

**GOODS AND SERVICES TAX ACT**  
**(CHAPTER 117A, SECTIONS 10 (3) AND 86 (1))**

**GOODS AND SERVICES TAX**  
**(EXCLUDED TRANSACTIONS)**  
**ORDER**

**ARRANGEMENT OF PARAGRAPHS**

Paragraph

1. Citation
  2. Excluded transactions
  3. Supplies not to be excluded
  4. Transfer or assignment of title to goods
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[23rd March 1994]

**Citation**

**1.** This Order may be cited as the Goods and Services Tax (Excluded Transactions) Order.

**Excluded transactions**

**2.** Except in the circumstances referred to in paragraph 3, the following supplies by a person of assets of his business shall be treated as neither a supply of goods nor a supply of services:

- (a) the supply to a person to whom he transfers his business as a going concern —
  - (i) where the assets are to be used by the transferee in carrying on the same kind of business, whether or not as part of any existing business, as that carried on by the transferor; and
  - (ii) where, in a case in which the transferor is a taxable person, the transferee is already, or immediately becomes as a result of the transfer, a taxable person; and
- (b) the supply to a person to whom he transfers part of his business as a going concern —
  - (i) where that part is capable of separate operation;

- (ii) where the assets are to be used by the transferee in carrying on the same kind of business, whether or not as part of any existing business, as that carried on by the transferor in relation to that part; and
- (iii) where, in a case in which the transferor is a taxable person, the transferee is already, or immediately becomes as a result of the transfer, a taxable person.

### **Supplies not to be excluded**

#### **3.—(1) Subject to sub-paragraph (2) —**

- (a) where a business, or part of a business, carried on by a taxable person is transferred as a going concern to another taxable person treated as a member of a group under section 30 of the Act; and
- (b) where, on the transfer of the business or part thereof, assets of the business are transferred to that taxable person,

then paragraph 2 shall not apply to the transfer of such assets and accordingly, tax shall be chargeable on the supply in accordance with the Act.

#### **(2) This paragraph shall not apply if —**

- (a) the members of the group are entitled to credit for the whole of the input tax on supplies to them and acquisitions and importations by them —
  - (i) during the prescribed accounting period in which the assets are transferred; and
  - (ii) during any longer period to which regulations under section 20 (4) (b) of the Act relate and in which the assets are transferred;
- (b) the Comptroller is satisfied that the assets were assets of the taxable person transferring them more than 3 years before the day on which they are transferred; or
- (c) the Comptroller is satisfied that the person by whom the asset is transferred has not received any credit for input tax arising on the supply to him or acquisition or importation by him of the asset.

**Transfer or assignment of title to goods**

**4.—**(1) Where a provider of hire-purchase finance transfers or assigns his title to goods comprised in a hire-purchase agreement together with the hire-purchase finance relating to such goods, the transfer or assignment of title shall be treated as neither a supply of goods nor a supply of services.

(2) For the purpose of sub-paragraph (1), “hire-purchase finance” means the instalment credit finance in a hire-purchase agreement.

*[G.N. Nos. S 103/94; S 203/2000]*

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