



INLAND REVENUE  
AUTHORITY  
OF SINGAPORE

# IRAS e-Tax Guide

GST: Transfer of Business as a Going Concern  
and other Excluded Transactions  
(Fourth Edition)



# GST: Transfer of Business as a Going Concern and other Excluded Transactions

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## **1 Aim**

- 1.1 This e-Tax Guide<sup>1</sup> explains and provides examples of transactions that are regarded as neither a supply of goods nor services and hence are not subject to GST.
- 1.2 You should read this guide if you are:
- (a) Transferring your business as a going concern; or
  - (b) Transferring or assigning the title to the goods comprised in a hire purchase agreement when you assign your right to receive payments (as a financier) under the agreement to another financier; or
  - (c) Transferring qualifying income tax deductions to another company belonging to the same group of companies as you.

## **2 At a Glance**

- 2.1 All taxable supplies made by a GST-registered person are subject to GST. However, certain transactions are specifically disregarded as supplies under the Goods and Services Tax (Excluded Transactions) Order and are not subject to GST. These transactions (“excluded transactions”) are:
- (a) The transfer of assets made under an agreement for the transfer of business as a going concern (referred to in this guide as TOGC);
  - (b) The transfer or assignment of title to goods comprised in a hire-purchase agreement; or
  - (c) The transfer of any qualifying deductions under section 37C of the Income Tax Act.
- 2.2 In the case of a TOGC, this guide primarily sets out:
- (a) The conditions for the supply of assets transferred to be treated as an excluded transaction (“TOGC conditions” elaborated under paragraph 4);
  - (b) The GST treatment for the recovery of input tax in relation to a TOGC (paragraph 7);
  - (c) The GST treatment for the repayment of input tax deemed deducted when the transferee (new owner) changes or intends to change the usage of the transferred assets (paragraph 9); and

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<sup>1</sup> This e-Tax guide is a consolidation of two previous e-Tax guides:

- a) GST: “Transfer of business as a going concern” published on 29 Feb 2008.
- b) “Goods and Services Tax Treatment of Transfer for a Consideration of “Qualifying Deductions” allowed under the Income Tax Group Relief System” published on 16 July 2003.

(d) The GST obligations of the transferor (previous owner) and the transferee (paragraph 10).

2.3 A taxable person who transfers or disposes the assets of his business, whether or not for a consideration<sup>2</sup>, will have to account for GST on such transfer or disposal unless he satisfies **all** the TOGC conditions.

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<sup>2</sup> If input tax has been allowed on the assets, the taxable person will have to account for output tax even if the assets are transferred without consideration.

### **3 Glossary**

#### **3.1 Consideration**

Consideration refers to any payment, whether monetary or non-monetary, made in return for goods or services provided. Non-monetary payments would include any benefit in kind that possesses commercial value.

#### **3.2 Excluded transaction**

An excluded transaction is a transaction that is not treated as a supply for GST purposes under the GST (Excluded Transactions) Order.

#### **3.3 Exempt supply**

An exempt supply is a supply that is not subject to GST under the Fourth Schedule to the GST Act. Such supplies comprise the provision of financial services, the sale and lease of residential properties and the supply of investment precious metals (IPM).

#### **3.4 Supply**

A supply refers to anything that is done for a consideration<sup>3</sup>. Hence, the provision of any goods or services (including the grant, assignment or surrender of any right) in return for a consideration is a supply.

#### **3.5 Taxable person**

A person who is or is required to be registered for GST.

#### **3.6 Taxable supply**

A taxable supply is a supply of goods and services made in Singapore or a Seventh Schedule<sup>4</sup> supply, other than an exempt supply.

#### **3.7 TOGC**

An acronym for Transfer Of Business as a Going Concern.

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<sup>3</sup> Section 10(2)(a) of the GST Act provides that “supply” includes “all forms of supply and reverse charge supplies, but not anything done otherwise than for a consideration”. With effect from 1 Jan 2020, business-to-business imported services will be subject to GST by way of a reverse charge mechanism. For more information, please refer to the e-Tax Guide “GST: Taxing Imported Services by way of Reverse Charge”.

<sup>4</sup> This refers to a supply of digital services of a type, and made in the circumstances, described in the Seventh Schedule to the GST Act. With effect from 1 Jan 2020, business-to-consumer imported digital services will be subject to GST by way of an overseas vendor registration regime. For more information, please refer to the e-Tax Guide “GST: Taxing imported services by way of an overseas vendor registration regime”.

