

# GST.Cane

## GST and the business of growing sugarcane...

This booklet has been published by CANEGROWERS to provide a brief guide and overview for cane growers on how issues specific to the business of growing sugarcane fit into the GST and tax reform process.

It aims to raise the level of awareness and understanding of individual cane growers about GST matters relevant to sugarcane growing and to answer questions such as “What do I have to do?” in various situations.

This booklet attempts to gather together in one place, reliable information on those matters which sugarcane growers need to address to manage GST as it applies to the business of growing sugarcane. Where necessary, mention is made of other issues particularly relevant to sugarcane growing.

Because there have been many changes to the rules relating to GST we strongly recommend that growers should seek further information from their accountants and the Australian Taxation Office.

Suggestions and references have been included on other places to look for information on GST, who to talk to about other farm business related matters and more generic GST and tax reform information. Industry tax expert John Dempsey has reviewed problems experienced by cane growers in preparing their initial BAS form and suggested solutions to some of these matters.



A handwritten signature in cursive script that reads "Harry Bonanno".

Harry Bonanno  
CHAIRMAN

# GST.Cane

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# GST.Cane

## ABBREVIATION

For convenience, the Australian Taxation Office is referred to as the Tax Office throughout this booklet.

## OTHER SOURCES OF INFORMATION

- *Guide to GST* – an easy-to-read 80-page Tax Office publication.
- *Cropping and The New Tax System* – an easy-to-read Tax Office publication of 40 pages highlighting GST issues specific to cropping.
- *Your Farm Business and the GST* – a detailed publication of about 172 pages produced by the Department of Agriculture, Fisheries and Forestry.
- *Australian Sugar Industry Goods and Services Tax Manual* – a detailed publication of over 80 pages prepared by PricewaterhouseCoopers covering many technical issues.

The Tax Office has also produced a number of fact sheets – phone 13 24 78 or fax 13 28 60 for details. Also, the Tax Office website [www.taxreform.ato.gov.au](http://www.taxreform.ato.gov.au) provides a valuable reference and a multitude of up-to-date information.

## ADKNOWLEDGEMENTS

CANEGROWERS acknowledges the efforts of the Sugar Industry GST Working Party and CANEGROWERS staff (particularly Joseph Evans now at CANEGROWERS Bundaberg), who worked closely with the Tax Office and large accounting firms to clarify the effect of GST on cane growers and to assist in addressing anomalies.

## DISCLAIMER

CANEGROWERS does not provide specific advice on GST or tax reform issues for particular circumstances. For detailed advice applicable to individual situations readers should consult their accountant and refer to the Australian Taxation Office. Although every effort has been made to ensure that information contained herein is up-to-date and accurate, there have been numerous changes to GST guidelines and CANEGROWERS cannot guarantee the current accuracy of information in this guide. CANEGROWERS strongly recommends that cane growers who require GST information relevant to their specific circumstances should contact the Australian Taxation Office (phone the business Tax Reform Infoline on 132 478) and speak to their accountant.

# GST - an overview

## WHAT IS GST?

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Goods and Services Tax (GST) is a broad based tax of 10% on most **supplies** of goods and services consumed in Australia. GST replaced wholesale sales tax which was applied at varying rates to a range of products.

Because the GST is a tax on private consumption, the consumer bears the cost of GST, not the business which provides the goods and services. However, even though the consumer bears the final cost of GST, the responsibility to pay GST to the Tax Office rests with the supplier of the goods and services, not the customer.

Even if you do not include GST in your price, you are still liable to pay it to the Tax Office if the thing you supply (or sell) has GST on it. Basically, businesses have become collectors of the GST, forwarding the amounts collected to the Tax Office on a regular basis.

The Federal Government provided personal income tax cuts and other compensation to consumers to offset any rises in prices resulting from the introduction of GST.

## HOW DOES GST WORK?

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*\*Adapted from the Tax Office's booklet "Cropping & the New Tax System"*

If you are a business registered for GST (or required to be registered), GST will be paid to you on most of the goods and services you sell or supply to others in the course of

your business. These supplies are called **taxable supplies**.

When you supply or sell something to someone, and that thing has GST on it, the people who obtain the thing from you must pay you a total price which has GST included. (You should also provide a **tax invoice** – see the section on tax invoices on pages 25-28 for more information). You are required to forward the GST component to the Tax Office monthly or every three months, depending on how often you do your returns.

When someone buys your products, the idea is to make sure you collect from them, as part of the price they pay, the GST amount which you will have to send to the Tax Office. Even if you do not collect the GST you will still have to pay it to the Tax Office. Therefore it is essential that when you negotiate or set prices, you include GST where appropriate.

GST does not have to be included in the price of certain items. These **input taxed supplies** and **GST-free supplies** are explained later in this booklet.

GST also will be included in the price of things you obtain and purchase for your business. If you are registered for GST, you can claim an **input tax credit** from the Tax Office for any GST included in the price you pay for things for your business. Remember, businesses do not bear the cost of the GST, consumers do. Therefore, business can claim back from the Tax

Office any GST on inputs used for business purposes.

The difference between the GST paid to you on your supplies and the GST included in things you obtain for your business is the amount you owe the Tax Office - or is owed to you by the Tax Office. If your credits exceed the total amount of GST on things you supply, you are entitled to a refund. If the GST on things you supply is larger than your input tax credits, you must forward the difference to the Tax Office. If there is no income and expenses, or the amounts are equal, you still must prepare a **Business Activity Statement** and forward it to the Tax Office.

You need to complete a Business Activity Statement each time you send GST to the Tax Office or claim input tax credits. Depending on the characteristics of your business, you will need to do this every three months or perhaps monthly. How often you do this is up to you. You can find further information in this booklet on pages 12-15 to help you decide how often to do your returns.

### **WHAT IS A TAXABLE SUPPLY?**

For a supply of something to be taxable, it must be:

1. A supply for consideration
2. A business (enterprise) transaction
3. A supply connected with Australia
4. Supplied by someone who is registered or required to be registered.

“Consideration” means an expectation of something in return, and includes payment and bartering. Accountants KPMG provided a useful memory jogger to those who attended this year’s GST rural education

seminars. It will help you to identify whether something is a Taxable Supply.

- S** If you **S**upply something  
**A** in **A**ustralia  
**C** for **C**onsideration,  
**R** you are **R**egistered or required to be registered for GST and  
**E** the supply is for your **E**nterprise or business,  
**D** then you have **D**one a taxable supply.

#### **Example**

*Jane’s Rural Supplies is registered for GST and sells fertiliser. When Jane sells fertiliser to a sugarcane grower:*

- *She supplies something,*
- *The supply is in Australia,*
- *The selling of the fertiliser is for consideration (it is for payment),*
- *She is registered for GST,*
- *The selling of GST is for her rural business,*
- *Therefore she has done a taxable supply, and so there is GST on the fertiliser sale.*

#### **Example**

*Wally is an employee of Jane’s Rural Supplies. When he works for Jane, he is supplying something (his labour as an employee), the supply is in Australia, and it is for consideration (Wally get paid as an employee). However, Wally is not registered for GST. This means that Wally’s supply of labour as an employee is not a taxable supply and there is no GST on his employment. **In fact, all wages and salaries paid to employees (and superannuation contributions paid on their behalf) do NOT attract GST.***

### **Example**

*Jane's Rural Supplies exports a unique electronic global positioning system. When Jane sells the product to New Zealand, she is supplying something, but it is not in Australia. Therefore, the price she charges her NZ customers does not need to have Australian GST added to it.*

## **HOW DO YOU CALCULATE GST ON TAXABLE SUPPLIES?**

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*\*Adapted from the Tax Office's booklet "Cropping & the New Tax System"*

The GST, for those goods and services that attract GST, is always included in the price of things you **supply** (a new word which includes selling) from your business or things you **obtain** (a new word which includes purchasing) for your business. However, the amount of GST is not always shown separately on payment documentation – often only the total price is shown.

To calculate how much GST to include in the price of a taxable supply (for example when you are selling a product):

1. Determine the amount you want to keep yourself from the sale;
2. Work out the extra amount you need to get to cover GST by dividing the value you want to keep for yourself by 10;
3. Make sure the price you charge for the product includes both the value you keep yourself, plus the extra amount for GST - in other words add (1) and (2) together.

In some instances, particularly with pooled selling arrangements in agriculture, the amount of GST on supply is calculated by the purchaser. The methods for calculating

GST in those cases are most likely to be included in any agreement for the pooled selling.

To work out how much GST is included in the price of something you have bought (if the thing is a taxable supply), divide the price by 11.

### **Example**

*Jane's Rural Supplies sells fertiliser to your business. The value of the fertiliser is \$200. Fertiliser is a taxable supply so Jane calculates how much GST to charge by dividing the value by 10. This means the GST amount is \$200 divided by 10 = \$20. Jane's Rural Supplies then charges you \$220 for the fertiliser – this is \$200 plus the \$20 GST.*

*If you obtain the fertiliser for \$220 you can calculate how much GST is included in the price by dividing by 11, in other words, \$220 divided by 11 equals \$20 GST.*

## **WHAT IS A GST-FREE SUPPLY?**

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A **GST-free supply** is a supply or sale that does not include GST in the final price. If you obtain something for your business that is GST-free, generally you cannot claim an input tax credit because there is no GST on the price. Examples of GST-free supplies include basic food, exports, sewerage, water, drainage, and the sale of a business as a going concern.

Businesses which supply GST-free supplies can claim input tax credits on the inputs used in making the supply.

## **WHAT IS AN INPUT-TAXED SUPPLY?**

An **input-taxed supply** is a supply that does not include GST in the final price. No input tax credits may be claimed by businesses making the supply of the input-taxed good or service.

If you obtain something for your business that is an input-taxed supply, you cannot claim an input tax credit because there is no GST on the price. Examples of input-taxed supplies include most financial supplies, supplies of residential rent and residential premises, and some supplies of precious metals.

## **INPUT TAX CREDITS AND CREDITABLE ACQUISITIONS**

*\*Adapted from the Tax Office's booklet "Cropping & the New Tax System"*

Input tax credits are only available for the GST included in the price paid for a **creditable acquisition**.

A creditable acquisition is something you acquire (for example a purchase) for a **creditable purpose**. An example of a creditable purpose is for use in your business.

You cannot claim a credit if an acquisition is not for a creditable purpose. For example you cannot claim an input tax credit if the acquisition is for making an input taxed supply (an example is a financial supply) or for a private purpose. The amount of input tax credit is reduced if the acquisition is only partly for a creditable purpose – in that case you will need to apportion the input tax credit accordingly.

### **Example**

*Gail runs a timber mill and is registered for GST. She buys timber for \$5500 (including \$500 GST) from a farmer so she can process it and then sell it to a manufacturer. Gail is entitled to an input tax credit of 1/11<sup>th</sup> of \$5500, that is, \$500.*

*On the same day, Gail buys a television set for her home for \$770 (including \$70 GST). As this is a private purchase, she cannot claim an input tax credit for the \$70 GST included in the price of the TV.*

If you pay, or are liable to pay, only part of the consideration for an acquisition, you need to apportion the input tax credit based on the amount of use the acquisition has for your business. You are only entitled to that part of the input tax credit which relates to the consideration you pay, or are liable to pay.

