

GSTR 2003/5 - Goods and Services Tax: Vouchers

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! This ruling is being updated to reflect the amendments made by Schedule 4 of the *Tax Laws Amendment (2006 Measures No. 1) Act 2006* (32 of 2006), which largely relate to the telecommunications industry.

! This document has changed over time. This is a consolidated version of the ruling which was published on *28 May 2003*



Goods and Services Tax Ruling

Goods and Services Tax: Vouchers

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Preamble

This document is a ruling for the purposes of section 37 of the Taxation Administration Act 1953. You can rely on the information presented in this document which provides advice on the operation of the GST system.

What this Ruling is about

1. The Ruling explains the Commissioner's view on how the *A New Tax System (Goods and Services Tax) Act 1999* ('GST Act') applies to vouchers.
2. This Ruling:
 - outlines the meaning of 'voucher', for the purposes of Division 100 of the GST Act;
 - provides guidelines on the identification and treatment of vouchers to which section 100-5 of the GST Act applies;
 - explains the differing implications on the supply and redemption of vouchers, depending on whether section 100-5 applies; and
 - explains the GST implications of payments received by a supplier from third parties on redemption of a voucher to which section 100-5 applies.
3. This Ruling does not deal with:-
 - the application of the GST Act in relation to postage stamps. Under section 100-25, postage stamps are not vouchers for GST purposes; and
 - the application of section 100-20 vouchers supplied to non-residents and redeemed by non-residents in Australia.
4. All legislative references in this Ruling are to the GST Act, unless otherwise stated.

Date of effect

5. This Ruling explains our view of the law as it applied from 1 July 2000. You can rely upon this Ruling on and from its date of issue for the purposes of section 37 of the *Taxation Administration Act 1953*. Goods and Services Tax Ruling GSTR 1999/1 explains the GST rulings system and our view of when you can rely on our interpretation of the law in GST public and private rulings.

6. If this Ruling conflicts with a previous private ruling that you have obtained, this public ruling prevails. However, if you have relied on a private ruling, you are protected in respect of what you have done up to the date of issue of this public ruling. This means that if you have underpaid an amount of GST, you are not liable for the shortfall prior to the later ruling. Similarly, you are not liable to repay an amount overpaid by the Commissioner as a refund.

Context

7. A voucher evidences a right or entitlement to receive supplies in the future, and the obligation to make supplies, on the exercise or redemption of that right or entitlement. A voucher plays a part in two transactions:

- the supply of the voucher itself, and
- the redemption of the voucher for supplies.

8. The supply of a voucher will be a taxable supply where the requirements of section 9-5 are met. Where Division 100 (the Division) applies, it alters the application of the basic rules of Chapter 2 of the GST Act so that GST is not payable on the supply of certain vouchers.¹

9. Under the Division, GST will be payable to the extent the consideration for the supply of the voucher exceeds the face value² of the voucher.³ The Division requires that GST is payable on the supply made on redemption of the voucher if that supply is a taxable supply, rather than at the point of supply of the voucher itself.

1 Section 45-5 provides that the provisions of Chapter 4 – The Special Rules override the provisions of Chapter 2 - The basic rules, except section 29-25, to the extent of any inconsistency.

2 In this ruling, the phrase 'face value' refers to 'the monetary value stated on the voucher'.

3 Section 100-5(2).

10. To be a voucher to which Division 100 applies, an article must satisfy the meaning of voucher in section 100-25 as well as the additional requirements in section 100-5. Not every article which purports to be a voucher will be a voucher for the purposes of section 100-25. Even if an article is a voucher as defined, the article may not meet the further requirements of section 100-5 to qualify for treatment under Division 100.

11. For the purposes of this Ruling, a voucher which satisfies both sections 100-25 and 100-5 is referred to as a 'face value voucher' (FVV).

12. The supplies on redemption of a FVV will be taxable if the requirements of section 9-5 are met. An input tax credit for the acquisition made on redemption of the voucher may arise if the requirements of section 11-5 are met.

13. The operation of the GST law in respect of Division 100 is outlined below and a diagrammatic representation is provided as Appendix 1. A Case Study on the application of Division 100 is provided as Appendix 2.

14. Unless otherwise stated, it is assumed in the examples in this Ruling and Appendices, that the supply of a FVV, and the supplies made on redemption of a FVV are:

- made for consideration;
- made in the course or furtherance of an enterprise;
- connected with Australia;
- made by an entity that is registered or required to be registered; and
- not GST-free or input taxed.

15. Each example in this Ruling demonstrates a particular principle from the paragraphs preceding it. Sometimes the examples demonstrate a significant point in determining whether a voucher is a FVV. Whilst an example may only deal with the particular principle it is emphasising, other principles as discussed in this Ruling may need to be considered before finally determining whether an article is a FVV.

Ruling and Explanation

16. To determine whether a voucher is one to which Division 100 applies, is a two step process. Firstly, the voucher must fall within the meaning of voucher in section 100-25. Comments on section 100-25 are found at paragraphs 20 to 54. Secondly, that voucher must satisfy the further requirements contained in section 100-5. Comments on section 100-5 are found at paragraphs 55 to 83.

17. Some requirements are common to both sections 100-25 and 100-5. For example, the requirement that, on redemption of the voucher the holder is entitled to supplies, is common to both sections. Comments on this requirement appear under the heading 'The holder of the voucher is entitled' at paragraphs 68 to 73.

18. Redemption of a voucher is discussed at paragraphs 38 to 48. Redemption of a FVV and the consequences of a voucher expiring unredeemed are discussed at paragraphs 84 to 129.

19. Even where an article is a voucher for the purposes of section 100-25, it may not be a voucher to which section 100-5 applies. In this case, any GST consequence of the supply and redemption of the voucher will need to be considered under the basic rules in Chapter 2.

Meaning of voucher in section 100-25: Step 1

20. Under section 100-25:

a voucher is any voucher, token, stamp, coupon or similar article the redemption of which in accordance with its terms entitles the holder to receive supplies in accordance with its terms. However, a postage stamp is not a voucher.

21. The Act does not further define the term 'voucher' or the terms 'token', 'coupon', 'stamp' or 'article'. Subject to satisfaction of the requirements in section 100-25, these terms take their ordinary meaning.

22. For an article to be a voucher for the purposes of section 100-25 it must upon redemption entitle the holder to receive supplies in accordance with its terms. This could, for example, include a voucher presented in the form of a letter.

23. In determining whether an article is similar to a voucher, token, stamp or coupon its characteristics, function and purpose need to be taken into consideration to establish whether or not it falls within the statutory meaning in section 100-25.

24. While the terms of a voucher will often be stated on it, this is not necessary for it to satisfy the requirements of section 100-25. For example, the terms may be contained in a letter that accompanies the voucher.

25. The fact that a voucher is issued and/or redeemed electronically does not exclude it from the meaning of voucher in section 100-25. A voucher that is the electronic equivalent of the physical form of a 'voucher' satisfies section 100-25. An example of this may be a visual graphic representation of the voucher on a computer screen.

26. For a voucher to fall within section 100-25 it must:

- have a single function or purpose;
- the presentation of the voucher must be integral to supplies on redemption; and
- upon redemption, the voucher must entitle the holder to receive supplies.

Single function vouchers

27. The use of the words 'the redemption of which ... entitles the holder to receive supplies in accordance with its terms' in section 100-25, indicates the section applies to vouchers that have a single function or purpose to receive supplies on redemption. That is, the right or entitlement to receive supplies must cease to exist on the exercise of that right or entitlement by virtue of the redemption of the voucher or when the voucher expires. For the purposes of this Ruling these are termed single function vouchers.⁴ On cessation of the right, the voucher, or any part of the voucher, performs no other function nor does any other function continue to exist.

28. A single function voucher ceases to be a voucher once fully redeemed for supplies or when it expires. Examples of single function vouchers include:

- a bus ticket;
- a voucher that can be used only to make telephone calls;
- a voucher that can be used only to purchase books;
- a retailer branded gift voucher; or
- a voucher with a unique number which can be used only to obtain supplies.

⁴ Products with more than one function are discussed at paragraphs 30 to 32.

29. A voucher that has more than one function is not a voucher within the meaning of section 100-25.

Multi function vouchers

30. A multi function voucher is a voucher, or any part of a voucher, that has been created with a number of possible functions or purposes incorporated on the voucher or on that part of the voucher. Such a voucher not only entitles the holder to receive supplies on redemption, but also enables and entitles the holder to perform a number of additional functions. The other functions of a multi function voucher continue to be available up to or after the time it has been redeemed for supplies.

