

GOODS AND SERVICES TAX

GST ON NON-BUSINESS RECEIPTS

- THE BUSINESS TESTS AND**
- EFFECT ON INPUT TAX CLAIMS**



**INLAND REVENUE
AUTHORITY
OF SINGAPORE**

GST ON NON-BUSINESS RECEIPTS - THE BUSINESS TESTS AND EFFECT ON INPUT TAX CLAIMS

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GST ON NON-BUSINESS RECEIPTS - THE BUSINESS TESTS AND EFFECT ON INPUT TAX CLAIMS

1 INTRODUCTION

1.1 GST is chargeable on any taxable supply¹ of goods or services made in Singapore by a taxable person² in the course or furtherance of any business carried on by him.

1.2 This tax guide clarifies:

- (a) The business tests that could be used for determining what constitutes the carrying on of a business for GST purpose;
- (b) The effect of non-business receipts such as outright grants and donations on input tax claims.

2 WHAT CONSTITUTES A BUSINESS BEING CARRIED ON TOWARDS THE MAKING OF TAXABLE SUPPLIES?

2.1 Section 3 of the GST Act defines 'business' to include trade, profession or vocation. It also defines some activities³ to be carrying on a business. However: the statutory definition of business is not exhaustive. Thus, it is common to fall back on principles and tests established through common law for guidance.

2.2 To facilitate the determination of whether there exists a business, particularly where the scenario does not fall easily within the statutory definition; the Comptroller of GST has relied on the common business tests established in common law for guidance. The following paragraphs summarise the tests that may be used.

3 BUSINESS TESTS

3.1 The business tests commonly used are given below.

3.1.1 Whether the person is carrying on activities that amount to a 'serious undertaking earnestly pursued' or a serious occupation not necessarily confined to commercial or profit making undertakings'

1 Taxable supply includes a standard-rated supply (i.e. GST charged at prevailing rate) and a supply that is zero-rated (i.e. GST at 0%), but excludes an exempt supply.

2 A taxable person is one who is required to be registered or is registered for GST (as his annual taxable supplies exceed or is expected to exceed \$1 million in any period of 4 quarters (Le. 12 month period). A taxable person includes an individual: partnership, company, club, association, society, management corporation or non-profit organisation.

3 The following activities are regarded as carrying on of a business under section 3 of the GST Act:

- the provision by a club, association or organisation (for a subscription or other consideration) of the facilities or advantages available to its members;
- the admission of persons to any premises for a consideration;
- anything done in connection with the termination or intended termination of a business;
- disposal of a business as a going concern

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This will exclude activities carried out for pleasure and social enjoyment without consideration and does not prevent activities carried on without profit motive from being a business.

3.1.2 Whether the activities are actively pursued with reasonable and recognisable continuity.

3.1.3 Whether the activities are conducted in a regular manner and measured by the value of supplies made periodically.

This means that supplies should be made regularly and fairly frequently as part of a continuing business activity.

3.1.4 Whether the activities are conducted on sound and recognised business principles.

The activities should have the characteristics of a commercial undertaking with business practices and record keeping.

3.1.5 Whether the person is carrying on activities that are predominantly concerned with the making of taxable supplies to consumers for a consideration.

This means that activities that are not mainly concerned with the making of supplies for a consideration would not be wholly business in nature. For example, activities provided free or at subsidised fees without commercial reasons to benefit the public at large or a segment of the public would not satisfy this test.

3.1.6 Whether the taxable supplies are of a kind that are commonly made by those who seek to profit by them.

An activity is more likely to be regarded as a business activity if others are carrying on the same activity and doing it for a commercial reason.

3.2 The conclusion from these tests will hinge on the facts of each case and the extent to which these tests have been satisfied. In general, a 'business towards making taxable supplies is one that carries on continuously activities that are mainly concerned with making taxable supplies to its customers for a consideration. It should not have objects in the public domain or of political, religious, philanthropic or patriotic nature

3.3 Although a business is generally profit motivated, the absence of profit motive in some instances will not prevent it from being a business engaged in activities of taxable supplies; provided that it has no objects in the public domain or of political, religious, philanthropic or patriotic nature.

4 SOME EXAMPLES OF NON-BUSINESS ACTIVITIES

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- 4.1 It may be helpful to look at activities that may not be considered as business. Some examples of non-business activities are those purely private or personal activities and free activities provided without commercial reasons
- 4.2 Organisations with objects in the public domain or of a political, religious; philanthropic or patriotic nature which receive subscriptions from the general public towards these causes would also not be regarded as being in business in respect of their subscription income (under section 3(3) of the GST Act)⁴. They usually do not confer any other rights or benefits to the subscribers (nothing more than the right to receive copies of financial accounts and reports on their activities, and the right to vote at general meeting). Similarly, activities carried out by them with no consideration (i.e. done freely), benefiting the public or segment of the public: are non-business and fall outside the scope of GST.

5 HOW WOULD THE NON-BUSINESS RECEIPTS (E.G. OUTRIGHT GRANTS AND DONATIONS) AFFECT THE INPUT TAX CLAIMS OF A TAXABLE PERSON?

