customs by:

- emailing [information@customs.gov.au](mailto:information@customs.gov.au)
- visiting the Customs website at [www.customs.gov.au](http://www.customs.gov.au) or
- phoning **1300 363 263**.

**Who pays GST on imports?**

Generally, you have to pay GST on goods you import into Australia if you are the beneficial owner of the imported goods. Transporters and other facilitators who arrange the import of goods are not regarded as importers for GST purposes.

You must pay GST on **taxable imports** regardless of whether you are registered for GST or not. This includes individuals, and other entities, who do not carry on an enterprise.

Customs collects GST and customs duty on imported goods when they enter Australia. If you are registered for GST, you are entitled to claim GST credits for GST paid on anything imported for business purposes.

**Non-residents with resident agents**

A non-resident may be an importer for GST purposes if they import goods into Australia. The same general rules apply and GST is payable on the import by the non-resident.

There are special rules for certain non-residents who appoint resident agents to act on their behalf. If a non-resident is registered or required to be registered for GST and makes a sale or import through the resident agent, special rules apply.

If these special rules apply, the non-resident's GST obligations transfer to the resident agent, that is, GST must be paid by the resident agent and not by the non-resident. Similarly, the resident agent is entitled to claim GST credits on purchases and imports made in carrying on the non-resident's enterprise in Australia.

A resident who is acting as an agent for a non-resident is required to be registered for GST if the non-resident is registered or required to be registered.

#### **EXAMPLE: GST payable by a resident acting as an agent for a non-resident**

ABC Worldwide Racing is a non-resident entity wishing to import several thoroughbred horses for the spring racing carnival. ABC Worldwide Racing conducts its racing activities as an enterprise and registers for GST. They appoint QTX Australian Racing as a resident agent to import on their behalf. QTX Australian Racing is registered for GST.

Because QTX Australian Racing is a resident agent for ABC Worldwide Racing, they must pay the GST on the imports. They are also entitled to claim the GST credits for the GST paid on the imports.

#### **How much GST is payable on imports?**

GST is charged at 10% of the value of the taxable import. The value of a taxable import is the Customs value plus the cost of international transport, insurance and customs duty.

#### **What options are there for paying GST?**

Generally, GST must be paid by the importer at the same time and in the same way as customs duty. This is collected by Customs at the time the goods are 'entered for home consumption' – that is, when Customs releases them for use in Australia.

#### **Deferred GST scheme**

If you are an approved entity under the deferred GST scheme, you may defer payment of GST on imported goods until the first activity statement is submitted after the goods are entered for home consumption.

#### **EXAMPLE: GST deferred on a taxable import**

Mandy is an Australian resident who purchases a horse in America and wishes to import it into Australia. She meets the enterprise test for her racing activities and is registered for GST.

Mandy lodges her activity statement monthly and has received approval to use the deferred GST scheme. Mandy uses the services of an Australian transport company to arrange the import.

Mandy defers the GST on the import when the horse is entered for home consumption. The deferred GST will appear on Mandy's next activity statement and she is entitled to claim a GST credit for the same amount if the horse is to be used in her enterprise.

- For more information about this scheme, phone the deferred GST scheme helpline on **1300 130 915** or refer to:
  - *GST and imported goods* (NAT 3124), and
  - *Easy steps to the deferred GST scheme* (NAT 9558).

#### **Can the GST paid on imports be claimed as a GST credit?**

You are not entitled to claim GST credits if the goods you import are intended for private use or for making input taxed supplies. You may be entitled to claim GST credits for the GST you pay on your import if the goods are for use in your enterprise and you are registered for GST. Your entitlement to claim GST credits is not transferable and can't be assigned to another entity.

#### **EXAMPLE: GST payable on taxable import**

Sam is an Australian resident who purchases a horse in New Zealand and wishes to import it to Australia. Sam conducts his racing activities as a hobby so he can't register for GST. Sam uses an Australian transport company to arrange the import.

Sam must pay the GST on the import when the horse is entered for home consumption. Because Sam can't register his racing activities, he can't apply to defer the GST payable. Furthermore, neither Sam nor the transport company is entitled to claim a GST credit for the GST paid on the import.

- For more information refer to GST ruling GSTR 2003/15 Goods and services tax: importation of goods into Australia.



## EXPORTS

### Selling animals to be exported

If you are registered or required to be registered for GST and you sell racing or breeding animals, the sale will be GST-free if you export the animal before or within 60 days of:

- the date any payment is made for the animal, or
- if earlier, the date on which you provide an invoice, or
- if the sale is paid for in instalments:
  - the date on which the final instalment is paid, or
  - if earlier, the date on which you provide an invoice for the final instalment.

If you sell an animal to a purchaser and the purchaser intends to export the animal, the sale must be treated as a taxable sale. However, the sale may be GST-free if the animal is exported under the following conditions:

- the purchaser is not registered or required to be registered for GST
- the purchaser exports the animal
- the animal is entered for export within the meaning of the *Customs Act 1901*
- from the time the animal is sold to the purchaser, the animal is not altered or used in any way before export, except to prepare it for export
- the animal is exported within the 60 day time limit (or such further time period as the Commissioner allows), and
- you have sufficient documentary evidence to show that the animal has been exported. Examples include a cleared Export Declaration Number (EDN), bill of lading or an extract from the Australian Stud Book evidencing the animal's departure.

If any of the above conditions are not met, the sale will remain a taxable sale.

**!** Any use of the animal prior to export, which is essentially the same as the ultimate intended use of the animal, is not considered to be usage necessary to prepare the animal for export.

For example, where a horse is sold to a non-resident, it will remain a taxable sale if the horse is used for breeding or raced in Australia before it is exported.

### Extension of 60-day export period and sales to non-residents

The law provides a discretionary power to the Commissioner to extend the 60-day export period. The Commissioner will consider a number of factors in determining whether such an extension is warranted. These include, but are not limited to, any practical circumstances beyond the control of the exporter.

If you are an owner, bloodstock agent, vendor, breeder or trainer who sells animals to non-residents requiring longer than 60 days to export the animal, you should apply in writing for an extension.

As each request for extension is considered on its merits, it is important that your request outlines the specific circumstances of your case, including the period of extension required and full reasons for requesting the extension. You should submit your request as soon as you (or the non-resident purchaser) become aware that the animal will not be exported within 60 days. We recommend you submit your request before the 60-day period has elapsed.

- Written requests should be sent to us:
- at **PO Box 9935 in your capital city**, or
  - via email at **GSTmail@ato.gov.au**

### AUCTION SALES

Generally, auctioneers provide their services to you when selling animals on your behalf. Prior to the auction, the auctioneer will need to know whether you are registered for GST or not. This is because sales are only subject to GST if the vendor is registered for GST.

Before an auction begins, the auctioneer needs to advise bidders:

- of the registration status of the vendor
- whether the animal being sold is subject to GST, and if so
- how the GST will be calculated.

This information may be communicated via catalogue or a verbal announcement before the auction.

If the vendor is an ownership group, it is possible that part of the group may be registered for GST whilst the remainder of the group may not (see 'Can the same racing animal be supplied by more than one entity?' on page 4). In this instance, the auctioneer must be advised of the correct percentage of GST-registered ownership of the animal.

