

# EXPOSURE DRAFT

1 Inserts for  
2 **Tax Laws Amendment (2011 Measures**  
3 **No. 2) Bill 2011: exempting taxes, fees**  
4 **and charges from the GST**  
5

<b>EXPOSURE DRAFT</b>
-----------------------

---

6 **Commencement information**

---

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>

---

1. Schedule <i>Exempting taxes fees and charges from GST</i>	The day this Act receives the Royal Assent.	
---	---	--

---

2.

---

3.

---

7  
8

# EXPOSURE DRAFT

---

1  
2 **Schedule ?—GST: payments of taxes, fees and**  
3 **charges**  
4

5 *A New Tax System (Goods and Services Tax) Act 1999*

6 **1 Subparagraph 13-20(2)(ba)(i)**

7 Repeal the subparagraph, substitute:

- 8 (i) is not an amount, the payment of which (or the  
9 discharging of a liability to make a payment of which),  
10 because of Division 81 or regulations made under that  
11 Division, is not treated as a provision of \*consideration;  
12 and

13 Note: Division 81 excludes certain taxes, fees and charges from the  
14 provision of consideration.

15 **2 Division 81**

16 Repeal the Division, substitute:

17 **Division 81—Payments of taxes, fees and charges etc.**

18 **81-1 What this Division is about**

19 GST does not apply to payments of taxes, fees and charges and  
20 other payments that are excluded from the GST by this Division or  
21 by regulations.

22 GST applies to certain taxes, fees and charges prescribed by  
23 regulations.

24 **81-5 Payment of taxes does not constitute consideration**

25 The payment of any \*Australian tax, or the discharging of your  
26 liability to make such a payment:

- 27 (a) is not treated as the provision of \*consideration, to the entity  
28 to which the tax is payable, for a supply that the entity makes  
29 to you unless the regulations provide otherwise; or  
30 (b) is treated as the provision of such consideration if the tax is,  
31 or is of a kind, prescribed by the regulations.

# EXPOSURE DRAFT

---

## 81-10 Certain fees and charges do not constitute consideration

- 1  
2 (1) The payment of any \*Australian fee or charge, or the discharging  
3 of your liability to make such a payment:  
4 (a) is not treated as the provision of \*consideration, to the entity  
5 to which the fee or charge is payable, for a supply that the  
6 entity makes to you, to the extent that:  
7 (i) the fee or charge is of a kind covered by subsection (2)  
8 or (3); and  
9 (ii) the regulations do not provide otherwise; and  
10 (b) is treated as the provision of such consideration to the extent  
11 the fee or charge is, or is of a kind, prescribed by the  
12 regulations.

13 *Fees or charges paid for permissions etc.*

- 14 (2) This subsection covers a fee or charge if the fee or charge:  
15 (a) relates to; or  
16 (b) relates to an application for;  
17 the provision or retention, under an \*Australian law, of a  
18 permission, exemption or licence (however described).

19 *Fees or charges relating to information and record-keeping etc.*

- 20 (3) This subsection covers a fee or charge paid to an \*Australian  
21 government agency if the fee or charge relates to the agency doing  
22 any of the following:  
23 (a) recording information;  
24 (b) copying information;  
25 (c) modifying information;  
26 (d) allowing access to information;  
27 (e) receiving information;  
28 (f) processing information.

## 81-15 Other payments that do not constitute consideration

30 The regulations may provide that the payment of a prescribed  
31 \*Australian fee or charge, or of an Australian fee or charge of a  
32 prescribed kind, or the discharging of a liability to make such a  
33 payment, is not treated as the provision of \*consideration.

# EXPOSURE DRAFT

---

## 1 **81-20 Division has effect despite section 9-15**

2 This Division has effect despite section 9-15 (which is about  
3 consideration).

## 4 **81-25 Date of effect of regulations**

5 Despite subsection 12(2) of the *Legislative Instruments Act 2003*,  
6 regulations made for the purposes of paragraph 81-5(b),  
7 81-10(1)(b) or section 81-15 may be expressed to take effect from  
8 a date before the regulations are registered under that Act.

## 9 **3 Subsection 82-10(3)**

10 Repeal the subsection, substitute:

11 (3) If the other supply constitutes the payment of:

12 (a) an \*Australian tax prescribed by regulations made for the  
13 purposes of paragraph 81-5(b); or

14 (b) an \*Australian fee or charge prescribed by regulations made  
15 for the purposes of paragraph 81-10(1)(b);

16 this section overrides those regulations in relation to the payment.

## 17 **4 Subparagraph 117-5(1)(ba)(i)**

18 Repeal the subparagraph, substitute:

19 (i) is not an amount, the payment of which (or the  
20 discharging of a liability to make a payment of which),  
21 because of Division 81 or regulations made under that  
22 Division, is not treated as a provision of \*consideration;  
23 and

24 Note: Division 81 excludes certain taxes, fees and charges from the  
25 provision of consideration.

## 26 **5 Section 195-1**

27 Insert:

28 *Australian fee or charge* means a fee or charge (however  
29 described), other than an \*Australian tax, imposed under an  
30 \*Australian law and payable to an \*Australian government agency.

## 31 **6 Section 195-1**

32 Insert:

---

# EXPOSURE DRAFT

---

1 *Australian tax* means a tax (however described) imposed under an  
2 \*Australian law.

3 **7 Section 195-1 (definition of *Australian tax, fee or charge*)**

4 Repeal the definition.

5 **8 Section 195-1 (note at the end of the definition of**  
6 ***connected with Australia*)**

7 Omit “sections 81-10 and 96-5”, substitute “section 96-5”.

8 **9 Section 195-1 (note at the end of the definition of**  
9 ***consideration*)**

10 After “81-5,”, insert “81-10, 81-15,”.

11 **10 Section 195-1 (note at the end of the definition of *taxable***  
12 ***supply*)**

13 Omit “81-10,”.

14 ***A New Tax System (Luxury Car Tax) Act 1999***

15 **11 Paragraph 5-20(1)(b)**

16 Omit “\*Australian tax, fee or charge”, substitute “\*Australian tax or  
17 \*Australian fee or charge”.

18 **12 Paragraph 5-20(6)(b)**

19 Omit “\*Australian tax, fee or charge”, substitute “\*Australian tax or  
20 \*Australian fee or charge”.

21 **13 Section 27-1**

22 Insert:

23 *Australian fee or charge* has the meaning given by section 195-1  
24 of the \*GST Act.

25 **14 Section 27-1**

26 Insert:

27 *Australian tax* has the meaning given by section 195-1 of the  
28 \*GST Act.

29 **15 Section 27-1 (definition of *Australian tax, fee or charge*)**

---

# EXPOSURE DRAFT

---

1 Repeal the definition.

## 2 **16 Application**

3 The amendments made by this Schedule apply in relation to:

- 4 (a) payments made on or after 1 July 2011; and  
5 (b) discharges, on or after 1 July 2011, of liability to make  
6 payments.

## 7 **17 Transitional application of existing subordinate** 8 **instruments**

9 (1) This item applies to legislative instruments that:

- 10 (a) were made for the purposes of subsection 81-5(2) of the *A*  
11 *New Tax System (Goods and Services Tax) Act 1999*; and  
12 (b) were in force immediately before the commencement of this  
13 item.

14 (2) Despite the repeal of subsection 81-5(2) of the *A New Tax System*  
15 *(Goods and Services Tax) Act 1999* by item 2 of this Schedule, the  
16 legislative instruments continue to have effect, after the commencement  
17 of this item and before 1 July 2012, as if the repeal had not happened.