GSTR 2003/9A4 - Addendum - Goods and services tax: financial acquisitions threshold

Australian Government
Australian Taxation Office

Addendum

Goods and Services Tax Ruling

Goods and services tax: financial acquisitions threshold

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Goods and Services Tax Ruling GSTR 2003/9 to reflect amendments made to the *A New Tax System (Goods and Services Tax) Act 1999* by the *Tax Laws Amendment (2011 Measures No. 9) Act 2012* and the *Tax Laws Amendment (2010 GST Administration Measures No. 2) Act 2010,* and amendments made to the *A New Tax System (Goods and Services Tax) Regulations 1999* by the *A New Tax System (Goods and Services Tax) Amendment Regulation 2012 (No. 1)*.

GSTR 2003/9 is amended as follows:

1. Paragraph 4

In the first sentence, omit '[to tax periods commencing]'.

2. Paragraph 5

Omit 'and 31 October 2012'; substitute ', 31 October 2012 and 11 December 2013.'.

3. Paragraph 11

Omit the 7th and 8th dot point; substitute:

- a guarantee (subregulation 40-5.09(3), item 7);
- an indemnity that holds a person harmless from any loss as a result of a transaction the person enters with a third party (subregulation 40-5.09(3), item 7A);
- credit under a hire purchase agreement entered into before 1 July 2012[2A] in relation to goods, if the credit for the goods is provided for a separate charge which is disclosed to the recipient (subregulation 40-5.09(3), item 8);

[2A] A supply of credit under a hire purchase agreement entered into on or after 1 July 2012 is not a financial supply (item 20 of the table in regulation 40-5.12 of the GST regulations).

4. Paragraph 14

(a) Omit 'during a particular month' from the second sentence.

(b) Omit the first bullet point; substitute:

- the amount of all the input tax credits to which the entity would be entitled for its financial acquisitions would exceed:
  - if determining whether the entity exceeds the financial acquisitions threshold at a time during June 2012 or an earlier month - $50,000 ; or
  - if determining whether the entity exceeds the financial acquisitions threshold at a time during July 2012 or a later month[4A] - $150,000 or such other amount specified in the regulations (first limb test); and

5. Paragraph 15

Omit the heading; substitute:

Example 1 – threshold not exceeded (current acquisitions) - before July 2012

6. Paragraph 16

After the paragraph; insert:

Example 1A – threshold not exceeded (current acquisitions) – after June 2012

16A. *In August 2012, Cedar Pty Ltd calculates that its total acquisitions and importations (including financial acquisitions) during the months from 1 September 2011 to 31 August 2012 are $12,100,000. Of that amount, Cedar calculates that $1,150,050 was for financial acquisitions.*

16B. *Assuming these financial acquisitions were made solely for a creditable purpose, Cedar's input tax credits for its total acquisitions and importations would be $1,100,000 (1/11th of $12,100,000) and its input tax credits for financial acquisitions would be $104,550 (1/11th of $1,150,050). As the amount of $104,550 exceeds neither $150,000 under the first limb test, nor 10% of $1,100,000 ($110,000) under the second limb test, Cedar does not exceed the current acquisitions threshold.*

[4A] Part 1 of Schedule 3 to the *Tax Laws Amendment (2011 Measures No. 9) Act 2012* amended Division 189 to increase the financial acquisitions threshold from $50,000 to $150,000. The amendments apply for working out whether you exceed the financial acquisitions threshold at a time during July 2012 or a later month.