### **Can animal sales at auction be GST-free?**

All animals sold at auction must have GST included in the final sale price where they are sold by an entity that is registered or required to be registered for GST. If an animal is sold to someone who exports the animal within the 60-day time limit, the sale may become a GST-free export if the previously listed requirements are met.

➤ For more information refer to GST ruling GSTR 2002/6 Goods and services tax: exports of goods, items 1 to 4 of the table in subsection 38-185(1) of the *A New Tax System (Goods and Services Tax) Act 1999*.

This section outlines the no ABN withholding rules and when and how to enter into a voluntary agreement.

## NO ABN WITHHOLDING

Under the no ABN withholding rules, if a business supplies goods or services to another business and does not quote their ABN, the business that receives the goods or services must withhold 46.5% of the payment to the supplier and pay this amount to us.

If you are carrying on an enterprise in the racing industry and you do not supply your ABN to the racing body, the racing body must withhold 46.5% from any payments they make to you.

The same will apply to payments between trainers, owners, lessees and contractor jockeys/drivers.

Some supplies are excluded from the no ABN withholding rules. An amount should not be withheld if:

- the total payment for the supply is \$75 or less, excluding GST
- the supplier is under 18 years of age and your payments to that person are not more than \$120 a week
- the goods or services are supplied through an agent who has quoted their ABN on an invoice or some other document relating to the supply.

Also, you should not withhold if you're satisfied that:

- the supplier is providing the goods or services in a private capacity or as part of a hobby
- the payment is to a non-resident who is not carrying on a business in Australia or through an agent in Australia, or
- the supplier is not a business because they have no reasonable expectation of profit or gain. To be satisfied that this exception applies, you need to obtain a statement to this effect from the supplier.

If you're unsure, you should ask the supplier to give you a written statement that the supply of goods or services is excluded for one of these reasons. They can use the statement contained in *Statement by a supplier (reason for not quoting an ABN to an enterprise)* (NAT 3346) or create their own statement containing the same information. You must keep their statement for five years. If you suspect the statement is false, you must withhold 46.5% of the total payment.

If you withhold an amount, you will need to give the supplier a payment summary when you pay them (or as soon as practicable thereafter). The payment summary should contain details of the transaction and the amount withheld.

The supplier who has had 46.5% withheld from payments will be able to claim the amounts withheld as credits when they lodge their income tax return after the end of the income year.

The supplier will need to attach a copy of their payment summary to their income tax return.

If you are not carrying on an enterprise, for example you are a hobbyist, it is advisable for you to give the racing body a *Statement by a supplier* or written statement indicating this.

➤ The racing body will usually supply *Statement by a supplier* forms to you.

Generally, if you supply your ABN (or complete a statement by a supplier) to a racing body in one state, you will not be required to provide this information again when you compete in a different state. When you supply your services in another state, the racing body in that state will usually have access to your original statement through a national racing database. You may need to confirm this with your state racing body.

If your circumstances change, for example you were a hobbyist but you are now carrying on an enterprise, you should notify the racing body of this change.

## EXAMPLE: No ABN withholding

Rosanne is a jockey carrying on an enterprise, but has not supplied an ABN to the racing body. Rosanne is entitled to riding fees and prize money of \$1,000. The racing body must withhold 46.5% from this payment (\$465) and pay it to the Tax Office.

Rosanne should supply her ABN to the racing body to avoid further withholding of monies. Rosanne will receive a credit of \$465 when she lodges her next income tax return.

You may also make supplies to entities other than the racing bodies. For example, a trainer may make supplies of their training services to an owner. In this case the trainer should supply their ABN to the owner (for example, on a tax invoice) to avoid amounts being withheld by the owner. Only owners who are carrying on a business of owning horses will be required to withhold amounts if an ABN is not supplied to them.

## VOLUNTARY AGREEMENTS

Pay as you go (PAYG) voluntary agreements enable businesses to withhold amounts from payments they make to contract workers to help the workers pay their income tax.

In the racing industry, contractor jockeys and drivers can enter into voluntary agreements with their racing bodies.

### What is a voluntary agreement?

If you are a jockey or driver (payee) and are not an employee, you may enter into a written agreement with the racing body (payer) to bring payments into the PAYG withholding system. A voluntary agreement excludes these payments from the GST system and also assists you to meet your income tax obligations.

To enter into a voluntary agreement:

- you must be an individual
- you must have an ABN, and
- the payments you receive must not be subject to any other PAYG withholding.

This means that jockeys or drivers who are engaged as employees, such as apprentices, are not able to enter into a voluntary agreement.

If you enter into a voluntary agreement, the racing body withholds amounts from payments it makes to you (such as riding or driving fees) and sends the amounts withheld to us. You are not required to pay PAYG instalments for that income when you lodge your activity statement.

A voluntary agreement must be a signed written agreement that includes:

- the commencement date of the agreement
- what the payments are for
- the payee's ABN, name and address
- the payer's ABN, name and address
- the rate of withholding, and
- a statement that the payments made under the agreement are subject to a voluntary agreement under section 12-55 of Schedule 1, Part 2-5 of the *Taxation Administration Act 1953*.

➤ A PAYG voluntary agreement form *PAYG withholding – a voluntary agreement for pay as you go* (NAT 2772) is available from us. You do not have to use this form, but a written agreement must include all the above information.

### How much should the payer withhold?

The rate of withholding under voluntary agreements is either your instalment rate or a flat rate of 20%.

If you are liable to pay PAYG instalments, we will generally notify you of your instalment rate (called the **Commissioner's instalment rate (CIR)**) which is normally used to calculate PAYG instalments.

You must disclose your CIR or state that you do not have one in the voluntary agreement. If you do not have one or it is not known at the time of the agreement, the flat rate of 20% applies.

If your CIR is greater than 20%, the racing body must withhold at the CIR. If your CIR is 20% or less, the racing body must withhold at the flat rate of 20%, unless you agree with the racing body to use the CIR.

The racing body withholds at the appropriate rate from the gross amount payable.

### How long does a voluntary agreement last?

A voluntary agreement can cover payments relating to a specific task or apply to successive arrangements between the payer and payee.

Either party can end a voluntary agreement at any time by notifying the other in writing. You may need to enter into a new agreement when you are advised of a new CIR.

Both the payer and the payee must keep a copy of the voluntary agreement while it is in force and for five years after the last payment is made under the agreement. It is not necessary to send a copy to us.

### Do payees charge GST?

If a payee is not registered for GST, they cannot include GST in the price of the goods or services they supply, nor are they entitled to GST credits.

If a payee is registered for GST, they only charge GST under the voluntary agreement if the payer is **not** entitled to a full GST credit for the goods or services being supplied. The payer must indicate, on the voluntary agreement form, whether or not they are entitled to a full GST credit.

If the payer would normally be entitled to a full GST credit, the payee cannot charge GST on the goods or services they supply under the voluntary agreement.

If the payer is not entitled to a full GST credit, the payee (if registered for GST) must charge GST on any taxable supplies they make under the voluntary agreement (taxable supplies are goods and services that are subject to GST).