31. The meaning of voucher in section 100-25 requires the redemption of the voucher to give rise to the exercise of the entitlement to supplies. A multi function voucher may not cease to carry the additional functions once it is fully redeemed or expired. It is able to be reused once it has been redeemed or has expired. A multi function voucher is not a voucher for the purpose of section 100-25. Examples of a multi function voucher include:

- a voucher that enables the holder to top up, reload, or recharge the voucher with a value;⁵
- a voucher that has been topped up, reloaded or recharged with value; or
- a voucher with unique number, where the unique number enables the holder to reload, or recharge the voucher with a value.

Example 1: multi function voucher - recharge card

32. *A business sells plastic cards which have an initial value of \$100. The card's functions entitle the holder to supplies up to \$100, and to recharge the card when the value remaining is low. The card does more than entitle the holder to supplies on redemption. The card itself has another function. The card is not a voucher for the purposes of section 100-25. The card does not have the single function to receive supplies on redemption. In these circumstances the application of the basic rules in section 9-5 would need to be considered in relation to the card.*

⁵ This is to be distinguished from the issue of another voucher with a different monetary value stated on it. See paragraphs 116 to 118.

Presentation of voucher must be integral to supplies on redemption

33. The words ‘...the redemption of which...entitles the holder to receive supplies...’ in section 100-25, indicates that the act of presentation of the voucher, or any part of the voucher, for supplies is an integral requirement before an article can be considered to be a voucher for the purposes of section 100-25.

34. This requirement is supported by subsection 100-10(1) which states that the act of redeeming a voucher is not a supply. Similarly, the Explanatory Memorandum refers to a ‘right to acquire something when the voucher is presented’.⁶ The reference to the ‘act’ in subsection 100-10(1), and to the voucher being ‘presented’ in the Explanatory Memorandum, further indicates that presentation of the voucher is required. The presentation of the voucher is integral to the redemption for supplies.

Example 2: Presentation of voucher integral to supplies on redemption

35. *George buys a \$50 voucher from a retail store as a Christmas gift for Shauna. The voucher entitles the holder to a variety of retail supplies up to the value of \$50. To obtain the supplies, the voucher must be presented; if it is not, Shauna has no entitlement to supplies as presentation is integral for redemption for supplies. The voucher is one to which section 100-25 applies as its presentation is integral to the supplies to which the holder is entitled.*

36. Where the presentation of the voucher is not integral to the exercise of the right or entitlement to the supplies, the article will not be a voucher for the purposes of section 100-25.

Example 3: Presentation of voucher not integral to supplies on redemption

37. *A club sends each member a letter advising that during the month of May each member is entitled to a bottle of wine valued at \$20. The letter is not required to be presented to redeem the member’s entitlement to the wine. The member only has to show proof of his or her current membership to receive the bottle of wine. The letter is not a voucher to which section 100-25 applies as its presentation is not integral to the supplies to which the member is entitled.*

⁶ Paragraph 1.92 of the House of Representatives Supplementary Explanatory Memorandum to the A New Tax System (Indirect Tax and Consequential Amendments) Bill (No. 2) 1999.

Redemption of a voucher

38. The meaning of voucher in section 100-25 includes the requirement that the article entitle the holder to receive supplies upon its redemption. The article must be capable of being redeemed. An article, which is not redeemable for supplies, will not be a voucher.

Example 4: voucher not capable of redemption

39. *A network, consisting of a number of institutions which perform similar services for others in the network, uses articles which the institutions describe as 'vouchers' as a medium of payment for services. The vouchers are not redeemed for the services but retain their value and may be reused any number of times as they circulate in the network. The articles are merely a way of recording and offsetting reciprocal services.*

40. *These articles are not vouchers within the meaning of section 100-25 as they are not redeemable for supplies. The entity, which performs a service, has no obligation, which is evidenced by the article, nor does the possession of the article confer an entitlement upon the holder.*

41. In subsection 100-10(1) the term 'the act of redeeming' refers to the act of the holder of the voucher (that is, the customer at the time of redemption) in handing over or otherwise providing the voucher to the supplier in exchange for supplies. Subsection 100-10(1) was inserted for the avoidance of doubt; preventing the act of giving up of rights or entitlements evidenced by the voucher from being treated as a supply.⁷ However, a supply for which the voucher is redeemed is still a supply.⁸ Subsection 100-10(1) applies to all vouchers within the meaning of section 100-25.

42. Redemption involves the contemporaneous provision of supplies in discharge of the obligation evidenced by a voucher. The making of those supplies must discharge the supplier from the obligation to make the supplies. Redemption may occur by:

- presentation of the physical voucher, including a printed electronic voucher; or
- providing a unique number or other information contained on the voucher by use of either telephone, computer or similar means.

⁷ Paragraph 1.102 of the House of Representatives Supplementary Explanatory Memorandum to the A New Tax System (Indirect Tax and Consequential Amendments) Bill (No. 2) 1999.

⁸ Note to subsection 100-10(1).

43. The use of a unique number can be in the form of a Personal Identification Number (PIN), a claim number or an access number. For some products the unique number is entered on each occasion to access the entitlement to receive supplies that is, to enable the supplies to be made in discharge of the obligation. In these cases the use of the unique number is for the single function of the presentation and redemption of the voucher for supplies. The use of the number is integral to receiving those supplies.

44. In these circumstances, the entering of the PIN or unique number or access product/number is equivalent to presenting the voucher to the supplier. The supplies made on presentation of the PIN or unique number, constitute redemption of the entitlement.

Example 5: redemption of an electronic voucher

45. *Ezy-gift sells gift vouchers through the Internet. The vouchers are redeemable on-line only. Holders of the vouchers go to the retailer's website and go through the usual process of placing an order. They are required to provide the voucher claim number and expiry date to identify the voucher and the entitlement to supplies. This validation of the voucher is redemption which entitles the holder of the voucher to immediate supplies. The voucher is redeemed for the purpose of the meaning of voucher in section 100-25.*

Example 6: Using a PIN to receive supplies

46. *Angela purchases a \$50 phone card that allows her to call any number from any telephone in Australia. Each time Angela wants to make a call, she must first dial a general access number and then input a unique PIN found on the card. By keying in the PIN, Angela is identifying or presenting the phone card to the supplier. She is accessing her entitlement to receive supplies. Angela next dials the telephone number she wants to call. When the supplier connects Angela to that number, the phone card is redeemed to the extent of that call. Keying the PIN is integral to receiving the supplies made on redemption and equivalent to presentation of the card. The PIN can not be used to top up or recharge the card. If so, the card would be a multi function voucher.*

47. For other products, the unique number is entered only to enable the exchange of one obligation for another obligation, or to enable one or more other functions, for example, to top up or recharge. In these cases the use of the number does not have the single function of accessing the right or entitlement for supplies.

48. Where a unique number is entered and all that happens is that the supplier exchanges one obligation for another, there is no discharge of the supplier's obligation to make supplies. In such an exchange where the holder of an article does nothing to discharge a supplier from the obligation to make supplies, there is simply an extinguishment of the first obligation and the creation of another. An article which can be exchanged for another obligation to make supplies, is not a voucher.⁹

Vouchers and customer accounts

49. A credit to an account, by transferring money to the account, where that money is to be used for future supplies, is not a supply. This is the case even though a card or thing resembling a voucher may be given to create the credit or enable access or use of the credit in the account.

50. The supplier of the facility for the account is not supplying a voucher, nor is it making a supply of money. The supplier of the facility for the account is not making a taxable supply; and it is not providing consideration for a taxable supply.

51. The entity establishing the credit to the account is not acquiring a voucher nor is it making a payment for the credit in the account; rather, the entity is transferring credit into the account as provision for the acquisition of future supplies. The transfer of funds is not a taxable supply; and it is not consideration for a taxable supply. However, where an unused amount in an account is forfeited, for example on a particular expiry date, the amount forfeited is consideration for use of the facility. The use of the facility is a supply which is taxable if the requirements of section 9-5 are met. The relevant GST is attributable on forfeiture.

Example 7: Vouchers and customer accounts

52. *Future World Ltd supplies a card to customers for \$55. The card has on it a PIN, a face value, and a telephone number. By using the PIN the card is used to activate an account with a value of \$55 on Future World's system. Once the account is activated the card may be discarded. The card is not integral to the future supplies. The card is the means of establishing a credit of \$55 in the account. The card is not redeemed for supplies but is transferring money to establish a credit. The card is not a voucher to which section 100-25 applies. The GST treatment of future supplies will be determined when they are*

⁹ The voucher on redemption does not entitle the holder to receive a reasonable choice and flexibility of supplies. See discussion at paragraphs 74 to 79.

supplied. In this case the basic rules in subsection 9-15(3) do not apply, the basic rules in section 9-5 apply when the supplies occur.