You are entitled to input tax credits for more than just the materials you use directly in making a supply. For example, you may buy a large piece of equipment for your business and have it serviced. Any GST included in the price of the equipment and service can be claimed as an input tax credit. You also are entitled to input tax credits for the GST included in the price of business expenses such as power and telephone costs. You do not have to wait until you sell your crop or produce to claim the input tax credit.

**Note:** You can only claim input tax credits for GST included in the price you pay for supplies acquired for your business *if you are registered for GST* (and if you have a tax invoice for the acquisition).

# your deCiSiOnS

## THE AUSTRALIAN BUSINESS NUMBER

An element of the new tax system is the **Australian Business Number** (known as an ABN). This is a new identifier which you will use for your dealings with the Tax office. Eventually it will cover all dealings with government at all levels.

From 1 July 2000 it is used for dealings with the Tax Office for:

- GST
- PAYG
- Diesel and Alternative Fuel Grants scheme
- Fringe benefits tax.

The ABN will eventually replace the Australian Company Number or Australian Registered Body Number. However it does NOT replace your tax file number or your registration requirements for other agencies, for example, registering your business name.

You must register for an ABN if you are an entity carrying on a business in Australia or a company registered under corporations law in Australia. Sugarcane growing is a business so you must ensure that your farm is registered for ABN.

Employees, hobbyists and individuals who conduct activities without a reasonable expectation of profit cannot register for an Australian Business Number.

## REGISTERING FOR GST

In some situations you can choose whether to register for the GST or not. However, you **MUST** register if:

- You are an entity or company carrying on an enterprise (this means if what you are doing is defined as a business);
- And your annual turnover is at or above the registration turnover threshold of \$50 000.

**Annual turnover** is defined as the total proceeds (excluding GST) from sales of your business outputs (such as total proceeds from sugarcane) before costs have been deducted.

Where your activities are not defined as a business or enterprise, you will not be able to register for GST.

It is not necessary for a farm business to be on-going for it to be an enterprise for GST purposes. A single activity or event can be an enterprise for GST purposes.

### Example

*You have a small landholding on the edge of town that a local group of businesses wants to rent for a short period to hold a field day exhibition. Even though this is only a single activity, you have a reasonable expectation of making a profit so you can register for GST.*

Where your activities are defined as a

business, the annual turnover of the business will determine whether or not registration will be compulsory or optional. If your annual turnover is below \$50 000 you can choose to register or not register your business for GST.

### **HOW TO REGISTER FOR ABN OR GST**

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Registering for the New Tax System, including GST, is as simple as filling in a single application form. This can be obtained from the Tax Office or your accountant may be able to provide a copy. You can also register on the Internet at [www.business.gov.au](http://www.business.gov.au) (the Business Entry Point).

If you register for GST you can register for ABN at the same time, using the same registration kit. You can register for the ABN on its own by completing certain sections of the form.

### **WHY REGISTER FOR GST?**

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By registering for GST, you will be able to claim back from the Tax Office any GST you pay on your inputs. With no more sales tax exemptions after 1 July 2000, you will need to register if you want to claim back any of the GST you pay on things bought for your business and so minimise your costs. Also you will be able to charge GST on your sales.

In the raw sugar industry, sugarcane growers receive GST on top of their usual cane payments (growers must then forward this GST to the Federal Government in their quarterly or monthly GST returns).

CANEGROWERS encourages all growers

to register for GST. This assists with payments by sugar mills to growers. Also, it allows mills to prepare tax invoices for cane payments (a type of recipient generated tax invoice).

All cane farms must obtain an Australian Business Number unless the farm is a hobby farm. Also, if your annual turnover is more than \$50 000 you must register for GST.

### **WHAT HAPPENS IF YOU DO NOT REGISTER FOR GST?**

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If a cane grower does not register for GST, the mill cannot pay the 10% extra on sugarcane proceeds. Also, the grower cannot claim back the GST on any farm business inputs.

Furthermore, if you are required to be registered for GST (for example if your business gross turnover is greater than \$50 000) the Tax Office may impose severe penalties on you. And, if it decides that you were required to be registered for GST but chose not to, it may require you to forward the amount of GST applicable to your sales from the date when you were required to be registered, even though you were not registered and did not include GST in your price.

### **WHAT HAPPENS IF A CANE FARMER DOES NOT OBTAIN AN ABN?**

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If a sugarcane farm does not obtain an ABN, the mill owner has no option (because it is required by law) but to withhold 48.5% of the cane pay and forward this amount to the Tax Office. More information about withholding can be found in this guide or obtained from the Tax Office or from your accountant.

## **WHO REGISTERS FOR GST?**

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Should registration for GST be sought in the Farm Business name or the Cane Production Area holder's name?

In some cases the name of the payee receiving cane payments from the mill is different from the name used by the farm operating group. For example, in the Queensland raw sugar industry the name on the payment advice received from the mill could differ from the name of the farm business which pays the bills (the entity carrying out the farm business).

In some cases only the entity carrying out the farm business needs to register, with the Cane Production Area (assignment) name being used for *Sugar Industry Act* purposes only. However, in other cases both need to register. It really depends on your individual circumstance. Contact the Tax Office or your accountant to discuss your particular situation.

Following the Tax Office's decision on registration for cane growers, it is clear that there is considerable flexibility for provision of sugarcane farm Australian Business Numbers to the mill. You should examine your own particular situation to decide if it is necessary for you to register the Cane Production Area holder name, and therefore supply that ABN to the mill, or if provision of the farm business ABN is sufficient.

Remember if a cane farm has not provided an ABN to the mill, the mill will withhold 48.5% of the farm's cane pay entitlement and forward that amount to the Tax Office. Also, the mill may not be able to prepare cane pay recipient created tax invoices for the grower.

If a farm has registered both Cane Production Area (CPA) name and farm business type of entities for ABN or GST, and provided the CPA holder's ABN details to the mill, those details will still ensure that full payment is received.

If a cane farm has not registered its CPA name for ABN or GST but registered its farm business name for ABN or GST, provision of the farm business ABN to the mill should ensure that the mill is not forced to withhold, and therefore the grower receives full payment. It should also ensure that the mill is able to prepare tax invoices for cane pays. Because this depends on the grower's individual circumstance independent advice should be obtained if necessary.

The complete Tax Office ruling on registration for sugarcane growers is included as Appendix I on page 41.

## **GROUPING FOR GST**

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Cane farms which have registered their Cane Production Area name as well as their farm business name for ABN or GST may wish to group these entities. Grouping will ensure that related entities can prepare one business activity statement, rather than multiple statements, if the entities qualify for grouping.

Growers can group the CPA name with the farm business name but this depends on each grower's individual situation. Applications for grouping can be obtained from the Tax Office. Note that special conditions and provisions apply to those who can group. Extracts from the Tax Office fact sheet on grouping are included in Appendix 2 on page 47.

## **CANCELLING GST REGISTRATION**

Because of unnecessary duplication of GST registrations, some cane growers have had to complete additional BAS returns.

New legislation now allows the Commissioner of Taxation to cancel an entity's voluntary GST registration after 1 July 2000 where the entity is not required to be registered and it applied for cancellation before it had been registered for 12 months. The Commissioner's decision may take account of how long the entity has been registered, whether it had previously been registered, and any other relevant matters.

Under the original legislation the Commissioner must also cancel an entity's voluntary GST registration if it has applied for cancellation and has been registered for 12 months or more, or the Commissioner is satisfied that the entity is no longer carrying on an enterprise and is unlikely to do so for at least 12 months.

Applications for cancellation should be addressed to The Commissioner of Taxation, Attention: Business Registration Services, PO Box 1198, Newcastle NSW 2300.

### **Summary of when registration may be cancelled**

#### **Circumstance**

Voluntary registration, entity has operated on a GST-registered basis

#### **Date from which Commissioner will cancel registration**

Cancellation will not be retrospective. If the entity applied to the Commissioner before 22 December 2000, cancellation will be effective from midnight 31 December 2000. Otherwise the Commissioner will negotiate a prospective date with the entity (if the application does not state one).

#### **Circumstance**

Voluntary registration, entity has stopped operating on a GST-registered basis from a certain date (and Commissioner is satisfied of this fact)

#### **Date from which Commissioner will cancel registration**

The start of the tax period on or after the date the entity stopped operating on a GST-registered basis.

#### **Circumstance**

Voluntary registration, entity has never operated on a GST-registered basis (and Commissioner is satisfied of this fact)

#### **Date from which Commissioner will cancel registration**

1 July 2000

## **PAYG WITHHOLDING**

If a supplier does not include a valid ABN on invoices which they issue for a supply, and that supplier does not meet the expectations below, the recipient must withhold 48.5% from the total payment (equal to the top marginal rate plus the Medicare levy). The amount withheld must be remitted to the Tax Office on the Business Activity Statement.

Entities already registered with the Tax Office for withholding merely add the amount withheld to what they would otherwise be sending to the Tax Office. For example, an entity withholding from wages paid to employees, in the absence of an ABN (or for other reasons outlined below) would add the withheld amount to the sum it sends to the Tax Office.

### **WHEN DOES IT OCCUR?**

Withholding must occur if:

- You are a business making a payment for **goods or services**; and
- The supplier of the **goods or services** has not quoted their ABN.

#### ***Exceptions***

It is NOT necessary to withhold from a payment if the supplier fails to quote an ABN if:

- You are an individual and the payment is wholly of a private or domestic nature for you;
- The payment does not exceed \$50;
- The whole of the payment is exempt income of the supplier (for example, the supplier is a charity);
- You already must withhold from the payment because you are an investment body paying an amount for which no tax file number (TFN) has been quoted;
- Or the payee has made a written, signed statement that the supply is private or domestic in nature, or relates to a hobby.

#### **Example**

*A registered supplier performs harvesting services for a sugarcane grower to the value of \$550, including GST of \$50. The harvesting contractor (the supplier) fails to quote its ABN to the cane grower. As a result, the grower must withhold 48.5% of the payment to the contractor, that is \$266.75.*

In practice, the cane grower may contact the supplier and ask for its ABN. Providing a valid ABN is provided then the grower would not need to withhold the 48.5%.

#### **Example**

*A mill owner leases farm equipment from a third party supplier and makes monthly payments. The supplier does not quote its ABN each month for every lease payment but the lease document contains the supplier's ABN and satisfies the requirements of a tax invoice. Therefore, it is not necessary for the mill to withhold 48.5%.*

### **FALSE ABNS, DECEPTIVE CONDUCT**

Payment must be withheld from the supplier if an ABN quoted on an invoice is suspected of being false or not the supplier's "real" ABN. Payment must still be withheld from the supplier even if the supplier has made a written, signed statement that the supply is private or domestic in nature, or relates to a hobby, but on reasonable grounds the statement is suspected of being false.

# GST r eT u r n s

*\*Based on extracts from the Department of Agriculture, Fisheries and Forestry's guide "Your Farm Business and GST".*

If your farm business is registered for GST, you must prepare a GST return and calculate your GST liability at the end of each of your tax periods. This means that you need to know:

- What tax periods are available to you; and
- How to calculate your GST liability for the period.

The calculation will depend upon the method of accounting you use - cash or accruals accounting. You may need to consider these issues when deciding which tax period to choose.

## **WHAT TAX PERIODS ARE AVAILABLE?**

Tax periods for GST can be either monthly or quarterly, depending upon your circumstances. Most farm businesses will use quarterly tax periods but you can choose to use monthly periods if you wish. Some businesses will have no choice and must use monthly tax periods.

