



University of  
South Australia

## Memorandum

**To:** UniSA Staff  
**From:** Kristian Thoroughgood, Tax Accountant  
**Date:** 16/09/2009  
**Subject:** GST Classification of ICE WaRM Graduate Certificate in Water Management provided to Yellow River Students (LCWY)

### Finance Unit

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### Important:

*The tax analysis outlined in this memo applies only to the specific scenario and facts as outlined below. If the facts change or vary from those outlined below in a material manner, this memo cannot be relied upon, and you should contact the [UniSA tax accountant](#).*

## 1. Executive Summary

- 1.1. Supplies of the Graduate Certificate in Water Management to Yellow River students will be **GST-free** regardless whether:
  - 1.1.1. the students pass the course
  - 1.1.2. the students fulfilled the IELTS criteria and were enrolled under the Medici system or were enrolled under the Mercury system
  - 1.1.3. the student's course fees were paid by a specific employer.

## 2. Facts

- 2.1. Details on the course are provided here <http://www.unisanet.unisa.edu.au/programs/program.asp?Program=LCWY&Year=20090916>
- 2.2. This program is designed for applicants pre-selected and employed by Yellow River Conservancy Commission, China. It is not available to resident students.
- 2.3. Certain students did not have the IELTS score required, and could not be enrolled under the Medici system. These students were enrolled using the older Mercury system.
- 2.4. On successful completion the Medici students are awarded a Graduate Certificate. Other students are provided an alternative award or certificate.
- 2.5. All subjects chosen for this Graduate Certificate are provided as part/component of the Water Resources Masters Degree.

### 3. Detailed analysis

- 3.1. Under subdivision [38-C](#) of the *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act), the supplies of certain “education courses” are GST-free.
- 3.2. Of relevance to this issue, this includes (under section 195-1 of the GST Act):
  - (d) a tertiary course (which must be covered by a determination issued by the Education Minister). [\(click here for a complete list\)](#)<sup>1</sup>
- 3.3. In respect of the University, the types of tertiary courses that are GST free are:

- 3.3.1. English as Second Language (ESL)
- 3.3.2. Accredited vocation education and training programmes
- 3.3.3. Undergraduate or postgraduate accredited higher education courses (associate degree, associate diploma, diploma, advanced diploma, Bachelor degree, graduate degree, **graduate certificate**, graduate diploma, a Masters qualifying course)
- 3.3.4. A combination of courses that leads to two awards
- 3.3.5. Single units from these courses may also be eligible.

- 3.4. Normally, classifying a course as a graduate certificate and providing this kind of award, would be enough for the course to be GST-free in its own right.

However whilst this is a Graduate Certificate award course, it is one that has been specifically designed under an agreement/contract and is not available to resident students. As such, it is *not* an approved tertiary course under the Education Ministers determination (see paragraph 15 of [GSTR 2001/1](#)<sup>2</sup>).

- 3.5. I note that each subject or unit available under the course is a component of a GST-free education course - the Water Resources Masters Degree. As such each unit being provided can still be a GST-free supply (of the single unit). Paragraph 24 of [GSTR 2001/1](#) provides:

*“24. Where you supply one unit of a tertiary course that is covered by the Education Minister's determination and the recipient is enrolled in that unit, the supply of that unit is GST-free.”*

- 3.6. Accordingly I consider that as each and every subject or unit provided will be GST-free, UniSA can treat this course as GST-free. Please note that any other supplies provided in relation to this course (i.e. field trips) will need to be considered separately.
- 3.7. I also confirm that this is the case regardless of how the student was enrolled provided that the student is actually enrolled (paragraph 25), whether the student passes the course, or whether the course was paid for or arranged by an employer (paragraph 175-6).

**Kristian Thoroughgood**  
Tax Accountant

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<sup>1</sup> <http://law.ato.gov.au/atolaw/view.htm?locid='PAC/19990055/195-1educationcourse'>  
<sup>2</sup> <http://www.ato.gov.au/redirect/atolaw.asp?docid=GST/GSTR20011/NAT/ATO/00001>