7. Paragraph 17

Omit the first bullet point; substitute:

- the amount of all the input tax credits to which the entity would be entitled for its financial acquisitions would exceed:
  - if determining whether the entity exceeds the financial acquisitions threshold at a time during June 2012 or an earlier month — $50,000 ; or
  - if determining whether the entity exceeds the financial acquisitions threshold at a time during July 2012 or a later month — $150,000 or such other amount specified in the regulations (first limb test); and

8. Paragraph 18

Omit the heading; substitute:

Example 2 – threshold exceeded (future acquisitions) – before July 2012

9. Paragraph 20

After the paragraph; insert:

Example 2A – threshold exceeded (future acquisitions) – after June 2012

20A. *Following on from Example 1A, Cedar must determine whether it exceeds the future acquisitions threshold. Cedar calculates that the total acquisitions and importations for the 12 month period from 1 August 2012 to 31 July 2013 are likely to be $13,420,000 and that its financial acquisitions are likely to be $1,441,000.*

20B. *Assuming these financial acquisitions are made solely for a creditable purpose, Cedar's input tax credits for its total acquisitions and importations would be $1,220,000 (1/11th of $13,420,000) and its input tax credits for financial acquisitions would be $131,000 (1/11th of $1,441,000). Although the amount of $131,000 does not exceed $150,000 under the first limb test, it exceeds 10% of $1,220,000 ($122,000). Cedar therefore exceeds the financial acquisitions threshold and is not entitled to input tax credits for its acquisitions relating to its financial supplies.*[7A]

[7A] A reduced input tax credit is still available to the extent that the acquisition is a reduced credit acquisition under Division 70.

20C. *If Cedar had exceeded the current acquisitions threshold, it would not be necessary to determine whether it exceeds the future financial acquisitions threshold.*

10. Paragraph 22

After the paragraph; insert:

22A. For references in the remainder of this Ruling to testing whether an entity exceeds the financial acquisitions threshold assume that the testing is conducted at a time during July 2012 or a later month.

11. Paragraph 88 (including heading)

(a) Omit all occurrences of '$50,000'; substitute '$150,000'.

(b) At the end of the paragraph; insert footnote:

[31A] See paragraphs 14 to 16 and 17 to 20 of this Ruling for determining whether you exceed the financial acquisitions threshold at a time during a month before July 2012.

12. Paragraph 99

Omit the paragraph including footnote 34; substitute:

99. Pursuant to subsection 11-15(5), an acquisition is not treated as being related to making an input taxed supply to the extent that the acquisition relates to making a financial supply consisting of a borrowing (other than through a deposit account you make available) and the borrowing relates to you making supplies that are not input taxed.[34] An account is a 'deposit account' under section 195-1 if:

(a) the account is made available by an Australian authorised deposit-taking institution (ADI) (within the meaning of the Corporations Act 2001) in the course of carrying on a banking business (within the meaning of the *Banking Act 1959*); and

(b) amounts credited to the account represent money taken by the ADI on deposit (other than as part-payment for identified goods or services); and

(c) amounts credited to the account do not relate to a debenture (as defined in section 9 of the *Corporations Act 2001*) of the ADI.

[34] The qualification concerning a financial supply made through deposit account applies to acquisitions made on or after 1 July 2012.

> 99A. Pursuant to subsection 15-10(5), an importation is not treated as being related to making an input taxed supply, and therefore subject to an input tax credit, to the extent that the importation relates to making a financial supply consisting of a borrowing and the borrowing relates to you making supplies that are not input taxed.

13. Paragraph 100

Omit the paragraph including footnote 35; substitute:

> 100. An entity is therefore entitled to an input tax credit for these acquisitions and importations where the requirements of section 11-5 and 15-5 are satisfied. These input tax credits are included in the calculation of total credits to which the entity would be entitled under the second limb test.[35]

14. Paragraph 102

Omit the dot points; substitute:

- is not included under the first limb test because the acquisition is not a financial acquisition; and
- is included in the total amount of the input tax credits under the second limb test.

15. Paragraph 103

Omit '*H.O.N.Z.A Co made the following acquisitions during the current year:*'; substitute:

> *During July 2012, H.O.N.Z.A. Co (H.O.N.Z.A.) determined that it had made, or was likely to make, the following acquisitions*[35A] *for the 12 month period ending 31 July 2012:*

16. Paragraph 105

Omit '$50,000'; substitute '$150,000'.

