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Legal **truth**

# Capability statement

## GST Groups - Indirect Tax Sharing and Funding Agreements

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**The legislation governing GST groups is numerous and extremely complex. At Sladen Legal we can guide you or your clients and prepare the necessary documents to ensure that each member's taxation obligations are clearly defined.**

Our tax lawyers have significant prior tax experience in large accounting firms and therefore understand the technical and accounting complexities associated with forming and operating a GST group. We are therefore able to provide you with strategic and practical advice as well as prepare all requisite documentation.

Our GST group clients include large and mid-tier accounting and professional services firms and private groups.

### **GST Groups**

The GST legislation provides that two or more entities can form a GST group if each satisfies the membership requirements, each agrees in writing to the formation of the group, and the entity nominated as the "representative member", is an Australian resident, and notifies the Commissioner, in the approved form, of the formation of the group.

A GST group is generally treated as a single entity for the purposes of certain indirect tax laws (GST, wine tax, fuel tax, luxury car tax). Intra-group transactions between the members of the GST group are ignored for the purposes of the indirect tax laws. The representative member submits a GST return, and is liable for the group's indirect tax law liabilities and entitled to the associated tax credits.

### **Indirect Tax Sharing and Funding Agreements**

There are multiple complex taxation laws governing GST groups. Therefore, it is crucial to have the appropriate documentation in place to clearly define (and be able to determine) each member's rights and obligations, and thereby avoid any adverse tax consequences.

For example, if the representative member fails to pay a group indirect tax liability by the due date, group members are jointly and severally liable for that liability. This situation can be avoided by group members executing a valid Indirect Tax Sharing Agreement which reasonably allocates the liability amongst the parties. A group member would then only be liable for their "contribution amount" (being that member's portion of the group debt, reasonably allocated in accordance with the terms of the Agreement).

If you would like assistance  
with any taxation related  
issues, please contact:

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An Indirect Tax Sharing Agreement should also provide for the entry and exit of members to and from the GST group so as to ensure that:

- when members join a GST group, the new member's obligations are appropriately documented; and
- when a member leaves the GST group, it obtains a 'clear exit' from indirect tax liabilities that are not due and payable at the time of the exit - this is especially reassuring for a third party purchaser of a former GST group member.

An Indirect Tax Funding Agreement can also provide an internal funding arrangement to ensure that the representative member can fund the GST group's tax liability payments by members funding their proportion of the group's liability.

#### **How we can help you**

We can assist with preparing documentation for, and advising on:

1. forming a GST group, including:
  - eligibility issues; and
  - Australian Taxation Office notification requirements.
2. new members joining an existing group;
3. members leaving an existing group;
4. intra-group transactions;
5. Indirect Tax Sharing and Tax Funding Agreements; and
6. amending an existing Indirect Tax Sharing Agreement and/or a Tax Funding Agreement.

We offer discounted rates to accounting and professional services firms that exclusively engage us to prepare Indirect Tax sharing and Funding Agreements and other related documentation for their clients.

#### **[Schedule of fees – GST Groups](#)**

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