



Vehicles purchased under novated leases

! Terms we use

When we say:

- **GST credit**, we mean the GST term **input tax credits**
- **sales**, we mean the GST term **supplies**
- **purchases**, we mean the GST term **acquisitions**
- **you**, we mean you as an **employer operating as a GST registered entity**
- **payment**, we mean the GST term **consideration**.

What is a novated lease arrangement?

Under a novated lease arrangement, you take over all or part of the lessee's rights and obligations under the lease. This transfer of rights and obligations is agreed to in a deed of novation between you, the finance company and the lessee. The lessee is usually the employee, or an associate of the employee.

The deed of novation usually contains a clause that transfers the lease obligations back to the lessee on termination of the lease or when the employee ceases employment with you. In the latter case, this enables the employee to enter into a new novated lease arrangement with another employer.

- ! Every lease agreement can be different depending on the clauses they contain. For more detailed information about novated lease arrangements, refer to [TR 1999/15](#) Income tax and fringe benefits tax: taxation consequences of certain motor vehicle lease novation arrangements.

What types of novated lease arrangements are there?

There are two main types of novation arrangement:

- a full or split full novation
- a partial novation.

What is a full or split full novation arrangement?

Under a full or split full arrangement the following applies:

- your employee enters into a lease with a finance company
- you enter into a deed of novation (tripartite agreement) with your employee and the finance company.

Under the deed of novation, you may agree with your employee and the finance company to take on all, or some, of the employee's rights and obligations in the original lease agreement.

Full novation arrangement

Under a full novation arrangement, you are responsible for making the lease payments and guaranteeing the residual value of the vehicle at the end of the lease.

Split full novation arrangement

Under a split full novation arrangement, you are responsible for making the lease payments but you are not responsible for guaranteeing the residual value of the vehicle at the end of the lease. Your employee retains this obligation.

- ! Under a deed of novation that involves a revocation of the original lease, the supply of the vehicle is made directly by the finance company to you, even if your employee retains the obligation to guarantee the residual value.

How do the parties to a full or split full novation arrangement account for GST?

Finance company

Under a full or split full novation arrangement the finance company can claim a GST credit for the GST they paid on the purchase of the vehicle.

When the finance company leases the vehicle to you, the finance company is generally liable to pay GST to us on that lease.

You

When you lease the vehicle from the finance company, you can claim a GST credit for the GST included in the lease charges if the vehicle is being leased to you in the course of carrying on your business. However, as a general rule, you cannot claim GST credits if you make input taxed sales.

A fringe benefit may arise where you are the lessee of a vehicle that is provided by you for the private use of the employee or associate of the employee.

-  For more information about the GST consequences where a fringe benefit is provided, refer to [GSTR 2001/3](#) Goods and Services Tax: GST and how it applies to supplies of fringe benefits.

Your employee

There are no GST consequences for your employee because your employee has not purchased or leased the vehicle. Although they have the use of the vehicle, it is part of their remuneration.

Associates

Associate arrangements vary from case to case; therefore, we recommend that you request a private ruling if you need more information.

-  To request a private ruling, refer to:

- [Private ruling application form \(not for tax professionals\)](#) (NAT 13742)
- [Private ruling application form \(tax professionals\)](#) (NAT 13043).

What are the tax invoice requirements for a full or split full novation arrangement?

If you enter into a deed of novation, for GST purposes, you are the purchaser of the vehicle from the finance company. In this case, your employee is not considered to be acting in the capacity of an agent on your behalf.

If this lease to you is taxable, the finance company must provide you (not your employee) with a tax invoice, if requested. To be a valid tax invoice, it will need to include certain information, which includes enough information to enable your identity or Australian business number (ABN) (as the recipient) to be clearly identified.

We can treat a fully novated lease agreement (in the form of a tripartite agreement) as a tax invoice, provided it satisfies the information requirements for tax invoices.

We may also treat a tax invoice held by you (but issued to the employee) as a tax invoice issued to the recipient of the sale. Such discretion would ordinarily be exercised in cases where we believe there would be large compliance costs imposed on entities to reissue such documents to you.