## 4 Supply of Assets under a Transfer of Business

4.1 A supply of assets made under an agreement for the transfer of business is treated as an excluded transaction if it satisfies **all** the conditions listed below<sup>5</sup>:

**(a) The supply of assets is made in relation to a transfer of the business (or part of that business) to the transferee.**

A mere transfer of the assets will not qualify as a transfer of business. The transfer must have the effect of putting the transferee in possession of a business<sup>6</sup>. In general, a person is in possession of a “business” if he carries on continuous activities that are mainly concerned with making supplies to his customers for a consideration.

Example: The transferee is generally in possession of a business when he takes over the business assets and liabilities such as goodwill, premises, fixture & fittings, staff, on-going contracts (e.g. tenancy, maintenance) and outstanding debts and taxes.

This condition can still be satisfied even if the transfer of assets to him occurs in phases or on different dates. This is provided that there are valid and genuine commercial reasons for doing so<sup>7</sup>.

Example: The transferee is unable to obtain regulatory clearance on the transfer of product registration license on time to operate the transferred business on the transfer date. Both parties signed an agency agreement with the following terms:

- the transferor is to operate the business as an agent, on behalf of the transferee before the transfer of license is effected;
- the transferor is to cease operating the business immediately after the license is successfully transferred to the transferee;
- the transferor is to keep separate records of the transferred business on behalf of the transferee until the license is transferred.

**(b) The assets to be transferred must be intended for use by the transferee in carrying on the same kind of business as the transferor.**

The transferor is required to verify the transferee’s intention with regard to the use of the transferred assets. The transferee’s intention may be

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<sup>5</sup> Paragraph 2 of the GST (Excluded Transactions) Order

<sup>6</sup> More details on the term “business” can be found in the e-Tax Guide “GST: Guide on Non-Business Receipts – Business Tests and the Effect of Non-Business Receipts on Input Tax Claims”, which is available on [www.iras.gov.sg](http://www.iras.gov.sg) > Quick Links > e-Tax Guides > GST.

<sup>7</sup> The Comptroller will assess each case based on the validity of the commercial reason(s) and strength of all material facts furnished.

indicated in documents such as the business contract or sale and purchase agreement. If such documents are not available, the transferor may request for a written confirmation from the transferee. Where the transferee intends to use the assets to carry out a different kind of business, the transferor must charge GST on the supply of assets.

The Comptroller does not impose a minimum timeframe in which the transferee must continue to operate the transferred business in order to satisfy this condition. This is because the Comptroller understands that this timeframe can vary, depending on the type of business carried on and various economic factors.

The transferee also need not be engaged in the same kind of business as the transferor prior to the transfer.

Example: An electronics company diversifies its business by acquiring a restaurant chain.

- (c) In the case where only part of the business is transferred, that part must be capable of being operated independently.**

It is irrelevant whether the transferee operates the part business together with or separately from his other businesses.

- (d) The business (or part of that business) must be a going concern at the time of the transfer.**

There must not be any closure of the business immediately after the transfer, except for temporary closure necessary to prepare the business for operation under the new ownership.

The business or part business can be a going concern even if it is unprofitable or trading under the control of a judicial manager or receiver.

Example: A company acquires and revives a dying or mismanaged business.

- (e) The transferee must already be a taxable person or immediately becomes a taxable person as a result of the transfer.**

The transferee must be GST registered at the time of transfer or where he is not, he immediately becomes a taxable person as a result of the transfer. The transferee is liable to be GST-registered if the value of his taxable supplies exceeds or is reasonably expected to exceed \$1 million immediately after the transfer. In such an instance, the GST registration of the transferee shall be backdated to the date of the transfer.

- 4.2 Where the transferee belongs to a group of companies that is registered for GST as a group under section 30 of the GST Act<sup>8</sup>, **at least one** of the following conditions must also be satisfied before the transfer of business can qualify as an excluded transaction<sup>9</sup>:
- (a) The members of the group are entitled to input tax credit in full on supplies made to them and importations made by them. When determining the entitlement to input tax credits, the members should also take into account the adjustments mentioned in our e-Tax Guide, “GST: Partially Exempt Traders and Input Tax Recovery;**
  - (b) The assets to be transferred are held by the transferor for more than 3 years; or**
  - (c) The transferor is not entitled to any input tax credit on the assets to be transferred.**
- 4.3 When the supply of assets satisfies the conditions in paragraphs 4.1 and 4.2, the transferor may treat the supply as an excluded transaction without the need to seek approval from the Comptroller. The transferor will not need to charge and account for GST on the excluded transactions.
- 4.4 When the supply of assets fails to qualify as an excluded transaction but is made between members of the same GST group registration (i.e. both transferor and transferee are part of the same GST group), the supply shall still be disregarded under section 30 of the GST Act<sup>10</sup>. In other words, transferor will not need to charge and account for GST on the supply.