Quarterly tax periods end on:

- 31 March
- 30 June
- 30 September
- 31 December

Monthly tax periods end on the last day of each calendar month.

You must lodge your GST return and remit any GST liability on or before the 21<sup>st</sup> day of the month following the end of the tax period. If you normally prepare your accounts or write up your records monthly or quarterly and the period does not align with your GST period, there is limited scope to end your GST period no more than seven days before or after the end of the standard GST period. If you change the end of your tax period, then the next period will begin on the day immediately following the change.

## **MONTHLY TAX PERIODS**

You must use monthly tax periods where:

- The annual turnover of your business is \$20 million or more;
- You will be carrying on your business for less than three months;
- You have a history of failing to comply with your tax obligations; or
- You use a year-end date for income tax purposes other than 30 June.

### **Example**

*Your annual turnover is \$1 200 000.*

*You are not required to use monthly tax periods, but you can choose to do so.*

### **Example**

*You choose to use quarterly tax periods for GST purposes. Your gross sales (including GST) for the quarter ending 30 March 2001 are \$22 000. You must lodge your GST return and remit \$2000 (the GST on your sales) by 21 April 2001.*

### **Example**

*You choose to use monthly periods for GST purposes. You normally balance your accounts and send out your tax invoices on the last Friday of the month. In November 2000 this takes place on 24 November. Rather than balancing again on 30 November for GST purposes, you can choose to end your tax period on 24 November. Your next tax period begins on 25 November. The payment of your next GST liability for the November tax period is still due on 21 December 2000.*

### **Advantages**

There may be advantages in using monthly tax periods, depending upon your circumstances. The main advantage is that you will receive any expected GST refunds sooner than if you were using a quarterly tax period. This may be an advantage to you in managing your cash flow.

### **Disadvantages**

There are two main disadvantages in using monthly periods. The first is the time and effort required to prepare GST returns. How much of a disadvantage this is will depend upon the volume of your transactions, how you organise your accounting records, and whether or not you prepare the GST return yourself or pay an accountant or another person to do it for you. The other significant disadvantage is that, depending upon your method of accounting, you may have to remit GST on taxable supplies before you have received payment. Obviously, this has important implications for your cash flow.

### **Example**

*On 2 January 2003 you pay cash for a new vehicle to be used wholly in your business. The GST-inclusive price is \$33 000. If you choose to use quarterly tax periods and have no taxable supplies during the period, you are not entitled to a refund of the \$3000 GST paid until after you lodge your GST return at the end of the quarter, i.e. after 31 March 2003. If you choose to use monthly periods and have no taxable supplies during the period, you are entitled to a refund of the \$3000 GST paid after you lodge your GST return at the end of the month, i.e. after 31 January 2003. Using monthly periods means you will receive any GST refunds due to you earlier than when you use quarterly periods.*

## **WHAT TAX PERIOD SHOULD YOU CHOOSE?**

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If you are in a position to be able to choose your tax period, you should base your decision on the following factors:

- The time, effort and cost involved in preparing returns
- The volume of transactions of your business
- The timing of the transactions of your business
- The method of accounting you are using
- Your cash flow position

When considering cash flow costs versus administrative costs you should bear in mind that the opportunity cost (i.e. lost interest earned or extra interest paid) on cash flow may not be great over a two-monthly period, although this needs to be weighed against whether you will actually

have the cash needed.

**Monthly tax periods may be preferable where:**

- You purchase business inputs regularly throughout the year and/or their cost is substantial
- Your sales are either of GST-free goods, or, if taxable, they are infrequent
- You have the time and capacity to prepare the GST returns at little cost.

**Quarterly tax periods may be preferable where:**

- You purchase business inputs irregularly and/or their cost is not substantial; and
- Your sales are either GST-free, or, if taxable, they are regular; and
- The preparation of GST returns is costly to you.

**Example**

*You have a plant nursery and make regular sales of taxable supplies throughout the year. Your production costs are relatively low as you propagate most of your own stock. Even though you have a computerised accounting system that can readily calculate your GST liability for you, you prefer to spend your time out of the office. You are not expecting to receive a GST refund and would normally have to pay a net amount each period. You may prefer to use quarterly tax periods that will effectively delay your remittance of GST to the Tax Office.*

**Example**

*You export buckwheat directly to Japan; this is a GST-free supply. You incur substantial costs throughout the year in terms of capital improvements and production costs. You have a computerised accounting system that allows you to readily calculate your GST liability. You may prefer to use monthly tax periods to speed up the receipt of your GST refund.*

**SUMMARY OF DECISION: WHAT RETURN PERIOD TO CHOOSE**

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Is your annual turnover greater than \$20 million?

YES – You must use monthly tax periods

NO – You can choose to use either monthly or quarterly tax periods

**CAN YOU CHANGE YOUR TAX PERIODS?**

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You can change from a quarterly to a monthly tax period but only at the tax periods beginning on 1 January, 1 April, 1 July or 1 October. Once you have been using monthly periods for at least 12 months you can change back to quarterly periods provided that your turnover is less than \$20 million and you have a satisfactory compliance history.

If your turnover later increases to \$20 million or more you may be required to lodge monthly. If this happens the Tax Office may nominate interim periods to avoid any overlap.

# CaSH or aCCrualS?

*\*Adapted from AFFA's "Your Farm Business and GST Guide."*

## INTRODUCTION

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For every tax period, you have to calculate your GST liability. The tax period in which you calculate your GST liability depends upon your choice of accounting method. You can choose between **cash accounting** and **accruals accounting**. You should use the method which will best help you plan your cash flow.

Your GST liability will be the difference between GST collected from your sales for the period and the GST credits claimable for GST paid on your purchases for the same period (i.e. the "input tax credits" for GST paid on expenses).

Where your GST input tax credits exceed GST collected for the tax period, you can usually expect to receive a refund of the difference. Where GST collected exceeds your GST input tax credits, you are required to remit the difference between the two, or the net amount, to the Tax Office by the 21<sup>st</sup> day of the following month.

When you are entitled to a GST refund, you should receive it within 14 days after lodging your return for that period. You are entitled to interest if the refund is paid late. Refunds normally will be made directly to the bank, building society or credit union account which you nominate. If you have any other tax debts, the Tax Office may apply all or part of your refund against these debts.

It is important to remember that your GST amounts payable or refund entitlements will be combined with your other taxes payable under the PAYG system. This may affect your overall amount payable or refundable.

## CHOOSING AN ACCOUNTING METHOD

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The purpose of accounting bases is to determine what GST liabilities and what input tax credit entitlements you have to account for in a particular tax period. The two available methods are **cash** or **accruals**.

If your annual turnover is less than \$1 million you can choose either basis. If it is over that amount, you have to use the accruals basis unless you use the receipts method for income tax or get special permission from the Tax Office to use the cash basis.

The way the methods work and the differences between them are:

### 1. Cash basis

- You only have to remit GST to the Tax Office on payments for sales that you actually receive in the tax period. If you receive part payment, you only remit GST calculated on that part payment.
- You can only claim an input tax credit entitlement for expenses or purchases that you actually pay in the tax period.

### 2. Accruals basis

- You remit the full amount of GST on a sale for the tax period in which the

earlier of any payment is received or you issue an invoice (not necessarily a tax invoice) or an invoice is issued on your behalf. The full GST must be remitted even if you have not received payment or have only received part payment.

- You can claim an input tax credit entitlement for the full GST on an expense for the tax period in which you first pay any of the expense or receive an invoice.

#### **Example**

*Your sales for the tax period are \$11 000, including GST. The cost of your business inputs, for the same tax period, is \$880, including GST. The net GST payable is \$920 (\$1000 less \$80) and you are required to remit this to the Tax Office by the 21<sup>st</sup> day of the following month.*

#### **Example**

*Your sales for the tax period are all GST-free. The cost of your business inputs, for the same tax period, is \$44 000, including GST. You are entitled to a refund of GST of \$4000 (\$4000 less \$0). To receive this refund you must lodge your GST return for the tax period.*

With input tax credits, regardless of which basis is used, a tax invoice must be held for any expense over \$50 (excluding GST) before your GST return (Business Activity Statement) is lodged, or the input tax credit entitlement is deferred until such time as you hold a tax invoice.

## **CASH ACCOUNTING**

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Cash accounting means you account for GST on all transactions, both sales and

purchases, as and when money changes hands or another form of payment is received or made. This is the case no matter when the invoice is prepared, or the goods are supplied.

Forms of payment are not limited to cash money – they include payment by cheque or credit card. Contact the Tax Office or your accountant for information on what happens if a cheque or credit card payment is dishonoured.

#### **Example**

*You choose to use cash accounting and monthly tax periods. On 1 March 2001 you buy goods on account from your local rural merchant to use in your business. You pay the account on 15 April. The GST input tax credit on this purchase is attributed to the month ended 30 April as the account was paid during this tax period.*

#### **Example**

*You run an account at the local fuel depot and have fallen behind in your regular payments. You choose to use cash accounting and quarterly tax periods. During the quarter you buy fuel for your business costing \$660, including GST. You only manage to make a payment of \$110 during the quarter. You are only able to claim a GST input tax credit of \$10 on your inputs for the tax period, based on the amount of your payment. As you pay the balance of the account in the following period, you are then able to claim the balance of the GST input tax credits (\$50) at that time.*

**Example**

*You choose to use quarterly periods and cash accounting. You contract to sell lucerne to a produce merchant. The contract is entered into in August 2000 and the lucerne supplied and invoiced in February 2001. The produce merchant pays the amount in full in April 2001. You are not required to account for the GST on this transaction until the quarter ended 30 June 2001 as payment was received within that tax period.*

**Example**

*If at the time of entering into the contract to supply lucerne (as given in the example above), the produce merchant advances 10% of the value of the contract, then you would have to account for GST on that advance in the quarterly tax period ended 30 September 2000. The balance of GST payable on the transaction is brought to account as and when any further payment is received.*

**ACCRUALS ACCOUNTING**

Accruals accounting means you account for GST on all transactions, both sales and purchases, in the tax period in which either an invoice is issued or received notifying the amount payable or any money changes hands, whichever happens first.

As most people invoice before payment is received or made, this means:

- Your entitlement to receive payment for a supply normally will arise when you prepare an invoice.
- Your obligation to pay for a supply normally will arise when you receive an invoice.

The invoice does not need to have all the things on it to qualify as a tax invoice but it is expected that most people will change their ordinary invoices so that they do.

**Example**

*Assume you are using monthly tax periods and accruals accounting. You have a dam built for \$22 000 including GST. Construction is completed in July 2001 and the tax invoice received in August 2001. You pay the account in October 2001. No progress payments were made during construction. The transaction is brought to account in your GST return for the tax period ended 31 August 2001, based on the date of the tax invoice. This means you will receive an input tax credit for the GST payable on the transaction before you have paid the invoice.*

**Example**

*In contrast, if the contracting business which is building your dam also uses monthly tax periods and accruals accounting, then it also brings the GST to account in the period ended 31 August 2001 as this is when the tax invoice issues. Assuming that the contracting business has no input tax credits for August, it will be required to remit the \$2000 in GST to the ATO before it has received your payment.*

**Example**

Assume you are using quarterly periods and accruals accounting. You are contracted by a local stock and station agent to cart cattle to and from the saleyards. You invoice the agent at the end of each month. For the month of October 2000 the invoiced amount is \$770 including GST. The agent pays you in November. You bring the supply to account in the period ended 31 December, based on the date of issue of the tax invoice. By the time you are required to remit your GST liability to the Tax Office you will have received payment from the agent.

