



# Application for a GST PRIVATE RULING

(including Luxury Car Tax and Wine Equalisation Tax)

## INSTRUCTIONS

### Definitions

On this form, '**applicant**', '**you**' and '**your**' refer to the individual or any other type of entity (such as a business or organisation) who is applying for the ruling.

If you have authorised someone to apply on your behalf (such as your tax agent or professional advisor), they are referred to as your '**representative**' on this form. A representative must have your written consent to act on your behalf.

The '**net amount**' is the amount either payable by you to the ATO or payable to you by the ATO for a tax period. The net amount includes amounts payable or receivable under the Goods and Services Tax (GST), Luxury Car Tax (LCT) and Wine Equalisation Tax (WET) legislation.

### Applying for a GST private ruling

**You may use this form to request a private ruling from the Australian Taxation Office (ATO) for issues concerning the GST, LCT and WET legislation.**

The ATO can only give a GST private ruling to an applicant about how the GST legislation applies to a clear set of facts.

The ATO will give a GST private ruling in writing.

### Who can apply for a GST private ruling?

Any individual or other type of entity can apply for a GST private ruling, either personally or through their representative.

**Note**—A GST private ruling is a ruling given to a particular entity and cannot be relied on by another entity.

### Completing this form

You do not have to use this form to make a valid application. You can apply in writing to the best of your ability providing all of the information requested on the form. Regardless of whether or not you use this form, the ATO may issue your GST private ruling faster if you provide all the information requested in this form.

Regardless of how an application is made, you should state clearly the questions you want answered and identify the specific issues of your case that you want the ATO to address in answering your questions. You should give a full description of the facts relating to the issues, including the tax period, where relevant. You should provide all details and relevant documents relating to the questions raised as attachments to the application. Naturally, your ability to complete parts of the application will depend on your expertise and the complexity of the issues involved.

If the information you provide to questions on the form is insufficient, a response may be delayed significantly or the ATO may treat the application as invalid and refuse to give a GST private ruling. If you include statements of reasons and draft answers to the questions this will help the ATO to better understand your questions and prepare a quicker response to your application. A full understanding of your requirements and reasons may also help to avoid objections or appeals.

It is ATO practice, where necessary, to phone the applicant or their representative to discuss and clarify issues. Not providing a contact phone number may delay finalisation of the ruling.

The ATO expects tax agents and professional advisors to clearly indicate in applications the issues to be resolved and results of research undertaken with supporting legal argument and references.

Remember, your application should be signed.

If you are a tax agent or professional advisor seeking a ruling on behalf of another person or entity, you should also state that you are authorised by that person or entity to act on their behalf in relation to the GST private ruling application.

### When the ATO will not provide a GST private ruling

The ATO will not give a GST private ruling if:

- You already have a ruling on the issue and the material facts have not changed.
- You are, at the time of the application, subject to an audit relating to the particular question.
- The question relates to a GST reviewable decision.
- The topic is the subject of a formal dispute with the ATO.
- The ATO has decided the matter for the purposes of an assessment.

### Using the GST private ruling

Under the GST law, any written ruling or advice published by the ATO protects taxpayers who have followed the information provided. Whilst you are the only entity allowed to rely on your GST private ruling, you do not have to abide by the ruling if you disagree with the ATO view in your ruling. However, if you do not follow the ruling, you may underpay tax and be subject to a penalty and general interest charge.

Provided you have supplied complete and correct information when applying for the ruling, you may act upon it in the knowledge that, if it is incorrect and is overruled by a later ruling, you will not have to pay the GST underpaid up to the date of the later ruling.

If you rely on a GST ruling that says that the law applies to you in one way and another GST ruling is subsequently issued advising that the law actually applies in a different way, you will not be liable for any more tax than would have been payable under the original GST ruling for the period prior to the alteration.

If you have underpaid a net amount, the amount underpaid will cease to be payable if the underpayment occurred in reliance on a GST ruling. Similarly, an amount overpaid as a GST refund by the ATO, will be taken to have been payable if the overpayment occurred in reliance on a GST ruling.

However, the underpayment will remain payable, or you will be liable to pay the overpaid refund, if the ATO is satisfied that you made a material misstatement of fact or suppressed an important fact causing the first ruling to be given or continued.

If you have an existing GST private ruling and there is a change in the law, you will be protected in respect of what you have done up to the date of that change.



Generally, a GST private ruling will be for three years. However, if you consider that the GST private ruling should cover a shorter or longer period, then you should state this in your application.

If a GST public ruling is issued which conflicts with an earlier GST private ruling then the GST public ruling will prevail.

If a GST private ruling is issued which conflicts with an earlier GST public ruling then the GST private ruling will prevail.

Although there is no provision in the GST legislation requiring the ATO to issue a GST private ruling, the ATO will not refuse a request without good reason. Where it is decided not to give a GST private ruling, the ATO will provide you with reasons for that decision.