## **5 Examples of Excluded Transactions**

### Transfer of a property rental business

- 5.1 Company A is a GST-registered business that owns several non-residential properties. A derives rental income from leasing out these properties. Company B is also a GST-registered business and is not a member of any GST group under section 30 of the GST Act.
- 5.2 A enters into an agreement with B to sell one of its non-residential properties, a commercial building. The terms of the sale and purchase agreement include the following:
- (a) the sale of the building includes existing plant, equipment, fixtures and fittings owned by A;**

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<sup>8</sup> Please refer to the e-Tax Guide “GST: General Guide on Group Registration”, which is available on [www.iras.gov.sg](http://www.iras.gov.sg) > Quick Links > e-Tax Guides > GST, for more information.

<sup>9</sup> Paragraph 3 of the GST (Excluded Transactions) Order

<sup>10</sup> Members under the same GST group registration are treated as a single entity and supplies made between the members are disregarded.

- (b) B undertakes to continue the property leasing business after the transfer;
  - (c) All the units in the property will be transferred to B;
  - (d) the existing occupation agreement (tenancy and license) including rental, fee and security deposits collected will be transferred to B. B will discharge and fulfill all obligations of A under the original tenancy and license agreements;
  - (e) the building maintenance contracts will either be assigned or novated to B. B will take over the deposits (cash and guarantee) and refund the deposits to service providers in accordance to contractual terms;
  - (f) the sale includes works-in-progress such as upgrading of lifts. B will take over the contractual obligations and be responsible for making payment or refunding deposits to the relevant service providers; and
  - (g) B is liable to pay property tax on the property transferred.
- 5.3 By taking over the entire building together with the existing tenancy and licensing agreements, security deposits, building maintenance and works contracts, B is in possession of the property leasing business. As B derives rental income from existing tenancy and licensing agreements after the transfer, B is carrying on the same kind of business as A. Since B is also able to satisfy all other qualifying conditions (e.g. B is GST-registered on the date of transfer), the transfer of property rental business from A to B qualifies as an excluded transaction.
- 5.4 Where the transaction qualifies as an excluded transaction and B is a public-listed Real Estate Investment Trust (S-REIT) or the Special Purpose Vehicle (SPV) of a S-REIT, self-accounting of GST for the property purchase will not apply since no GST is chargeable.

#### Transfer of business operations without transfer of premises

- 5.5 Company C's principal activities are those relating to manufacturing. As part of business restructuring, C intends to transfer its manufacturing operations to related Company D. C retains the ownership of the manufacturing plant and will only derive rental income from the lease of the plant. D will take over all licenses, intellectual properties, customer contracts, supplier contracts, employees and plant and equipment related to the manufacturing operations.
- 5.6 The fact that the business premises are not transferred does not affect D from taking over the business in its entirety. It is not necessary for D to own the manufacturing plant to operate a manufacturing business. As such, the transfer of the manufacturing operations can qualify as an excluded transaction.

### Transfer of assets to a new legal entity

- 5.7 A transfer of business can arise from a pure change of legal constitution of the entity. Law firm E is a GST registered partnership business. E's existing partners decided to convert the partnership business into a limited liability partnership (LLP). On the transfer date, the LLP becomes GST registered, takes over E's assets and liabilities and continues to operate the same business.
- 5.8 The above transfer qualifies as an excluded transaction as **all** the business' assets, operations and processes are passed over and continued in the same manner by a new GST-registered entity.

### Amalgamation

- 5.9 Company F and its related Company G intend to enter into a voluntary amalgamation. Under the amalgamation, F and G would be combined into a single legal entity where F would be the surviving entity and the business of G would be subsumed under F.
- 5.10 Notwithstanding that there is no actual sale of business from G to F, the effect of the amalgamation is that the entire business of G would be transferred as a going concern to F. All assets and liabilities are transferred to F and F would carry on G's business in addition to its existing business.

