

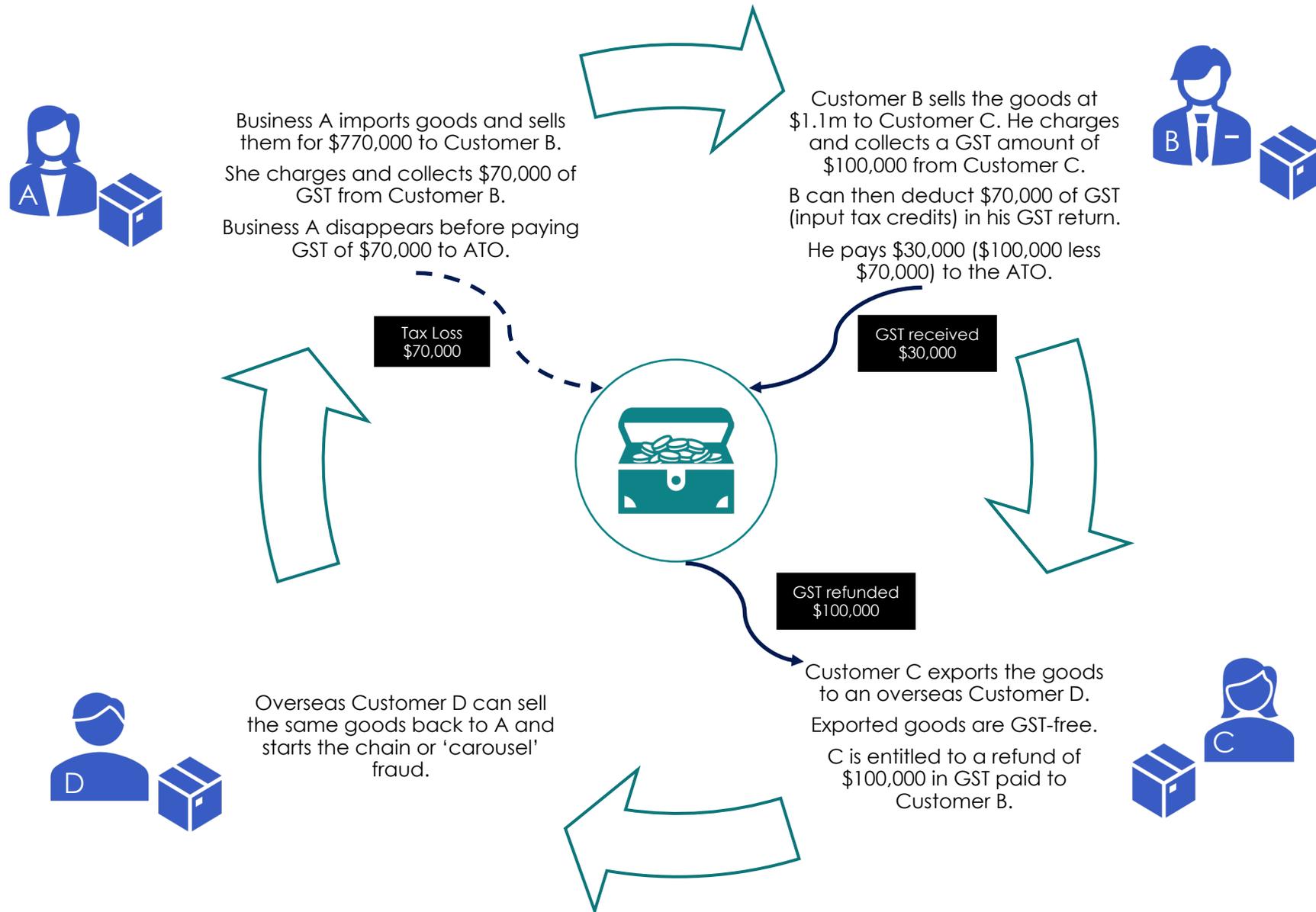


OECD INTERNATIONAL ACADEMY FOR TAX CRIME INVESTIGATION

VAT/GST FRAUD INVESTIGATIONS PROGRAMME

CASE STUDY: AUSTRALIAN PRECIOUS METALS

JES DETTERER
AUSTRALIAN TAXATION OFFICE



MISSING TRADER

- > Used to create the appearance of real transactions
- > Does not fulfil any tax obligations
- > No response to inquiries
- > Can't be found physically
- > No clear commercial activity
- > Shadow persons
- > Provides deductible VAT/GST to other entities
- > Easy to replace



DEFAULTER

- > Declares but does not pay the VAT/GST
- > Fulfils some of their tax obligations
- > Can be harder to prove criminal intent

PARTS TO PLAY...