**Example**

You sell a piece of farming equipment on 1 July 2001 to your neighbour. You agree on a price of \$44 000 including GST, payable within 60 days. You issue your neighbour with a tax invoice on 1 July. If you are using monthly tax periods and accruals accounting, you will include the \$4000 in GST collected in the period ended 31 July, meaning that it will have to be remitted to the Tax Office by 21 August. Your neighbour has problems raising the finance and does not pay you until 14 September. Having to pay the GST before you receive the money from your neighbour may place a strain on your cash flow.

**Example**

In contrast, if you had chosen to use quarterly periods in the above example, then you would not have had to remit the GST to the ATO until 21 September, by which time your neighbour would have paid you, and your cash flow would not have been unduly affected.

**WHICH ACCOUNTING METHOD SHOULD YOU USE?**

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Where the annual turnover of your farm business is not more than \$1 million, you can use either the cash or accruals method of accounting. Where your annual turnover exceeds \$1 million you must use the accruals method unless for income tax purposes you account for your income using the receipts method (in which case you still have a choice). You can also apply to the Tax Office to let you use cash accounting if you do not meet either of the other requirements. This is only likely to be allowed if you use a fairly basic cash record keeping system yourself and your operations are not large even though the amount exceeds the \$1 million threshold.

**DO YOU HAVE TO USE THE SAME METHOD FOR BOTH GST AND INCOME TAX?**

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No. Most farm businesses use accruals accounting for income tax purposes because they are trading in stock. In terms of managing your records and financial information, it may be easier to use accruals accounting for both GST and income tax purposes. However, provided your turnover is below \$1 million, you can choose to use cash accounting for GST purposes. You would need to consider the impact of this decision

on your cash flow management. You should also remember that cash and accrual accounting for GST purposes are not identical to cash and accrual accounting for income tax purposes.

**Example**

*The annual turnover of your business is \$2 million and you use accruals accounting for income tax purposes. You must use accruals accounting for GST purposes (unless the Tax Office allows you to use the cash basis).*

**Example**

*The annual turnover of your business is \$60 000. You have a choice of accounting methods to use.*

**Summary of decision: cash or accruals accounting**

Is your annual turnover in excess of \$1 million?

NO – You can choose to use either cash or accruals accounting for GST.

YES – Then do you use the receipts method for income tax purposes?

NO – You have no choice – you must use accruals accounting for GST (unless the Tax Office allows you to use the cash basis).

YES – You can choose to use either cash or accruals accounting for GST.

**CAN YOU CHANGE METHODS?**

Provided your annual turnover is less than \$1 million you can change accounting methods from accruals to cash accounting and vice versa. If your annual turnover is \$1 million or more and you do not use the receipts method for income tax purposes, then you must use accruals accounting (unless you get Tax Office permission).

If you are using cash accounting and your annual turnover increases to \$1 million or more, then you must change to accruals accounting from the beginning of your next tax period unless you are using the receipts method for income tax purposes.

**Example**

*You are currently using cash accounting and quarterly tax periods. Your annual turnover is \$200 000. In the month of August 2001 you decide that you wish to change your method of accounting. Your GST return for the quarter ended 30 September 2001 should be done on the basis of cash accounting. You can change to accruals accounting from the quarter beginning 1 October 2001.*

**Example**

*You are currently using accruals accounting for both income tax and GST purposes and monthly tax periods. Your annual turnover is \$1 600 000. You have a good compliance record with the Tax Office and you use a financial year ended 30 June. You decide that you would prefer to change to cash accounting and quarterly tax periods. You cannot change your accounting method without Tax Office permission because your turnover is above the threshold of \$1 million. However, you can change your tax period from monthly to quarterly.*

### **Example**

*You are currently using cash accounting and monthly tax periods. In the month of May 2001 it becomes apparent that your projected annual turnover will be \$2 million. Your GST return for the month ended 31 May 2001 will be on a cash basis. From 1 June 2001 you will be required to change to accruals accounting for GST purposes unless you are using the receipts method for income tax.*

## **WHAT HAPPENS IF YOU CHANGE METHODS?**

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Some care is required in changing methods to make sure that all transactions are brought to account only once for GST purposes. Special transitional rules apply in these circumstances.

If you change from cash accounting to accruals accounting, supplies that were invoiced before but not paid until after the change would be overlooked if the normal rules applied. Conversely, changing from accruals accounting to cash accounting would result in the GST input tax credits or liability being reported twice if the normal rules applied.

Therefore, when changing from cash accounting to accruals accounting the transitional rule is that:

- If a supply was not included (either in full or in part) in a tax period before the change, but would have been included if the change had been made earlier, the supply (in full or the part remaining) must be brought to account in the first tax period that the change takes place.

When changing from accruals accounting to cash accounting the transitional rule is that:

- The GST effect of any transaction is brought to account once only and it is brought in the period before the change.

### **Example**

*You buy goods on account and are invoiced in June 2001. You pay the account in August 2001. For the tax period ended 30 June 2001 you were using accruals accounting but you change to cash accounting from 1 July 2001. The GST input tax credit is brought to account in the period ended 30 June, as this is when the tax invoice was received. You do not also claim a GST credit for the same transaction when you pay the account in the next period. Each transaction is brought to account only once.*

# GST doCumenTaTion

## BUSINESS ACTIVITY STATEMENT

A Business Activity Statement (BAS) is a new, single form used to report your business tax entitlements and obligations.

It replaces several tax forms which businesses previously needed to lodge for tax purposes. The BAS requires disclosure of such things as:

- A split of GST taxable supplies between capital and revenue items
- Details of GST-free and input taxed supplies acquired
- Details of GST-free and input taxed outputs
- PAYG payments during that tax period
- FBT payments during that tax period
- Instalments of income tax due during that tax period
- Details of imported and exported goods

The Australian Taxation Office has published a BAS instruction booklet called "Business Activity Statement Instructions" which can be downloaded from the Tax Office website – [www.taxreform.ato.gov.au](http://www.taxreform.ato.gov.au)

The BAS does not replace the need for you to lodge personal or business income tax returns annually.

You need to lodge your BAS on or before the 21<sup>st</sup> day of the month following the end of each tax period. **You must lodge a BAS for each tax period, even if it is a nil report.**

The following table illustrates the date you should lodge your BAS by if you have quarterly tax periods.

<i>Quarterly tax period ends</i>	<i>Lodge BAS by</i>
<b>30 September</b>	<b>21 October</b>
<b>31 December</b>	<b>21 January</b>
<b>31 March</b>	<b>21 April</b>
<b>30 June</b>	<b>21 July</b>

## IMPORTANCE OF RECORD KEEPING

With the GST it is important to keep good records. These are needed so that you can claim back the GST on your business inputs and to enable you to work out correctly how much GST is on your sales.

So, it is important to obtain an appropriate **tax invoice** when you buy something which is an input to your cane growing farm business. It is also important to provide an appropriate tax invoice when you sell something to someone from your farm business.

You can buy tax invoice books for about \$5 from most newsagents and stationers.

Invoices in electronic form are tax invoices if they provide all the information required.

A supplier does not have to issue a tax invoice and a recipient does not have to hold one to claim an input tax credit if the value of the taxable supply is \$50 or less. However, you are required to have some

documentary evidence (such as credit card statements, dockets, or other types of invoices) to support all input tax credit claims. So, for low value transactions you do not need a tax invoice, but you do need some form of documentation. For most supplies, a value of \$50 corresponds with a price of \$55 (i.e. \$50 + \$5 GST).

The value of \$50 is on the basis of the value of the transaction as a whole. For example, if the transaction comprises the sale of five items, each with a value of \$20 (i.e. total value \$100) a tax invoice would be required as the total value of the taxable supply exceeds \$50.

Documentation is extremely important under the GST. You must hold a tax invoice that contains all of the required information BEFORE you can claim any input tax credits. Documentation relating to supplies, acquisitions and adjustments must be held for five years.

The requirements for tax invoices are as follows:

- 1 The ABN of the supplier
- 2 The GST inclusive price of the taxable supply
- 3 The words "Tax Invoice" stated prominently
- 4 The date of issue of the invoice
- 5 The name of the supplier
- 6 A brief description of each thing supplied
- 7 The GST inclusive price of the taxable supply

<b>3 TAX INVOICE</b>	
Pests and Bugs Pty Ltd <b>5</b> ABN: 32 123 456 789 <b>1</b>	15 Burshag Road Festler NSW
Date: 1 August 2000 <b>4</b>	
Description of supply	Total
Pesticide <b>6</b>	\$825 <b>2</b>
<b>TOTAL PRICE INCLUDING GST</b>	<b>\$825 7</b>

Where a tax invoice is for more than \$1000, it needs to include the general tax invoice requirements as stated above plus the following details:

- The name of the recipient
- The address or the ABN of the recipient
- For each description, the quantity of the goods or the extent of the service supplied

See example tax invoices on page 25.

If you do not receive a tax invoice when you buy something, you can request one from the supplier who must provide you with one within 28 days. Similarly, if you sell something, and you are asked for a tax invoice, you have 28 days to provide one to your customer. If a tax invoice is not provided, 48.5% of the payment could be withheld and penalties could apply.

### **TAX INVOICES FOR SUPPLIES ON A PERIODIC BASIS**

The Tax Office has issued *GST Rulings GSTR 1999/17* and *GSTR 2000/35* which

TAX INVOICE			
Hessian Products Pty Ltd ABN: 32 123 456 987		27 Burshag Road Festler NSW	
Date: 1 August 2000			
To: Potato Growers New Meadow Road Festler NSW			
Qty	Description of supply	Price	Total
5000	Potato Sacks	\$1.65	\$8250
<b>TOTAL</b>			<b>\$8250</b>
<b>The total price includes GST</b>			

TAX INVOICE			
Hessian Products Pty Ltd ABN: 32 123 456 987		27 Burshag Road Festler NSW	
Date: 1 August 2000			
To: Potato Growers New Meadow Road Festler NSW			
Qty	Description of supply	Price	Total
5000	Potato Sacks	\$1.50	\$7500
	GST		\$750
<b>TOTAL AMOUNT PAYABLE</b>			<b>\$8250</b>

cover tax invoices for supplies on a periodic basis. In these rulings, the Tax Office states that it will allow certain documents such as lease agreements to be tax invoices provided they contain the necessary tax invoice information and show the price of each component of the supply.

This means that where a lease agreement

satisfies the relevant tax invoice requirements, it will not be necessary for the supplier (lessor) to issue a tax invoice for each lease payment made by the recipient (lessee) – so long as the original lease document shows the price for each component of the supply and satisfies the other requirements of a tax invoice.

However, many businesses will issue tax invoices as a matter of course when lease payments are made (i.e. by adding the necessary information to convert existing receipts and invoices into tax invoices).

When there are changes to the price, you should contact your accountant or consult the ruling available from the Tax Office for your requirements in terms of required tax invoice documentation.

### Recipient created tax invoices

In most cases tax invoices are issued by **suppliers** of products and services.