Either way, a GST-registered payee can claim GST credits for any GST paid on goods or services bought and used in performing the work under the voluntary agreement.

### EXAMPLE: Voluntary agreement

Harry is a professional jockey who has an ABN and is registered for GST. Harry and the state racing body enter into a written voluntary agreement so that the racing body withholds tax from payments to Harry.

Harry has been notified by the Tax Office that his instalment rate (CIR) is 15% for the current financial year and Harry and the racing body agree to use this rate of withholding.

The payments covered under this voluntary agreement are not subject to GST; however, Harry may still claim GST credits for any GST paid on goods or services used in performing his work.

### ➤ MORE INFORMATION

- *Activity statement instructions – PAYG instalments* (NAT 7393)
- *PAYG withholding for small business* (NAT 8075), and
- *PAYG withholding voluntary agreements* (NAT 3063).

This section outlines your GST reporting and payment obligations.

## HOW OFTEN DO YOU REPORT GST?

If your GST turnover is less than \$20 million, you generally report and pay quarterly, unless you choose to report and pay monthly.

If your GST turnover is \$20 million or more, you must report and pay monthly. You must also send your activity statement to us electronically.

To report and pay your GST obligations, complete one of the GST option boxes on the front of your activity statement and the relevant labels on the back.

If you pay quarterly, you have three reporting options:

### Option 1

Report and pay your actual GST quarterly. You may choose to do this electronically.

### Option 2

Report and pay your actual GST quarterly but report less information quarterly and lodge an annual GST information report.

### Option 3

Pay a quarterly instalment amount that we work out for you and lodge an annual GST return. If you are eligible, your activity statement will have your instalment amount pre-printed on it. Depending on your other tax obligations, you may not have to lodge activity statements when making payments, unless you choose to vary your instalment amount.

We will advise you when you're eligible to use option 3. If you are eligible and your only activity statement obligations are either GST only, or GST and PAYG instalments, you will receive an instalment notice instead of an activity statement.

The notice will have an instalment amount or amounts calculated by us pre-printed on it. You may pay this amount (or amounts) using one of the approved methods set out in the notice, and if you do before the due date, you do not have to return the instalment notice to us.

However, you may decide to vary the amount (or amounts), but if you do this, you will have to return the notice with your payment. You also need to be aware that penalties may apply if the varied amounts that you pay each quarter are too low in relation to your estimated annual GST liability.

If you choose to use option 3, we will also send you an *Annual GST return* to complete.

If your GST turnover is less than \$75,000 (\$150,000 for non-profit organisations) you may be eligible to report and pay annually.

### Option 4

You can elect to report and/or pay GST annually if:

- you are **not** required to register for GST. For this to be the case, your projected GST turnover, calculated at the time you make your election, must be **less than** the registration turnover threshold, that is:
  - \$75,000 for business (and all other entities except non-profit organisations), or
  - \$150,000 for non-profit organisations, and
- you have **not** elected to pay GST by instalment amounts as advised by us.

⚠ Some businesses are required to register for GST regardless of their GST turnover (for example, taxi drivers and some agents for non-residents).

### ➔ MORE INFORMATION

For more information about reporting and paying GST, refer to:

- *GST for small business* (NAT 3014)
- *Reporting and/or paying GST quarterly* (NAT 4149)
- *Reporting and/or paying GST monthly* (NAT 4150), and
- *Report your GST once a year* (NAT 12906).

This section provides information about *e-Record*, our electronic record keeping software package.

*E-Record* is a free, electronic record keeping software package that helps small businesses (including non-profit organisations) to keep good business records and to meet their taxation reporting obligations. You can access *e-Record* via our website at [www.ato.gov.au/erecord](http://www.ato.gov.au/erecord)

### WHY USE E-RECORD?

The benefits of using *e-Record* include:

- easy preparation of activity statements
- less risk of making calculation and consolidation errors
- less paper storage
- helps you make informed business decisions and monitor your cash flow
- lower compliance costs, and
- it can be used for more than one business.

### What does e-Record provide?

*E-Record* enables you to:

- prepare your data for activity statements
- lodge your activity statement electronically (version 4.0 for Windows users only)
- prepare tax invoices
- do a bank reconciliation
- record payments to your workers
- keep records for more than one business
- obtain a summary of income and expenses to assist in preparing your tax return
- reconcile daily sales recorded on your cash register
- easily create a back-up of your data
- easily export data from your cashbook and summaries, and
- register for notification of *e-Record* upgrades and important information.

### What doesn't e-Record provide?

As *e-Record* is not an online product, it does not include the ability to download data from your bank.

*E-Record* doesn't allow us to access your information as the records you keep using *e-Record* are stored on your computer.

As *e-Record* is a record keeping product rather than an accounting product it does not include:

- debtors and creditors reports
- balance sheets
- profit and loss statements, or
- inventory control.

If you require these functions you may need a commercial accounting product. We encourage the use of such products. Please refer to our Registered Software Facility Product Register ([www.ato.gov.au/rsf/business](http://www.ato.gov.au/rsf/business)) for products that meet our requirements.

### MORE INFORMATION

For more information about *e-Record*, visit our website at [www.ato.gov.au/erecord](http://www.ato.gov.au/erecord)

This section contains information to help resolve common issues for:

- owners and lessees
- trainers
- jockeys and drivers
- breeders, and
- non-residents of Australia.

## OWNERS AND LESSEES

### Are your racing or leasing activities an enterprise?

Owning and racing animals is generally an unprofitable activity that is often conducted as a hobby. Therefore, it is unlikely that you are conducting your activities as an enterprise if:

- your activity is a private recreational pursuit or hobby, or
- you do not have a reasonable expectation of profit or gain.

It is likely that you are conducting your activities as an enterprise if:

- you conduct your activities in a business-like manner and there is reasonable expectation that your activities will become commercially viable, and
- your activities generate an income based on sound business practices rather than luck or chance.

⚠ As a racing animal competes against other racing animals, there is no certainty which animals will perform better and win prize money. Therefore, winning prize money is more a possibility or a matter of chance rather than a reasonable expectation.

➔ For further information to help you work out if you are conducting an enterprise, refer to 'Are your activities an enterprise?' on page 4.

### Individuals

If you are an individual entity and you own an animal for the purpose of racing or breeding, you must work out if you are carrying on an enterprise. You should take particular note of the activities listed on page 5 that are not considered to be activities of an enterprise.

### EXAMPLE: Individual as a single entity

Richard owns race animals, and receives income from an extensive race animal breeding enterprise.

Richard conducts his ownership activities in the form of a business, by:

- keeping records of his purchases, sales, prizes won and all outgoings
- maintaining a good knowledge of the racing industry and using this to have a reasonable expectation of making a profit as an owner
- racing a small percentage of progeny bred by him to promote the quality of his stallions and mares
- selling most of the progeny from his breeding activities commercially
- a history showing a profit in previous years
- owning and racing a large number of animals
- selling his animals when he believes they are no longer profitable and purchasing other animals
- having a business plan that details how a profit can be made, and
- not conducting the activity as a hobby.

Richard is carrying on an enterprise for GST purposes.