### Transfer of assets over time

- 5.11 Company H plans to transfer its business to a related company, Company J. The assets of its business are deemed transferred to J as of the business transfer date. However, a few of its customer contracts can only be transferred to J at a later date due to delay in obtaining the customers' consent to novate the contracts. In addition, due to operational reasons, the transfer of employees would take place at a later date.
- 5.12 Nonetheless, the transfer of the contracts and assets are provided for under one agreement and the intention is for J to take over the business from H with effect from the business transfer date. The transfer can still qualify as an excluded transaction.

## **6 Examples of Non-Excluded Transactions**

### Transfer of Shares

- 6.1 Where the shares of a limited company are transferred from one person to another, there is no TOGC as the assets still belong to the limited company (i.e. no change in the ownership of assets).

### Carrying on a Different Business

- 6.2 Company K, a property leasing business sells the retail space that it owns to Company L. Company L intends to use the retail space to expand its fashion retail business. As L is not using the property to carry on the same kind of business as K, the sale does not qualify as a TOGC.

### Consecutive transfers of assets

- 6.3 Companies M, N, O are all taxable persons. M is in the business of property leasing. M sells its properties to N which immediately sub-sells the properties to O. Both sales are completed with the transfer of title to the properties from M to O. The sale of the properties by M to N and then immediately from N to O would not qualify as excluded transactions. As N does not use the properties to carry on the same property leasing business as M, the transfer of properties does not qualify as a TOGC.

## **7 Claiming Input Tax on TOGC Expenses**

- 7.1 The transferor or the transferee can claim input tax for the GST that he incurs on expenses relating to the TOGC (“TOGC expenses”), provided that the expenses are:
- (a) attributable to his taxable supplies or out-of-scope supplies which would be taxable if made in Singapore;
  - (b) supported by valid tax invoices; and
  - (c) are not disallowed under regulations 26 and 27 of the GST (General) Regulations<sup>11</sup>.
- 7.2 Some examples of TOGC expenses are professional fees paid by the transferee to conduct due diligence on the transferred business, and the legal fees paid by the transferor to draft the transfer agreement.

### Transferee

- 7.3 If the transferee acquires assets by way of an excluded transaction and the assets are to be used exclusively to make taxable supplies, the GST incurred on the TOGC expenses can be recovered in full. Conversely, if the assets of the acquired business are to be used exclusively to make exempt supplies, none of the input tax on the expenses attributable to the TOGC can be recovered. If the assets are to be used in making both taxable and exempt supplies, the input tax incurred on the TOGC expenses must be apportioned

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<sup>11</sup> They are namely (a) club subscription fee, (b) medical and accident insurance premium, (c) medical expenses; (d) family benefits, (e) transactions involving betting sweepstakes, lotteries, fruit machines or games of chances; and (f) expenses relating to motor cars.

in accordance with the partial exemption method applicable to the transferee<sup>12</sup>.

### Transferor

- 7.4 If the transferor sells his assets and the transaction qualifies as an excluded transaction, the GST incurred on the TOGC expenses may be treated as the general overheads of the transferor. Accordingly, the input tax on such expenses is claimable as input tax of the transferor, subject to the input tax attribution rules applicable to his business.

## **8 Transitional Issues**

### Purchases in the name of the transferor relating to periods after the transfer

- 8.1 During the transitional period of the business transfer, the transferee may receive tax invoices, import permits or shipping documents that are addressed to the transferor. Administratively, the Comptroller will allow the transferee to claim input tax on these purchases provided all of the following conditions are satisfied:
- (a) The transferor undertakes in writing that he will not claim input tax on the purchases. The transferee will maintain this undertaking from the transferor for record-keeping purposes;
  - (b) The transferee has notified all suppliers of the change in business ownership;
  - (c) The transferee will pay for the purchases and maintain evidence of the payment;
  - (d) The purchases are for the transferee's business and are used or to be used for the making of taxable supplies or out-of-scope supplies (which are taxable if made in Singapore) and are not disallowed under regulations 26 and 27; and
  - (e) The transferee has taken over all rights and liabilities pertaining to the purchases.
- 8.2 The transitional period refers to a period not more than 6 months from the transfer date. For example, if the transfer date was 01 Apr 2019, the transferee may claim input tax on tax invoices issued to the transferor that are dated up till 30 Sep 2019.

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<sup>12</sup> Please refer to the e-Tax Guide "GST: Partially Exempt Traders and Input Tax Recovery", which is available from [www.iras.gov.sg](http://www.iras.gov.sg) > Quick Links > e-Tax Guides > GST, for more information.