### When to apply for a GST private ruling

You do not need to seek confirmation that the terms of a GST public ruling apply to you unless you believe there is some reason why your particular circumstances differ from those outlined in the GST public ruling. However, if you seek such advice, the ATO will give you a GST private ruling clarifying how the GST public ruling applies to you.

You may seek a GST private ruling on how the general anti-avoidance provisions apply to transactions you enter into or arrangements you undertake. In these cases, you should be especially careful to explain all material facts, to set out why you think they do not fall within the specified terms of the provision, including addressing the criteria in section 165-15 of *A New Tax System (Goods and Services Tax) Act 1999*, and to ensure that you implement the arrangement (if approved) as described.

### Withdrawal of GST private rulings

You can request that the ATO withdraw a GST private ruling at any time.

### Review rights

A decision not to issue a ruling is reviewable under the provisions of the *Administrative Decisions (Judicial Review) Act 1977* (ADJR Act).

A GST private ruling cannot be reviewed under the *Taxation Administration Act 1953* (TA Act) as it is not a reviewable decision under subsection 62(2) of the TA Act. Nor can it be reviewed under the ADJR Act.

However, where you carry out a transaction that results in a net amount for a tax period, you can, under section 23 of the TA Act, request the ATO to make an assessment under section 22 of

your net amount for that tax period. Under section 62 of the TA Act, you may object to the making of that assessment in the manner set out in Part IVC of the TA Act.

You can get general taxation advice from phoning or visiting the ATO, the ATO website at [www.taxreform.ato.gov.au](http://www.taxreform.ato.gov.au) and through a wide range of ATO booklets, rulings and determinations. GST public rulings can be viewed on the ATO website by selecting 'Business – including non-profit', then 'Topics and Publications', and scrolling down to 'Goods and Services Tax (GST) rulings'. If dissatisfied with your GST private ruling, you may request the ATO to review it under the Taxpayers' Charter. The Taxpayers' Charter and associated booklets further explain your rights and obligations.

### What happens after I have applied for a GST private ruling?

You should receive an acknowledgement within 14 days of the ATO receiving your application. In certain circumstances, the ATO may acknowledge receipt of an application by e-mail.

The ATO does not provide private rulings via e-mail, because we cannot guarantee the secrecy or privacy of the applicant in transmissions via the Internet. Therefore, GST private rulings will be sent by mail from the ATO. The ATO cannot accept permission from the applicant to transmit a private ruling over the Internet because of the privacy and secrecy requirements under the law.

The ATO will only communicate with the applicant or their authorised representative about the private ruling.

### Publication of private rulings:

The ATO publishes all Notices of Private Ruling as an integrity measure. Publication is on our web site, [www.ato.gov.au](http://www.ato.gov.au).

Your private ruling will be published in an edited form to safeguard your privacy.

When completing this application you are **invited** to provide a statement detailing any information that you believe should be removed from the published version of your private ruling.

If the information that you want removed is **more** than simply names and addresses, you should provide reasons why publication of this information will breach your privacy.

You will have the opportunity to comment on the edited version of your private ruling prior to publication.

## CHECKLIST

### for completing your *Application for a GST Private Ruling*

#### **Before completing your application:**

Read the instructions.

Note the time you start working on your application.

At the end of the application you will be asked to record the time taken to complete your application, including the time taken to do calculations and obtain information.

#### **After completing your application:**

Make sure you have answered all the questions, stated relevant facts and questions you want answered and attached all relevant documents.

Record the time taken to complete your application.

This includes the time taken to do calculations and obtain information.

Sign the declaration.

Please detach Instructions from form before sending to ATO.

**If you have any questions about applying for a GST private ruling phone 132 478**



**7 Is this application being made on your own behalf?**

Yes  If Yes, go to **PART 2 – Personal contact details**

No  If No, go to **PART 3 – Representative details**

## **PART 2 – Personal contact details**

Give your details here, if you do not have a representative applying on your behalf for a GST private ruling.

### **8 Your postal address**


Suburb/Town

State/Territory

Postcode

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### **9 A daytime phone number where you can be contacted**

Area code

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### **10 Your facsimile number**

Area code

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### **11 Your e-mail address**

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**Now go to PART 4 – Information relating to your application**

## **PART 3 – Representative details**

Do not complete this part if you are applying on your own behalf for a GST private ruling.