17. Paragraph 108

Omit the third and fourth sentences (excluding the footnote); substitute 'Similarly, the phrase 'input tax credits to which you or any other member of the group would be entitled' refers to those entitlements for acquisitions made whilst the relevant entity is a member of the group. The representative member of the group is

[35] [Omitted].

[35A] The acquisitions do not relate to H.O.N.Z.A. making a financial supply consisting of a borrowing through a deposit account that it made available.

entitled to any input tax credits for acquisitions made by an entity that is a member of the group that are attributable to a tax period during which the entity is a member of the group.'

18. Paragraph 109

Omit '$50,000' in the first bullet point; substitute '$150,000[38A]'.

19. Paragraphs 111 to 113

Omit the paragraphs; substitute:

> 111. *Entities A, B and C are members of a GST group. In July 2012, total acquisitions[39A] and importations (including financial acquisitions) for the 12 months from 1 August 2011 to 31 July 2012 are $330,000 for Entity A, $165,000 for Entity B and $264,000 for Entity C. (Of these amounts, Entity A's financial acquisitions are $13,200, Entity B's are $3,300 and Entity C's $23,100).*
>
> 112. *Assuming all the financial acquisitions were solely for a creditable purpose, the input tax credits for financial acquisitions for the ABC group would be $3,600 (1/11th of ($13,200 + $3,300 + $23,100)). This $3,600 does not exceed the $150,000 threshold under the first limb test.*
>
> 113. *The total amount of input tax credits for all the acquisitions and importations of the ABC group would be $69,000 (1/11th of ($330,000 + $165,000 + $264,000)). The amount of $3,600 does not exceed 10% of $69,000 ($6,900) under the second limb test. ABC group therefore does not exceed the current acquisitions threshold.*

20. Paragraph 114

Omit '$50,000'; substitute '$150,000[39B]'.

[38A] This threshold is $50,000 when determining whether a member of a GST group exceeds the financial acquisitions threshold in a month before July 2012.

[39A] The acquisitions do not relate to Entities A, B and C making a financial supply consisting of a borrowing through a deposit account that is made available.

[39B] This threshold is $50,000 when determining whether a member of a GST group exceeds the financial acquisitions threshold in a month before July 2012.

21. Paragraphs 115 to 117

Omit the paragraphs; substitute:

> 115. *Following on from Example 12, although the ABC group does not exceed the current acquisitions threshold, it must also determine whether it exceeds the future acquisitions threshold. Total acquisitions[40A] and importations (including financial acquisitions) for the period from 1 July 2012, to 30 June 2013 are likely to be $660,000 for Entity A, $132,000 for Entity B and $297,000 for Entity C. Of this, Entity A's financial acquisitions are likely to be $33,000, Entity B's are likely to be $13,200 and Entity C's are likely to be $66,000.*
>
> 116. *Assuming all the financial acquisitions were solely for a creditable purpose, the input tax credits for financial acquisitions for the ABC group would be $10,200 (1/11th of ($33,000 + $13,200 + $66,000)). This $10,200 does not exceed the $150,000 threshold under the first limb test.*
>
> 117. *Input tax credits for the total acquisitions and importations of the ABC group would be $99,000 (1/11th of ($660,000 + $132,000 + $297,000)). The amount of $10,200 does exceed 10% of $99,000 ($9,900) under the second limb test. ABC group is therefore not entitled to input tax credits for its financial acquisitions, however it may be entitled to reduced input tax credits.*

22. Paragraph 124

At the end of the paragraph; insert 'Acquisitions made wholly within the group are ignored, and it is the purpose of the group as a whole which determines whether or not an acquisition is made for a creditable purpose.'.

23. Paragraph 125

Omit the paragraph; substitute:

> 125. Section 48-55 has the effect that, when working out the amount of any input tax credits to which the representative member of the GST group is entitled, a GST group is treated as a single entity and not as a number of entities.

