



**The Pharmacy  
Guild of Australia**

Submission in response to:

**Treasury Consultation Paper:**

*Allowing small businesses in a net refund  
position to access the GST instalment system*

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## Introduction

The Pharmacy Guild of Australia (the Guild) is the national peak pharmacy organisation representing community pharmacy. It strives to promote, maintain and support community pharmacies as the most accessible primary providers of health care to the community, through optimum therapeutic use of medicines, medicines management and related health care services.

The Guild welcomes the opportunity to respond to Treasury's consultation regarding a measure to amend the GST law to allow small businesses in a net refund position to access the GST instalment system.

## Background

There are approximately 5,000 community pharmacies operating in Australia. The majority fit the standard definitions of small business. Approximately 85% of sales through community pharmacy relate to products that are GST-free to the consumer, but for which GST is payable by the community pharmacy to suppliers.

Section 38.50 of the A New Tax System (Goods and Services) Tax 1999 (the GST Act) provides that the drugs and medical preparations in the categories listed below are GST-free only when supplied to an individual. All other supplies of these drugs and medical preparations up to that point are taxable supplies for the purpose of the GST Act.

Section 38.50(2)	Drugs and medicinal preparations that are listed in Schedules 2, 3, 4 and 8 of the Standard for the Uniform Scheduling of Medicines and Poisons (SUSMP) <sup>1</sup>
Section 38.50(1)	Pharmaceutical Benefits Scheme (PBS) drugs and medicinal products dispensed on prescription.
Section 38-50(4)	Drugs and medicinal preparations approved under the Repatriation Pharmaceutical Benefits Scheme (RPBS) that are dispensed on prescription.
Section 38-50(5)	Analgesics with a single active ingredient which would be classified under Schedule 2 of the SUSMP if sold in a larger quantity (for example, small packets of paracetamol).

Each pharmacy has to pay the GST on these products and then claim the tax back as an input credit from the Australian Tax Office (the ATO). As a result, unlike other small businesses, pharmacies are always in a negative cash flow situation with regard to GST. To partially ameliorate this problem, community pharmacies lodge monthly Business Activity Statements (BASs) in order to retrieve the money paid out as soon as possible. Although they do this, at any given time the ATO still owes pharmacies about \$50 million. This could be described as a permanent loan to government at the expense of 5,000 small businesses.

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<sup>1</sup> Schedule 2 of the SUSMP contains Pharmacy Only medicines, Schedule 3 contains Pharmacist Only medicines, Schedule 4 contains Prescription Only medicines and Schedule 8 contains Controlled Drugs which have a high potential for abuse or addiction.

The financial effect of the negative cash flow is compounded by the compliance burden imposed by the GST through the practical need for community pharmacies to lodge three times more BASs than other small businesses.

## **2011-12 Commonwealth Budget Decision**

The Guild does not oppose the 2011-12 Budget decision to extend the current GST instalment system to allow access to small businesses that are in a net refund position. However, it is important to point out that this measure does nothing to resolve the problem that exists for community pharmacies.

The Budget decision allows small businesses that are in a net refund position to choose to lodge only one BAS each year. An average sized pharmacy current chooses to lodge their Business Activity Statement (BAS) monthly so that their GST cash flow deficit can be kept to around \$10,000 (representing the difference between GST paid and GST collected in an average month). The current alternative would be to lodge their BAS only once every three months, as most other small businesses do, however this would increase their cash flow deficit to \$30,000. Most pharmacies have decided that they cannot afford to submit their BAS less frequently than monthly, even though their compliance burden is increased significantly by lodging monthly.

The basis for this decision is that the compliance costs of submitting nine extra BAS per year are not as high as the financial cost associated with an extra \$20,000 cash flow deficit. It is highly unlikely that any pharmacy will consider that submitting 11 less BAS per year will be worth increasing their cash flow deficit from \$10,000 to \$120,000.

The figures above are based on a pharmacy with an average turnover. Pharmacies with higher turnover would be even less likely to consider using the GST instalment system in the manner proposed. It is unlikely that any pharmacy, of any size, would decide that extending credit to the ATO for 12 months would be favourable to their current situation.

## **Alternative model**

The current GST model for scheduled pharmaceuticals is inefficient and without purpose. It is time that it was revised, particularly when the system is causing extra work for both pharmacy and the ATO.

The regulatory burden imposed by the current model in pharmacy means that resources are directed away from more productive functions of pharmacy such as looking after the health of the community.

It is important to note that a person can only be supplied with drugs and medicinal preparations sold under Schedules 2, 3, 4 and 8 of the the Standard for the Uniform Scheduling of Medicines

and Poisons (SUSMP) – which are all GST-free to the consumer under Section 38-50(2) of the GST Act - if they are supplied from a pharmacy that is licenced under State and Territory law, or by a limited range of other health professionals who are also subject to professional registration and regulation. For this reason, these schedules are referred to as Pharmacy Medicines (Schedule 2), Pharmacist Only Medicines (Schedule 3), Prescription Only Medicines (Schedule 4) and Controlled Drugs (Schedule 8), and the products are labelled as such by the manufacturer.

The Guild can see no downside for the Government in changing the arrangements for the handling of GST-free products in pharmacies so that community pharmacies are no longer disadvantaged compared to other small businesses.

Some products sold through community pharmacy are already GST-free throughout the supply chain. These include:

- sunscreens, folate, condoms and lubricants, under Section 38.47 of the GST Act;
- medical aids and appliances (sale and hire), under Section 38.45 of the GST Act; and
- GST-free food items (under Section 38.2 of the GST Act).

These precedents have been in place since the introduction of the GST. No valid reasons have been presented as to why the above categories of product are treated in this way while Pharmacy Medicines, Pharmacist Only Medicines, Prescription Medicines and Controlled Drugs are GST-free only at the point of supply to the consumer.

The Guild's view is that Sections 38.50(2) and 38.50(7) of the GST Act should be amended such that any supply of a drug or medicinal preparation that is restricted for sale based on the SUSMP should be GST-free at any point in the supply chain. This would encompass Pharmacy Only medicines, Pharmacist Only medicines, Prescription Only medicines and Controlled Drugs. This simple amendment would remove the inequity, compliance burden, financial cost and inefficiency that exist with the current arrangement.

## Responses to Focus Questions

The Consultation Paper asks four focus questions. The Guild's response to these questions is as follows.

*Q1: Would the proposed changes to the law described above be the most effective way to implement the proposal? Is there a more effective way of achieving the intended policy outcome?*

The Guild considers that the intended policy outcome is to reduce compliance costs associated with the GST for those small businesses that are in a net refund position. From a community pharmacy perspective, the proposed changes do not address compliance cost issues as the option of using the instalment system (with a zero instalment amount) will not be used.

*Q2: Could the above amendments give rise to any unintended consequences?*

No. While the amendments will not assist community pharmacies or any other small businesses that are in a consistently large net refund position, there are no other consequences that the Guild is aware of.

*Q3: How would this proposed amendment best be communicated within the community?*

The Guild would suggest that this amendment be communicated only to groups for which the GST instalment system is viewed to be a practical option. As this is not the case for community pharmacy, to avoid confusion the Guild would prefer that the amendments are not communicated directly to its members.

*Q4: Are there any further consequential amendments required?*

The Guild is not aware of any further consequential amendments that may be required.