- 5.1 A claim for input tax incurred is allowed only if the input tax is incurred for a business purpose and is attributable to the taxable supplies made in the course or furtherance of business. There have been instances of confusion as to whether a taxable person who is in receipt of outright grants or donations, would automatically be disallowed input tax claims in proportion to the grants or donations received
- 5.2 The **primary test is 'Whether the taxable person is wholly carrying on a business towards the making of taxable supplies'**. Where the taxable person passes the test of carrying on a business and makes wholly taxable supplies, and the input tax claims are towards making of those taxable supplies, then they are claimable in full.
- 5.3 Where a taxable person is found to be carrying on both business and non-business activities, then only the input tax attributable to the business activities for the making of taxable supplies is claimable. A taxable person carrying on activities which are partly business and partly non-business needs to apportion the input tax under sections 19(4) & 20 of the GST Act, to claim only the portion of input tax applicable to taxable supplies.
- 5.4 Thus; the fact that a taxable person may have received outright grants or donations does not automatically lead to the conclusion that the input tax incurred would have to be apportioned and disallowed.

⁴ Section 3(3) of the GST Act — 'Where a body has objects which are in the public domain and are of a political, religious, philanthropic or patriotic nature, it is not to be treated as carrying on a business only because its members subscribe to it, if a subscription obtains no facility or advantage for the subscriber other than the right to participate in its management or receive reports on its activities.'

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6 SOME EXAMPLES

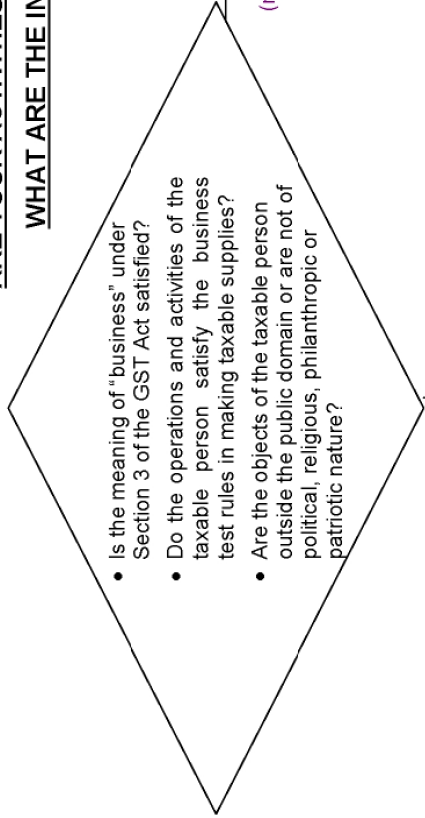
- 6.1 There are organisations that render free and subsidised activities to the public, such as voluntary welfare organisations and charitable organisations. They are often financed largely from outright grants and donations. Such grants and donations, when given freely without expectation that the recipients provide anything in return, do not in themselves attract GST. Such organisations could not be regarded as wholly in 'business towards making of taxable supplies', in the light of their non-business core objects. The provision of free and subsidised activities is usually considered as non-business activities. Thus: on the grounds that some of their activities are non-business activities, the organisations cannot claim the input tax incurred in relation to these non-business activities. Instead, the amount of input tax claimable is based on the proportion of taxable supplies to total supplies and non-business receipts (outright grants & donations).
- 6.2 There are also organisations that receive grant incentives for their qualifying activities. These are generally outright grants because the recipient does not provide anything in return to the grantor for receiving the grants. These organisations can be wholly in the business of making taxable supplies and the expenditures are incurred for the making of taxable supplies. In such instances; the receipt of outright grant is merely a funding arrangement and does not affect the input tax claim on the taxable supplies.
- 6.3 For example; in the case of research companies rendering R&D services to overseas shareholders for a consideration, the input tax on the R&D activities would be claimable on account that the input tax is incurred wholly for taxable supplies for business purposes. This is notwithstanding that their R&D activities have also qualified for grant funding under the incentives schemes administered by public agencies (e.g. EDB). Their input tax entitlement is not affected even if the outright grant funding covers the GST portion.

7 CONCLUSION

- 7.1 When a taxable person makes a taxable supply, GST is chargeable on that supply. Input tax incurred on the taxable supply is claimable.
- 7.2 A taxable person may undertake distinct and separate activities of which some are business and some are non-business. This guide will help you determine which activities are business and which are non-business for GST purpose. Appendix 1 is a summary of the guidance provided above and the input tax implications.

ARE YOUR ACTIVITIES WHOLLY BUSINESS OR NOT?

WHAT ARE THE INPUT TAX IMPLICATIONS?



Yes

(making wholly business activities)

- (1) Input tax incurred for taxable activities (including those funded by non-business receipts, e.g. outright grant incentives): **Claimable**
- (2) Input tax incurred for exempt supplies: **Not claimable**
- (3) Common input tax incurred for both taxable and exempt activities: **To apportion by:**

$$\frac{\text{Common input tax}}{\text{Total supplies} - \text{Incidental exempt supplies}'} \times \text{Taxable supplies}$$

No

(making business and non-business activities)

- (1) Input tax incurred for wholly taxable activities: **Claimable**
- (2) Input tax incurred for wholly non-business activities (e.g. free activities, fund-raising activities to solicit outright donations): **Not claimable**
- (3) Input tax incurred for exempt supplies: **Not claimable**
- (4) Input tax incurred for partly business and partly non-business activities (e.g. subsidised activities): **To apportion and claim only the portion applicable to taxable supplies. Apportionment method is:**

$$\frac{\text{Input tax for subsidised activities}}{\text{Subsidised supplies} + \text{Non-business receipts}^*} \times \text{Taxable supplies}$$
- (5) In situations where there are difficulties in attributing input tax to the various activities, the total GST incurred can be apportioned by:

$$\frac{\text{Total Input tax [excluding disallowed input tax under Regulations 26 and 27]}}{\text{Taxable supplies} + \text{Exempt supplies} - \text{Incidental exempt supplies}'} \times \text{Non-business receipts (e.g. outright donations and grants)}$$