### **12 Business name of representative?**


### **13 Name of authorised contact person?**

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### **14 Tax Agent Registration Number (if a Tax Agent)**

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### **15 Postal address of representative?**


Suburb/Town

State/Territory

Postcode

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### **16 A daytime phone number where representative can be contacted**

Area code

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### **17 Facsimile number of representative**

Area code

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### **18 E-mail address of representative**

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### **19 Can evidence be supplied (on request) of the applicant's consent to representation?**

Yes

No

## PART 4 – Information relating to your application

**20 Are you carrying on a business, trade or enterprise?**

Yes  If Yes, go to **question 21**

No  If No, go to **question 22**

**21 Which industry or activity best describes the subject of your application for a ruling?**

(Place an  in the appropriate box)

- |  |   |   |   |
|--|---|---|---|
| Leasing or rental of property <input type="checkbox"/>   | Food/Retailing <input type="checkbox"/>               | Media <input type="checkbox"/>                  | Tourism <input type="checkbox"/>                                  |
| Manufacturing, wholesaling, retailing, importing or exporting alcoholic beverages <input type="checkbox"/> | Gambling/Racing <input type="checkbox"/>              | Mining/Energy <input type="checkbox"/>          | Taxis <input type="checkbox"/>                                    |
| Financial suppliers <input type="checkbox"/>   | Health/Pharmaceuticals <input type="checkbox"/>       | Government (any level) <input type="checkbox"/> | Transport <input type="checkbox"/>                                |
| Charity/Non-profit <input type="checkbox"/>  | Retirement villages <input type="checkbox"/>          | Primary production <input type="checkbox"/>     | Wholesaling and/or retailing luxury cars <input type="checkbox"/> |
| Education <input type="checkbox"/>   | Imports and exports of goods <input type="checkbox"/> | Property/Construction <input type="checkbox"/>  | Conservation <input type="checkbox"/>                             |
| e-Commerce <input type="checkbox"/>  | General insurance <input type="checkbox"/>            | Telecommunications <input type="checkbox"/>     | Sports/Entertainment <input type="checkbox"/>                     |

Other (provide brief description)

**22 What is the main question or issue that you want the proposed GST private ruling to answer?**

(provide brief description)


**23 What is your own reference for this application (if you have one)?**

**24 Please provide the following information as attachments to the back of this form.**

**(a) Questions to be answered**

State the questions you want answered, including identification of the specific issues of your case that you want the ATO to address in answering your questions. You should give a full description of the facts relating to the issues in your ruling application including the tax period, where relevant. Failure to state all of the relevant facts may mean that you cannot rely on the ruling, or the ruling may be delayed until the ATO obtains the information from you.

**(b) Other documents**

Please attach any other documents which relate to your application (such as contracts, agreements, etc).

**(c) Opinion with reasons**

If you are a professional representative, you should give a full description of the issues and arguments the ATO should consider. You should also give an analysis of any references quoted. Please state why you need a GST private ruling on the questions you have raised.

**(d) References**

If you are a professional representative, please include details of any relevant taxation laws, rulings, determinations and case law which relate to the questions you have raised.

**25 Is there any information (other than details given at Parts 1 to 3 of this form) that you believe should be removed from the published version of your private ruling?**

Yes  If Yes, please provide details of the information and the reasons why publication of this information will breach your privacy.

No


**Attach all documents to the back of this form**

## PART 5 – Other questions that may be relevant to the application

**26 Have you previously received, or are you aware of any private rulings given to anyone else, on any questions or issues which are similar to those sought in this application?**

No  If No, go to **question 27**

Yes  If Yes, please advise (to the extent that you are able) the date(s) of the other ruling(s), any ATO reference(s) quoted on the ruling(s) and the branch(es) of the ATO it/they issued from:

Date of ATO ruling	<input type="text"/> / <input type="text"/> / <input type="text"/>	<input type="text"/> / <input type="text"/> / <input type="text"/>
ATO reference	<input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>
Branch of ATO that issued ruling	<input type="text"/>	<input type="text"/>

**27 Are you currently subject to an audit by the ATO or been notified of a proposed audit or engaged in a dispute (for example an objection) which relates to any of the questions raised in this application?**

No  If No, go to **question 28**

Yes  If Yes, please advise which ATO office is managing the audit or dispute and the relevant ATO reference:

ATO branch	<input type="text"/>	ATO reference	<input type="text"/>	<input type="text"/>
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**28 Have you previously sought advice from the ATO on any questions or issues which are similar to those sought in this application?**

No  If No, go to **question 29**

Yes  If Yes, please give details from which ATO office any advice was sought and the relevant ATO reference:

ATO branch	<input type="text"/>	ATO reference	<input type="text"/>	<input type="text"/>
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**29 Have you attached relevant documents to this application if so how many pages?**

No. of pages

**Before signing, please make sure you have answered all the questions, stated relevant facts and questions to be answered and attached all relevant documents.**

## Declaration

*I declare that the information given on this application is accurate and complete.*

Signature of applicant or representative

Date

 /  / 

Name of signatory

  

**Penalties may be imposed for giving false or misleading information.**

We estimate this application should take you 30 minutes to complete.  
If it took more or less, please provide the time taken here.

minutes

**You may send your application by:**

by mail 	by fax 
PO Box 9935 in your Capital City	1300 139 031

**If you have any questions about applying for a GST private ruling phone 132 478**