24. Paragraph 126

Omit the second sentence (excluding footnote 43); substitute: 'This is because subsection 48-45(3) provides that such acquisitions are not creditable acquisitions and consequently there is no entitlement to input tax credits in relation to these acquisitions.'.

[40A] The anticipated acquisitions do not relate to Entities A, B and C making a financial supply consisting of a borrowing through a deposit account that it makes available.

25. Paragraphs 127 to 132

Omit the paragraphs; substitute:

> 127. *Entities A, B and C are related companies but they are not grouped for GST purposes. On 31 July 2012, none of the entities exceed the $150,000 threshold under the first limb test for their financial acquisitions for the current month and the last 11 months. They therefore each need to determine whether they exceed the 10% threshold under the second limb test for this period. Assuming all the financial acquisitions were solely for a creditable purpose, the input tax credits for their financial acquisitions and total acquisitions and importations would be as set out in the table below.*

	Input tax credits		**%**	***Financial Acquisitions Threshold***
	Financial Acquisitions	***Total Acquisitions[43A] and importations***		
A	*$1,200*	*$9,000*	*13.33*	*Exceeded*
B	*$300*	*$15,000*	*2*	*Not exceeded*
C	*$2,100*	*$24,000*	*8.75*	*Not exceeded*

> 128. *In August 2012, Entities A, B and C decide to group for GST purposes. The entities estimate that their financial acquisitions and creditable acquisitions and importations for August 2012 and the next 11 months are likely to be the same as for the previous 12 months.*

> 129. *Because each of the entities is a member of the GST group, they no longer make separate calculations in determining whether the financial acquisitions threshold is exceeded. The group is treated as a single entity.*

> 130. *The potential input tax credits for A, B and C's financial acquisitions and total acquisitions and importations remain the same as in the previous year:*

	Input tax credits		**%**	***Financial Acquisitions Threshold***
	Financial Acquisitions	***Total Acquisitions[43B] and importations***		
ABC	*$3,600*	*$48,000*	*7.5*	*Not exceeded*

[43A] The acquisitions do not relate to Entities A, B and C making a financial supply consisting of a borrowing through a deposit account that it made available.

[43B] The anticipated acquisitions do not relate to Entities A, B and C making a financial supply consisting of a borrowing through a deposit account that it makes available.

> 131. *Assuming all the financial acquisitions of the ABC Group were solely for a creditable purpose, the input tax credits for financial acquisitions would be $3,600 ($1,200 + $300 + $2,100). This $3,600 does not exceed the $150,000 threshold under the first limb test.*
>
> 132. *Input tax credits for the total acquisitions and importations of the ABC Group are $48,000. The amount of $3,600 does not exceed 10% of $48,000 ($4,800) under the second limb test. ABC Group therefore does not exceed the future acquisitions threshold even though Entity A as an individual entity would have exceeded the threshold had it not been a member of a GST group.*

26. Paragraph 146

Omit '$50,000'; substitute '$150,000'.

27. Paragraph 156

Omit the paragraph; substitute:

> 156. Acquisitions from other members of the GST religious group that, but for section 49-35, would be creditable acquisitions, are not included with other acquisitions that were made for a creditable purpose. This is because section 49-35 provides that acquisitions between members of the same GST religious group are treated as if they are not creditable acquisitions. Such acquisitions therefore, do not give rise to input tax credits.