### Ownership groups

Where an ownership group consists of more than one entity, the enterprise test is applied to each individual entity to work out their GST registration requirements.

Therefore, it is possible for one or more of the entities supplying their interest in the animal to race to be registered for GST, whilst others are not.

### Racing syndicates – Single entity

If the syndicate is a single entity such as a partnership for tax purposes or an unincorporated association or body of persons, it is the syndicate supplying the animal to race. Therefore, it is the syndicate that needs to consider whether it is an enterprise, not the individuals that make up the syndicate.

**EXAMPLE: Partnership as a single entity**

Richard (from the previous example) transfers 50% of the ownership of an animal to his wife. The ownership papers show both names, and the activities are now carried on as a partnership for income tax purposes. The partnership forms one entity.

For the partnership to obtain an ABN and register for GST, it must separately satisfy the enterprise test. This is regardless of whether Richard, as an individual, has already done so.

If the partnership is entitled to an ABN and GST registration, it will get a separate and unique ABN and GST registration, distinct from Richard's ABN and GST registration.

**Racing syndicates – Multiple entities**

If the syndicate is not a single entity, for example it does not meet the partnership definition for income tax purposes, it may be the individual syndicate members that are supplying the animal to race. Each individual within the ownership group would need to consider whether they are carrying on an enterprise.

**EXAMPLE: Multiple entities**

Richard (from the previous example) purchases a new animal. He retains 50% ownership and offers the other 50% to a group of people who have an interest in racing. This group, not including Richard, form a syndicate that is recognised by the racing body.

Assume that the syndicate does not constitute a partnership for income tax purposes but meets the tests of an unincorporated association. The animal, therefore, has two owners: Richard (as an individual), and the syndicate. The two owners constitute two separate entities.

Given the details of example *Individual as a single entity* (on page 21), Richard is likely to have an ABN and be registered for GST. Assuming the syndicate only has this 50% interest in an animal, they would not be considered to be carrying on an enterprise.

**What does your GST turnover include?**

If you are an owner or lessee of race animals and you carry on an animal racing enterprise, you are making a taxable supply to racing bodies each time you provide an animal to race.

Your GST turnover includes all monetary and most non-monetary payments you receive as a result of your racing activities.

If you are a lessor of racing or breeding animals, you are making supplies when you lease an animal to a lessee.

Your GST turnover includes monetary and non-monetary payments you receive for leasing the animal. Non-monetary payments include receiving some of the progeny or a part ownership of progeny as part of the lease agreement.

**Leasing accounting requirements****Lessor**

If you are a GST-registered owner and you supply an animal under a lease arrangement, this will generally be a taxable supply. Therefore, you need to account for GST of one-eleventh of lease payments you receive.

It is a matter between the lessor and the lessee and the details specified in the lease agreement as to the amount of the lease payments.

**EXAMPLE: Lessor registered for GST**

John owns a horse and leases it to Phillip who is not registered for GST. Under the lease agreement, Phillip must pay one-third of the prize money he receives to John.

The horse wins a race and Phillip receives prize money (excluding GST) to the value of \$1,200. Phillip pays John \$400. John is registered for GST and must account for one-eleventh of this as GST in his activity statement.

Phillip's GST status is irrelevant for the purposes of John's GST liability.

**Lessee**

If you are a lessee of a racing animal and you are registered for GST in relation to your racing activities, any supply of the leased animal you make to the racing body is taxable. Therefore, you must account for GST of one-eleventh of any monetary or non-monetary prizes you receive as a result of the supply.

If the lessor is registered for GST, the lease payments you make will include GST and you are entitled to a GST credit of one-eleventh of the lease payment. In this case you will need to obtain a tax invoice from the lessor.

If the lessor is not registered for GST, the lease payments will not include GST, therefore you will not be entitled to a GST credit for your lease payments.



**EXAMPLE: Lessee registered for GST**

Lorraine owns a horse and leases it to Glenn who is registered for GST. Under the lease agreement, Glenn must pay one-third of any prize money he receives to Lorraine.

The horse wins a race and Glenn receives prize money, including GST, of \$1,650. Glenn is registered for GST and must account for GST of one-eleventh of the prize money he receives (\$150).

Glenn pays Lorraine \$550 (one-third of the \$1,650 prize). As Lorraine is registered for GST, she must account for one-eleventh of the \$550 payment (\$50) she receives as GST in her activity statement.

Glenn can claim a GST credit of \$50, that is, one-eleventh of the lease payment.

**TRAINERS****Are your training activities an enterprise?**

As a trainer of racing animals, it is likely that you are conducting your training activities as an enterprise if you train animals for entities other than yourself in return for fees that more than cover your costs.

It is unlikely that you are conducting your training activities as an enterprise if you:

- conduct training activities as an employee (for example, you receive a wage and leave entitlements and your employer contributes to a superannuation fund on your behalf)
- only train racing animals for yourself, friends or family members without charging training fees, or
- conduct training activities as an individual or in partnership without charging training fees that more than cover your costs.

➤ For further information to help you work out if you are conducting an enterprise, refer to 'Are your activities an enterprise?' on page 4.

**What does your GST turnover include?**

If you are a trainer and you carry on an animal training enterprise, your training services are taxable supplies.

Your GST turnover includes all monetary and most non-monetary payments you receive for training. It also includes any tips or 'slings' you receive as a result of your training activities.

**Accounting for GST on expenses other than regular training expenses**

As a trainer you generally enter into an arrangement with an owner of a racing animal to provide training services in return for a flat daily fee. On occasion, you may incur additional expenses in relation to an animal (such as vet or farrier expenses) while conducting your training activities and charge these expenses back to the owner.

Under some circumstances, you may be liable to account for GST on the recovery of such charges from the owner, however this will depend on whether or not you act:

- as an agent when incurring the expenses, that is, you pay the expenses on the owner's behalf and then seek a reimbursement from the owner for the full amount (including GST), or
- as a principal when incurring the expenses, that is, you pay the expenses as part of your training activities and you do not seek a reimbursement from the owner.

**Trainers acting as an agent**

If you enter into an agreement with the owner of a racing animal to provide training services only, the fee you charge is not intended to cover any expenses in addition to your training services. If you pay for any additional expenses (such as vet, farrier and equipment), you will generally seek a full reimbursement for these expenses from the owner. This means:

- if you pay the additional expenses on the owner's behalf, you will seek a reimbursement for the full amount of those expenses including GST
- you can't claim a GST credit for the GST you have paid on the owner's behalf as the owner will reimburse you the GST amount, and
- any reimbursements you seek from the owner should be charged separately to your training fees.

**EXAMPLE: Costs incurred as an agent**

Jane is carrying on an enterprise of training racing animals and is registered for GST. She has agreed with a horse owner that she will act as their agent in relation to any veterinary or farrier expenses. Jane has agreed with the owner that her fee will be a set amount per day for training the animal, plus any extra expenses that she incurs as an agent for the owner.

In the first month of training, Jane arranges for the animal to be shod and veterinary costs are incurred as the animal needed medical attention. This costs a total of \$660.