In some cases, it is very difficult or impossible for suppliers to issue a tax invoice because they do not know the dollar number to put on the invoice. In these situations the **recipients** of the goods and services will provide the tax invoice because they may be in a better position to determine the value of the supply. This is the case with many agricultural industries including the raw sugar industry. The tax invoice in this situation is called a **recipient created tax invoice (RCTI)**.

In the raw sugar industry, sugar mills issue RCTIs to cane growers. An example is shown in Appendix 3 on the Inside Back Cover.

The formal requirements for issuing an RCTI are set out in *GST Ruling GSTR 2000/10* which is available from the Tax Office.

Key requirements which must be met by the supplier and the recipient in order to be able to issue RCTIs, are:

- The supplier and the recipient must be registered for GST and the RCTI must show the ABN of the supplier;
- The recipient must issue the original or a copy of the RCTI to the supplier and must retain the original or a copy;
- The recipient must issue the original or a copy of an adjustment note to the supplier within 28 days of the adjustment and must retain the original or a copy;
- The recipient must reasonably comply with its obligations under taxation laws;
- The recipient and the supplier must have a written agreement that is current and effective when the RCTI is issued,

agreeing that:

- The recipient can issue RCTIs in respect of the supplies
- The supplier will not issue tax invoices in respect of the supplies
- The parties acknowledge that they are registered for GST when entering into the agreement and that each will notify the other it ceases to be registered or if it ceases to satisfy any of the requirements of the determination
- The recipient must not issue a document that would otherwise be an RCTI, on or after the date when the recipient or the supplier has failed to comply with any of the requirements of the determination.

An example of a **recipient created tax invoice** for sugarcane growers is shown in Appendix 3 on the inside back cover.

# adJusTmenTS

## **ADJUSTMENT NOTES**

Where an adjustment event has occurred in relation to a taxable supply, the supplier must supply an adjustment note to the recipient of the supply.

The Tax Office's *GST Ruling GSTR2000/1* outlines the requirements for adjustment notes. This is available from the Tax Office or from its web site.

The supplier of a taxable supply must supply an adjustment note to the recipient of the supply within 28 days of:

- The recipient requesting an adjustment note; or
- If the supplier becomes aware of the adjustment before receiving a request from the recipient, within 28 days of that day.

The general requirements for an adjustment note are as follows:

- It must be issued by the supplier (except for recipient created adjustment notes).
- It must show the words "adjustment note" prominently (it may be stated as a "credit adjustment note", "adjustment debit note", etc).

An adjustment note may use the words "tax invoice" instead of "adjustment note" such that the tax invoice could be for a negative amount (for example -\$60).

The adjustment note must also include the following (where it relates to a tax invoice

showing a total amount payable of greater than \$1000):

- The name of the supplier or the agent of the supplier
- The issue date of the adjustment note
- The difference between the price of the supply or supplies before the adjustment event and the new price of the supply or supplies
- A brief explanation of the reason for the adjustment (e.g. "refund", "rebate", "return") or a code by which the reason can be easily ascertained (e.g. REF for a refund)
- The amount of the adjustment to GST payable or a statement to the effect that the difference between the price of the taxable supply or supplies includes GST.

If the amount is greater than \$1000 the following additional information is required:

- The address or ABN of the recipient or the agent of the recipient
- The name of the recipient or the agent of the recipient

An adjustment note is not required if the GST exclusive value of the adjustment is \$50 or less, however other appropriate documentation should be held.

An adjustment is not required for tax purposes if the adjustment occurred in the same tax period as the original event. In these situations, you are required to keep other appropriate documentation to explain

the transaction. You can obtain more information from *Ruling GSTR2000/17* which is available from the Tax Office or its web site.

<b>CREDIT ADVICE ADJUSTMENT NOTE</b>	
Tyres Tyres Tyres Pty Ltd ABN: 32 123 456 578	9 Burshag Road Festler NSW
Date: 1 October 2000	
To: Sam's Tyre Fitting 25 Burshag Road Festler NSW	
Volume discount for purchases	
Tax Invoice date: 1 August 2000	
Original price	\$8800
Adjusted price	\$7700
<b>AMOUNT CREDITED</b>	<b>\$1100</b>

### **RECIPIENT CREATED ADJUSTMENT NOTES**

Where an adjustment event has arisen in relation to a taxable supply for which a recipient created tax invoice (RCTI) was issued, a Recipient Created Adjustment Note must be issued by the recipient of the supply.

The recipient created adjustment note must contain the following information:

- The words “recipient created adjustment note” must be shown prominently (it may be stated as a “recipient created tax invoice”)
- The name of the supplier or agent of the supplier
- The ABN of the supplier or agent of the supplier

- The name of the recipient or agent of the recipient
- The issue date of the adjustment note
- The difference between the price of the supply before the adjustment event and the price of the supply after the adjustment event
- A brief explanation of the reason for the adjustment
- The amount of the adjustment to the GST payable or a statement to the effect that the difference in the price of the taxable supply includes GST.

### **WHAT HAPPENS WHEN GOODS ARE RETURNED?**

Sometimes events may take place after a taxable supply of goods or services has been made that require a subsequent adjustment to the calculation of GST liability for both the seller and the purchaser where they are both registered for GST.

An example is when goods are purchased and then later returned. If you buy goods, claim a GST input tax credit and then later return the goods and receive a refund (or a credit), it follows that you will have to make an adjustment to your GST liability in the period of the return. This will increase your net GST liability for that tax period.

Similarly, the seller of the goods will have included the GST attributable to the sale in one period and can then make an adjustment in the period that the goods are returned to reduce the net tax liability in that subsequent period. An adjustment also needs to be made when a supply of goods or services is cancelled or a part of the amount paid (or invoiced) is refunded (or credited).

## WHAT HAPPENS WHEN THERE IS A BAD DEBT?

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If you are using a cash accounting method, bad debts require no special treatment.

As you have not received the money, you have not paid any GST on the supply of goods or services. If you are using an accruals accounting method, you will be paying GST on the supply of goods or services in the tax period of invoicing. If the debt (in full or in part) later goes bad, you are entitled to claim a credit for the GST that you have previously paid on that transaction. If you later recover part of the debt, you will have to make a further adjustment to ensure that the correct amount of GST on the supply is paid.

### **Example**

*You buy irrigation equipment from your local supplier in February 2001. The price was \$2200 including GST. You include the \$200 GST input tax credit in your return for the quarterly tax period ended 31 March 2001. When you complete the work on your property, you realise you have some parts surplus to your needs. You return these to the supplier in April and your account is credited with \$44. The GST relating to the returned goods (\$4) should be taken into account in calculating your net GST liability in the following tax period as this is when the return of goods took place. This will have the effect of increasing your net tax liability in the quarterly period ended 30 June 2001.*

### **Example**

*The supplier of irrigation materials in the above example would have included the GST on the taxable supply when calculating the business' net GST liability for the tax period ended 31 March 2001. When the goods were returned and a credit given, the supplier would then make an adjustment in the next tax period to effectively get a credit for the GST previously paid on the goods that have now been returned.*

# GST on inCome

## **SUGARCANE PAYMENTS AND RAW SUGAR PAYMENTS**

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GST legislation provides that the supply of food is GST-free. In summary, food for human consumption, whether or not requiring processing or treatment, is GST-free. The Act also contains certain exclusions (for example, prepared food), to make certain foods taxable.

## **WHEN DOES SUGAR BECOME 'FOOD'?**

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The sugar industry asked the Tax Office for a private ruling on this question. A reply received from the Tax Office in February 2000 will remain current unless a public ruling conflicts with it or until otherwise advised. The results of the private ruling are as follows.

## **SUGARCANE GROWER TO MILL**

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Sugarcane sold by growers to sugar mills has not been subject to any process or treatment resulting in an alteration in its form, nature or condition. It is therefore excluded from the definition of "food".

As such, the sale of sugarcane is a taxable supply and subject to GST. This means that sugar cane payments have GST added to them unless the grower is not registered for GST – for example if the grower is a hobby farmer. Where GST is included, the grower must forward the amount (1/11<sup>th</sup> of the total payment) to the Tax Office every three months (or every month) depending on the timing for payment.

## **MILL TO QUEENSLAND SUGAR LIMITED**

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Raw sugar is vested under the *Sugar Industry Act 1999* to the marketing organisation Queensland Sugar Limited. Although the sugarcane has undergone certain processes it is still not a food grade product and so not food for human consumption. It is therefore excluded from the definition of "food".

As such, the sale of raw sugar is a taxable supply and subject to GST. Similar to the payment for sugarcane, the payment for raw sugar has GST added to it.

## **QUEENSLAND SUGAR LIMITED TO REFINERY**

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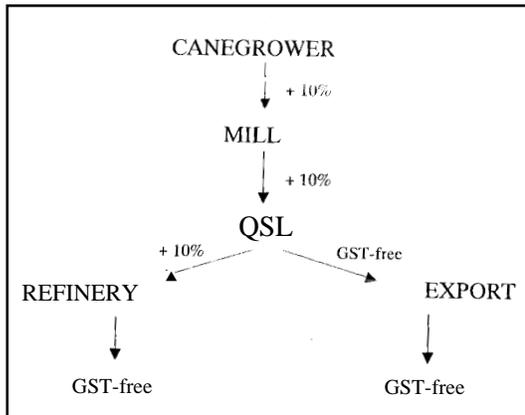
Raw sugar sold by Queensland Sugar Limited to refineries remains in the same state in which it was received from mills, and so remains excluded from the definition of "food". As such, the sale of raw sugar is a taxable supply and subject to GST.

## **REFINERY**

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When raw sugar is further processed into DC raw and refined sugar it becomes food for human consumption and is therefore included within the definition of "food". As such, the sale of DC raw and refined sugar is not a taxable supply and is GST-free.

These results are shown diagrammatically on page 31.



### RAW SUGAR PRICE IN THE CANE PAYMENT FORMULA

Although payments for both raw sugar and sugarcane have GST added to them, the raw sugar price used in the cane payment formula is the raw sugar price without GST. This is to ensure that there is no duplication of GST (and to make sure the mathematics work correctly).

So, if the cane payment formula is:

$$\text{Price of Cane (without GST)} = 0.009 \times (\text{CCS} - 4) \times \text{Raw Sugar Price (without GST)} + 0.578.$$

then Price of Cane (with GST) = Price of Cane (without GST) X 11/10.

### SALES TO MARKETING POOLS

In most cases when a grower sells produce of any kind to a marketing pool several things happen:

- The pool operator gives an estimate of the likely return based on market expectations;
- Title passes to the pool operator on delivery;

- Payments on account are made before the pool is finalised;
- Only when the pool is finalised, and the final payment is made, does the grower know the final price; and
- The pool operator deducts handling charges from the grower's payments.

It is unlikely that the grower will have to complete a tax invoice. In other words, a recipient created tax invoice will be prepared in most cases.

Almost certainly the pool operator will be required to issue a recipient generated invoice. However, if the grower is registered or required to be registered for GST purposes, then he or she will have to remit 1/11<sup>th</sup> of the sales as GST to the Tax Office.

Growers who use cash accounting to calculate their GST liability will pay GST on instalments of the sale as the payments are received. Growers who use accruals accounting will be liable to pay GST at the end of the tax period in which they receive either an invoice for the sale or the first payment for the product, whichever happens first.

However, in the case of the raw sugar industry, and in response to discussions between the industry and the Tax Office, the Tax Commissioner has determined in public ruling *GSTR 2000/29*, to attribute the GST only when the amount is known – in other words because it is difficult to know the exact final sugarcane price the use of the accruals process is not necessarily appropriate in this situation.