BROKER

- > Highest profit margin in the chain
- > Is in the same country as the Missing Trader
- > Makes purchases from a Buffer
- > Makes zero rated sales (exports etc.)
- > Claims VAT/GST refunds
- > VAT/GST not paid by Missing Trader or Defaulter



BUFFER

- > Make investigations more difficult
- > Acts as a normal trader on a domestic market
- > Usually after a Missing Trader in the supply chain
- > Creates distance between Missing Trader and the Broker
- > Fulfils the tax obligations
- > Very low profit margin
- > Easy to replace

IN/OUT BUFFER

- > Same characteristics but act as a normal international trader



> Refiners:

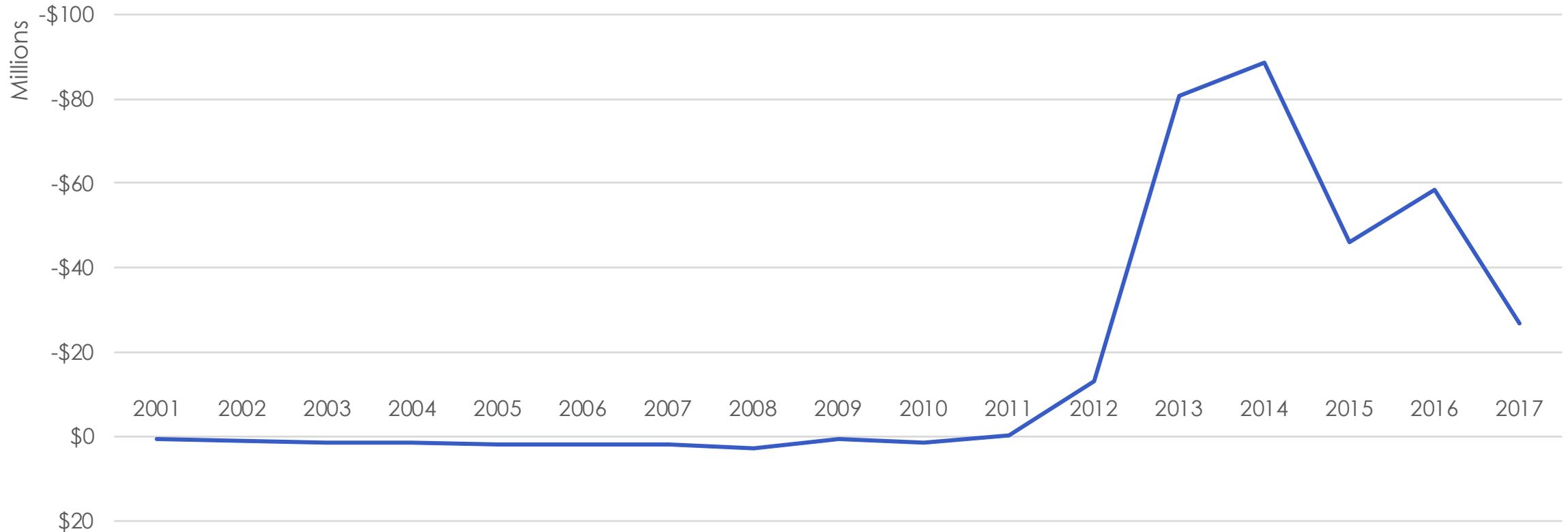
- In Australia, we have a small number of refiners that trade in precious metals.
- Acquire and process doré product, high value secondary sourced product (scrap and jewellery) and industrial by-products.
- Use various processes to extract impurities and produce granules for manufacturing and investment form products i.e., bars, plates, coins.