Example 8: electronic payment docket – not a voucher

53. *Fuzzy Enterprise Australia offers a facility whereby a customer may establish and recharge its account by transferring funds to Fuzzy. This can be done by the customer going to a local supermarket, which has a Fuzzy terminal and selecting the value to be transferred to the account using eftpos, credit card, or cash. At the end of the transaction the customer receives a docket which shows various details including the amount transferred, a recharge number, expiry date, and a telephone number which must be dialled and the relevant details entered to activate the recharge to the customer's account. Once the recharge is achieved the docket can be discarded.*

54. *The docket is not a voucher to which section 100-25 applies, nor does section 9-5 apply to the docket. It is a means of establishing or accessing credit held or to be held in an account. The docket itself does not entitle the holder to supplies upon its redemption. The GST treatment needs to be determined when the supplies are made. However, if the docket or recharge number can be used to obtain immediate supplies, the docket may be a voucher to which section 100-25 applies.*

Section 100-5 requirements: Step 2

55. Section 100-5 does three things. Firstly, it imposes additional conditions that must be satisfied before a section 100-25 voucher will be a FVV. Secondly, subject to the conditions in the section, it states that the supply of a voucher that meets such conditions is not a taxable supply. Thirdly, it directs how the consideration for a taxable supply of the voucher is to be ascertained.

56. The requirement for a FVV first to be a voucher as defined in section 100-25 is discussed at paragraphs 20 to 54. In the following paragraphs we discuss the following additional requirements of section 100-5 and their consequences:

- the supply of a voucher must otherwise be a taxable supply (discussed at paragraphs 57 to 67);
- 'the holder of the voucher is entitled' (discussed at paragraphs 68 to 73);
- upon redemption the voucher must entitle the holder to receive a reasonable choice and flexibility of supplies. (discussed at paragraphs 74 to 79);

- the monetary value must be stated on the voucher (discussed at paragraphs 80 to 83); and
- on redemption of the voucher the holder is entitled to supplies up to its face value (discussed at paragraphs 84 to 129).

The supply of a voucher must otherwise be a taxable supply

57. Subsection 100-5(1) provides that, in certain circumstances, the supply of a voucher is not a taxable supply. If these circumstances are not present, the supply would be a taxable supply if the requirements of section 9-5 are satisfied.¹⁰ Therefore, section 100-5 only applies when the supply of the voucher would be taxable under the basic rules in Chapter 2 of the GST Act.

There must be consideration for the supply of a voucher

58. One of the requirements for a supply to be taxable is that it must be made for consideration.¹¹ For section 100-5 to apply there must be consideration for the supply of the voucher. If there is no consideration for the supply of the voucher section 100-5 does not apply and the basic rules apply.¹² Similarly, subsection 100-10(3) will not apply as it will only apply to vouchers which meet the requirements of both section 100-25 and section 100-5.¹³ For example, section 100-5 will not apply to a voucher which has been:

- donated by an entity to a charity; or
- given away, as an unsolicited gift or unsolicited promotional item (non-charity).

Example 9: voucher donated to a charity

59. *Retailers Galore donates to a charity 100 vouchers with a face value of \$50 each. The vouchers meet the requirements of section 100-25. Retailers Galore does not receive any consideration for the supply of the vouchers. The charity distributes the vouchers to the needy who, in turn, go to their local Retailers Galore store where the vouchers are redeemed for supplies.*

¹⁰ See paragraphs 8 to 12 of this Ruling.

¹¹ See section 9-5.

¹² Subject to the operation of the associate rules in Division 72.

¹³ See paragraph 87 for citation of paragraph 1.95 of House of Representatives Supplementary Explanatory Memorandum to the A New Tax System (Indirect Tax and Consequential Amendments) Bill (No. 2) 1999.

60. *As there was no consideration for the supply of the vouchers the requirements of section 100-5 are not met. The supply of the vouchers is not a taxable supply under section 9-5 because the supply is not for consideration.¹⁴ There is no GST on the later supplies on redemption of the voucher unless consideration in addition to the voucher is given by the holder.¹⁵*

Example 10: voucher supplied for no consideration

61. *Retailers Galore opens a new store in a shopping complex in Brisbane. As part of their opening celebrations it is decided that on the first morning the new store is open they will have two of the local football club's cheerleaders walk around the shopping complex handing out \$5 gift vouchers specially printed for the day. The gift vouchers entitle the holder, on redemption, to supplies up to the face value of \$5. The vouchers meet the requirements of section 100-25.*

62. *The gift vouchers are given away for no consideration. Section 100-5 does not apply and therefore, the other provisions of Division 100 also do not apply. The supply of such a gift voucher is not a taxable supply under section 9-5 because the supply is not for consideration. There will be no GST on the taxable supplies on redemption of the voucher unless consideration is given in addition to the voucher by the holder.¹⁶*

63. *If subsection 100-5(1) applies to a voucher it is a FVV. The supply of the FVV is not a taxable supply and no GST is payable.*

64. *However, where the consideration for the supply of a FVV exceeds its face value, subsection 100-5(2) applies and the supply of the FVV is a taxable supply, to the extent the consideration exceeds the face value on the FVV.*

65. *An example of a FVV for which the consideration may exceed the face value is a commemorative FVV (that is, a FVV issued to recognise or celebrate an historic moment or event).*

Example 11: consideration exceeding face value of a FVV

66. *Owen pays \$61 for a limited edition Olympic Moments FVV with a stated monetary value of \$50. As the consideration exceeds the monetary value stated on the FVV, the supply of the FVV to Owen is a taxable supply. The consideration for the supply of the FVV is treated as if it were \$11 (\$61 less \$50, the face value of the FVV). The GST payable on the supply of the FVV is \$1. On redemption of the FVV for*

14 Section 9-5 paragraph (a).

15 Paragraph 9-15(3)(a).

16 Paragraph 9-15(3)(a).

supplies, the consideration is the face value of the FVV if it is redeemed in full (that is, \$50).

Vouchers and financial supplies

67. As noted earlier, section 100-5 only applies to the supply of a voucher if the supply was otherwise a taxable supply. The supply of a voucher may be a financial supply which is input taxed under Subdivision 40-A - Financial Supplies. These vouchers are not FVVs and must be considered under Subdivision 40-A. Examples of things which cannot be FVVs are:

- a debit card which is linked to accounts provided by an Australian authorised deposit-taking institution;
- an account facility which is linked to accounts provided by an Australian authorised deposit-taking institution;
- a stored value card which is linked to accounts provided by an Australian authorised deposit-taking institution;
- Australian currency; or
- cheques and travellers cheques.

The holder of the voucher is entitled

68. For the purposes of the Division, the holder of a voucher at a particular time is whoever has ownership, power of disposal, use or possession of the voucher at that time.¹⁷

69. Vouchers are usually issued without stipulating any particular entity who is entitled to the supplies on redemption. Some vouchers may be issued to a specific entity, which alone may redeem the voucher. Some vouchers may state that they are 'not transferable'. However, most vouchers are freely transferable and anonymous.

70. In the case of transferable, anonymous vouchers, the 'holder' is the person who has possession or use of the voucher at the time of redemption.

71. For non-transferable vouchers or vouchers which name a specific recipient, the 'holder' is the person who originally acquired the voucher and/or is named on it, as no one else is entitled to supplies on its redemption.

¹⁷ Section 100-25 requires the holder, on redemption of a voucher to be entitled, in accordance with its terms, to the supplies promised by the voucher.

72. A voucher may be supplied between a number of entities before it comes into the possession of the holder who presents it for supplies. Supplies of a transferable, anonymous voucher between intermediate entities are supplies to which section 100-5 may apply. That is, section 100-5 may apply at every stage of the supply of the voucher.

Example 12: application of section 100-5 in a FVV supply chain

73. *An industry association sells vouchers to various retail outlets. The retail outlets on-sell the vouchers to their customers. On presentation, the vouchers entitle the holder, to supplies up to the monetary value stated on the voucher. The voucher is a FVV. The customers can redeem the FVVs in any of the participating stores. The supply of the FVV by the association to a retail outlet, and the supply by the retail outlet to a customer, are not taxable supplies under subsection 100-5(1).*

Reasonable choice and flexibility of supplies

74. The supplies to which the holder is to be entitled under section 100-5 are supplies *up to* a monetary value, not supplies *of* a monetary value. A voucher that entitles its holder to a specified supply is not one to which subsection 100-5(1) applies, even if a monetary value or price is stated on the voucher. What is required, is that the terms of the voucher must entitle the holder to a reasonable choice and flexibility as to the types of supplies for which the voucher may be redeemed.