At the end of the month, Jane charges the owner a \$440 training fee and seeks reimbursement of \$660 for the farrier and vet costs incurred on the owner's behalf.

Jane is making a taxable supply of her training services and is liable to account for GST of one-eleventh of \$440. Jane is not liable to account for the GST on the \$660 after receiving the reimbursement and she is not entitled to a GST credit for the farrier and veterinary expenses she paid as she will receive a full reimbursement from the owner.

Factors that may show you are an agent under an agency relationship include:

- any description of you as an agent, having authority to act for an owner, in an agreement (expressed or implied) between you and the owner
- any exercise of the authority that you are given to enter into legal relations with a third party
- whether you act in your own name in dealings for the owner, and
- whether you are paid for your services.

**Trainers acting as a principal**

If you enter into an agreement with the owner of a racing animal to provide training services, the fee you charge is generally intended to cover additional animal related expenses (such as vet, farrier and equipment). After paying these expenses, you will not generally seek a reimbursement from the owner as you have incurred the additional expenses as part of your enterprise rather than as an agent for an owner. This means:

- you can claim a GST credit for the GST you have paid in the cost of the additional expenses, and
- the training fees you charge include an amount to cover additional expenses.

**EXAMPLE: Costs incurred as a principal**

Renee is carrying on an enterprise of training racing animals and is registered for GST. She has agreed with a horse owner to provide her training services for a set monthly fee that will cover both training expenses and additional animal related expenses such as veterinary and farrier fees.

In the first month of training Renee arranges for the animal to be shod and veterinary costs are incurred as the animal required medical attention. This costs a total of \$660.

At the end of the month, Renee charges the owner a \$1,100 (including GST) training fee. Renee is making a taxable supply of her training services, therefore she must pay GST to the value of one-eleventh of \$1,100 (\$100) to the Tax Office.

Renee is also entitled to claim a GST credit to the value of \$60 (one-eleventh of \$660) for the GST she has paid as part of the farrier and veterinary expenses.


**JOCKEYS AND DRIVERS****Are your riding or driving activities an enterprise?**

If you are a jockey or driver, it is likely that you are conducting your activities as an enterprise if you:

- provide your services to a number of owners or trainers in return for a fee, or
- are a track work rider and you provide your riding services to a trainer as an independent contractor.

It is unlikely that you are conducting your activities as an enterprise if you:

- are a part-time jockey, that is, you only ride occasionally
- do not have a reasonable expectation of profit or gain
- only drive your own horses or you only drive for others occasionally
- are an apprentice jockey or a probationary driver and you provide your services to a master trainer or registered licensed trainer in return for a salary or wage, or
- conduct your activities as an employee (for example, you receive a wage and leave entitlements, and your employer contributes to a superannuation fund on your behalf).

 For further information to help you work out if you are conducting an enterprise, refer to 'Are your activities an enterprise?' on page 4.

### What does your GST turnover include?

If you are a jockey or driver and you conduct your activities as an enterprise, your riding or driving services are taxable supplies.

Your GST turnover includes all payments you receive for riding, driving or other track work, including any tips or 'slings' you receive. It also includes all monetary and most non-monetary prizes you receive as a result of riding or driving an animal.

If you are employed by a trainer as an apprentice jockey or concession driver, you are not carrying on an enterprise by providing your services to that trainer. Payments you receive as an employee should not be used to calculate your GST turnover.

### Receiving additional payments

In general, if you are a jockey or driver, you will receive a standard fee for your services that is set by the racing body. Under certain circumstances, you may receive more than the standard fee for your services. These circumstances may include:

- the owner of the racehorse may choose to pay you more than the standard fee, or
- you may receive an additional amount from an owner after a successful ride or drive (commonly referred to as a 'sling').

Both of the amounts received in these situations are payments for a supply of your riding or driving services. If you are registered or required to be registered for GST, you must account for GST on these payments.

### Apprentice jockeys and drivers

#### Is an apprentice jockey or probationary driver carrying on an enterprise?

You are not carrying on an enterprise if you are an apprentice jockey or a probationary driver and you receive a salary or wage for providing services to a master trainer or registered licensed trainer. Your services to the master trainer are made in the course of your employment and therefore there will be no GST implications on your salary or wage payment.

If you also provide riding or driving services to other trainers, owners and race clubs, you may be carrying on an enterprise that is subject to ABN and GST registration rules. Your GST turnover would include any riding or driving fees, track fees, prize monies and 'slings' received. However, it would not include salary or wage income.

### Apprentice jockey – trust accounts

Generally, payments to you for your riding services (such as riding fees and prize money) are held in trust until the completion of your apprenticeship. If you are registered for GST, you are still required to account for the GST on these payments even though they are held in trust on your behalf.

If your GST liability exceeds your GST credits and you wish to draw the amount you owe to the Tax Office from your trust account, you will need to notify the trustee (usually the racing body). The trustee will generally require written advice and/or a copy of your activity statement.

### Apprentice jockey – master payments

You may be obliged to pay a proportion of your total riding fees and prize monies received to your master trainer during, or on completion of, your apprenticeship. If the trainer is registered for GST, such payments are subject to GST. Your master trainer must provide you with a tax invoice in relation to the services he/she provides to you.

If you are registered for GST, you are entitled to claim GST credits for the GST paid on these master payments, provided you hold a tax invoice from your master trainer.

### EXAMPLE: Apprentice jockey registered for GST

Joe is an apprentice jockey employed by Rob who is a trainer. Joe also rides in races and trials for other trainers and owners. Both Joe and Rob are registered for GST.

Rob charges Joe 25% as the agreed percentage of earnings on completion of Joe's apprenticeship. On completion of his apprenticeship, Joe receives \$22,000 for riding fees and \$11,000 in prize money from his trust account. However, Joe would have already accounted for the GST of \$3,000 in his activity statement, being one-eleventh of \$33,000.

Rob charges Joe a master payment of \$8,250 including \$750 GST (25% of \$33,000 total earnings). Joe is entitled to claim a GST credit of \$750 for the GST paid.

## BREEDERS

### Are your animal breeding activities an enterprise?

If you breed racing animals, you will need to assess whether your breeding activities are an enterprise. It is unlikely that you are conducting your activities as an enterprise if you:

- do not sell the progeny for a price that will more than cover the cost of your breeding activity, or
- retain the bred progeny rather than sell them commercially.

It is likely that you are conducting your breeding activities as an enterprise if you:

- sell the racing animals you have bred for prices that exceed your breeding costs on a commercial basis
- have broodmares or bitches with black type quality in their recent bloodlines and you breed with similar quality sires
- conduct your activities in a business-like manner and you keep records using an appropriate system
- conduct your breeding activities in a similar manner to those of other commercial breeders
- combine your breeding activities with other enterprise activities associated with the racing industry (for example, training), or
- combine your breeding activities with assets owned or controlled in relation to breeding.

If you also race animals, you will need to consider whether your racing activities are an enterprise.

➤ For further information to help you work out if you are conducting an enterprise, refer to 'Are your activities an enterprise?' on page 4.

### What does your GST turnover include?

If you own broodmares or bitches and carry on an enterprise of breeding race animals, you are making taxable supplies when you sell the progeny. Your GST turnover from your breeding activities includes all payments you receive when you sell the progeny and any payments you receive through breeder incentive schemes that result from the progeny winning specified races.