In essence, the ruling provides for the attribution of GST payable and input tax

credits to the extent that consideration is received or provided, up until the total consideration is known. When the total consideration is known, any GST payable or input tax credits not already attributed to a previous tax period becomes attributable to the tax period in which the total consideration is known.

More simply, this means that the GST liability of cane growers will arise progressively when consideration is received for each supply of sugarcane. The GST liability of mills will arise when the consideration is received from QSL. This is clearly a more favourable result than requiring total GST liability to arise on the first advance payment made.

### **ADVANCES PAYMENT SCHEME**

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As mentioned in the section on sugarcane and raw sugar payments, sugarcane and raw sugar both have GST added to their payments. Each advance payment for raw sugar, and related cane payment, has GST added.

Also, as mentioned in the section on marketing pools, if you use accruals accounting, the raw sugar advance payments scheme, and cane payments that relate to this is a special situation where you account for the GST component only when you know the price. In other words, if you use accruals accounting, for the raw sugar industry situation the attributing of GST is similar to if you use cash accounting when you do not know the final price.

### **RELATIVE PAYMENT SCHEMES**

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Many cane growers participate in relative payment schemes. These schemes ensure

equity between growers in a mill area for CCS (sugar content of cane). Where there is an adjustment, an adjustment note may be issued by the mill. From a grower's perspective, generally the sugarcane payment will already have been adjusted in terms of the relative payment schemes.

### **ALLOWANCES AND COMPENSATION**

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Some sugar mills pay growers a transport allowance to offset the cost of transporting cane long distances and/or compensation for extra costs associated with continuous crushing. These payments are subject to GST and have GST added to them.

Growers therefore have to account for the GST included in these payments when completing their Business Activity Statements.

Because these payments for allowances and compensation are being made by the same recipient who is preparing the recipient created tax invoice for cane pays, the tax invoice for cane pays will also be the tax invoice for any allowances and compensations. This means that the tax ruling allows for the GST to be calculated on the total amount in this situation.

If the allowance/compensation is paid in a different period to which the allowance and payment relates, a recipient created adjustment note will be created by the mill.

### **BONUSES**

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Bonuses, such as those from cooperative sugar mills, will be treated the same way as sugarcane payments, and therefore have GST applied to them. Appropriate tax

invoices will be provided. Cane growers must account for the GST included in these payments on their Business Activity Statements.

## **PENALTIES**

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Some sugar mills penalise growers for supplying poor quality sugarcane. Where this is taken into account in the payments made, GST is calculated only on the total price received. If done as a subsequent change, a decreasing adjustment for GST purposes will occur.

## **SALES OF SECOND-HAND EQUIPMENT**

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If you are registered for GST, you must include GST in all your sales related to that business. Remember you are registered for GST because you are business able to register, not merely because you are a cane grower.

If you operate a cane farming business which is registered for GST and you wish to sell second-hand machinery, such as a tractor and trailer no longer required for the business, you must add GST to the selling price. Similarly, if you buy a second-hand tractor for use in your business, and your business is registered for GST, you can claim back the GST if it was included in the purchase price.

However, if you sell items not related to the business, such as a dining room table from your home, no GST applies to the sale.

## **CANE SUPPLY AND PROCESSING AGREEMENTS**

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Cane Supply and Processing Agreements are contracts which specify the terms of

your supply of cane to the mill and the payment for that cane. Appropriate GST provisions are included in those agreements. They include calculation of GST on cane payments, the application of GST to the raw sugar price, the application of GST on related payments and penalties, provision of Australian Business Numbers, tax invoicing, etc.

When the mill prepares a recipient created tax invoice for your cane pay (most mills do this), there may also be provisions in the Cane Supply and Processing Agreement outlining the legal requirements of the supplier (the grower in this case) and the recipient (the mill).

If these provisions are not included in the agreement, the supplier and recipient (both you and the mill) are required to sign a separate agreement for the recipient created tax invoices outlining the legal requirements associated with the invoices (see tax ruling *GSTR 2000/10* for more information).

## **HOBBY FARMERS**

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Hobby farmers cannot register for GST. This means that GST is not included in the price of sugarcane produced by hobby farmers. Mills are able to identify individual hobby farmers and so will provide the cane price without GST. This will be noted on the cane payment advice.

# GST on inPuTS

## GENERAL INPUT COSTS

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When you make a purchase of a product that has GST included in the price you should:

- Obtain a tax invoice and keep it – it is worth money to you. The tax invoice enables you to claim back the GST which is included in the price. If you do not receive a tax invoice automatically, you can ask the seller to provide one. The seller then has 28 days to provide it to you. You are entitled to withhold 48.5% of the payment if you do not receive the tax invoice within this time, or the supplier (the seller) does not include their ABN.
- Obtain the ABN of the person who sells you the good or service, or ensure that there is a valid reason for not obtaining an ABN (the Tax Office has a standardised form which suppliers should provide in these situations – ask for it).
- Be clear what the total price is (this means the total price including GST if GST applies to the product).

You can calculate the amount of GST in the price by dividing the total price by 11.

### **Example**

*You buy fertiliser from Jane's rural supplies for \$220 including GST. The amount of GST in the price is \$220 divided by 11 i.e. \$20.*

## CONTRACTS

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All contracts should include a statement explaining how GST will be handled by the parties to the contract; should GST be included or should the contract be for a GST-exclusive (this means a without GST) amount? As an interim measure, the Tax Office has established guidelines to determine if a contract signed before GST began needs to include GST. Contact the Tax Office for this information.

### **HARVESTING CONTRACTS AND PAYMENTS FOR HARVESTING**

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Harvesting contracts and payments for harvesting need to consider the application of GST – if the price includes GST or not, mention of who prepares the tax invoice, ensuring that an ABN is provided, and other considerations such as current and future tax reform benefits and cost savings. CANEGROWERS can provide grower members with suggested and example harvesting contracts that include useful clauses for consideration of GST. You will need to determine if your harvesting contractor is registered for GST and therefore if the price includes GST.

If you make a payment directly to a harvesting contractor, an appropriate tax invoice showing all required information including the contractor's ABN will need to be prepared by the contractor. If the contractor does not provide you with their ABN, or does not give a valid reason for not quoting an ABN, you are required to withhold 48.5% of the payment and forward this to the Tax Office.

If your payments for harvesting are deducted from your cane payments, you need to determine if the contractor has arranged with the mill for the mill to prepare the tax invoices for harvest payments on the contractor's behalf. In these situations, the mill will include the tax invoice for harvesting cost with the tax invoice for cane pays, although it will be a separate document from the tax invoice for cane pays. You should ensure that the document includes the necessary tax invoice information.

Another option is for the grower to prepare recipient created tax invoices for the harvester contractor. In this situation, there needs to be a **Recipient Created Tax Invoice Agreement** between the grower and the contractor for the grower to prepare the tax invoices on behalf of the grower. This agreement could be included within the harvest contract.

Once the agreement is established, the grower provides the harvester with the appropriate recipient created tax invoice for harvesting payments, similar to the way mills prepare recipient created tax invoices for cane pays. Some CANEGROWERS offices provide a service whereby they prepare the recipient created tax invoices for harvester pays. Ascertain whether your local CANEGROWERS office provides this service.

### **CONTRACT PLANTING AND OTHER CONTRACT WORK**

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Contracts for planting and other work, as well as the payments involved, need to consider the application of GST, aspects such as whether the price includes GST or not, who prepares the tax invoice, ensuring that an ABN is provided, and other consid-

erations such as current and future tax reform benefits and cost savings. As in the case with harvesting contracts, you need to determine if the contractor is registered for GST and therefore if the price includes GST.

If you make a payment directly to a contractor, an appropriate tax invoice showing all required information including the contractor's ABN needs to be prepared by the contractor. If the contractor does not provide you with an ABN, or a valid reason for not quoting one, you are required to withhold 48.5% of the payment and forward it to the Tax Office.

### **LEASES OF FARM LAND**

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Where a lease of farm land was entered into before 1 July 2000, there may or may not be a requirement for consideration of GST. Refer to the Tax Office transitional provisions for contracts.

For those leases entered into before 1 July 2000, the lease document may be suitable as a tax invoice provided it is accompanied by another document (for example a receipt) which shows the name of the lessor, the address of the lessor or ABN of the lessor, the date of the document (payment date), and an indication of the total price and/or GST amount.

Leases for farm land which were entered into after 1 July 2000 should include consideration of GST. Appropriate provisions should be made in the lease document. For tax invoice purposes, there are options for tax invoices on a monthly basis, or for an annual statement which acts as a tax invoice. Contact the Tax Office for more information.

## **LEASES OF CANE PRODUCTION AREA**

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Leases of Cane Production Area should be treated similarly to leases of farm land. In other words the lease contract should mention the application of GST. It should also consider the provision of appropriate tax invoices. Similar to the situation with leases of farm land, there are options for the provision of appropriate tax invoices. Contact the Tax Office for more information.

## **CROP INSURANCE IN THE SUGAR INDUSTRY**

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Special arrangements for crop insurance operate in the Queensland raw sugar industry. Further information can be obtained from CGU insurance or from your local CANEGROWERS office.

## **CANEGROWERS MEMBERSHIP FEE**

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As with most membership fees, GST applies to the CANEGROWERS membership subscription. Growers can claim the GST component back from the Tax Office when preparing their Business Activity Statement.

In most areas CANEGROWERS has arranged for mills to provide growers with tax invoices for CANEGROWERS membership fees in the same mailing as the tax invoices for cane pays which are prepared by the mills. Where this does not occur, CANEGROWERS provides the tax invoice for the membership fee direct to the grower. Where the grower makes a direct payment to CANEGROWERS, a tax invoice is supplied at that time.

## **OTHER LEVIES AND DEDUCTIONS**

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Tax invoices are required for most levies and deductions where GST is applied, including various voluntary levies, the BSES levy, Productivity Board levies and some other deductions. Ensure that you obtain a tax invoice for these levies and deductions. Contact the relevant organisation making the levy or deduction to ensure that appropriate tax invoices are supplied.

The Sugar Research and Development Corporation (SRDC) levy is a federal levy so it is specifically excluded from application of GST. Therefore, no tax invoice is required.

## **IRRIGATION WATER**

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Provision of bulk water for irrigation and associated water rights is GST free. The Tax Office's ruling *GSTR 2000/25* explains the GST treatment of water and water rights. Basically, a supply of water is GST-free (and rights associated with that supply are also GST-free) if the supply is for 100 litres or more.

## **CANE TESTING**

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GST applies to costs associated with the provision of the cane testing service by sugar mills. Generally, there are two types of costs – the cost of the service itself and the cost for the supervisors.

The actual testing is paid for by the mill. This cost may appear separately on the RCTI from the mill, or it may be built into the mill's own costing and so may not appear separately on the RCTI. The cost for

supervisors is initially paid by BSES but then is reimbursed to BSES by mills and growers on the basis of 50% each.

The cost of the grower's share of cane testing is included in the membership fee paid by financial members of CANEGROWERS. In the case of non-financial members, CANEGROWERS sends them a separate tax invoice to cover the costs of providing the service.

CANEGROWERS forwards the total of all the growers' share (financial members and non-financial members) to BSES. Each mill also forwards to BSES that mill's share of the cost.