75. The Explanatory Memorandum to Division 100 explains this requirement in section 100-5 as follows:

- 1.97 Only vouchers that entitle the holder to supplies up to the monetary value stated on the voucher come within Division 100. The types of things contemplated are vouchers etc. which entitle the holder to goods or services from a particular provider up to the value stated (for example a gift voucher)...
- 1.98 Division 100 will not cover things which are for a specified good (sic) or service but which may also state a price or value of the good (sic) or service, such as a bus ticket, a movie ticket or an airline ticket. These types of supplies entitle the holder to a specified service such as a set number of trips on a bus or travel on a particular date or over a particular period (for example a monthly bus pass). These

types of supplies are subject to the normal rules and subject to GST at the time of the supply of the ticket etc.¹⁸

76. A voucher may be for a specific type of supply such as 'dog grooming services' and state a monetary value. To come within section 100-5, the voucher must not stipulate the specific supply or be limited to a specific supply. For example, a statement on a voucher that it entitles the holder to a deluxe dog wash and clip priced at \$20 would preclude the voucher from being treated under section 100-5 as it is for a specific supply.

Example 13: car wash voucher – a FVV

77. Hans buys a voucher from his local service station. The voucher entitles him to car wash services up to the value of \$50, the amount is clearly indicated on the voucher. The car wash offers a range of wash products (for example, Prime, Premium and Superlative), which are of different values, as well as vacuuming, waxing, polishing, window cleaning and perfuming. Hans may use the voucher to acquire any of the services or any combination of them up to the monetary value of his voucher. This is a FVV because there is reasonable choice and flexibility as to the supplies for which the voucher may be redeemed.

Example 14: car wash voucher - not a FVV

78. Karl buys a voucher from the same local service station that states that he is entitled to one Superlative car wash priced at \$30. The \$30 is stated prominently on the voucher. This voucher is not one to which section 100-5 applies as it entitles Karl to an identified specified supply at a specified price.

Example 15: 'day rover' ticket– not a FVV

79. A 'day rover' ticket entitles the holder to a day's unlimited travel either by train, bus or ferry for a period of 12 hours. The ticket is sold for \$10 and this amount is printed on it. The holder of the ticket may actually undertake travel valued at, for example, \$20 but is not required to make any further payment. The holder is entitled to public transport with a value that varies below or above the face value of the ticket depending on the travel undertaken. The holder is not entitled to supplies 'up to' the monetary value stated on the voucher. The 'day rover' ticket is not a voucher to which section 100-5 applies because it

¹⁸ House of Representatives Supplementary Explanatory Memorandum to the A New Tax System (Indirect Tax and Consequential Amendments) Bill (No. 2) 1999.

only entitles the holder to the specific supply of the right to travel for a set number of hours.

Monetary value stated on the voucher

80. The requirement in paragraph 100-5(1)(a) that the monetary value must be ‘stated on the voucher’ simply means that the amount must be explicitly set out on or incorporated on the voucher. A voucher which exists partly in a physical form and partly in an electronic or machine readable form, can still satisfy this requirement.

81. A document may meet the requirements to be a voucher. Order 1 Rule 4 of the *Federal Court Rules* defines a ‘document’ to include any record of information which is a document within the definition contained in the Dictionary in the *Evidence Act 1995* and any other material data or information stored or recorded by mechanical or electronic means.¹⁹

82. If all the information evidencing the holder’s entitlement to supplies up to a monetary value is on the voucher it may be a voucher to which section 100-5 applies. For example, the voucher may exist on paper or a plastic card, and the monetary value may be incorporated in a bar code or a magnetic strip on the voucher. The monetary value must be so incorporated for the life of the voucher. The bar code or magnetic strip may also incorporate the unredeemed value remaining on the voucher. The monetary value stated on the voucher can be evidenced through the assistance of mechanical or electronic means. This requirement can also be satisfied if the voucher exists only in electronic form. A visual image of the voucher on screen showing the relevant monetary value will satisfy this requirement.

Example 16: Voucher with monetary value encoded in magnetic strip

83. *A hardware store issues plastic vouchers which entitle the holder to receive supplies from the store up to the value stated on the voucher. The voucher states the name of the store on its front and that the holder is entitled to supplies up to the monetary value stored on the magnetic strip on the reverse side. The magnetic strip states the monetary value of the voucher and the unredeemed value of the voucher. The magnetic strip requires a card reader to read the stored monetary value of \$100. The requirement that the monetary value be stated on the voucher is satisfied.*

¹⁹ The meaning of ‘document’ in the Evidence Act 1995 includes as a document, anything from which sounds, images or writings can be reproduced with or without the aid of anything else.

Redemption of a FVV

84. Division 100 provides that, except where subsection 100-5(2) applies, the supply of a FVV for consideration is not a taxable supply, and there is no GST payable at this point. The point at which a GST liability may arise is when a supply or supplies is made on redemption of a FVV.²⁰ This supply will be taxable if the requirements in section 9-5 are met.

Paragraph 9-15(3)(a) does not apply to the supply or to the redemption of a FVV

85. When a taxable supply is made on redemption of a voucher, GST will be payable based on the price of that supply. Under section 9-75, the price is the sum of all the consideration for that supply. A supply made on redemption of a voucher is also potentially subject to paragraph 9-15(3)(a). This is because a voucher as defined in section 100-25 is a document which evidences the right to receive supplies. Paragraph 9-15(3)(a) operates so that the consideration for the supplies is limited to any additional consideration. If there is no additional consideration, there will be no GST payable.

86. However, subsection 100-10(3) contains a special rule that provides that paragraph 9-15(3)(a) does not apply when a FVV is redeemed. The effect of this rule is that the consideration is not limited to any additional amount paid when a supply is made on redemption. Subsection 9-15(1) will apply and all consideration provided for the supply made on redemption is taken into account in determining the GST payable.

87. This point is illustrated by paragraph 1.95 of the Explanatory Memorandum which states:

1.95 When a voucher covered by Division 100 is redeemed, paragraph 9-15(3)(a) will not apply [new subsection 100-10(3)]. On redemption the normal rules will apply and the consideration for the supply will be the value stated on the voucher. If a voucher is redeemed for goods or services of a lesser value and cash is refunded, the consideration for the supply will be the value stated on the voucher less the amount refunded.²¹

88. In contrast, if the voucher is not a FVV, there is no GST payable on redemption of a voucher, if no additional consideration is provided with the voucher.²²

²⁰ The act of the customer in providing the voucher for a supply is not itself a supply (subsection 100-10(1)). See also paragraph 41 of this Ruling.

²¹ Paragraph 1.95 of the Supplementary Explanatory Memorandum to A New Tax System (Indirect Tax and Consequential Amendments) Bill (No. 2) 1999.

²² This is discussed further at paragraphs 177 to 181 of this Ruling.

Consideration for the supply on redemption is the face value

89. GST will be payable on a taxable supply made on redemption of a FVV. The consideration provided for this supply, will be the face value of the voucher and any additional consideration provided.

90. Sections 9-70 and 9-75 contain the mechanism for working out the amount of GST on a taxable supply, based on the price of the supply.²³ Subsection 9-75(1) provides that:

price is the sum of:

- (a) so far as the consideration for the supply is consideration expressed as an amount of money - the amount (without any discount for the amount of GST (if any) payable on the supply); and
- (b) so far as the consideration is not consideration expressed as an amount of money - the GST inclusive market value of that consideration.

91. It is the Commissioner's view that the redemption of a FVV meets the requirement in paragraph 9-75(1)(a), and is consideration expressed as an amount of money. Therefore, the amount of consideration relating to the voucher is the monetary value expressed or stated on it, that is, its face value.

92. Alternatively, paragraph 9-75(1)(b) applies, and the consideration for the supply made on redemption of the FVV would be calculated on the GST inclusive market value of the FVV. At the point of redemption, the FVV entitles the holder to supplies up to its face value, regardless of the amount of consideration that was provided for the supply of the FVV. Therefore, the GST inclusive market value of the FVV is its face value since it entitles the holder to supplies up to the stated monetary value.

93. Goods and Services Tax Ruling GSTR 2001/6 which is about non-monetary consideration, requires the value of any non-monetary consideration to be determined by applying a method that produces a reasonable GST inclusive market value of the consideration. As discussed above, at the point of redemption, the FVV entitles the holder to supplies up to its face value. The Commissioner's view is that the only reasonable GST inclusive market value for a FVV is its face value. Where change is given at the time of redemption is discussed at paragraphs 110 to 115.

²³ Section 9-70 provides that GST is 10% of the value of a taxable supply, and subsection 9-75(1) provides that value is 10/11 of the price.

94. The Commissioner's view that the amount of consideration for the supply made on redemption equals the face value of the FVV is supported by the Explanatory Memorandum²⁴, and subsection 100-5(2). The effect of subsection 100-5(2) is that GST is payable on the supply of the FVV to the extent that the consideration received exceeds the monetary value stated on the FVV. The assumption underlying this provision is that the excess would not be otherwise taxed at the point of redemption of the FVV since the consideration for the supply or supplies on redemption is the face value of the FVV. If instead, the consideration for the supply on redemption was the amount paid for the FVV, the excess over face value would be subject to GST on redemption and subsection 100-5(2) would not be required.

