



GUIDE TO GST FOR U3A

GENERALLY

CURRENT as at 5 February 2020. This Guide was prepared as a draft by a retired barrister, the former Governance Officer of NetworkNSW Inc.(Network), Carmen Champion, and reviewed and approved by a recently retired tax partner of a major Sydney accountancy firm and formerly a tax partner of an International professional services firm.

Any questions relating to its content should be directed to the Secretary, Network, Geoffrey James who will refer the issue raised to the said retired tax partner or another appropriate expert.

COPYRIGHT: © Carmen Champion 2020. This document may only be reproduced for the purposes of U3As in Australia.

DISCLAIMER: This information was created in 2019. The material in this Guide is of a general nature and should not be regarded as legal advice or relied on for assistance in any particular circumstance. In any important matter, you should seek appropriate independent professional advice in relation to your own circumstances.

U3A Network NSW Inc accepts no responsibility or liability for any damage, loss or expense incurred as a result of the reliance on information contained in this Guide

A. ISSUES

1. This Guide addresses the following issues:

- a) Must GST be added to the fees (membership and course fees) charged by a U3A to its members for access to its courses if its annual turnover is below the GST threshold of \$150,000.
- b) What are the consequences of a U3A reaching an annual turnover of \$150,000.
- c) Do U3As enjoy any special GST concessions because of the nature of their primary activity that is the provision of educational courses.

B. CONCLUSIONS

2. On the basis of the information set out below the answers to the above questions are as follows:

- a) A U3A is **not** required to add GST to the fees charged to its members if its annual turnover is below the GST threshold of \$150,000. **NOTE:** It cannot claim GST credits for GST paid by it on its purchases from third parties.
- b) If its annual turnover reaches \$150,000 it must register for GST with the ATO. The consequences of registration are two-fold: firstly, the U3A must add GST to its fees unless the services provided for those fees are GST-free; and, secondly, it will be able to claim GST credits for GST paid by it on its purchases from third parties.
- c) Apart from the GST threshold benefit, the only GST concessions available to NFPs registered as a charity are those granted to charities:
<https://www.ato.gov.au/non-profit/your-organisation/gst/gst-concessions/>.

They do not relate to fees charged for access to the courses provided by U3As.

THE LAW

1. The majority of the Network's U3As are not only NFPs but also registered with ACNC as charities. As such they are income tax exempt if endorsed by the Tax Office:
<https://www.ato.gov.au/Non-profit/your-organisation/do-you-have-to-pay-income-tax-/income-tax-exempt-organisations/>
2. GST is a broad-based tax of 10% on most goods, services and other items sold or consumed in Australia.
3. NFPs enjoy a major GST concession in that they are not required to charge GST on the fees charged by them until their annual turnover reaches \$150,000:
<https://www.ato.gov.au/non-profit/your-organisation/gst/gst-concessions/> ;
<https://www.ato.gov.au/Business/GST/Registering-for-GST/?anchor=WorkingoutyourGSTturnover1#WorkingoutyourGSTturnover1>
4. If your U3A's annual turnover reaches \$150,00, it **must** register for GST with the ATO.
5. The consequences of registering for GST are:
 - a) It must charge GST on the supply of all its goods/services unless the goods/services it provides are GST-free; and
 - b) It will be able to claim GST credit for GST paid by it on purchases made by it.
<https://www.ato.gov.au/non-profit/your-organisation/gst/gst-registration/#H3>

6. The requirement that a U3A which is registered for GST must charge GST on the goods/services it provides extends not only to the fees it charges its members for their annual membership and course attendance but also to the price it charges for attendance of members and third parties to events organised by it, such as concerts, plays, outings, etc.

Educational Courses & GST

7. Some educational courses are GST- free, see [https://www.ato.gov.au/business/gst/when-to-charge-gst-\(and-when-not-to\)/gst-free-sales/#MainGSTfreeproductsandservices](https://www.ato.gov.au/business/gst/when-to-charge-gst-(and-when-not-to)/gst-free-sales/#MainGSTfreeproductsandservices).
8. Whether the courses provided by U3As fall into the category of “educational courses” depends upon that term’s definition in the *A New System (Goods and Services Tax) Act 1999 (Act)*.
9. Relevantly, the Act defines the term “*educational course*” as including an “*adult and community education course*”.
10. The term “*adult and community education course*” is defined in the Act as:
 - a) “*a course of study that is likely to add to the employment skills of people undertaking the course*”; **and**
 - b) is either:
 - i. of a kind authorised by the Student Assistance Minister to be an adult and community education course and is provided by any of the identified bodies, or
 - ii. is determined by the Student Assistance Minister to be an adult and community education course.
11. The community education courses that meet the requirements set out in 10 a) and b) are known as ACE courses. They must not only be likely to add to the employment-related skills of its students but must also be provided by a recognised ACE course provider: <https://www.ato.gov.au/Business/GST/In-detail/Your-industry/GST-and-Adult-and-Community-Education-Courses/>
12. U3As and their courses do not meet the criteria set out in paragraph 10 above. Accordingly, the courses provided by a U3A are not GST- free. GST must therefore be charged in respect of any fee charged to members that allows those members to access the educational services of the U3A but only if the U3A is registered for GST (see para 4 & 5 above).

Educational Institutions

13. The term “educational institution” is defined in the Act by reference to the definition in subsection 3 (1) of the *Student Assistance Act 1973*. The only part of that definition that could be relevant to U3As is the one that brings within the ambit of the definition “*an institution that is the subject of a determination by the Minister that it is to be regarded as an educational institution for the purposes of the Student Assistance Act 1973*”. The purposes of that Act are to assist students in accessing and paying for their studies.
 14. The writer is not aware of any determination having been made by the relevant Minister that would allow U3As to regard themselves as “educational institutions” for the purposes of the Act. In any event, there is no specific GST exemption for educational institutions nor are they treated differently to any other NFP where GST is concerned.
-