## 9 Repayment of Input Tax Deemed Deducted for TOGC

### What is this section about?

9.1 In a TOGC, the transferee is deemed to have incurred and deducted input tax credits on the value of supply of the transferred assets. This section explains the circumstances where the transferee is required to repay to the Comptroller such input tax deemed deducted.

9.2 For the purpose of this section, the following terms are used.

Date of Transfer	:	Date of transfer of assets under TOGC
The Change	:	Refers to the situation where the transferee changes or forms an intention to change the usage of the transferred assets
Date of Change	:	Refers to the date where transferee changes or forms an intention to change the usage of the transferred assets
The 2 <sup>nd</sup> Change	:	Refers to the situation where the transferee subsequently changes or forms an intention to change the usage of the transferred assets after The Change
Date of 2 <sup>nd</sup> Change	:	Refers to the subsequent date where transferee changes or forms an intention to change the usage of the transferred assets after the Date of Change

### When is repayment required?

9.3 Generally, the Comptroller will require repayment of input tax deemed deducted on the assets transferred when<sup>13</sup>:

- (a) There is a distinct change in the activities of the acquired business by the transferee;
- (b) The change in the business activities resulted in a **change in usage of the acquired assets** in any one of the four circumstances below:

<sup>13</sup> Regulation 38 of GST (General) Regulations

No.	Assets transferred are used in carrying on the same kind of business as that carried on by the transferor in making	&	during a period of 5 years after date of transfer of assets, transferee uses or forms an intention to use the assets in making
1	Taxable supplies	to	Exempt supplies
2	Taxable supplies	to	Both taxable and exempt supplies
3	Both taxable and exempt supplies	to	Exempt supplies
4	Both taxable and exempt supplies	to	Both taxable and exempt supplies but the proportion of taxable supplies to exempt supplies reduces

(c) This change occurs within **5 years** after the Date of Transfer.

What is the amount of input tax deemed deducted?

9.4 The input tax deemed deducted is the input tax that would have been incurred had the transfer of assets not qualified as an excluded transaction.

Input tax deemed deducted	=	GST rate at the Date of Transfer	x	Value of assets transferred as at date of transfer
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What is the amount to be repaid?

9.5 The amount of input tax to be repaid to the Comptroller should be derived using the formula below:

Input tax to be repaid	=	Input tax deemed deducted	x	Change in ratio of taxable supplies to total supplies <sup>14</sup>	x	$\frac{\text{Remaining number of accounting periods}}{\text{Total number of accounting periods in 5 years}}$
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<sup>14</sup> The value of relevant supplies received from the transferee's supplier that are subject to customer accounting, imported services that are subject to reverse charge and supplies of digital services made on behalf of underlying suppliers through the transferee's marketplace under the overseas vendor registration regime, if any, should not be taken into account as taxable supplies and total supplies for the purpose of the computation.

Component	Description			
Change in ratio of taxable supplies to total supplies	<p><u>For 1<sup>st</sup> adjustment</u></p> <table border="1" style="margin-left: 20px;"> <tr> <td style="text-align: center;">1</td> <td style="text-align: center;">–</td> <td style="text-align: center;">Ratio of taxable supplies to total supplies in the accounting period in which The Change occurs</td> </tr> </table>	1	–	Ratio of taxable supplies to total supplies in the accounting period in which The Change occurs
	1	–	Ratio of taxable supplies to total supplies in the accounting period in which The Change occurs	
<p><u>For subsequent adjustments</u></p> <table border="1" style="margin-left: 20px;"> <tr> <td style="text-align: center;">Ratio of taxable supplies to total supplies in the accounting period in which The Change occurs</td> <td style="text-align: center;">–</td> <td style="text-align: center;">Ratio of taxable supplies to total supplies in the accounting period in which The 2<sup>nd</sup> Change occurs</td> </tr> </table>	Ratio of taxable supplies to total supplies in the accounting period in which The Change occurs	–	Ratio of taxable supplies to total supplies in the accounting period in which The 2 <sup>nd</sup> Change occurs	
Ratio of taxable supplies to total supplies in the accounting period in which The Change occurs	–	Ratio of taxable supplies to total supplies in the accounting period in which The 2 <sup>nd</sup> Change occurs		
Remaining number of accounting periods	<p><u>For 1<sup>st</sup> adjustment</u></p> <p>Total number of accounting periods in 5 years less number of accounting periods from the Date of Transfer to the Date of Change (Inclusive of both dates).</p>			
	<p><u>For subsequent adjustments</u></p> <p>Total number of accounting periods in 5 years less number of accounting periods from the Date of Transfer to the Date of 2<sup>nd</sup> Change (Inclusive of both dates).</p>			

How should repayment be made?