95. No matter whether a FVV falls within the application of paragraph 9-75(1)(a) or 9-75(1)(b), the result is the same. The price of the supply or supplies made on redemption of the FVV is equivalent to the face value of the FVV, plus any additional consideration provided.

Example 17: value of a FVV

96. *Tony is buying \$100 worth of goods in a shop. At the cash register he has a choice either of handing over \$100 in cash, or giving a \$100 FVV. Tony chooses to pay by using the FVV. The market value of the FVV, at the time of redemption, is \$100 whether you apply paragraph (a) or (b) of the meaning of 'price' in section 9-75.*

Alternative view to face value

97. An alternative view is that the consideration for supplies on redemption of a FVV is limited to the consideration that the supplier of the FVV received for the supply of the FVV plus any additional consideration received on redemption. It is argued this view is supported by the European decision in *Argos Distributors Ltd v. Commissioners of Customs and Excise (Argos)*.²⁵

²⁴ Refer to Example 1.6 of the House of Representatives Supplementary Explanatory Memorandum to the A New Tax System (Indirect Tax and Consequential Amendments) Bill (No. 2) 1999 - where a consumer pays more than the face value of the voucher but only the face value of the voucher is taxed on redemption.

²⁵ *Argos Distributors Ltd v. Commissioners of Customs and Excise* [1997] BVC 64.

98. Argos was a referral by the VAT and Duties Tribunal, London to the Court of Justice of the European Communities involving the interpretation of Article 11(A)(1)(a) of the Sixth Council Directive (Directive 77/388).²⁶ This Article is implemented in the United Kingdom by section 10 of its *Value Added Tax Act 1994* (VATA 1994). The Article provides that the taxable amount shall be:

in respect of supplies of goods and services... everything which constitutes the consideration which has been or is to be obtained by the supplier from the purchaser, the customer or a third party for such supplies including subsidies directly linked to the price of such supplies.²⁷

99. The European Community's Sixth Directive and the structure of the United Kingdoms VATA 1994 require linkage of the original supply of the FVV with the later supply on redemption of that FVV.

100. Adopting an approach similar to this view would not give effect to the relevant provisions of the Australian GST legislation. The structure of the GST Act and the effect of Division 100 is that the supply of a FVV and the supplies on redemption of the FVV are separate supplies.

101. Division 100 evinces the intention to specifically deal with the treatment of FVVs that fall within its terms. That is, vouchers which satisfy section 100-25 and the requirements of section 100-5. Division 100 does this by excluding the operation of various provisions of Division 9 which might otherwise apply to the supply and redemption of such vouchers.²⁸

102. The consideration for the supply of a FVV is irrelevant in determining the consideration for the supplies on redemption as the supply of a FVV is not a taxable supply.²⁹ This is reinforced by subsection 100-5(3) which provides that section 100-5 has effect despite section 9-5 (taxable supplies) and section 9-15 (consideration). This is to be compared to the Sixth Council Directive and VATA 1994 which focuses on the consideration obtained by the supplier.

103. The subsequent supplies on redemption of the FVV are separate supplies. If this supply is taxable, the GST payable on supplies is determined under section 9-70 and section 9-75.

26 See also *Elida Gibbs v. Commissioners of Customs and Excise* [1997] BVC 80 and subsequently, *Commission of the European Communities v. Federal Republic of Germany* Case C-427/98 handed down on 15 October 2002.

27 Sixth Directive, Council Directive 77-388 of 17 May 1977 On the Harmonisation of the Laws of the Member States relating to Turnover Taxes – Common System of A Value Added Tax.

28 See subsections 100-5(3), 100-10(2) and 100-10(3).

29 Subsection 100-5(1).

104. As stated earlier, the redemption of a voucher would otherwise be potentially subject to paragraph 9-15(3)(a) which limits the consideration for a supply made on exercise of a right to 'any additional consideration provided either for the supply or in connection with the exercise of the right'. However, paragraph 9-15(3)(a) does not apply to a right that is granted by way of a FVV if, on its redemption, the holder is entitled to supplies up to its face value.³⁰

105. The effect of Division 100 is that the consideration will be based on the face value of the FVV plus any additional consideration obtained by the supplier on redemption of the FVV.

106. The treatment imposed by Division 100 in respect of the supply and redemption of FVVs falling within its terms, is to separate the two supplies – the supply of the FVV, from the supplies on redemption of the FVV – and to keep them discrete, rather than as components of a single supply.

107. Cases such as the *Argos Case* provide little assistance in resolving this issue in the context of the Australian legislation; it may be otherwise if the structure of the GST Act was to treat the issue of FVVs and their redemption as a single supply.³¹

Example 18: ATO treatment of FVVs compared to treatment under the Argos decision

108. *ACO distributes its FVVs through Middle Man Pty Ltd. The FVVs have a GST inclusive face value of \$33 stated on them but are sold to Middle Man Pty Ltd for \$22 who in turn sells them to customers for their face value of \$33. The customer presents the FVV and is supplied with goods up to the face value (\$33) of the FVV by ACO. No cash is refunded by ACO, nor is any additional consideration provided by the customer. Because the vouchers are FVVs their supply from ACO to Middle Man Pty Ltd is not a taxable supply nor is their supply from Middle Man Pty Ltd to the customer.*

109. *On the supply of goods on redemption of the FVV, ACO is liable for GST calculated on the face value of the FVV (\$33), and the customer may be entitled to an input tax credit of \$3. Middle Man Pty Ltd has no GST liability, nor any entitlement to an input tax credit. Adopting the alternative view on redemption of the voucher ACO is only liable to GST calculated on \$22. The added value in the distribution chain is not subject to GST.*

³⁰ Subsection 100-10(3).

³¹ The UK Budget announcement in April 2003 foreshadowed an amendment to their law to alter the treatment of vouchers.

Consideration for the supply on redemption - where change is given

110. Where the price of a taxable supply made on redemption of a FVV is less than its face value and no change is given, the consideration for that supply will be that face value.³²

Example 19: FVV fully redeemed - no change is given

111. *Regina fully redeems a \$20 FVV to purchase goods with a value of \$15. No change is given by the retailer. The consideration for the supply of goods to Regina is the \$20 face value. The retailer will remit GST of 1/11 of \$20.*

112. If a FVV is redeemed for supplies of a lesser value and change is given, the consideration for the supply will be the face value stated on the FVV less the amount refunded. This treatment is like tendering cash for a purchase and receiving change.

Example 20: FVV fully redeemed - with change given

113. *Nancy uses a \$20 FVV to purchase goods with a value of \$17. The retailer gives Nancy change of \$3. The consideration for the supply of goods to Nancy is the face value of the FVV, \$20, less the change of \$3. The retailer will remit GST of 1/11 of \$17.*

114. The supplier of the goods or services on redemption, will be liable for GST calculated on the full consideration based on the face value on the FVV, less any change, even if the FVV was supplied at a discount to its face value.

Example 21: FVV purchased at a discount, change is given when redeemed

115. *Kate is offered a 10% discount on the purchase of a FVV by a local retailer. She pays \$18 for a \$20 FVV. Kate uses the FVV to purchase goods with a value of \$19. The retailer gives to Kate \$1 change. The consideration for the supply of goods to Kate is the face value of the FVV (\$20) less the \$1 change given. The retailer will remit GST of 1/11 of \$19.*

³² See paragraph 1.95 of the House of Representatives Supplementary Explanatory Memorandum to the A New Tax System (Indirect Tax and Consequential Amendments) Bill (No. 2) 1999.

A FVV that can be redeemed for another FVV

116. Section 100-5 will apply to the supply of a voucher even where that voucher can only be redeemed for any of a number of different vouchers. The other voucher(s) must satisfy all the requirements in section 100-5.

Example 22: FVV that can be redeemed only for other FVVs

117. *Greyacres Pty Ltd owns and manages a number of shopping centres. It sells vouchers (the 'original FVV') with face values ranging from \$20 to \$100. Holders of these FVVs can redeem them at the centre management office for their choice of retailer branded FVVs (the 'exchange FVVs') up to the face value on the original FVV. The exchange FVVs each entitle the holder to supplies up to its face value from the chosen retailer. As the holder has a reasonable choice and flexibility as to the supplies for which the FVV is redeemed both the original voucher and the exchange vouchers are FVVs.*

Example 23: A FVV redeemed for supplies and another FVV

118. *Edmond uses a \$100 FVV to buy video games priced at \$80. The retailer gives Edmond, as change, another voucher with a face value of \$20. Consideration for the supply of the video games is \$80. The \$20 voucher is also a FVV. The supply of the \$20 voucher is not a taxable supply. Both the \$100 voucher and the \$20 voucher are FVVs.*

Partial redemption of a FVV

119. A voucher may be partially redeemed in a transaction and still be a FVV. If a FVV is only partially redeemed, the consideration for the supplies on redemption is the amount by which the FVV is being redeemed.