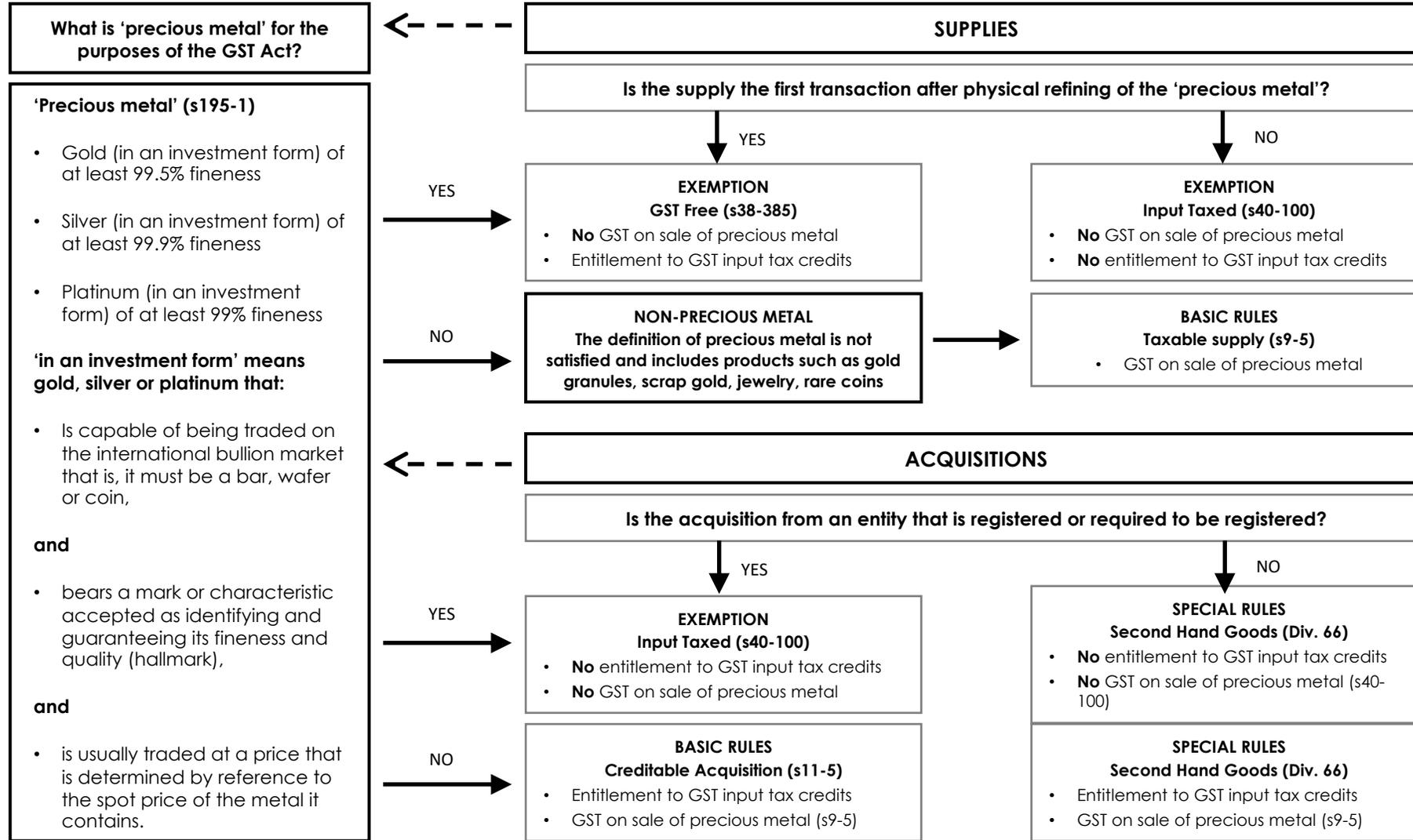
> **Traders** include banks, bullion dealers, commodity dealers and stockbrokers that generally deal in gold, silver or platinum on the market.

> **Other intermediaries** include scrap dealers, amalgamators, gold buyers, kiosks and enterprises including jewellers and individuals that engage in buy backs ranging from unwanted jewellery to products in bar, ingot, plate, wafer or coin form.

