



Draft Addendum

Goods and Services Tax Ruling

Goods and services tax: GST treatment of financial supplies and related supplies and acquisitions

This draft Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Goods and Services Tax Ruling GSTR 2002/2 to reflect the High Court decision in *Travellex v Commissioner of Taxation* [2010] HCA 33 2010; ATC 20-214; 76 ATR 329 (*Travellex*). The ATO view of this decision was outlined in a Decision Impact Statement which issued on 20 December 2010 and was updated on 31 August 2011.

The Addendum also updates the ATO view of certain transactions in light of the *Travellex* decision.

The Addendum also updates the Date of Effect section of the Ruling.

GSTR 2002/2 is amended as follows:

1. Paragraph 6

Omit the paragraph; substitute:

6. This Ruling explains the Commissioner's view of the law as it applies both before and after its date of issue (subject to the following notes). You can rely upon this Ruling on and from its date of issue for the purposes of section 357-60 of Schedule 1 to the *Taxation Administration Act 1953* (TAA).

Note 1: The Addendum to this Ruling that issued on 25 February 2004, explains our view of the law as it applied both before and after its date of issue.

Note 2: The Addendum to this Ruling that issued on 15 August 2007, explains our view of the law as it applied from 1 July 2007.

Note 3: The Addendum to this Ruling that issued on 5 March 2008, explains our view of the law as it applied from 5 March 2008

Note 4: The Addendum to this Ruling that issued on 17 June 2009, explains our view of the law as it applied from 1 October 2005.

GSTR 2002/2

Note 5: The Addendum to this Ruling that issued on 21 December 2011, explains our view of the law as it applied both before and after its date of issue.

However, if prior to the issue of an Addendum, you relied on the public Ruling that the Addendum amended, you are protected in respect of what you have done up to the date of issue of that Addendum.

2. Paragraphs 6A & 6B

Omit the paragraphs.

3. Paragraph 288

After the paragraph; insert:

288A However a financial supply will not be input taxed to the extent that it is GST-free. Unless specifically noted at a particular Item, Schedule 2 does not discuss in what circumstances a particular supply may be GST-free under subsection 38-190(1). Reference should be made to paragraphs 144 to 170 of this Ruling for guidance on the application of subsection 38-190(1) to financial supplies.

4. Schedule 2 – Line No. A117

In column 5, omit the text; substitute:

For credit, debit & charge cards^Φ with ADIs see line items A21 to 23. For cards with non-ADIs see line items B31 to B49. For prepaid travel cards or similar cards that are denominated in a foreign currency refer to line F16.

5. Schedule 2 – Line No. A118

In column 5, omit the text; substitute:

See the Glossary for a definition of a stored value card^Φ. For prepaid travel cards or similar cards that are denominated in a foreign currency refer to line F16.

6. Schedule 2 – Line No. B41

In column 5, insert:

The annual fee will be consideration for a GST-free supply under item 4 of subsection 38-190(1) to the extent that the cardholder intends using the credit card facility when the cardholder is outside Australia.

7. Schedule 2 – Line No. B44

Omit line B44; substitute:

B44	<ul style="list-style-type: none"> Fee for effecting an ATMΦ transaction 	40-5.09(3) Item 1 & 2 and 40-5.09(4A)	Input taxed	Fees for overseas ATM transactions may be consideration for a GST-free supply under section 38-190. See paragraphs 144-170 of this Ruling
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8. Schedule 2 – Line No. F4

Omit line F4; substitute:

F4	<ul style="list-style-type: none"> Foreign currency notes Φ where the recipient intends to use the notes outside of Australia 	Subsection 38-190(1) Item 4	GST-free	If the recipient of the notes intends to use the notes in Australia, e.g. to supply the notes to another entity in Australia, the supply of the notes to the recipient will not be GST free, but will be input taxed under Item 9 of subregulation 40-5.09(3).
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9. Schedule 2 – Line No. F15

After line F15, insert:

F16	Fees for prepaid travel cards or similar cards to the extent loaded with foreign currency	Subsection 38-190(1) Item 4	GST-free	Only GST-free to the extent the card is intended to be used when the cardholder is outside Australia. To the extent the supply is not GST-free, it will be input taxed under item 1 or item 9 of subregulation 40-5.09(3).
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Your comments

You are invited to comment on this draft Addendum.

Please forward your comments to the contact officer by the due date.

A compendium of comments is prepared for the consideration of the relevant Rulings Panel or relevant tax officers.

An edited version (names and identifying information removed) of the compendium of comments will also be prepared to:

- provide responses to persons providing comments; and
- be published on the Australian Taxation Office website at www.ato.gov.au

Please advise if you do not want your comments included in the edited version of the compendium.

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This Addendum applies both before and after its date of issue.

Commissioner of Taxation
21 December 2011

ATO references
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