Example 24: partial redemption of a FVV

120. *Eric uses a \$10 FVV to acquire a can of soft drink. The value remaining on the FVV is \$8. This is a partial redemption and the consideration for the taxable supply of the soft drink is the amount by which the FVV is being redeemed, namely \$2 (\$10 - \$8).*

Increasing adjustments for unredeemed FVVs – section 100-15

121. Section 100-15 applies only to FVVs. There may be circumstances where some FVVs are not redeemed. Section 100-15 requires increasing adjustments to account for the GST payable on FVVs where:

- a voucher was supplied for consideration;
- the voucher was a FVV;
- the voucher has not been redeemed; and
- the supplier of the voucher writes back, for accounting purposes, to current income any reserves for the redemption of the voucher.³³

122. A FVV that in part is unredeemed when it expires may be subject to section 100-15 on that unredeemed portion.

Example 25: increasing adjustment – FVV expires unredeemed in part

123. *Coffee Cafe sells a \$100 FVV to Adam in March 2001. The FVV is valid for twelve months from the date of issue. Adam uses the FVV to acquire goods to a total cost of \$67 before it expired in March 2002. When Coffee Cafe writes back to current income the unused credit of \$33, there is an increasing adjustment of \$3 ($1/11 \times \33) for GST purposes.*

124. Section 100-15 does not apply to a voucher that was supplied for no consideration.³⁴

125. Where a supplier does not maintain reserves for the redemption of FVVs, the expiry of a FVV will trigger an increasing adjustment in the relevant Business Activity Statement (BAS).

Redemption of a voucher after increasing adjustment made

126. It is a commercial matter for suppliers as to whether they redeem expired vouchers. From a GST perspective, as the voucher has expired, GST should already have been paid following the adjustment requirements in section 100-15. The honouring of an expired voucher only affects the tax period in which GST should have been remitted.

127. If a supplier chooses to redeem a voucher after an increasing adjustment has been made under section 100-15, the supplier can revise the relevant BAS to cancel the adjustment and attribute the GST to the relevant tax period in accordance with Division 29.

³³ Subsection 100-15(1).

³⁴ Paragraph 100-15(1)(a).

128. However, the Commissioner accepts that so long as an increasing adjustment has been made, there is no need to make a further adjustment where the amount of the earlier section 100-15 increasing adjustment equals or exceeds the later amount. If the later amount exceeds the earlier amount, the excess should be attributed in accordance with the Division 29 attribution rules in the tax period in which the expired voucher is redeemed.

Example 26: attributing GST where an expired voucher is subsequently honoured

129. Further to Example 25, above, Adam is unhappy at losing the \$33 remaining on the voucher. He discusses it with the manager of Coffee Café who agrees to honour the voucher up to the unused credit of \$33. Coffee Café may revise down by \$3 the BAS in which the increasing adjustment of \$3 for the unredeemed voucher was made. If it does this it will need to attribute GST to the relevant tax periods as the voucher is redeemed. Because of the small amount involved Coffee Café decides not to do this, but rather to leave the increasing adjustment of \$3 made in an earlier tax period, unchanged. Coffee Café recognises that the amount of GST it has to remit has not changed, only the timing.

Supply of a FVV with something else - apportionment of consideration

130. Sometimes FVVs are provided as part of a supply with something else. If the FVV is a separately identifiable part of the supply the consideration for the supply should be apportioned between the parts. The apportionment must be on a reasonable basis and supportable by the facts in the particular circumstances.³⁵

131. The fact that a FVV supplied as part of a package for one amount of consideration is described as being 'free' does not mean that consideration cannot be apportioned to the supply of the FVV. This means that, for example, in a transaction in which a 'free' FVV is supplied on condition that something else is purchased, the purchase price is consideration for all of the things supplied, including the 'free' FVV and consideration should be apportioned to the supply of the FVV.

³⁵ Refer to Goods and Services Tax Ruling GSTR 2001/8 which is about apportioning the consideration for a supply that includes taxable and non-taxable parts.

132. The amount of the consideration to be apportioned to the supply of a FVV is the face value of the FVV. This is because the consideration for the supplies to be made on redemption of the FVV is the face value of the FVV (refer to paragraphs 89 to 109).

133. If part of a supply is a voucher to which section 100-5 does not apply and it is taxable, and if part of the supply is not taxable (because it is GST-free or input taxed or otherwise not taxable), apportionment of the consideration to the different parts of the supply is necessary for the proper operation of the GST Act.

Example 27: supply of a FVV with something else

134. *As part of a promotion for a new line of whitegoods, a retailer provides a FVV with each sale. The FVVs can be exchanged in that store for any supplies up to the face value stated on the FVV.*

135. *The GST payable on the sale of a refrigerator with a \$220 FVV for a price of \$1,067 is based on consideration for the refrigerator being \$847 (the total consideration of \$1,067 less the face value of the FVV). The GST payable on the sale of the refrigerator is \$77 ($1/11 \times \847).*

136. *When the customer uses the FVV to buy other goods from the retailer, there is \$20 ($1/11 \times \220) GST payable by the retailer based on the face value of the FVV.*

137. *However, if the voucher provided with the refrigerator is for a specified item, for example, a toaster, the GST payable on the sale of the refrigerator and the voucher is \$97 ($1/11 \times \$1,067$). The supply of the voucher is taxable because section 100-5 does not apply. There is no need to apportion consideration between the refrigerator and the voucher as both are taxable supplies.*

138. *Unless additional consideration is provided on redemption of the voucher for the toaster, there will be no GST payable on the supply of the toaster (paragraph 9-15(3)(a)).*

Third party payments and supplies of services separate to the FVV

139. The following discussion relates solely to the treatment of FVVs. It can be relied upon only for the purpose of determining the treatment of:

- a payment from a third party to the entity making the supplies on redemption of the FVV; and

- a payment from an entity making the supplies on redemption of the FVV to a third party for the supply of services.

140. An agreement may exist between an entity (often a retailer), who agrees to accept FVVs as consideration for supplies, and a third party who usually supplies the FVV either to a retailer, or directly to a customer. This agreement will usually provide for a number of things, including:

- the third party will supply other services to the redeeming entity. These services may include the administration, facilitation, and promotion of the FVV arrangement;
- the third party will make a payment to the entity upon redeeming the FVV for supplies; and
- the redeeming entity agrees to pay a fee or commission to the third party as consideration for all things supplied by the third party.

141. The payment made by the third party to the redeeming entity may equal the face value of the FVV; or the face value of the FVV reduced by a discount, fee, commission or other amount.

142. The payment from the third party to the redeeming entity is not consideration for the supplies made on redemption of the FVV³⁶; nor is the payment consideration for a supply by the redeeming entity to the third party.³⁷ The payment is made as part of the third party's performance of its contractual obligations under the agreement.

143. The payment to the redeeming entity is similar, for GST purposes, to a payment by a credit card issuer to a retailer that accepted a credit card payment as consideration for supplies. This analogy was made in *Kingfisher plc v. Commissioners of Customs and Excise* [2001] BVC 49 and *Customs and Excise Commissioners v. High Street Vouchers Ltd* (1990) 5 BVC 89.³⁸ In both these cases, neither party nor the Court sought to characterise the payment by the third party to the redeeming entity as consideration for a supply by the redeeming entity. The payment to the redeeming entity is not a separate supply because it is a supply of money.³⁹ The relevant cases

³⁶ Subsection 9-15(2) does not apply.

³⁷ Refer to GSTR 2001/6 which is about non-monetary consideration; in particular paragraphs 83 to 85 and the discussion on exchanging of rights and obligations between parties under an agreement.

³⁸ Also note *R v. Commissioners of Customs and Excise, ex parte F & I Services* [2001] BVC 347, *Commissioners of Customs and Excise v Primback Ltd* (Case c-34/99) [2001] BVC 315, *Davies v Commissioners of Customs and Excise* (1974) 1 BVC 23.

³⁹ Subsection 9-10(4).

indicate the commission or discount was consideration for the services provided by the third party, and that there were no further GST consequences in relation to the payment by the third party to the redeeming entity.⁴⁰

144. If the third party is not acting like a credit card issuer would act, then the payment it makes to the entity may be consideration for a taxable supply by the entity to the third party; or the payment may be additional consideration for the taxable supplies made by the entity on redemption of the FVV. The agreement between the redeeming entity and the third party, and how the agreement is implemented will determine the appropriate GST treatment.

145. Where a fee is paid by the redeeming entity to the third party, the fee represents remuneration for all services supplied by the third party to the entity. The supply of services by the third party to that entity is a taxable supply if the requirements of section 9-5 are met. The redeeming entity will be entitled to an input tax credit if the requirements of section 11-5 are met.