Where the arrangement does not involve the legal assumption of your employee's obligations under the lease and is merely a reimbursement or payment by you on behalf of your employee, you may be entitled to claim GST credits. The reimbursement is treated as payment for a purchase that you have made on behalf of your employee and you may claim GST credits even where you hold a tax invoice issued to your employee.

-  For more information about tax invoices, refer to [Valid tax invoices and GST credits](#) (NAT 12358).

What is a partial novation arrangement?

Partial novation arrangements usually have two distinct lease agreements that is a lease agreement between either:

- the finance company and the employee for the vehicle
- you and your employee, where the employee separately sub-leases the vehicle to you. Under this arrangement, your employee foregoes the right to receive payments under the sub-lease. This is in exchange for your agreement to accept responsibility for the lease payment obligations contained in the lease between the finance company and your employee.

Another form of partial novation is where you enter into a deed of novation with your employee and the finance company in addition to the original lease, rather than entering into a sub-lease with your employee.

In both types of partial novation arrangements, there is no agreement with the finance company that revokes the head lease.

Where you and your employee enter into a partial novation arrangement where the head lease agreement is not revoked, a supply is made under each lease agreement.

How do the parties to a partial novation agreement account for GST?

The finance company

Under a partial novation arrangement, the finance company can claim a GST credit for the GST they paid in the purchase price of the vehicle.

Under both forms of partial novation arrangements, the finance company is making a taxable lease to your employee. The finance company will be liable to pay GST to us on this lease.

You

Under the sub-lease arrangement, you are the sub-lessee. You can only claim a GST credit for the vehicle you have leased if it is leased in the course of carrying on your business. However, as a general rule, you cannot claim GST credits if you make input taxed sales.

Where the lessor in the sub-lease is your employee or an associate of your employee and the lessor is not registered or required to be registered for GST purposes, the lease made by them to you is not a taxable lease. This means that you are not entitled to a GST credit on the purchase of the vehicle from the lessor.

On the other hand, where the lessor in the sub-lease is an associate of your employee who is registered or required to be registered for GST purposes and the lease is made in the course of their business activities, it will be a taxable lease. You are therefore entitled to a GST credit for the lease. However, as a general rule, you cannot claim GST credits if you make input taxed sales.

Your employee

Generally, your employees cannot claim GST credits for the vehicle they purchase or lease from a finance company as they are not conducting a business whilst in the capacity of an employee and therefore cannot register for GST.

Associates

Associate arrangements vary from case to case. Therefore, we recommend that you request a private ruling if you need more information.



To request a private ruling, refer to:

- [Private ruling application form \(not for tax professionals\)](#) (NAT 13742)
- [Private ruling application form \(tax professionals\)](#) (NAT 13043).

What are the tax invoice requirements for a partial novation arrangement?

Under a partial novation arrangement the finance company makes the lease to your employee. If the lease is taxable, the finance company must issue a tax invoice to your employee if requested.

The lease from your employee to you will only be taxable where your employee is conducting a business and is registered or required to be registered for GST.

If this is the case, the employee must issue a tax invoice to you if requested.



For more information about the income tax consequences of such an arrangement, refer to [TR 1999/15](#) Income tax and fringe benefits tax: taxation consequences of certain motor vehicle lease novation arrangements.

More information

For more information about novated leases and fringe benefits tax, refer to:

- [GSTR 2001/3](#) Goods and Services Tax: GST and how it applies to supplies of fringe benefits
- [TR 1999/15](#) Income tax and fringe benefits tax: taxation consequences of certain motor vehicle lease novation arrangements
- [GST for small business](#) (NAT 3014)
- [Fringe benefits tax for small business](#) (NAT 8164).

If you want to obtain a copy of our publications or for more information, you can:

- phone us on **13 28 66**, or
- write to us at
Australian Taxation Office
PO Box 3524
ALBURY NSW 2640.

If you do not speak English well and need help from the ATO, phone the Translating and Interpreting Service on **13 14 50**.

If you are deaf, or have a hearing or speech impairment, phone the ATO through the National Relay Service (NRS) on the numbers listed below:

- TTY users, phone **13 36 77** and ask for the ATO number you need
- Speak and Listen (speech-to-speech relay) users, phone **1300 555 727** and ask for the ATO number you need
- internet relay users, connect to the NRS on www.relayservice.com.au and ask for the ATO number you need.

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