

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

2017 - 2018

Division/Agency: Australian Taxation Office
Question No: 133
Topic: GST Classification
Reference: Hansard page 57-59 (30 May 2017)
Senator: Dastyari, Sam

Question:

In relation to GST exemption:

- a) Are tampons listed specifically in the legislation?
- b) Are condoms listed specifically in the legislation?

For issues and items that are not specified as GST-exempt, where calculations need to be made about whether something is a luxury item, a food item or a hygiene item:

- a) what standard processes are in place for the ATO to make these considerations; and
- b) how does the ATO consider items that align with more than one category?

Answer:

- 1a. No.
- 1b. Condoms are not specifically mentioned in the *A New Tax System (Goods and Services Tax) Act 1999* (the Act). The Minister for Health declared condoms to be GST-free by way of determination for the purposes of section 38-47 of the Act.
- 2. Division 38 of the Act sets out which supplies are GST-free.

The Act does not require a consideration of whether something is a basic, luxury or hygiene item in deciding whether the supply is GST-free.

Under the general rule in section 9-5 of the Act, if a GST registered entity makes supplies in Australia in the course of its business in return for payment of some kind, those supplies will be taxable unless they are GST-free or input taxed.