## **DIESEL FUEL**

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Businesses registered for GST are able to claim back from the Tax Office the GST paid on the fuels. To enable the Federal Government to honour a commitment that fuel prices would not rise once GST was introduced, the excise component of the fuel price was reduced by an amount similar to (but not the same as) the GST.

The **Diesel Fuel Rebate** scheme will continue until 30 June 2002 for certain eligible off road uses.

For on-road uses of fuel for businesses, another scheme commenced on 1 July 2000 and will continue to 30 June 2002. Known as the **Diesel and Alternative Fuels Grant Scheme**, it applies to all business, including, but not restricted to, farm businesses. Eligibility is determined by gross vehicle mass (GVM) of the vehicle.

Vehicles of less than 4.5 tonnes GVM are not entitled to a grant. For primary produc-

ers, a grant is allowed if the vehicle GVM is 4.5 tonnes or higher. This provision was negotiated with the assistance of National Farmers' Federation. It means that all cane growing businesses are entitled to a grant for on-road travel where the vehicle GVM is 4.5 tonnes or higher. For other types of businesses, eligibility depends on a number of criteria including travel within defined metropolitan areas.

The grant rate is about 17 cents per litre. The amount of grant for eligible business can be calculated by multiplying the volume of fuel used for eligible purposes by that rate.

Another fuel price mechanism announced by the Federal Government is targeted at **regional and remote petrol station operators**. It aims to ensure that fuel prices in country areas do not increase as a result of the GST. While the exact details are still to be bedded down in regulations and the Fuel Sales Grants legislation, in broad terms it provides a tiered grant of either one-cent, two cents or three cents a litre to the petrol station operators.

The rate of the grant depends on distance from metropolitan areas. To ensure that this grant is passed to consumers, the Government has announced that the grant will be monitored under price exploitation legislation administered by the Australian Competition and Consumer Commission (ACCC).

From 1 July 2002 the Diesel and Alternative Fuels Grants Scheme and the Diesel Fuel Rebate Scheme will be replaced by the **Energy Grants (Credits) Scheme**. Benefits equivalent to those available under the previous schemes will be transferred to the

Energy Grants (Credits) Scheme. This new scheme will provide active encouragement for conversion to cleaner fuels.

### GST SUMMARY

This table lists GST implications of some of the income and expenses related to cane growing.

ITEM	GST IMPLICATIONS
<i>Allowances paid to cane growers</i>	
Sugarcane payments	Taxable
Haulage rebate	Taxable
Continuous crushing allowance	Taxable
Cartage allowance	Taxable
Haulage	Taxable
Small bin allowance	Taxable
Sugarcane plants sold	Taxable
Sugarcane plants purchased	Taxable
Burnt sugarcane	Taxable
Sundry purchases	Taxable
<i>Deductions from cane growers</i>	
Haulage contractor	Taxable (third party)
Harvesting	Taxable (third party)
Levies <ul style="list-style-type: none"> <li>• SRDC</li> <li>• CANEGROWERS</li> <li>• Productivity Board</li> <li>• BSES</li> </ul>	Only SRDC is GST-free, other levies are taxable (third party)
Ambulance Service subscription	GST-free (third party)
Mill mud	Taxable
Farm lease payments	Taxable (unless long term lease 50 years, then GST-free)
MBF	GST-free (third party)

# buyinG/SeLLinG far mS

The buying and selling of a farm can be either GST-free or have GST applied to it depending on various situations. You should confirm what situation applies in your case by obtaining in writing the GST implications on farm sales from your accountant, your solicitor, your real estate agent or the Tax Office. New information and interpretations are being provided by the Tax Office continually.

If you buy a farm that has GST included in the price, and/or any inclusions which may have GST included in the price (such as plant, equipment, livestock etc) you can claim an input tax credit if the farm and/or inclusions will be used for your business and you are registered for GST.

## **SALE OF A GOING CONCERN**

In general terms, the supply of a going concern is GST-free in the following circumstances:

- The purchaser must be registered or required to be registered for GST
- The supplier must carry on the business until it is sold
- All of the things required for the continued operation of the business must be supplied
- Both parties must agree in writing that the supply is of a going concern.

The sale of farming land is GST-free if a farming business has been conducted on the land for at least five years immediately prior to the sale and the buyer also intends to carry on a farming business on the land. Note that only the land is GST-free. Any

plant, equipment, livestock are not GST-free.

Where someone other than the seller has farmed the land, the sale is still GST-free so long as a farm business was conducted on the land for the five years immediately prior to the sale, and the purchaser intends to carry on a farm business on the land. It is the **use of the land** which is important, not the **ownership**.

In situations where there has been fallow, the Tax Office has ruled that fallow does not mean that farming has ceased altogether. This means that if the land was fallow for a period prior to the sale, the sale is still GST-free so long as farming was carried out for at least five years prior to the sale, the fallow was part of the farm's operations, and the buyer intends to continue farming the land.

In cases where a large farm is subdivided into a number of smaller lots and sold off, the farm sales would be GST-free provided each of the farms could operate separately.

If the purchaser intends to carry out a different farming business, the sale is GST-free provided the other conditions are met. For example, if a cane farm is sold and the new use is for bananas or an interim soy-bean crop, the sale is still GST-free so long as the buyer is registered for GST and the farm has been used for farming in the five years immediately prior to the sale.

Conditions also relate to situations where

the farm land and farm business are owned by different entities (and hence sold or purchased by different entities). Contact the Tax Office or your solicitor or accountant for the GST consequences depending on your specific situation.

Contact the Tax Office or your accountant for the treatment of crops included in the sale.

## **SECURITY DEPOSITS AND LAND SALES**

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The Tax Office has issued a ruling relating to security deposits and land sales.

In its ruling the Tax Office says: “*the payment of a deposit under a standard land contract will not trigger attribution of GST payable or input tax credits at the time the deposit is paid. This is the case if you account for GST on a cash basis or if you do not account for GST on a cash basis*”. This allows flexibility in various situations such as where the sale may not proceed after the deposit has been made.

## aPPendix 1

# Tax offiCe deCiSion

*The Australian Tax Office decision on registration for sugarcane growers.*

### **THE ISSUE**

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Which entity is making the taxable supply of cane to the Mill for the purposes of A *New Tax System (Goods and Services Tax) Act 1999* (the GST Act)?

### **ANSWER**

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Given the diversity and complexity of the various arrangements that exist in the sugar industry, it is not possible to provide one answer which will satisfy all situations. Therefore, each case will have to be decided on its particular facts.

It is the responsibility of the entities involved to examine their existing arrangements and determine which entity is making the taxable supply of cane to the Mill. This will be a question of fact. The supplier of the cane will need to apply for an ABN and if required, register for GST. If this entity is different from the CPA holder, the supplier of the CPA or right to use the CPA may also be required to have an ABN and be registered for GST. The supply of the right to use the CPA would be a supply for the purposes of GST.

Where the entity making the taxable supply of cane to the Mill quotes its ABN prior to any payment being made, this will be

sufficient to avoid the application of the PAYG withholding provisions.

Generally, the Mills are not responsible for ensuring that a supplier's quoted ABN is correct. However, this particular issue is discussed under the heading "Other Issues to Consider".

### **POSSIBLE SCENARIOS**

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#### **1. CPA holder provides land and CPA to a related entity**

It is understood that it is common for CPA holders to provide land and/or the CPA to a related business entity which grows the cane and sells it to the Mill. The payment for the cane goes to the business entity via a banking directive provided to the Mill by the CPA holder. Under these arrangements it is understood that the business entity is neither a sub-contractor nor acts as an agent of the holder.

Where this type of arrangement occurs, it is considered that it is the business entity which makes the taxable supply of cane to the Mill. The business entity should register for an ABN and provide that number to the Mill in order to avoid the PAYG withholding provisions. Quotation must be made prior to any payments being made.

## 2. Transfer as per the SIA

Where the grower has transferred its entitlement to the CPA as per the requirements of the *Sugar Industry Act (SIA)*, it is the transferee who will hold the CPA and be entitled to make supplies of cane to the Mill. If this supply satisfies the requirements of a taxable supply, the CPA holder must return GST on the supply.

If the above is the case, the CPA holder should apply for an ABN and if required, register for GST. The transferee should quote its ABN to the Mill, before any payment is made, to avoid the application of the PAYG withholding provisions.

If a related entity is involved, the result may be similar to scenario 1 above.

## 3. Sharefarming

It is understood that some CPA holders enter into formal or informal sharefarming agreements with other entities. These entities can be either related or unrelated. Some agreements may provide that the business entity supplies cane to the CPA holder, who in turn makes a supply of cane to the Mill. Other agreements may provide the right to the CPA to the other entity and it is that entity which makes the supply to the Mill.

Regardless of the complexity of the arrangement, the basic rule is that only the entity that is entitled to supply the cane to the Mill for the purposes of the GST Act will be liable to pay any GST and claim input tax credits in relation to the supply. Because of the diversity of sharefarming arrangements, each case will need to be decided on its own

particular facts.

Again, all entities involved should examine their existing agreements to determine who is supplying cane to the Mill. It is this entity which should quote its ABN to the Mills before any payment is made, in order to avoid the application of the PAYG withholding provisions.

## 4. Lease

Where a CPA holder has entered into a lease with another entity, the parties should examine the lease documentation to determine who is entitled to supply the cane to the Mill. It is that entity which makes the supply of cane to the Mill and that will be liable for any GST payable. That entity will require an ABN and should quote it to the Mill before any payment is made in order to avoid the application of the PAYG withholding provisions.

## CONCLUSION

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It is not possible to provide one answer that will cover all factual situations within the sugar industry. The scenarios discussed above are indicative only and if growers have any questions about their particular situation they should apply for a private ruling.

Cane growers must consider all of their arrangements and determine which entity is making the taxable supply of cane to the Mill. This entity should apply for an ABN and register for GST if necessary.

## OTHER ISSUES TO CONSIDER

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Other related issues that require consideration include:

- (a) The definition of enterprise as it relates to the CPA holder;
- (b) ABN issues;
- (c) Division 72; and
- (d) GST grouping

**(a) Definition of enterprise as it relates to the CPA holder**

Regardless of the arrangements that the CPA holders have with other entities, they may still be considered to be carrying on an enterprise for the purposes of the GST Act. Section 9-20 of the GST Act provides the definition of enterprise. Subsection 9-20(1) states:

- (1) An *enterprise* is an activity or series of activities done:
  - (a) in the form of a business; or
  - (b) in the form of an adventure or concern in the nature of trade; or
  - (c) on a regular or continuous basis, in the form of a lease, licence or other grant of an interest in property; or
  - (d) .....
  - (e) .....
  - (f) .....
  - (g) .....

Further guidelines about whether or not activities constitute the carrying on of an enterprise can be found in *Miscellaneous Tax Ruling MT 2000/1* which deals with the meaning of carrying on an enterprise for the purposes of entitlement to an ABN.

Paragraph 16 of MT 2000/1 lists a number of activities or series of activities that would be considered to be an enterprise for the purpose of section 38 of *A New Tax System (Australian Business Number) Act 1999* (the

ABNA).

The CPA holder may be considered to be carrying on a business, depending on other activities they may undertake. Whether or not activities are considered to be carrying on a business has to be determined against the indicators of a business as established by case law. *Taxation Ruling TR 97/11* provides guidance on the business indicators as they relate to Primary Production.

