

## GENERAL ADVICE FROM THE AUSTRALIAN TAX OFFICE ON THE APPLICATION OF GST TO ASSISTIVE TECHNOLOGY, SPARE PARTS AND REPAIR SERVICES

Date: Valid as at 25<sup>th</sup> September 2023

### **GST treatment of medical aids and appliance**

A supply of a medical aid and appliance will be GST-free under subsection 38-45(1) of the GST Act if it is:

- listed in Schedule 3 (medical aids and appliances) of the GST Act or specified in the GST Regulations (go to [A New Tax System \(Goods and Services Tax\) Act 1999 \(legislation.gov.au\)](https://www.legislation.gov.au/australian-legal-system/gst-act-1999))
- specifically designed for people with an illness or disability, and
- not widely used by people without an illness or a disability.

### **Listed in Schedule 3 of the GST Act or specified in the GST Regulations**

Where a product is not covered by Schedule 3 of the GST Act or specified in the GST Regulations, the product cannot be GST-free under paragraph 38-45(1)(a) of the GST Act. We cannot treat a medical aid or appliance as GST-free or give a ruling that a product is GST-free if it is not listed in Schedule 3 of the GST Act or specified in the GST Regulations.

### **Specifically designed**

In determining whether a medical aid or appliance is ‘specifically designed’ for people with an illness or disability, the following factors will be relevant (but are not exhaustive):

- An objective view of the design features and characteristics of the product indicate whether its essential character is that it is specifically designed for people with an illness or disability.
- The designer’s or manufacturer’s intention of how the particular product is to be used. Indicators of the designer’s or manufacturer’s intention include an objective consideration of how the product is marketed and the type of outlets at which the product can be purchased.

### **Not widely used**

In determining whether a medical aid or appliance is ‘not widely used’ by people without an illness or disability, the following factors will be relevant (but are not exhaustive):

- How the wider community used the item and the common purpose for which the item is purchased. However, this does not require the GST treatment of the medical aid or appliance to be determined by the actual use of the time.
- Whether the product is widely sold in retail or other outlets that predominantly sell products to the general public.
- Whether the marketing material for the product emphasises how it enhances the lifestyle of people without an illness or disability.

## **Spare Parts**

Subsection 38-45(2) of the GST Act provides that a spare part is GST-free where it is supplied and specifically designed as a spare part for a medical aid or appliance that would be GST-free under subsection 38-45(1) of the GST Act.

A spare part is a part which has been specifically designed to replace a faulty, worn or broken part of a medical aid or appliance. A spare part can also have characteristics that enhance or improve the faulty, worn or broken part.

Where the spare part is generic and not specifically designed as spare parts for that medical aid or appliance, the supply of this part will be taxable. For example, a AAA battery that is used for a GST-free medical aid and appliance is not GST-free because it is a generic battery that is not specifically designed for that GST-free medical aid.

## **Repair services**

The supply of repair services to a GST-free medical aid or appliance is not GST-free. There is no provision under the GST Act that would make this supply GST-free.

However, where a GST-free medical aid or appliance is repaired using a spare part that is specifically designed for the item and that repair service is incidental to the supply of the GST-free spare part, the repairs may also be GST-free.

Incidental refers to something that is integral, ancillary or incidental to a supply that is part of a supply that does not need to be separately recognised for GST purposes.

## **Public advice and guidance on medical aids and appliance**

The Commissioner has provided public advice and guidance on the GST treatment of medical aids and appliances in:

- Goods and Services Tax Industry Issues Pharmaceutical Health Forum:
  - Medical aid or appliance specifically designed for people with an illness or disability ([specifically designed](#))
  - Medical aid or appliance widely used by people without an illness or disability ([widely used](#))
- Goods and Services Tax Determination GSTD 2021/2 *Goods and services tax: adjustable beds, pressure management mattresses and pressure management overlays* ([GSTD 2021/2](#))

- GST issues registers Health Industry Partnership
  - Issue 4 - Medical aids and appliances ([Issue 4](#))
- Medical aids and appliances ([QC 16263](#)), which includes web guidance on:
  - Hiring medical aids and appliances
  - Spare parts
  - Repairs to GST-free medical aids and appliances
  - Supplies of adjustable beds, mattresses and overlays, and
  - Supplies of wound care.

## Private rulings

### About private rulings

- A private ruling gives the entity who sought it protection if they follow the advice in it.
- A private ruling does not give protection to any other member and they would have to consider seeking their own private ruling.
- A private ruling does require a lot more resources to provide all the necessary information to the ATO.
- General advice can have more wider reaching benefits however can be limited in detail and does not provide protection to the members.

For example, if a particular member wanted to understand if their delivery of wheelchairs is a taxable supply or not, the ATP could not provide any further guidance than shown above. If you require the ATO to apply the law to your individual circumstances you need to seek a private ruling.

Where there are specific issues that ATSA's members have on the GST treatment of their supplies, they can apply for a private ruling to be certain about how the tax law applies to their particular circumstances.

The easiest way to apply for a private ruling is to complete a [private ruling application form](#) with all the [information we need](#) and sending it to us through one of our [online portals](#) or via fax or post:

Post	Fax
Australian Taxation Office PO Box 3524 ALBURY NSW 2640	1300 139 031

To assist us in ruling, and in addition to the usual information we need, we would require the following information:

- Which item number the product is listed under in Schedule 3 of the GST Act or in the GST Regulations.

- A detailed description of each product being ruled on and its design features and characteristics (including images of the product and links to their website).
- Details around the manufacturers intention when they designed the product as to how it was to be used and by whom.
- All available marketing material of the product by the supplier and the manufacturer (including links to their websites).
- Details of all the outlets at which the product can be purchased.
- Details about who usually purchases the products.
- Whether there is an agreement between the supplier and recipient not to treat the product as a GST-free supply?

The GST treatment of spare parts, repair services, freight and delivery are possible issues that ATSA's members may seek further clarity on. If the ATO were to consider these issues in a private ruling, they would require the following details:

- For freight and delivery costs:
  - Details around how these services are invoiced to the recipient and how much they charge for the service compared to the cost of the product (including copies of the invoices).
- For spare parts:
  - Details around whether the spare part is specifically designed for a GST-free product or if it is a generic part that has many uses (noting that we may also need to consider whether the product itself is GST-free under subsection 38-45(1) of the GST Act)
- For repair and installation services:
  - detail around how these services are invoiced to the recipient and how much is charged compared to the cost of the product (including copies of the invoices)
  - details as to whether the cost of the repair or installation is invoiced separately or if it is incorporated into the cost of the product?
  - does the repair or installation involve the supply of a GST-free spare part or merely using generic parts to repair the medical aid (noting that we would also need to consider whether the product itself is GST-free under subsection 38-45(1) of the GST Act).