

# EXPOSURE-DRAFT

1 Inserts for  
2 **Refunding excess GST**

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EXPOSURE DRAFT
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5 **Commencement information**

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details

- 6
- |                |   |  |
|----------------|---|--|
| 1.             |   |  |
| 2. Schedule ?? | The day this Act receives the Royal Assent. |  |
| 3.             |   |  |
- 7

## **Schedule ??—Refunding excess GST**

### *A New Tax System (Goods and Services Tax) Act 1999*

#### **1 Subsection 17-5(1) (note)**

9 Repeal the note, substitute:

10 Note 1: For the basic rules on what is attributable to a particular period, see  
11 Division 29.

12 Note 2: For further rules if you have excess GST for the period, see  
13 Division 36.

#### **2 Subsection 35-5(1) (note 1)**

14 Omit “, and section 105-65 in Schedule 1 to,”.

#### **3 Section 35-99 (note)**

16 Repeal the note.

#### **4 At the end of Part 2-7**

17 Add:

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## 1 Division 36—Excess GST

### 2 36-1 What this Division is about

3 Amounts of any excess GST you have will usually not be refunded  
4 if you have passed on those amounts.

### 5 36-5 Working out if your excess GST can be refunded

- 6 (1) This section applies if, apart from subsection (2), your \*assessed  
7 net amount for a tax period takes into account an amount of GST  
8 that exceeds what is payable.

9 Note: This section applies whether or not you have paid, or been refunded,  
10 the assessed net amount.

11 Example 1: Storm Co reports a negative net amount of \$4,000 made up of GST of  
12 \$10,000 less input tax credits of \$14,000. In fact, Storm Co's GST  
13 should have been \$8,000 making its negative net amount \$6,000.  
14 Storm Co has excess GST of \$2,000.

15 Example 2: Snow Enterprises reports and pays a net amount of \$2,400 made up of  
16 GST of \$3,200 less input tax credits of \$800. In fact, Snow  
17 Enterprises has incorrectly included an amount of \$400 for a supply  
18 that should have been treated as GST-free, making its net amount  
19 \$2,000. Snow Enterprises has excess GST of \$400.

- 20 (2) For the purposes of this Act, the excess GST is taken to have  
21 always been payable except for:  
22 (a) so much of the excess GST as you have not passed on to any  
23 other entity; and  
24 (b) if:  
25 (i) you have passed on some or all of the excess GST to  
26 another entity; and  
27 (ii) that entity is neither \*registered nor \*required to be  
28 registered;  
29 so much of that passed-on amount for which that entity has  
30 been reimbursed.

31 Note 1: Only excess GST covered by paragraph (a) or (b) can be considered  
32 for working out a refund under section 155-75 in Schedule 1 to the  
33 *Taxation Administration Act 1953*.

34 Note 2: If the excess GST has been passed on to a registered entity (or an  
35 entity required to be registered), that entity can treat the excess GST as  
36 being payable for working out the amount of its input tax credits under  
37 section 11-25.

- 38 (3) For the purposes of subsection (2):
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- 1 (a) some or all of the excess GST may pass on to another entity  
2 even if:  
3 (i) a \*tax invoice is not issued to or by that other entity; or  
4 (ii) a tax invoice issued to or by that other entity relates to  
5 that excess GST, but does not contain enough  
6 information to enable that excess GST to be clearly  
7 ascertained; and  
8 (b) if:  
9 (i) a tax invoice is issued to or by another entity; and  
10 (ii) it contains enough information to enable some or all of  
11 the excess GST to be clearly ascertained;  
12 the tax invoice is prima facie evidence of that part of the  
13 excess GST having passed on to that other entity.

## 14 **5 Section 51-60 (note 1)**

15 Omit “, and section 105-65 in Schedule 1 to,”.

## 16 **6 Section 54-65 (note 1)**

17 Omit “, and section 105-65 in Schedule 1 to,”.

## 18 ***Income Tax Assessment Act 1936***

### 19 **7 Subsection 98A(2) (note)**

20 Omit “, and section 105-65 in Schedule 1 to,”.

### 21 **8 Subsection 98B(4) (note)**

22 Omit “, and section 105-65 in Schedule 1 to,”.

## 23 ***Taxation Administration Act 1953***

### 24 **9 Section 105-65 in Schedule 1**

25 Repeal the section.

### 26 **10 Application of amendments**

27 The amendments made by this Schedule apply in relation to working  
28 out your net amount for a tax period starting on or after 17 August  
29 2012.

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