CPA holders should also consider whether they are carrying on activities in the form of a lease, licence or other grant of interest in property as both land, the CPA and right to use either are considered to be property. Paragraph 28 of MT 2000/1 says that an activity is ‘regular’ if it is repeated at reasonably proximate intervals and ‘continuous’ if there is no significant cessation or interruption to the activity. Whether an activity is repeated over time on a regular basis is a question of fact and degree.

If CPA holders consider that they are carrying on an enterprise then they will need to apply for an ABN and if required, register for GST.

**(b) ABN issues**

As stated above, the Mills are generally not responsible for ensuring that a supplier’s quoted ABN is correct

However, if there is reason to suspect that it might not be genuine or that it does not belong to the supplier who quoted it, they should make further enquiries. Circumstances that may alert them to the need to make further enquiries are:

- (a) Wrong configuration: An ABN has 11 digits. An entity may quote a 14 digit number. This would be their ABN plus a GST Branch Registration number. An ABN does not have any letters.
- (b) Sequential numbers, repeating numbers or unusual number patterns. You can check the mathematical validity of the number by referring to the fact sheet: *The Format of the Australian Business Number (ABN)*.
- (c) The invoice details do not match the person you believed was supplying you or the type of supplies you are receiving.

If the ABN quoted on the invoice is not valid or the details do not match the supplier, the Mill should withhold 48.5% of any payment that it makes.

Recently, the ATO released a document called “Should your suppliers quote their ABN?...a guide for Business”. This publication is available on the ATO website at [www.taxreform@ato.gov.au](http://www.taxreform@ato.gov.au) Attached to this document is a “Statement by Supplier” form that may be provided to payers where a supplier is not required to provide an ABN.

### **(c) Division 72 - Associates**

Where the supplier of the right to use the CPA is registered or required to be registered and provides the CPA to a related entity which is registered or required to be registered, the normal GST rules will need to be considered.

However, where the supplier of the right to

use the CPA is registered or required to be registered and there is an agreement under which there is no consideration payable or where the consideration is not based on commercial rates, it will be necessary to consider the application of Division 72 of *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act) where the supplier and recipient are associates. Associate is a defined term in section 195-1 of the GST Act. It has the meaning given by section 318 of the *Income Tax Assessment Act 1936*.

It is important to note that Division 72 will only apply if the recipient of the supply is not entitled to a full input tax credit. The recipient will not be entitled to a full input tax credit where they are not registered or required to be registered or if the acquisition was not solely for a creditable purpose.

### **(d) Grouping provisions**

Recently the Treasurer announced regulations attaching to Division 48 of *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act) which allows companies, non-profit bodies, partnerships and trusts to form GST groups if they meet the eligibility criteria.

If cane growers business structures are such that they meet the eligibility criterion, they will be able to form a GST group.

The regulations are intended to enable a broad range of entities to utilise the grouping provisions for partnerships and trusts. The changes will help many businesses reduce compliance costs by removing the need to charge GST and claim input tax credits, as well as create tax invoices for supplies between related entities.

These regulations are contained in *A New Tax System (Goods and Services Tax) Amendment Regulations 2000* (No.1) (the Regulations) and are available on the ATO website at [www.taxreform@ato.gov.au](http://www.taxreform@ato.gov.au).

Who can group?

The following entities may group: -

- (a) Companies
- (b) Trusts
- (c) Partnerships
- (d) Non-profit organisations

The Treasurer's Press Release on 17 April 2000, stated that individuals would also be able to group. However, to date, there are no regulations relating to individuals.

The effect of grouping is: -

- (a) It allows certain entities to be treated as a single entity
- (b) One nominated member will be responsible for most GST liabilities – The Nominated Representative.
- (c) One GST return is lodged for the group.
- (d) Intra-group transactions are excluded from the GST system.

#### **WHAT ARE THE MEMBERSHIP REQUIREMENTS?:-**

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Section 48-10 of the GST Act sets out the membership requirements for a GST group. Each entity must:

- (a) Be registered for GST.
- (b) Have the same Tax periods.
- (c) Account on the same basis.
- (d) Not be a member of any other GST group.

#### **ARE THERE ANY ADDITIONAL REQUIREMENTS?:-**

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Apart from the above, there are additional requirements for partnerships and trusts. They are as follows:

##### **A. Specific Criteria for Partnership Eligibility to GST group**

Partnerships can also be part of a GST group. Partnerships **cannot** group with Partnerships.

There are four types of rules determining whether a partnership can be a member of a GST group. If the partnership meets **any** of the rules it can group with the specific entity.

- (i). The **Partnership Owner rule** allows a Partnership to GST Group with a Company who is a member of the GST group or proposed GST group if the Partnership has a 90% or more beneficial ownership in the company.
- (ii). The **Partner single shareholder rule** allows a Partnership to GST Group with a single shareholder company where a partner in the partnership or a family member of the partner is the shareholder of the company.
- (iii). The **Partners multiple shareholder rule** allows a Partnership to GST Group with a company with more than one shareholder where all of the shareholders are represented, either personally or by family members, by at least 2 partners of the Partnership.
- (iv). The **Trusts with Partners as beneficiaries Rule** allows a Partnership to GST Group with a trust that is a member of the GST group or proposed

GST group if at least two partners are represented as beneficiaries either personally or by a family members. The beneficiary may be a direct beneficiary of the trust or a beneficiary through one or more interposed trusts.

## B. Specific Criteria for Trust Eligibility to GST group

Trusts can also be part of a GST group. Trusts **cannot** GST Group with Trusts.

There are two rules determining whether a trust can be a member of a GST group. If the trust meets any of the rules it can group with the entity involved.

- (i). The **Trust owner rule** allows a Trust to GST Group with a company who is a member of a GST Group or a proposed GST group if the Trust has at least a 90% stake in a company.
- (ii). The second class of rules involves the status of beneficiaries. This class of rule allows the trustee of the Trust to only distribute income or capital of the trust to a beneficiary that is a permitted beneficiary for the period that the trust wishes to GST Group.

### WHO IS A PERMITTED BENEFICIARY?

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A Permitted Beneficiary may be a direct beneficiary or an indirect beneficiary through one or more interposed trusts. The different Permitted Beneficiaries are:

- (i). a company that is a member of the GST group or proposed GST group. (**Beneficiary Owner Rule**)
- (ii). the shareholder or a family member of that shareholder of a single shareholder

company, that is a member of the GST group or proposed GST group. (**Beneficiary single shareholder rule**)

- (iii). at least two shareholders or family of at least two shareholders of a multiple shareholder company, that is a member of the GST group or proposed GST group. (**Beneficiary multiple shareholder rule**)
- (iv). at least two partners or family members of at least two partners of the partnership that is a member of the GST group or proposed GST group. (**Partnerships with Beneficiaries as partners Rule**)
- (v). a charitable institution, a trustee of a charitable fund, or a gift-deductible entity. (**Charities Rule**)

Where a Trust has only Permitted Beneficiaries receiving income or capital from the Trust it may group with another entity providing that entity meets its own grouping requirements. This means that non permitted beneficiaries may still be beneficiaries of a GST Grouped Trusts as long as they don't receive Income or Capital during the period the Trust is GST Grouped.

### WHAT IS FAMILY?

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'Family' of a partner, beneficiary or shareholder will be any parent, grandparent, brother, sister, nephew, niece, child, or child of a child of either the individual or the individual's spouse. Family also includes the partner's spouse and the spouses of any person mentioned in the previous sentence.

## aPPendix 2

# Gr ouPinG for GST

*Extracts from Tax Office fact sheet.*

The new tax system allows entities that fulfill certain membership requirements to form a GST group. Entities may find that their GST accounting costs are lower if they form a GST group.

### **WHY FORM A GST GROUP?**

Companies, trusts or partnerships with common ownership or membership often operate as a group. They often supply things to, or acquire things from, other members of the group. When one member makes a taxable supply to another member, it will generally pay GST on that supply. The member that makes the acquisition will generally be able to claim an input tax credit. If both group members are owned by the same entity, such transactions could be regarded as internal. Forming a GST group means that GST will not be paid, and input tax credits will not be claimed, on these transactions. This will reduce GST accounting costs.

### **WHO CAN FORM A GST GROUP?**

Companies can form a GST group if each company:

- Is a member of the same group (at least 90% owned) as all other members of the GST group or proposed GST group
- Is registered for GST
- Has the same tax periods as all the

other members

- Accounts for GST on the same basis (that is, cash or non-cash) as all the other members
- Does not belong to any other GST group, and
- Has not branched for GST purposes.

The 90% ownership requirement does not apply to non-profit bodies. However, non-profit bodies may only form a group where:

- All members of the GST group or proposed GST group are non-profit bodies, and
- All members are members of the same non-profit association.

Otherwise, requirements for non-profit bodies are the same as those listed here for companies.

Trusts and partnerships may also become members of a GST group if they satisfy the regulatory requirements (which were being finalised at the time of preparation of this fact sheet). In the meantime, information is available from the business Tax Reform Infoline on **13 24 78**.

### **WHAT IS THE EFFECT?**

GST groups are effectively treated as a single entity. Transactions between group members are not treated as taxable supplies, so no GST is payable and no input tax

credits can be claimed on these transactions.

One entity, known as the “representative member”, manages the GST affairs of the group and is responsible for lodging a collective Business Activity Statement.

When members make supplies or acquisitions outside the group, the representative member is responsible for all GST payable and is entitled to all input tax credits on those transactions.

If a GST group member makes a taxable importation, and the GST is payable at the time customs duty is paid, the group member will be liable to pay any GST on that importation. Otherwise, the representative member will pay the GST on the importation. In both cases, if the importation is a creditable importation, the representative member will be eligible to claim any input tax credits from the Tax Office.

While the representative member is responsible for paying GST, the members of a GST group are jointly and severally liable to pay any amount payable by the representative member under the GST law.

### **ARE GST GROUPS SIMILAR TO BRANCHES?**

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No. GST branches may be formed if an entity wishes to register its branches as separate entities for GST purposes. GST is payable on transactions between GST branches. GST groups and GST branches are formed for completely different reasons.

### **ARE THERE SPECIAL ACCOUNTING REQUIREMENTS FOR GST GROUPS?**

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The GST law contains a number of requirements related to an entity’s annual turnover.

For example, when annual turnover exceeds certain threshold amounts, an entity may be required to account on a non-cash basis or adopt a specific tax period.

When a GST group is formed, these thresholds apply to the group as a whole, and it is the responsibility of the representative member to consider how the threshold requirements apply to the group.

The representative member of a GST group:

- Must lodge a collective Business Activity Statement on behalf of the GST group
- May apply to the Commissioner of Taxation (the Commissioner) when an entity wishes to join the GST group
- May apply to the Commissioner to remove members
- May apply to the Commissioner to approve another member as the representative member
- May apply to the Commissioner for revocation of the approval of the group as a GST group
- Must notify the Commissioner when a member does not meet membership requirements, and
- Must notify the Commissioner when group registration should be cancelled.

### **HOW DO YOU APPLY?**

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When two or more entities wish to form a GST group, they must make a joint application to the Commissioner. The entities must nominate entity to be the representative member who must be an Australian resident for taxation purposes. Other members do not need to be Australian residents for tax purposes. If you want to register for a GST group or obtain an application form, call the Tax Office on **13 24 78**.