

CR 2013/25A1 - Addendum - Goods and services tax: the GST treatment of fees and charges imposed by NSW councils in relation to cemeteries, facilities, leases, legal services, libraries and sales.

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Addendum

Class Ruling

Goods and services tax: the GST treatment of fees and charges imposed by NSW councils in relation to cemeteries, facilities, leases, legal services, libraries and sales

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Class Ruling CR 2013/25 to take into account additional information provided by the applicant.

Class Ruling 2013/25 is amended as follows:

1. Paragraph 19

- (a) At the end of the first bullet point, omit the word 'and'
- (b) Add a new bullet point between the first and second bullet points:
 - when we indicate that a fee or charge is 'out of scope', it is because the requirements of section 9-5 are not met; and

2. Paragraph 19, table

- (a) Omit the row

Use of Facilities – other	Fee for licences to operate surf or paddle board schools on beaches as well as hire and drive licences on beaches or water reserves.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations
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Substitute

Licence to operate surf or paddle board schools	Fee for licences to operate surf or paddle board schools on beaches as well as hire and drive licences on beaches or water reserves.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations
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(b) Omit the row

Use of Facilities – Sport	Application for vehicle to access Council controlled beaches; other than life-saver vehicles, emergency rescue vehicles etc.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations
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Substitute

Beach access permit for vehicles	Application for vehicle to access Council controlled beaches; other than life-saver vehicles, emergency rescue vehicles etc.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations
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(c) Omit the row

Application fee for a new lease of Council land	<p>Applications for Leases of Council Land or Public Road Reserve.</p> <p>Applications to formalise an existing encroachment on Council land by creation of an easement, positive covenant, lease or licence.</p> <p>Applications for a covenant variation.</p> <p>Includes costs of the preparation by Council of the lease, stamp duties and costs associated with investigating the applications or preliminary investigations and reports to Council upon an application to purchase community land.</p>	Taxable – section 9-5
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Substitute

Application fee for a new lease of Council land	<p>Applications for Leases of Council Land or Public Road Reserve.</p> <p>Applications to formalise an existing encroachment on Council land by creation of an easement, positive covenant, lease or licence.</p> <p>Applications for a covenant variation.</p> <p>Includes costs of the preparation by Council of the lease, stamp duties and costs associated with investigating the applications or preliminary investigations and reports to Council upon an application to purchase Council land.</p>	Taxable – section 9-5
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(d) After row

Fee for lease of unused public road to owner or lessee of adjoining land	Leases of unused public roads. Under section 153 of the Roads Act (NSW) a roads authority may lease land comprising a public road (other than a Crown road) to the owner or lessee of land adjoining the public road if, in its opinion, the road is not being used by the public.	Taxable – section 9-5
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Insert

Fee for consent to erect a structure on a public road under section 139A of the Roads Act 1993 (NSW)	Council may grant a permit or consent to erect a structure or carry out work in, on or over a public road. Under section 139A of the Roads Act 1993 (NSW), council may impose conditions on the consent such as permitting the use of the structure for the purpose of selling any article or service and requiring payments in the nature of rent. Includes consents to erect bus shelters, bollards or other structures in, on or over a public road. The fee may be a flat fee or it may be calculated over time or per advertising panel on the structure or by other means.	Exempt – paragraph 81-15.01(1)(f) of the GST Regulations
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(e) Omit the row

Legal fees recouped in the recovery of rates	The Local Government Act provides that these costs take the nature of rates and are therefore exempt as a tax.	Exempt – section 81-5
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Substitute

Legal fees recouped in the recovery of rates	The Local Government Act provides that these costs can be recovered.	Out of scope – No supply
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This Addendum applies on and from 1 July 2013.

Commissioner of Taxation

2 October 2013

ATO references

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