146. In the usual circumstances described at paragraphs 139 to 140, the supply of the third party's services is not a financial supply for the purposes of Subdivision 40-A as it is not the supply of an interest as listed in the table in Regulation 40-5.09. This means that the supply of services is not input taxed.⁴¹

Example 28: payment by third party

147. *A retailer enters into an arrangement with a third party to redeem FVVs. Under the terms of the arrangement, the third party pays the retailer a net amount of 95% of the face value of each FVV the retailer redeems, retaining 5% as commission.*

148. *There is GST payable on the taxable supplies to the customer on redemption of the FVV based on the full face value of the FVV. The net payment (95%) received by the retailer from the third party comprises an amount equal to the face value of the FVV less the (5%) commission.*

149. *The commission received by the third party is consideration for all things supplied by the third party to the retailer. This is a taxable supply if the requirements of section 9-5 are met.*

⁴⁰ *Customs and Excise Commissioners v Diners Club Ltd; Cardholder Services Ltd.* (1989) 4 BVC 74 and *Chaussures Bally SA v Belgian State, Minister of Finance* (Case C-18/92) [1993] ECR I-2871, *Yorkshire Co-operatives Ltd v Commissioners of Customs & Excise* Case C-398/99 handed down on 16 January 2003.

⁴¹ Subsection 40-5(1).

150. *The payment from the third party to the retailer is not a separate supply, nor is it consideration for a separate supply from the retailer to the third party. The payment is made as part of the third party's performance of its contractual obligations under the agreement.*

Alternative view on third party payments

151. An alternative view is that the payment is consideration for a separate taxable supply. Under this view the taxable supply is the release by the redeeming entity of the third party's obligation to make the payment.⁴² This is not the ATO's view.

152. The consideration for the supply of the release from the obligation is the payment made by the third party to the entity. The entity will be liable for GST and the third party will be entitled to an input tax credit on this taxable supply.

153. The agreement between the entity and the third party, and facts and circumstances of each situation will determine the appropriate GST treatment.

154. However, where there is merely a payment by a third party, it does not amount to a release of the third party's obligation to pay.⁴³ The third party's obligation is extinguished by the third party making the payment. There is no supply in these circumstances.

Supply of services involved in FVV production

155. The supply of a FVV should be distinguished from a supply of services involved in the design and/or production of a FVV. The supply of services is a taxable supply if the requirements of section 9-5 are met.

Example 29: supply of services

156. *ABC Enterprise places an order with a printing company for the production of 1,000 FVVs with various face values ranging from \$20 to \$100. The printing company delivers the order to ABC's premises and is paid \$800. The payment the printing company receives is consideration for the supply of printing services not for the supply of FVVs. Section 100-5 has no application. The supply of services is a taxable supply if the requirements of section 9-5 are met.*

42 This view was expressed in the draft GST Ruling GSTR 2000/D22 paragraphs 68 to 71 based on paragraph 9-10(2)(g).

43 Paragraph 9-10(2)(g) does not apply.

ABC Enterprise is entitled to an input tax credit for the acquisition of the services if the requirements of section 11-5 are met.

Supply of FVVs and agency arrangements

157. A FVV may be supplied to one or more intermediate entities before it comes into the possession of the ultimate holder who presents it for supplies. The FVV may be supplied to the intermediate entity acting as a principal in the on sale of the FVV or acting as agent for the supplier under an agency arrangement.

158. Under an agency agreement the agent will normally receive a commission for their supply of services to the principal. If the requirements of section 9-5 are met, the supply of these services is a taxable supply and the recipient would be entitled to an input tax credit if the requirements of section 11-5 are met.

Subdivision 153-B arrangements

159. Subdivision 153-B contains special rules which enable a principal and agent to enter into a particular arrangement where the agent is treated as a principal for GST purposes. Under a Subdivision 153-B arrangement the principal and agent are permitted to treat the supplies from the principal to a third party as two separate supplies. That is, a supply from the principal to the agent, and another supply from the agent to the third party.

160. Although Subdivision 153-B arrangements may be made in relation to any type of supply (taxable, GST-free or input taxed), section 153-55 only applies to supplies that are taxable supplies.⁴⁴ Section 153-55 allows for the calculation of the agent's payment to be reduced by the amount the principal pays, or is liable to pay, to the agent, that is, the agent's commission.

161. As the supply of a FVV is not a taxable supply, the effect of section 153-50 on the arrangement is that there is a supply of the FVV by the principal to the agent and a supply by the agent of the FVV to a third party. However, the amount the agent pays or is liable to pay the principal for the supply of a FVV is not affected by the calculation in section 153-55. Therefore, the principal and agent must account for the commission the principal pays, or is liable to pay, the agent as consideration for a separate taxable supply of the agent's services, if the requirements of section 9-5 are met.

⁴⁴ See Goods and Service Tax Ruling GSTR 2000/37 and Addendum GSTR 2000/37A.

Example 30: Subdivision 153-B arrangements

162. Wood Co uses an agent, Bazza, to sell its FVV to third parties. Wood Co and Bazza enter into a Subdivision 153-B arrangement.

163. Under this arrangement, Wood Co makes a supply of the FVV, which is not a taxable supply, to Bazza. As the calculation in section 153-55 is not applicable in this circumstance, the amount payable by Bazza to Wood Co is not affected by the amount Wood Co pays or is liable to pay Bazza for its agency services. Bazza does not make a creditable acquisition of the FVV from Wood Co. Bazza later makes a supply of the FVV, which is not a taxable supply, to a third party.

164. Bazza also makes a taxable supply of agency services to Wood Co. Bazza accounts for the GST payable on this supply and Wood accounts for an entitlement to input tax credits for the creditable acquisition of the agency services.

Alternative view on Division 153-B arrangements

165. There is an alternative view that paragraph 153-55(3)(b) can be applied in isolation, effectively making the agent's services not a taxable supply. One result of this view is that the agent bears GST neither on the supply of services to the principal, nor on the supply of the FVV to the customer. The GST liability rests solely with the supplier of the voucher.

166. However, the alternative view is based on the selective application of chosen paragraphs of section 153-55 and its outcome is not consistent with the overall application of Subdivision 153-B, nor its policy intent. Subdivision 153-B has effect on taxable supplies and creditable acquisitions only.

Treatment of a non-FVV

167. If a thing is a voucher as defined in section 100-25 but it does not meet the additional requirements of section 100-5, it is not a FVV. For the purposes of this Ruling, such a voucher is referred to as a 'non-FVV'. If the voucher is not a FVV it is necessary to consider the GST consequences on the supply of the voucher and the supplies on the redemption of the voucher.

Supply of Non-FVVs

168. The GST consequences of each supply are determined by applying the basic rules of Chapter 2 of the GST Act.

169. If the supply of the voucher satisfies the requirements of section 9-5 it is a taxable supply. However, if a non-FVV entitles the holder to input taxed supplies under Division 40 or GST-free supplies under Division 38, the supply of the voucher, as a supply of a right to input taxed or GST-free supplies is also input taxed⁴⁵ or GST-free⁴⁶, respectively.

170. A non-FVV may be part of a mixed supply; and if another part of the supply is either GST-free or input taxed, it is necessary to apportion the consideration between the parts.⁴⁷

171. Earlier, in Examples 14 and 15 at paragraphs 78 to 79, we gave some examples of vouchers that do not satisfy the requirements of section 100-5. Set out below, in paragraphs 172 to 174 are some further examples of vouchers that do not satisfy these requirements.

Example 31: ticket for specified event – not a FVV

172. *A ticket to the basketball grand final has \$45 and 'Admit One' printed on it. This is not a voucher to which section 100-5 applies as it entitles the holder to a specified supply, namely, entrance to a specified event. The fact that the price of the supply is stated on the ticket does not of itself bring it within section 100-5. GST is payable on the supply of the ticket.*

Example 32: movie voucher – not a FVV

173. *A group of movie theatres sells movie vouchers. These vouchers can be exchanged for a ticket to any movie screening at one of the participating theatres at any session up to a specified date. As no face value is shown on the movie voucher this is not a FVV. GST is payable on the supply of the movie voucher.*

Example 33: supply of a right to a GST-free supply

174. *Marika purchases a voucher that entitles her to a case of new season's apples from her local green grocer. She pays \$10 for the voucher. Section 100-5 does not apply to the supply of this voucher as it entitles the holder to a specified supply. However, there is no GST payable on the sale of the voucher as it is the supply of a right to a GST-free supply.*

45 Paragraph 9-30(2)(b).

46 Paragraph 9-30(1)(b).

47 See also paragraphs 130 to 138 of this Ruling.

Non-FVV supplied for no consideration

175. Where a voucher is supplied for no consideration, it is not a taxable supply.⁴⁸ Section 9-5 provides that, for a supply to be a taxable supply, it must be for consideration.

