

# **IRAS e-Tax Guide**

## **GST: Guide on Non-Business Receipts – Business Tests and the Effect of Non-Business Receipts on Input Tax Claims**



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## **1 Aim**

- 1.1 This e-Tax Guide<sup>1</sup> clarifies:
- (a) The business tests that can be used to determine what constitutes the carrying on of a business for GST purpose; and
  - (b) The effect of non-business receipts such as outright grants and donations on input tax claims.

## **2 At a glance**

- 2.1 A GST registered person (taxable person) may undertake various activities, some of which are business and some may be non-business in nature. A taxable person is not entitled to claim input tax credits for GST incurred in respect of his non-business activities.

## **3 Background**

- 3.1 A person is eligible for GST registration if he makes or intends to make taxable supplies of goods or services in the course or furtherance of any business carried on by him. He is required to register for GST if the annual value of his taxable supplies exceeds or is expected to exceed \$1 million.
- 3.2 GST is chargeable on any taxable supply of goods or services made in Singapore by a taxable person at the prevailing GST rate for standard-rated supplies and at 0% for zero-rated supplies such as exports of goods and international services.
- 3.3 Section 3 of the GST Act defines 'business' to include trade, profession or vocation. It also provides for some activities<sup>2</sup> to be regarded as the carrying on of a business. However, the statutory definition of business is not exhaustive.
- 3.4 To determine whether there exists a business, particularly where the situation does not appear to fall clearly within the statutory definition, the Comptroller of GST will make reference to the common business

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<sup>1</sup> This e-Tax Guide replaces the IRAS' e-Tax Guide "GST on Non-Business Receipts – The Business Tests and Effect on Input Tax Claims" published on 10 July 2004.

<sup>2</sup> 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.

tests established in common law. The following paragraphs summarise the tests that may be used.

#### **4 Business tests**

4.1 The business tests commonly used as references are given below:

- (a) Whether the activity is a 'serious undertaking earnestly pursued' or 'a serious occupation not necessarily confined to commercial or profit making undertakings'.
  - While this test excludes activities carried out for pleasure and social enjoyment without consideration, it does not prevent activities which are carried on without profit motive from being treated as business activities.
- (b) Whether the activities are actively pursued with reasonable and recognisable continuity.
- (c) Whether the activities are conducted in a regular manner and measured by the value of taxable supplies made periodically.
  - This means that supplies should be made regularly and fairly frequently as part of a continuing business activity.
- (d) Whether the activities are conducted on sound and recognized business principles.
  - The activities should have the characteristics of a commercial undertaking with business practices and record keeping.
- (e) 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 rates without commercial reasons to benefit the public or a segment of the public would not satisfy this test.
- (f) Whether the taxable supplies are of a kind commonly made by those who seek to profit from 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.

4.2 A person need not satisfy all of the above tests to be treated as carrying on a business. When one or more of these tests are satisfied, he may be regarded as carrying on both business and non-business activities. This may be the case if some of his activities are provided free or at subsidised rates to some targeted segment of the public and the rest are provided and charged at open market rates.

## **5 Businesses with partly business and partly non-business activities**

5.1 Non-business activities are those activities that are purely private or personal activities or free activities provided without commercial reasons. Subsidised activities provided without commercial reasons are considered as carried on partly for business and partly for non-business purposes.

5.2 Organisations with objects in the public domain or of a political, religious, philanthropic or patriotic nature may receive subscriptions from the general public towards these causes. However, they will not be regarded as being in business in respect of their subscription receipts, if the subscriptions<sup>3</sup> do not confer any other rights or benefits to the subscribers (i.e. 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 free of charge and benefiting the public or segment of the public are non-business and fall outside the scope of GST.

5.3 Many charities and non-profit organisations charge subsidised fee for the provision of services to the public who benefit from such services. Where such activities are conducted on regular basis and satisfy one or more of the business tests in paragraph 4, there exists a business element in such activities, but the charity or organisation is regarded as not wholly carrying on a business. In other words, it is carrying on partly business and partly non-business activities.

5.4 An example is a church or temple that receives offerings or donations from its members or the public, for which no benefit is conferred to the donors. Such offerings and donations would fall outside the scope of GST. At the same time, it also provides student care and eldercare services at subsidised fees to the public. If GST-registered or

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<sup>3</sup> 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.'

required to be GST-registered<sup>4</sup>, the fees charged to the recipients of its student care and eldercare services attract GST, as the provision of such services is considered to be a taxable supply of services.

- 5.5 Certain public sector bodies such as schools, hospitals, etc may receive grants or donations to enable them to provide services to the public at subsidised fees. They are similarly carrying on both business and non-business activities.

## **6 Receipt of grants and donation and its implication on input tax recovery**

- 6.1 Organisations that render free and subsidised activities to the public, such as voluntary welfare organisations, charitable organisations and certain public sector bodies, are often financed largely from outright grants and donations. Such grants and donations will not attract GST if these are given freely by the donors without expectation of the recipient organisations to provide anything in return.

- 6.2 In the light of their core objects which are in the public domain or of a political, religious, philanthropic or patriotic nature, organisations that receive grants or donations cannot be regarded as being wholly in the business of the making of taxable supplies. If GST registered, they need to attribute the GST incurred on their expenses between their business and non-business activities. Only the portion of GST attributable to the making of taxable supplies can be claimed as their input tax.

- 6.3 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.

- 6.4 Where a taxable person is 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 has to apportion the input tax under sections 19(4) & 20 of the GST Act, and can only claim the portion of input tax applicable to the making of taxable supplies.

- 6.5 The fact that a taxable person receives outright grants or donations does not automatically mean that the input tax incurred will have to be apportioned and disallowed.

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<sup>4</sup> It is required to register for GST if the annual value of its taxable supplies has exceeded or is expected to exceed \$1 million.

## **7 Conclusion**

- 7.1 In summary, a business activity is said to have taken place if it is undertaken continuously with taxable supplies made to other persons for a consideration. Such activities should be conducted in a periodic manner and be continued over a period of time.
- 7.2 For organisations that carry on partly business and partly non-business activities, they can only claim the portion of GST (input tax) attributable to the making of taxable supplies from their business activities. For more details of the input tax apportionment rules for charities and non-profit organisations, please refer to the e-Tax Guide “GST: Guide for Charities and Non-Profit Organisations”.

## **8 Contact information**

- 8.1 For enquiries on this e-Tax Guide, please contact:

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