

TAX TALKS

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When is the export of goods GST-free?

Export of Goods

In this episode of Tax Talks Simon Dorevitch of [A & A Tax Legal Consulting](#) in Melbourne gives you a comprehensive answer to this question. Here is what we learned, but please listen in as Simon explains all this much better than we ever could.

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Connected with the Indirect Tax Zone

The first step is to see whether the supply of goods has a connection with the indirect tax zone. This is usually straight forward.

The supply of goods is connected with the indirect tax zone if the goods are delivered/ made available in or removed from the indirect tax zone. So if the goods are within the indirect tax zone at some stage of the transaction, they have a connection.

Division 38

The next step is to see whether the connected supply is exempt from GST as an export. To find an answer you go to Division 38 of the GST Act.

Subdiv 38-E determines when the export of goods and some other things are treated as GST-free. s38-185 deals with the export of goods while s38-190 deals with the export of things other than goods or real property.

Subdiv 38-K deals with the international transport of goods and passengers while subdivision 38-Q deals with international mail. For global roaming services you refer to subdiv 38-R.

60-Day Limit

The exports of goods is GST-free under s 38-185 if the supplier exports them from Australia within 60 days of receiving any consideration for the supply, or giving an invoice for the supply, whichever is earlier. So 60 days is the line in the sand. The goods must leave the country within 60 days.

GSTR 2002/6 helps to identify the exporter and compliance with the 60-day limit in a practical way. The supplier counts as the exporter of the goods when either the supplier

(a) contracts at their own expense with an international carrier to transport the goods to a destination outside Australia or

(b) is responsible for delivering the goods to the operator of a ship or aircraft to transport those goods to a destination outside Australia.

You treat the supplier as the exporter when the supplier's name appears on the international transportation documentation as the shipper. And they pay for the costs of transportation.

Deemed Export

Pursuant to s 38-185(3), the supplier is treated as the exporter if they supply the goods to an entity that is not registered or required to be registered under the GST, and that entity exports the goods without altering or using the goods. This is provided that the supplier has sufficient evidence to show that the goods were in fact exported.

This is especially relevant when the buyer acquires the goods ex works.

Overseas Flights and Voyages

Item 5 of s 38-185 provides for GST-free supplies on flights and voyages with a destination outside Australia.

Spare Parts

Under item 6 of s 38-185, a supply is GST-free if it is a supply of goods in the course of repairing, renovating, modifying or treating other goods from outside Australia whose destination is outside Australia, but only if the goods are attached to, or become part of, the other goods, or the goods become unusable or worthless as a direct result of being used to repair, renovate, modify or treat the other goods.

Lease

Under s 38-187, a supply of goods is GST-free if it is a supply by way of lease and the goods are used outside of Australia.

Summary

So if there is a connection with the ITZ but an exemption in Div 38 applies, then the export is GST-free.

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