If you own stallions or stud dogs and carry on an enterprise of providing stallion/stud dog services, you will make taxable supplies when you provide those services to owners of broodmares/bitches. Therefore, your GST turnover from your breeding activities includes all payments you receive by way of stallion/stud dog service fees and any payments you receive through breeder incentive schemes that result from the progeny of your sire winning specified races.

## Foal sharing

In the horse racing industry, breeders may enter into foal sharing agreements. Whilst there are several varieties of foal sharing agreements, in general, they are contracts for the sale of stallion services. For example, an owner of a stallion may supply a stallion service to the owner/lessee of a broodmare in exchange for part or full ownership of the foal, or a right to a percentage of the sale proceeds of the foal.

A foal sharing agreement may stipulate other obligations such as:

- where the foal is agisted after weaning
- who pays for the maintenance costs of the foal and broodmare
- who prepares the foal for sale, and
- where and when the foal is sold.

If you enter into a foal sharing agreement, it is important that you consider:

- what type of entity/entities own the foal
- whether the owners are carrying on an enterprise for GST purposes
- whether the owners are conducting transactions for GST purposes, and
- what happens if a foal is owned jointly by a GST-registered and a non-GST registered entity.

### What type of entity/entities own the foal?

If you enter into a foal sharing agreement with another entity, you will need to consider whether:

- you have formed a new entity (such as a partnership) under the terms of the agreement
- you are simply one of two entities with an ownership interest in the same foal, or
- the agreement is a joint venture. If so, you may apply to be treated as a GST joint venture, provided certain conditions are met.

➤ To help you work out your entity status, refer to 'What type of entity do you conduct your activities as?' on page 3.

### Are the owners of the foal carrying on an enterprise for GST purposes?

After determining the type of entity you are operating as, you then need to work out whether you are carrying on an enterprise for GST purposes.

➤ For further information to help you work out if you are conducting an enterprise, refer to 'Are your activities an enterprise?' on page 4.

### Are the owners of the foal conducting transactions for GST purposes?

It is important to remember that transactions for GST purposes do not always take the form of an exchange of money for goods or services. With this in mind, entities (such as owners of broodmares or stallions) carrying on an enterprise commonly exchange goods and services for other goods and services.

If you enter into a foal sharing agreement and you conduct transactions such as these, it is important that you account for the GST on these non-monetary transactions.

➤ For more information refer to GSTR 2001/6 Goods and services tax: non-monetary consideration.

### EXAMPLE: Foal sharing agreement

Tim is a GST-registered breeder who owns a stallion that he uses for breeding purposes. For each stallion service supplied, Tim charges a stud fee of \$11,000 including GST.

Janine (a GST-registered broodmare owner) enters into an agreement with Tim for him to provide a stallion service in exchange for 50% ownership of the resulting foal, rather than charging the usual stud fee.

For GST purposes, Tim has made a non-monetary transaction. That is, he has made a taxable supply of the stallion service that he reasonably values at \$11,000 in exchange for 50% ownership of the foal. Tim must now pay GST of \$1,000 (one-eleventh of \$11,000) to the Tax Office.

Janine has purchased a stallion service for her brood mare at a cost of \$11,000 and would be entitled to a GST credit if she held a tax invoice from Tim.

Janine has also made a non-monetary transaction. That is, she has made a taxable supply of 50% ownership of the foal (\$11,000) in exchange for the stallion service. Janine will also need to pay GST of \$1,000 (one-eleventh of \$11,000) to the Tax Office.

Tim has made an acquisition of 50% ownership of the foal for \$11,000, and would be entitled to a GST credit if he held a tax invoice from Janine.

### What happens if a foal is owned jointly by a GST-registered and a non-GST registered entity?

#### GST accounting

If you have entered into a foal sharing agreement, you need to consider the amount of GST you should account for based on your GST registration status.

For example, if two separate entities each own 50% of a foal and only one of the entities is registered or required to be registered for GST, when the foal is sold, only the GST-registered entity will need to account for GST on the sale (50% of the total sale price).

#### GST joint ventures

On occasion, partners to a foal sharing agreement may apply to be treated as a GST joint venture provided certain conditions are met. Members of a GST joint venture must:

- nominate a joint venture operator (JVO)
- participate in, or intend to participate in, the joint venture
- be a party to a joint venture agreement with the other participants
- be registered for GST, and
- account on the same basis as all the other participants.

Where the JVO is not a party to the joint venture agreement, the JVO must:

- be registered for GST purposes, and
- account for all GST credits and liabilities arising in the course of the activities of the joint venture.

⚠ If one or more parties of the foal sharing agreement is not registered for GST or accounts on a different basis, you are not eligible to apply to be treated as a GST joint venture.

➤ For more information about GST joint ventures refer to:

- *GST joint ventures* (NAT 3135)
- GSTR 2004/2 Goods and services tax: What is a joint venture for GST purposes?

## NON-RESIDENTS OF AUSTRALIA

### ABN entitlement

If you are not a resident of Australia, you may be entitled to an ABN if you are carrying on an enterprise in Australia or you make supplies connected with Australia. Importing a racing or breeding animal into Australia means you have made supplies connected with Australia.

If you are carrying on an enterprise and you are not required to register for GST, you will still need to consider whether you should apply for an ABN. This is because of the no ABN withholding rules that apply to business transactions.

➤ For more information refer to 'No ABN withholding' on page 17.

### GST registration

The same GST registration rules that apply to residents also apply to non-residents. For more information refer to page 8.

Generally, if you are a non-resident, you will be required to register for GST if you are carrying on an enterprise and you have a GST turnover of \$75,000 or more in Australia. When calculating your GST turnover, you should only include supplies connected with Australia.

Supplies connected with Australia include:

- racing animals in Australia
- training animals in Australia, or
- riding or driving animals in Australia.

Breeders who supply breeding services in Australia through an enterprise carried on in Australia are making taxable supplies.

### Resident agents acting for non-residents

If you are not a resident of Australia and an Australian resident agent makes supplies of goods and services on your behalf, the GST obligations and entitlements become the resident agent's rather than yours.

It is important to understand the difference between an agent and someone who simply provides a service to you. An agent provides you with a service and has the authority to act on your behalf.

### EXAMPLE: Resident agent acting for non-resident

Mary is a non-resident owner/trainer who is carrying on an enterprise. Mary has an Australian agent, Bart, who sells Mary's horses for her in Australia when Mary is not in the country.

If Mary is registered or required to be registered for GST, Bart is responsible for the GST related to the sales he makes in Australia on Mary's behalf. Bart is also entitled to the GST credits on expenses he incurs on Mary's behalf, such as agistment expenses.

### Non-resident jockeys or drivers

If you are a non-resident jockey or driver, you may sometimes provide your services within Australia. This may mean you need to bring equipment into Australia (such as saddles, whips, caps, etc) that you require to ride or drive a horse. If so, you should check with Customs to see whether the items you bring in to Australia are subject to GST or whether the Customs temporary import provisions apply to the import.

