

# TAX TALKS

Australia's Tax News Podcast - The Podcast for Australian Tax Professionals

*The following information is only of a general nature and should not be taken as professional advice.*

## 78 | Medical Reports and GST

Are medical reports GST-free? Yes if covered by Medicare. Maybe if not.

### Medical Reports and GST

Medical reports live in a world of their own. There is the legislation as it stands. But then the ATO introduces a specific rule just for medical reports.

*All legal references in this article are to the A New Tax System (Goods and Services Tax) Act 1999 – in short GST Act – unless otherwise specified.*

### Supply of Services

A medical report is a supply. But a supply of what? Goods or services? Different rules apply to each, so it is a valid question.

When you buy something to read – be it in hard or soft copy – you buy goods. Examples are paperbacks, hardcovers, glossy magazines or ebooks. But all these are produced en masse for a wide group of readers.

Medical reports aren't. A few copies are prepared for a handful of readers. A lot of clinical testing and assessment goes into the report. So medical reports are a supply of services.

### Exemptions in Subdiv 38-B

There are five types of exemptions in Subdiv 38-B that could apply to medical reports – hospital – aged care – disability – medical services – and less relevant since usually provided by allied health professionals and not medical practitioners – other health services.

So if a medical report is provided in a hospital, aged care or disability setup, the relevant rules are s38-20 to s38-40. All these refer to other health legislation, making the whole thing very complex.

But outside of hospitals, aged care and disability support, there is only one exemption that could apply to medical reports if you disregard other health services. And that is s38-7. Under s38-7 any medical service is GST-free. Any – apart from the exceptions in s38-7 (2)

### Medical Services

So it all depends on the definition of a medical service. And you find this definition in s195-1. There are two ways to qualify as a medical service. The easy way is to be covered by Medicare. Anything covered by Medicare qualifies as a medical service and is hence GST-free. Let's call this test #1.

But if the service is not covered by Medicare, then there is another option. Less straight forward but doable nevertheless. Let's call this test # 2. This tests lists three conditions for a health service to qualify as a medical

service. You probably remember these from article 35.

1 – The service is provided by a medical or approved pathology practitioner or on their behalf. A referral is not good enough.

2 – The service is accepted in the profession as being necessary for the appropriate treatment of the recipient. Since the GST Act doesn't define 'appropriate treatment', you refer to this definition in a [legally binding public ruling](#).

*10. ...'appropriate treatment' will be established where the recognised professional assesses the recipient's state of health and determines a process to pursue, in an attempt to preserve, restore or improve the physical or psychological wellbeing of that recipient ...*

3 – The recipient of the supply is the one receiving treatment or otherwise you need s38-60 to save the day. If a health service would have been GST-free under Subdiv 38-B apart from the issue of supply, then s38-60 fixes this if an insurance, compulsory third party scheme or government agency is the recipient of the supply.

So these are the rules for medical services.

### **Why the ATO doesn't like test #2**

The logical thing would be to now apply these rules to medical reports. You would check whether the report is covered by Medicare or passes test #2. But the ATO doesn't like test #2. And it is easy to see why.

Medical reports usually assess a patient's health and determine a process to preserve, restore or improve the patient's wellbeing. That is what pretty much every medical report is about. You don't discuss the weather or rugby in a medical report. And so medical reports would find it easy to pass test # 2. Most medical reports prepared by medical practitioners would pass. And so the ATO through this one out the window and instead introduced test #3.

So when you determine the GST status of medical reports, you run test #1 or otherwise test #3. Test #2 is no more.

### **Medical Reports**

So to determine the GST status of medical reports, you run test #1. And if the report fails # 1 since not covered by Medicare, you run test # 3.

# 1 Is the medical report covered by Medicare?

# 3 Or otherwise an ordinary and natural part of the performance of a GST-free medical service?

If you can say Yes to either of these, the report is GST-free.

#### **Test # 1**

Always start with this one. Is the report covered by Medicare? Medicare is your get-out-jail card. If Medicare pays for the report, it is GST-free.

There is usually a clear Yes or No answer. Medicare either pays or it doesn't pay. So this is straight forward.

#### **Test # 3**

If Medicare doesn't pay, you go to test # 3 – the one the ATO introduced when it threw test # 2 out of the window.

Is the report an ordinary and natural part of the performance of a GST-free medical service?

That's it. Sounds simple. But the crux is that you now need a GST-free service connected to the report. Writing the report alone is not enough under test # 3. It was under test # 2 but that one is no more. Under test # 3 the report must be part of a GST-free medical service.

Who actually receives the report is not important though. It could be the patient or a third party who directly or indirectly receives the report.

## Examples

Does this make sense so far? Have a look at the following examples to determine the GST status of a medical report.

### Example # 1

A doctor orders some blood tests and upon review identifies a health issue. The doctor writes a report outlining the issue in the current test results and sends the patient with this report to a nearby hospital. If Medicare doesn't pay for the report, it would still be GST-free under test # 3.

### Example # 2

An approved pathology practitioner performs a blood test for an overseas visitor and submits a report to the referring GP. The patient pays for the blood test since not covered by Medicare and is hence the recipient of the supply. The report is GST-free under test # 3 since an ordinary and natural part of the treatment.

### Example # 3

A patient receives treatment for a work injury, which worker's comp pays for. The doctor submits a progress report to workers comp, which they requested and pay for. The report fails both tests and is hence subject to GST.

### Example # 4

A doctor provides a report to a lawyer about a patient's injuries from a car accident. The lawyer pays for the report. The report fails both tests and is hence subject to GST.

## MORE

[Are Allied Health Services GST-Free](#)

[Are Medical Services GST-free](#)

[GST for Psychologists](#)

**Disclaimer:** Tax Talks does not provide financial or tax advice. All information on Tax Talks is of a general nature only and might no longer be up to date or correct. You should seek professional accredited tax and financial advice when considering whether the information is suitable to your or your client's circumstances.

-----

## TAX TALKS

*The information above is for general information only and should not be taken as constituting professional advice from Tax Talks. We are not a financial, legal or tax adviser. You should consider seeking independent legal, financial, taxation or other advice to check how the above information relates to your unique circumstances.*