Example 34: voucher supplied for no consideration

176. *Jana receives in the mail, a voucher that entitles her to a manicure at her local beauty salon. This is not a FVV as it entitles Jana to a specified supply rather than supplies up to a stated face value. However, as neither she, nor anyone else has given any consideration for the voucher, no GST is payable on the supply of the voucher.*

Redemption of a non-FVV

177. The supply on redemption of a non-FVV is a taxable supply if the requirements in section 9-5 are met.⁴⁹

178. In relation to the supply or supplies on redemption of a non-FVV paragraph 9-15(3)(a) applies to limit the consideration for the supply on redemption of the voucher to any additional consideration provided either for that supply or in connection with the exercise of the right evidenced by the voucher.⁵⁰ If there is no such additional consideration, there is no consideration for the supplies on redemption of the voucher.

Example 35: redemption of a non-FVV

179. *Following on from Example 34 in paragraph 176 above, where Jana acquired the manicure voucher for no consideration, Jana presents the voucher and is provided with a manicure. She does not give any other consideration for the supply of that service. Under paragraph 9-15(3)(a), there is no consideration for the supply of the manicure on redemption of the voucher and therefore no GST payable on the supply.*

48 Subject to the operation of the associate rules contained in Division 72.

49 The act of the customer in presenting the voucher for redemption is not a supply (subsection 100-10(1)).

50 See also paragraphs 85 to 88 of this Ruling.

Example 36: redemption of a non-FVV supplied with purchased goods

180. *As part of a marketing exercise, Fuel Co gives out vouchers with purchases of more than ten litres of fuel from its fuel outlets. The vouchers can be used to claim items from a range of car care products. No face value is shown on the vouchers. The number of vouchers redeemed varies according to the goods supplied.*

181. *As these are not FVVs, paragraph 9-15(3)(a) applies to limit the consideration for the supply on redemption to any additional consideration provided. There is no GST payable on the supply of the redemption goods as no additional consideration is provided.*

Discounts – outside of Division 100

182. A right to a discount or price reduction is not a voucher within the meaning of section 100-25 as it does not entitle the holder to receive supplies.

183. These discounts may show a dollar amount and may even state that the holder is entitled to supplies chosen from a range of items, but all that the holder is entitled to is a reduction in the price of a supply.⁵¹ A common feature of these discounts is that they require additional consideration to be provided either for the supply (made on redemption of the right) or in connection with the exercise of the right to the discount.

Example 37: ‘2 for 1’ offers

184. *On the back of Cheryl’s grocery docket is a ‘2 for 1’ offer. It entitles her to a free meal at ‘Beef’s Tavern’ up to a value of \$20 with the purchase of a meal of equal or greater value. This is not a voucher within the meaning in section 100-25 as it does not entitle the holder to a supply. It entitles the holder to a discount on the price of the two meals.*

Example 38: ‘money-off coupon’

185. *To promote a new product line, a manufacturer distributes money-off coupons through the press. They entitle the holder to \$5 off the price of a range of items. These are not vouchers within the meaning in section 100-25 as they do not entitle the holder to a*

⁵¹ *Customs and Excise Commissioners v. Granton Marketing Ltd* [1996] BVC 355 and *R v. Commissioners of Customs and Excise, ex parte F & I Services* [2001] BVC 347. See also, *Boots Co plc v. Customs and Excise Commissioners* (Case 126/88) (1990) 5 BVC 21.

supply. They entitle the holder to a discount off the price of goods purchased.

Example 39: fashion discount coupon

186. *Capital Department Store gives a discount coupon to customers who purchase goods to the value of \$200 or more. The discount coupon entitles the customer to \$20 off the price of their next purchase from the Store of a fashion item priced at \$100 or more. It does not entitle the holder to supplies. The discount coupon is not a voucher as defined in section 100-25. It is an entitlement to a discount.*

187. Section 100-5 does not apply to the supply of a discount entitlement. It is a taxable supply if the requirements of section 9-5 are met. In practice, such a supply is often made for no consideration. However, as the example below illustrates, it may be supplied for consideration.

Example 40: supply of a book of discounts

188. *Martin acquires a book of discounts from a promoter for \$44. The discounts entitle him to percentage and money-off discounts at various restaurants.*

189. *The supply of the book of discounts is a taxable supply. GST of \$4 (1/11 x \$44) is payable by the promoter. The discounts are not vouchers for the purposes of Division 100 as they do not entitle the holder to supplies but rather to a price reduction.*

190. *When Martin uses a discount at a restaurant under paragraph 9-15(3)(a), GST for the restaurant supply is calculated on any additional consideration, provided by Martin.*

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- ANTS(GST)A 99 9-5
- ANTS(GST)A 99 9-5(a)

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Appendix 1: Operation of the main parts of Division 100



Appendix 2: Case Study – the application of Division 100

1. Alpha Cookware is a large cookware manufacturer. Alpha contracts with Hannibal Printers for the supply of 50,000 Alpha Cookware gift vouchers. The vouchers are to be in \$20, \$50 and \$100 denominations, and this is to be printed on the voucher together with the Alpha logo. The vouchers entitle the holder to supplies of Alpha Cookware goods or decorative items, up to the face value printed on the voucher. Once issued a voucher can be redeemed at any time by its holder, at any participating retail outlet.
2. Alpha sells some of the vouchers at a 10% discount (on the face value of the voucher) to the head franchise of a franchise group, Kosy Kitchens that sells a variety of cookware and decorator items including Alpha's products, through its franchise outlets.
3. Kosy Kitchens supplies the vouchers to its franchise outlets at a 5% discount on the face value of the vouchers. The outlets then sell the vouchers to the public at the full face value shown on the voucher.
4. Veronica purchases a \$100 voucher from Kosy Kitchens Brisbane, and gives it to Tracey as a wedding present. Tracey takes the voucher to Kosy Kitchens Perth and uses it to acquire a set of Alpha Cookware ovenware priced at \$97. Tracey receives no change from the transaction. Kosy Kitchens Perth did not sell the voucher to Veronica.
5. Kosy Kitchens Perth, which redeemed the voucher, sends the spent voucher with a copy of Tracey's receipt to Alpha Cookware. Under the agreement with the Kosy Kitchens franchise group, Alpha Cookware makes a payment to the redeeming Kosy Kitchens Perth outlet for the face value of the voucher, less 5% for administration fees.
6. The GST legislation applies to these transactions as follows:
 - (a) The supply from Hannibal Printers to Alpha Cookware is a taxable supply of printing services. Section 100-5 has no application. Alpha Cookware is entitled to an input tax credit for the GST included in the price of the printing. (Transaction 1 in Appendix 2, Case Study Diagram).
 - (b) The voucher satisfies the meaning of voucher in section 100-25. It is also a voucher to which section 100-5 applies as it entitles the holder to supplies up to a monetary value stated on the voucher. The voucher is a FVV.

- (c) The supply of the \$100 FVV from Alpha Cookware to the Kosy Kitchens head franchise for \$90 is not a taxable supply (section 100-5). (Transaction 2 in Appendix 2, Case Study Diagram).
- (d) The supply of the \$100 FVV by Kosy Kitchens head franchise to Kosy Kitchens Brisbane for \$95 is not a taxable supply (section 100-5). (Transaction 3 in Appendix 2, Case Study Diagram).
- (e) The supply of the \$100 FVV by Kosy Kitchens Brisbane to Veronica is not a taxable supply (subsection 100-5). (Transaction 4 in Appendix 2, Case Study Diagram).
- (f) The gift by Veronica to Tracey is not a taxable supply. (Transaction 5 in Appendix 2, Case Study Diagram).
- (g) The supply of the ovenware on redemption of the FVV by Kosy Kitchens Perth is a taxable supply. The consideration for this supply is \$100, the face value of the FVV. The GST is 1/11 of \$100 (\$9.09). As Tracey did not receive any change, this is the consideration on which GST will be calculated even though the marked price of the supplies was only \$97. Kosy Kitchens Perth is entitled to an input tax credit for the acquisition of the ovenware. (Transaction 6 in Appendix 2, Case Study Diagram).
- (h) The payment by Alpha Cookware to Kosy Kitchens Perth is not consideration for a supply by Kosy Kitchens Perth to Alpha Cookware. Neither is the payment consideration for the supply of cookware on redemption of the FVV. In relation to this payment, Alpha Cookware is not entitled to an input tax credit.
- (i) Alpha Cookware has made a taxable supply of services to Kosy Kitchens Perth, the consideration for which is \$5. Alpha Cookware is liable for GST on \$5. Kosy Kitchens Perth is entitled to an input tax credit. (Transaction 7 in Appendix 2, Case Study Diagram).

Appendix 2: Case Study Diagram