➤ For more information refer to 'Customs temporary import provisions' on page 13.

### Non-resident trainers

If you are a non-resident trainer you may sometimes provide your training services in Australia. This may mean you need to bring equipment into Australia (such as a sulky, bridles, blinkers, etc) that you require to conduct your training activities. If so, you should check with Customs to see whether the items you bring in are subject to GST or whether the Customs temporary import provisions apply to the import.

➤ For more information refer to 'Customs temporary import provisions' on page 13.

## GLOSSARY

### Publications

The following taxation and GST rulings provide further information on the topics covered in this guide:

- Taxation Ruling TR 93/26 – Income tax: issues relating to the horse industry
- Taxation Ruling TR 94/8 – Income tax: whether business is carried on in partnership (including ‘husband and wife’ partnerships)
- Taxation Ruling TR 97/11 – Income tax: am I carrying on a business of primary production?
- Miscellaneous Taxation Ruling MT 2006/1 – The New Tax System: the meaning of entity carrying on an enterprise for the purposes of entitlement to an Australian Business Number (ABN)
- Goods and Services Tax Ruling GSTR 2000/1 – Goods and Services Tax: adjustment notes
- Goods and Services Tax Ruling GSTR 2000/10 – Goods and Services Tax: recipient created tax invoices
- Goods and Services Tax Ruling GSTR 2000/17 – Goods and Services Tax: tax invoices
- Goods and Services Tax Ruling GSTR 2000/19 – Goods and Services Tax: making adjustments under Division 19 for adjustment events
- Goods and Services Tax Ruling GSTR 2000/31 – Goods and Services Tax: supplies connected with Australia
- Goods and Services Tax Ruling GSTR 2000/37 – Goods and Services Tax: agency relationships and the application of the law
- Goods and Services Tax Ruling GSTR 2001/6 – Goods and Services Tax: non-monetary consideration
- Goods and Services Tax Ruling GSTR 2002/3 – Goods and Services Tax: prizes
- Goods and Services Tax Ruling GSTR 2002/6 – Goods and Services Tax: Exports of goods, items 1 to 4 of the table in subsection 38-185(1) of the *A New Tax System (Goods and Services Tax) Act 1999*
- Goods and Services Tax Ruling GSTR 2003/13 – Goods and Services Tax: general law partnerships
- Goods and Services Tax Ruling GSTR 2003/15 – Goods and Services Tax: importation of goods into Australia
- Goods and Services Tax Ruling GSTR 2004/6 – Goods and Services Tax: tax law partnerships and co-owners of property

## DEFINITIONS

### Activity statement

You use an activity statement to report your business tax entitlements and obligations, including GST, pay as you go (PAYG) instalments, pay as you go withholding and fringe benefits tax (FBT) instalments. You can offset tax payable against credits to arrive at a net amount.

### Agent

For commercial law purposes, an agent is a person with expressed or implied authority to act for a principal to create or affect legal relations between the principal and third parties. Factors that indicate an agency relationship include:

- any description of you as an agent having and exercising authority to act for another party in an agreement between you and the other party
- whether you bear any significant commercial risk
- whether you act in your own name
- whether you are paid a commission for your services, and
- whether you decide the price of things that you might supply to third parties.

See *GST ruling GSTR 2000/37*.

### Australian business number (ABN)

An ABN is your identifier for your dealings with the Tax Office and for future dealings with other government departments and agencies. This is in addition to and is different to your tax file number.

### Business

A business includes any profession, trade, employment, vocation or calling, but does not include occupation as an employee.

See *‘Enterprise’, ‘Indicators of a business’, Taxation ruling TR 93/26 and Miscellaneous taxation ruling MT 2006/1*.

### Commissioner’s instalment rate (CIR)

The CIR is the rate you use to calculate your PAYG instalments. We will notify you of your rate. For the purpose of voluntary agreements, you use either your CIR or a flat rate of 20% as the rate of withholding.

### Company

For GST purposes, a company means:

- a a body corporate, or
  - b any other unincorporated association or body of persons.
- It does not include a partnership or a non-entity joint venture.

**Connected with Australia**

A supply of goods is connected with Australia if the goods are delivered, or made available, in Australia to the recipient of the supply.

A supply of a service is typically 'done' where the service is performed. If the service is performed in Australia, the service 'done' in Australia and the supply of that service is connected with Australia. This is the case even if the recipient of the supply is outside Australia.

See *GST ruling GSTR 2000/31*.

**Consideration**

Consideration for GST purposes has a wide meaning. Consideration includes any payment (in money or non-money) made in return for a supply. It also includes doing something or not doing something in response to a supply or to get someone to make a supply. It does not matter whether the consideration was voluntary or whether it was provided by the recipient of the supply.

**Creditable acquisition**

If you are registered for GST, a creditable acquisition is generally anything you acquire in carrying on your enterprise except if it is for making input taxed supplies or for private use. You are entitled to a GST credit for the GST paid on creditable acquisitions.

See *'GST credit' and 'Input taxed supply'*.

**Current GST turnover**

Current GST turnover is the sum of all your supplies made during this month and the previous 11 months. In calculating your current GST turnover, do not include any GST charged, supplies for no consideration, supplies not made in connection with your enterprise, for example, private sales or payments received as an employee and supplies that are not connected with Australia.

See *'GST turnover' and 'Projected GST turnover'*.

**Deferred GST scheme**

Under the deferred GST scheme, if you are an approved entity, you are able to defer payment of GST on imported goods until the first activity statement is submitted after the goods are imported. To be eligible to defer, you must:

- be an importer
- have an ABN and are registered for GST
- lodge your activity statement monthly, via the internet-based e-commerce system operated by the Tax Office
- pay your activity statement liabilities electronically
- deal with Customs electronically
- have a satisfactory compliance record with the Tax Office, including, as a general rule, not having debt or returns outstanding, and
- have approval in writing from the Tax Office to defer payment of GST on imported goods.

See *'Taxable import'*.

**Employee**

For GST purposes, an employee is an employee at common law. Each individual contract needs to be examined to work out whether the person is engaged as an employee or as an independent contractor.

**Enterprise**

An enterprise is an activity or series of activities, done:

- in the form of a business
- in the form of an adventure or concern in the nature of trade
- on a regular or continuous basis, in the form of a lease, licence or other grant of interest in property
- by a trustee of a deductible gift recipient fund
- by trustees or managers of complying superannuation funds
- by a charitable institution or by a charitable fund
- by a religious institution, or
- by government bodies established by law for a public purpose.

Enterprise does not include activities done:

- by a person as an employee
- as a private recreational pursuit or hobby
- by an individual without a reasonable expectation of profit or gain, or
- by a partnership (all or most of the members of which are individuals) without a reasonable expectation of profit or gain.

See *'Business', 'Indicators of a business', Taxation ruling TR 93/26 and Miscellaneous taxation ruling MT 2006/1*.



**Entity**

An entity means an individual, a body corporate, a corporation sole, a body politic, a partnership, an unincorporated association or body of persons, a trust or a superannuation fund. An entity does not include a non-entity joint venture.

See *Miscellaneous taxation ruling MT 2006/1*.