- 9.6 The transferee should repay the input tax in the accounting period in which the change in use of the asset occurs or when the intention is formed. The amount to be repaid should be deducted from Box 7 (Input tax and refund claims) of the GST return.
- 9.7 An example of repayment of input tax deemed deducted is provided in Annex A.

When is repayment NOT required?

- 9.8 Repayment of input tax is not required when the reduction in the proportion of taxable supplies to exempt supplies is due to normal fluctuation of business transactions.
- 9.9 However, where such reduction in the proportion of taxable supplies to exempt supplies is not due to normal fluctuation of business, repayment of input tax will be required as explained in paragraph 9.3 above.

## 10 Record-Keeping

- 10.1 Under section 46 of the GST Act, GST-registered persons are required to keep their business records for 5 years from the end of the prescribed accounting period.
- 10.2 In the case of a TOGC, both the transferor and transferee must maintain proper records on the transferred assets. Records to be kept should include information on the assets' description and value. Both parties must also be able to reconcile the difference (if any) in the value of the transferred assets immediately before and after the transfer.
- 10.3 In addition, the transferor is required to hand over to the transferee any records of the transferred business that are required to be kept for GST purposes. The transferee takes over the obligation to keep and preserve business records on the date of transfer of business.
- 10.4 If the transferor wishes to retain records of the transferred business, he is required to seek approval from the Comptroller under section 34(b) of the GST Act. Generally, the Comptroller is prepared to waive the transferee's requirement to maintain records and allow the transferor to maintain the records instead if:
- (a) It involves a partial transfer of business. The transferor needs the records to fulfil other regulatory requirements, such as filing income tax returns;
  - (b) It involves a partial transfer of business. The transferor has difficulties segregating the records, as the records relate to both the transferred business and the transferor's remaining business; or
  - (c) The transferor is involved in a legal suit and records are required to be admitted as evidence in court.
- 10.5 The transferor is required to write to the Comptroller to seek approval. The written request must contain a brief description of the transfer and the reason(s) for wanting to maintain the records. In addition, both the transferor and transferee must jointly undertake<sup>15</sup> to do the following:
- (i) Upon request by the Comptroller, the transferee will obtain any information and make available any business and accounting records from the transferor that relate to the transferred business;
  - (ii) The transferor will make available to the transferee all records or information that relate to the transferred business, so as to enable the transferee to comply with subparagraph (i) above;

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<sup>15</sup> The principal officers of transferor and transferee are required to sign the joint undertaking.

- (iii) The transferor will preserve all relevant business records and adhere to any other statutory duties provided under Section 46 of the GST Act; and
- (iv) The transferor will notify the Comptroller of its intention to cease its remaining businesses, within 30 days from the date such an intention is formed, and hand over to the transferee all records in its possession that relate to the transferred business.

10.6 The transferor must provide a copy of the joint undertaking each to the Comptroller upon his request and the transferee for retention.

## **11 Other Excluded Transactions: Transfer of Title to Goods in Hire-purchase Agreement**

11.1 In a hire purchase agreement, a financier makes two supplies:

- (a) A taxable supply of goods to the customer; and
- (b) An exempt supply of services from the provision of instalment credit facility

11.2 After concluding the hire-purchase transaction with his customer, the financier may transfer his rights under the hire-purchase agreement to another financier to continue providing financing to the customer. The title of the goods under the hire-purchase will then be transferred to the second financier.

11.3 As the supply of goods had already been made by the first financier to the hirer at the onset, the subsequent transfer of the goods by the first financier to the second financier is treated as neither a supply of goods nor a supply of services. Hence, GST is not chargeable on the transfer.

## **12 Other Excluded Transactions: Transfer of Qualifying Income Tax Deductions**

### Background on section 37C of the Income Tax Act

12.1 For income tax purposes, with effect from the year of assessment (“YA”) 2003, a company (“transferor company”) belonging to a group may transfer any “qualifying deductions” to another company (“claimant company”) of the same group. “Qualifying deductions” under section 37C(14) of the Income Tax Act (“ITA”) refers to the current year unabsorbed capital allowances, current year unabsorbed trade losses and current year unabsorbed donations that may be transferred to be deducted against the assessable income of the claimant company under the income tax group relief system (“group relief system”)<sup>16</sup>.