28. Paragraphs 157 to 159

Omit the paragraphs; substitute:

> 157. *Religious group XYZ has three members: X, Y and Z. For the period 1 August 2011 to 31 July 2012, Entity X makes financial acquisitions of $825,000 from entities outside the group. The purpose of the religious group as a whole is for these acquisitions to be used in making financial supplies. Entity X's total acquisitions and importations for the period, including the $825,000 financial acquisitions, amount to $9,900,000.*

> 158. *In determining whether the remaining acquisitions made by Entity X were made for a creditable purpose, section 49-50 requires that the Religious group XYZ be treated as a single entity. Of Entity X's total acquisitions, $1,320,000 represents acquisitions used to make supplies to Entity Y. Entity Y used these acquisitions to make input taxed supplies other than financial supplies. These acquisitions are not treated as if they are creditable acquisitions and will be excluded when calculating the amount of input tax credits to which Entity X would be entitled for its total acquisitions. All other acquisitions for Entity X relate to making taxable supplies to non-group members.*

> 159. *Assuming the financial acquisitions were made solely for a creditable purpose, Entity X's input tax credits for financial acquisitions would be $75,000 (1/11^th^ of $825,000). Therefore Entity X does not exceed the $150,000 threshold under the first limb test. Its input tax credits for total acquisitions and importations would be $780,000 (1/11th of ($9,900,000 - $1,320,000 = $8,580,000)). The $75,000 does not exceed 10% of $780,000 ($78,000) under the second limb test. Entity X therefore does not exceed the current financial acquisitions threshold. Entity X also needs to calculate whether it exceeds the future acquisitions threshold for acquisitions likely to be made for the period 1 July 2012 to 30 June 2013.*

29. Paragraph 160

Omit the paragraph; substitute:

> 160. *Religious group LMN has three members: L, M and N. For the period 1 August 2012 to 31 July 2013, Entity L makes acquisitions of $825,000 that relate to it making financial supplies to non-group entities. Its total acquisitions and importations (including the $825,000 financial acquisitions) amount to $9,900,000 for the 12 month period.*

30. Paragraph 161

Omit the second sentence; substitute 'In determining whether Entity L's acquisitions and importations are for a creditable purpose, section 49-50 requires that Religious group LMN be treated as a single entity.'.

31. Paragraph 163

Omit the paragraph; substitute:

> 163. *Assuming the financial acquisitions were made solely for a creditable purpose, Entity L's input tax credits for financial acquisitions would be $75,000 (1/11^th^ of $825,000).*

Therefore Entity L does not exceed the $150,000 threshold under the first limb test. Its input tax credits for total acquisitions and importations would be $900,000 (1/11th of $9,900,000). The $75,000 does not exceed 10% of $900,000 ($90,000) under the second limb test. Entity L therefore does not exceed the current financial acquisitions threshold. However, Entity L also needs to calculate whether it exceeds the future acquisitions threshold for acquisitions likely to be made for the period 1 July 2012 to 30 June 2013.

32. Paragraph 197

Omit the paragraph; substitute:

197. *Humphrey Pty Ltd (Humphrey) lodges its BAS on a quarterly basis and conducts its financial acquisitions threshold test every quarter. While Humphrey typically does not exceed the financial acquisitions threshold, it makes a substantial acquisition of $1,628,000 in the month of May 2013 when it acquires professional advice in relation to acquiring shares in a competitor. The input tax credit to which it would be entitled for its financial acquisition is $148,000 (1/11th of $1,628,000). Humphrey should therefore conduct the test in May 2013 to determine whether its acquisition causes it to exceed the financial acquisitions threshold and it should continue to closely monitor its acquisitions for the next 11 months until April 2014.*

33. Paragraph 199

After '75%'; insert 'or 55%'.

34. Footnote 54

Omit the footnote; substitute:

[54] See Regulations 70-5.02, 70-5.02A, 70-5.02B and 70-5.03.

35. Detailed contents list

Omit:

Insert:

36. Legislative references

Insert:

- Banking Act 1959
- Corporations Act 2001
- Tax Laws Amendment (2011 Measures No. 9) Act 2012
- ANTS(GST)R99 70-5.03

This Addendum applies both before and after its date of issue, subject to the commencement and application provisions of each amending Act or Regulation to which it refers.

Commissioner of Taxation
11 December 2013

ATO references

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