**GST credit**

If you are registered for GST, you are entitled to a GST credit for the GST included in the price you pay for an acquisition or import if it is for use in your enterprise. This entitlement is limited to the extent that you do not use it to make input taxed supplies. You will need to have a tax invoice to claim a GST credit for purchases (except for purchases with a GST-inclusive value of \$82.50 or less).

See *'Creditable acquisition' and 'Tax invoice'*.

**GST-free supply**

If a supply is GST-free, you do not charge GST on the supply but you are entitled to GST credits for anything acquired or imported to use in your enterprise to make GST-free supplies. Examples of GST-free supplies include supplies of basic food and most education and health services.

See *'GST credit'*.

**GST turnover**

GST turnover is either current GST turnover or projected GST turnover. Your GST turnover is a factor in determining whether you need to register for GST.

See *'Current GST turnover' and 'Projected GST turnover'*.

**Hobbyist**

A hobbyist is one who pursues a spare-time activity or pastime for pleasure or recreation.

See *Taxation ruling TR 97/11*.

**Indicators of a business**

To work out whether an activity or series of activities amounts to a business, the activity needs to be considered against the indicators of a business established by case law. The indicators of a business for tax purposes are:

- a significant commercial activity
- purpose and intention of the entity in engaging in the activity
- an intention to make a profit from the activity
- the activity is or will be profitable
- repetition and regularity of activity
- the activity is carried on in a similar manner to that of the ordinary trade
- the activity is organised and carried on in a business-like manner and systematically – records are kept
- size and scale of the activity
- not a hobby, recreation or sporting activity
- a business plan exists
- commercial sales of product, and
- entity has knowledge or skill.

See *'Business', 'Enterprise', Taxation ruling TR 93/26, Taxation ruling TR 97/11 and Miscellaneous taxation ruling MT 2006/1*.

**Indicators of a partnership**

Whether a partnership exists for tax purposes depends on the facts of each case. The following factors assist in deciding whether persons are carrying on business as partners:

- intention – the mutual assent and intention of the parties
- conduct
  - a joint ownership of business assets
  - b registration of business name
  - c extent to which parties are involved in the conduct of the business
  - d extent of capital contributions
  - e entitlements to a share of net profits
  - f business records
  - g trading in joint names and public recognition of the partnership.

See *'Business', 'Enterprise', Taxation ruling TR 94/8, GST ruling GSTR 2003/13 and GST ruling GSTR 2004/6*.

**Input taxed supply**

If a supply is input taxed, you do not charge GST on the supply, but neither are you entitled to GST credits for anything acquired or imported to make the supply. Examples of input taxed supplies include financial supplies and supplies of certain residential premises.

See *'GST credit'*.

**Partnership**

A partnership for income tax purposes is an association of persons carrying on business as partners or in receipt of ordinary or statutory income jointly, but does not include a company.

See *'Indicators of a partnership'*, *Taxation ruling TR 94/8*, *GST ruling GSTR 2003/13* and *GST ruling GSTR 2004/6*.

**Projected GST turnover**

Projected GST turnover is the sum of all your supplies made during this month and that you are likely to make during the next 11 months. In calculating your projected GST turnover, do not include any GST charged, supplies for no consideration, supplies not made in connection with your enterprise, for example, private sales or payments received as an employee and supplies that are not connected with Australia.

You also do not include any supplies made or likely to be made by transfer of your capital assets, or as a result of ceasing an enterprise, or substantially and permanently reducing the size and scale of your enterprise.

See *'GST turnover'* and *'current GST turnover'*.

**Reasonable expectation of profit or gain**

A reasonable expectation of profit or gain must be more than a possibility, risk or chance.

**Recipient created tax invoice (RCTI)**

A recipient created tax invoice is a tax invoice belonging to a class of tax invoices that the Commissioner has determined in writing may be issued by the recipient of a taxable supply.

See *'Tax invoice'* and *GST ruling GSTR 2000/10*.

**Statement by supplier**

A statement by supplier is a Tax Office form that you may use that provides the reason for not quoting an Australian business number (ABN) to an enterprise.

*Statement by a supplier (reason for not quoting an ABN to an enterprise) (NAT 3346)*.

**Supply**

Supply is a very broad term and means any form of supply whatsoever. For example, it includes selling goods or services in your enterprise and other transactions such as providing advice or information, leasing out commercial premises or providing hire equipment. It also includes supplying a right to compete or a supply of an animal to race. However generally, a supply does not include a supply of money.

See *'Taxable supply'*, *'GST-free supply'* and *'Input taxed supply'*.

**Taxable import**

GST is payable on goods imported into Australia unless the goods are duty-free under certain Customs duty concessions or would have been GST-free or input taxed if they had been supplies. GST is payable on taxable imports regardless of whether you are registered or required to be registered for GST.

See *'GST-free supply'* and *'Input taxed supply'*.

**Taxable supply**

If you are registered for GST, a taxable supply includes most supplies of goods, services and anything else you make in your enterprise. A supply is not a taxable supply if it is GST-free or input taxed.

See *'GST-free supply'* and *'Input taxed supply'*.

**Tax invoice**

A tax invoice is a document generally issued by the supplier. It shows the price of a supply, indicating whether it includes GST and may show the amount of GST. It must show other information, including the supplier's ABN. If you are registered for GST, you must have a tax invoice before you can claim a GST credit on your activity statement (except for purchases with a GST-inclusive value of \$82.50 or less. If you do not have a tax invoice you should delay making a claim until you do.

See *'GST credit'*, *'Recipient created tax invoice'*, *GST ruling GSTR 2000/10* and *GST ruling GSTR 2000/17*.

**Voluntary agreement**

A voluntary agreement enables businesses to withhold amounts from payments they make to contract workers to help the workers pay their income tax. The rate of withholding is either the Commissioner's instalment rate or a flat rate of 20%. To enter into a voluntary agreement, you must be an individual who must have an ABN and the payments must not be subject to any other PAYG withholding. A voluntary agreement excludes these payments from the GST system.

See *'Commissioner's instalment rate'*.

**Withholding payments**

The withholding payments covered are those contained in any of the provisions in Schedule 1 to the *Taxation Administration Act 1953* listed below:

- payment to an employee
- payment to a company director
- payment to an office holder (such as a member of Parliament, the Defence Force or police forces), and
- payment under a labour hire arrangement, or specified by regulations.

## MORE INFORMATION

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For more information about the racing industry or any of the topics covered in this guide:

- visit our website at **[www.ato.gov.au](http://www.ato.gov.au)**
- phone **13 28 66**
- obtain a fax by phoning **13 28 60**, or
- write to us at **PO Box 9935 in your capital city**.

To find any of the rulings referred to in this guide, visit **[www.ato.gov.au](http://www.ato.gov.au)** and select Rulings, law and objections – Public rulings – GST.

If you do not speak English well and want to talk to a tax officer, phone the Translating and Interpreting Service on **13 14 50** for help with your call.

If you have a hearing or speech impairment and have access to appropriate TTY or modem equipment, phone **13 36 77**. If you do not have access to TTY or modem equipment, phone the Speech to Speech Relay Service on **1300 555 727**.