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<sup>16</sup> Please refer to the e-Tax Guide, “Group Relief System”, which is available from [www.iras.gov.sg](http://www.iras.gov.sg) >

### General GST treatment of transfer of qualifying deduction

- 12.2 The “qualifying deductions” are assets of the transferor company. These assets have a value as the “qualifying deductions” may be carried forward and used to be deducted against future profits of the company for income tax purposes. With the implementation of the group relief system, the “qualifying deductions” would still be of value when they are transferred out to another company in the same group for a consideration, to be used by the claimant company as a deduction against its own taxable profits.
- 12.3 Thus, the transfer of “qualifying deductions” is no different from the transfer of any other business asset for a consideration. In other words, the transfer of “qualifying deductions” in return for consideration would constitute a taxable supply of services under section 10(2)(b) of the GST Act<sup>17</sup>.

### “Qualifying Deductions” to be treated as excluded transactions

- 12.4 In order not to negate the original intended benefits of the group relief system, which is to encourage risk taking and enterprise, the transfer of “qualifying deductions” under the group relief system has been classified as an excluded transaction. This treatment will apply to transfers of “qualifying deductions” made from the effective date of the group relief system.
- 12.5 Where the claimant company supplies services to the transferor company in return for the transfer of “qualifying deductions”, the transferor company need not account for GST on the transfer. Although the transferor company receives consideration from the claimant company in the form of the services supplied by the latter, as the transfer qualifies as an excluded transaction, no GST is chargeable. However, the claimant company (if it is GST registered) would have to account for GST on its supply of services as it has received non-monetary consideration in the form of the “qualifying deductions”.

### Input tax claim in respect of transfer of “qualifying deductions”

- 12.6 Where the claimant company is a GST-registered person and incurs input tax for the purpose of acquiring the “qualifying deductions”<sup>18</sup>, it will not be able to claim the input tax. This is because the “qualifying deductions” are not used to make taxable supplies subsequently.

## **13 Other Excluded Transactions: Issue of Carbon Credits**

- 13.1 Under the Carbon Pricing Act which came into operation on 1 Jan 2019, a carbon tax will be imposed on a business whose emission of greenhouse

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Quick Links > e-Tax Guides > GST, for more information.

<sup>17</sup> Section 10(2)(b) of the GST Act provides that anything which is not a supply of goods but is done for a consideration (including, if so done, the granting, assignment or surrender of any right) is a supply of services.

<sup>18</sup> For example, input tax incurred in respect of consultancy or accounting services for the purposes of acquiring the “qualifying deductions”.

gases (GHG) over a period of time has exceeded a stipulated emission threshold. The business will be required to purchase carbon credits from the National Environment Agency (NEA) to cover its carbon tax liability.

- 13.2 As the purpose of the carbon credits is to control emissions in Singapore by discouraging businesses from emitting GHG at their current levels, and to align the GST treatment with other non-taxable Government supplies<sup>19</sup>, the issue of carbon credits by NEA has been treated as an excluded transaction for which GST is not chargeable.

## **14 Frequently Asked Questions**

### **14.1 Can I collect GST on an excluded transaction?**

An excluded transaction is neither a supply of goods nor a supply of services. Hence, it is not subject to GST. If your transaction qualifies as an excluded transaction, you cannot collect GST on the transaction.

### **14.2 Do I need to issue a tax invoice for an excluded transaction?**

You need not issue a tax invoice for an excluded transaction. Instead, you may issue other forms of billing documents (e.g. commercial invoice). However, if you choose to issue a tax invoice for your excluded transaction, you need to indicate that the transaction is neither a supply of goods nor services for GST purposes.

### **14.3 Do I need to report the value of my assets transferred under TOGC in my GST return?**

For assets transferred under TOGC, you are not required to report the value in your GST return as the transfer is neither a supply of goods nor services.

### **14.4 I am not GST-registered. When I acquire a business from a GST-registered person, do I have to register for GST as a result of the acquisition?**

If a business was transferred to you, you have to include the taxable turnover of the transferor to determine your liability to register for GST.

For transfers of business taking place before 1 Jan 2019, you are liable to register if the total of your taxable turnover and your transferor's taxable turnover for the quarter of transfer and the past 3 quarters exceeds \$1 million.

For transfers of business taking place on or after 1 Jan 2019, you are liable to register if the total of your taxable turnover and your transferor's taxable turnover is more than \$1 million at the end of the previous calendar year.

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<sup>19</sup> For example, charges under the Electronic Road Pricing system and Certificates of Entitlement.

If you are liable for registration, your date of GST registration will be from the date of transfer. However, if you are certain<sup>20</sup> that your taxable turnover for the next 12 months will not exceed \$1 million, you will not be liable for GST registration.

## **15 Contact Information**

- 15.1 For enquiries on this e-Tax Guide, please contact the Goods and Services Tax Division at [www.iras.gov.sg](http://www.iras.gov.sg) (select “Contact Us”).

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<sup>20</sup> Please refer to the e-Tax Guide, “GST: Do I Need to Register?”, which is available from <http://www.iras.gov.sg>/> Quick Links > e-Tax Guides > GST, for more information.

## 16 Updates and Amendments

	<b>Date of amendment</b>	<b>Amendments made</b>
1	09 Mar 2018	Amended paragraph 13.4 on liability for GST registration.  Amended paragraph 14 on contact information.
2	22 Apr 2019	Inserted a new paragraph 13 on issue of carbon credits.
3	2 Sep 2019	(i) Amended the following to reflect the imposition of GST on imported services: <ul style="list-style-type: none"> <li>• The definition of “Taxable supply” and footnote 3</li> <li>• Inserted footnotes 4, 14 and 21</li> </ul> (ii) Editorial changes

### Annex A - Worked example for repayment of input tax

Company A transferred its general insurance business to Company B on 04 Apr 2016. The only asset transferred was the office building valued at \$1 million on the Date of Transfer. Company B acquired the assets to carry on the same general insurance business carried on by Company A prior to the transfer. Assume that the transfer qualifies as an excluded transaction.

Company B subsequently obtains a life insurance license from MAS on 06 Jun 2019. Company B continues to use the assets to carry on its life insurance business.



<b>Company B's supplies</b>		
<b>Accounting period</b>	<b>1/4/16 – 30/06/16</b>	<b>1/04/19 – 30/6/19</b>
Value of taxable supplies <sup>21</sup>	\$1,500,000	\$ 100,000
Value of exempt supplies	\$ 150,000	\$1,900,000
Value of total supplies	\$1,650,000	\$2,000,000
Proportion of taxable supplies to exempt supplies	10.00	0.05

There is a distinct change in business activities on 06 Jun 2019, which is within 5 years after the date of transfer of the assets on 04 Apr 2016. This change in business activities results in a change in use of assets such that there is a reduction in the proportion of taxable supplies to exempt supplies. Company B is required to repay input tax deemed incurred and deducted on the assets transferred.

The computation of the input tax repayable is computed below.

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<sup>21</sup> The value of relevant supplies received from Company B's supplier that are subject to customer accounting, imported services that are subject to reverse charge and supplies of digital services made on behalf of underlying suppliers through Company B's marketplace under the overseas vendor registration regime, if any, should not be taken into account as taxable supplies and total supplies for the purpose of the computation.

Amount of input tax deemed deducted	$\begin{aligned} & \text{GST rate} \times \text{Value of assets} \\ & = 7\% \times \$1\text{m} \\ & = \$70,000 \end{aligned}$
Change in ratio of taxable supplies to total supplies	$\begin{aligned} & 1 - \text{ratio of taxable supplies to total supplies in the accounting period in which The Change occurs} \\ & = 1 - (100,000/2,000,000) \\ & = 0.95 \end{aligned}$
Remaining number of accounting periods	$\begin{aligned} & \text{Total number of accounting periods in 5 years} - \text{number of accounting periods from the Date of Transfer to the Date of Change (inclusive of both dates)} \\ & = (5 \times 4) - 13 \\ & = 7 \end{aligned}$
Amount of input tax to be repaid	$\begin{aligned} & \text{Input tax to be repaid} = \text{Input tax deemed deducted} \times \text{Change in ratio of taxable supplies to total supplies} \times \frac{\text{Remaining number of accounting periods}}{\text{Total number of accounting periods in 5 years}} \\ & = \$70,000 \times 0.95 \times \frac{7}{20} \\ & = \underline{\underline{\$23,275.00}} \end{aligned}$
How the input tax should be repaid	<p>Company B should deduct the amount of \$23,275.00 from Box 7 (Input tax and refund claims) of the GST return for the period ended 30 Jun 2019.</p>