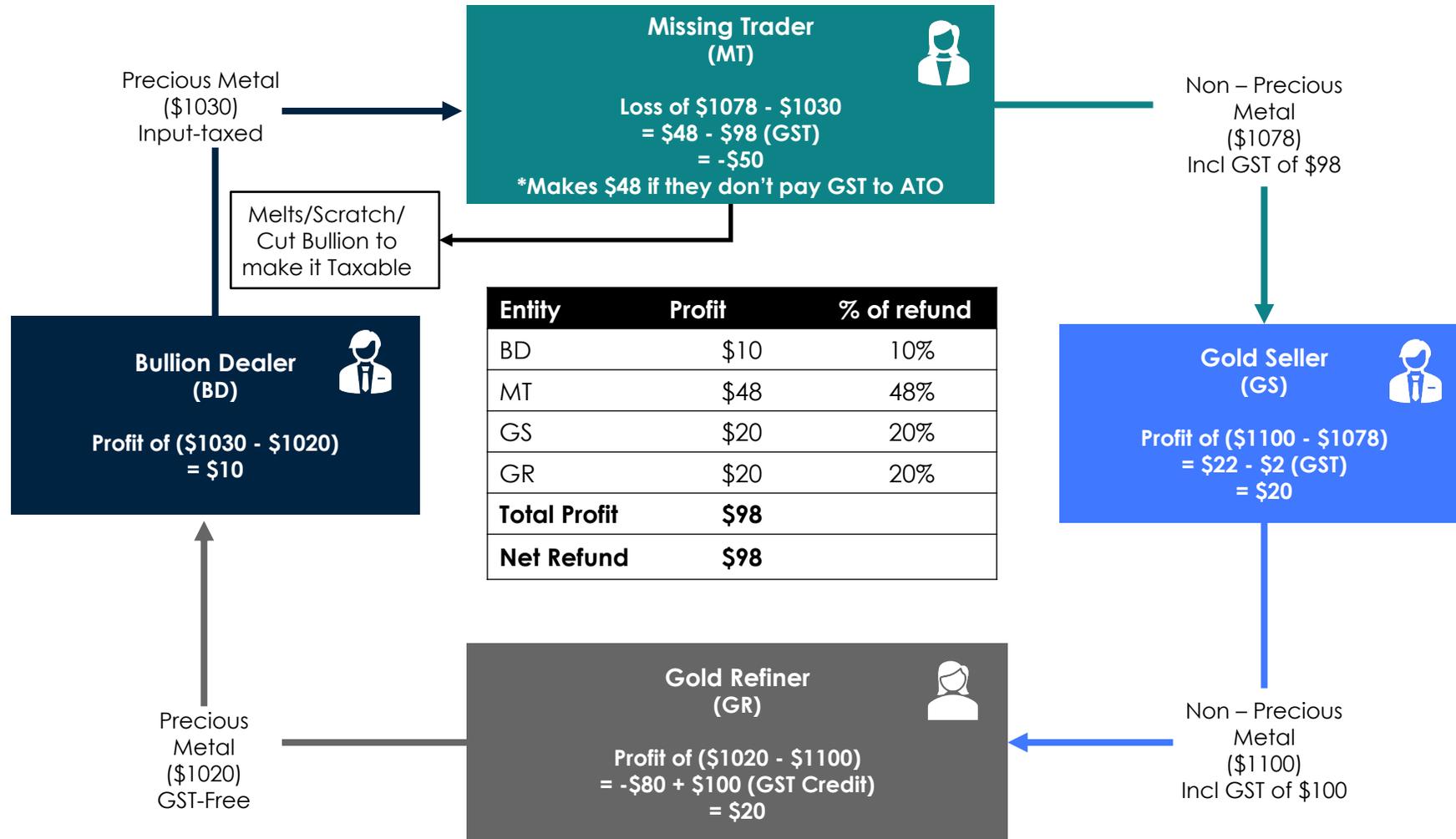


- > From 2001 – 2016, the trend in BAS refunds issued to precious metal refiners has been:
 - 2001-2011 the refiners remitted to the ATO a net amount of \$14 million; and
 - 2012-2016 the ATO has paid \$300 million in refunds

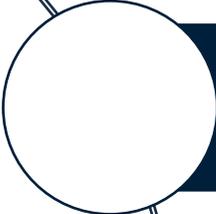




IDENTIFIED RISK Established syndicates, similar to carousel type arrangements, apply various methods to alter the form of precious metal such as defacing, damaging, melting or misrepresenting documentation in order to manipulate the exemptions and special rules.



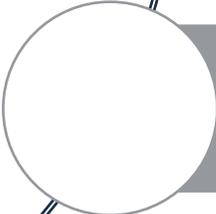
Discuss how commodities are taxed in your local jurisdiction? Specifically consider:



Are there different taxation treatments for different commodities (e.g., zero rated versus full)?

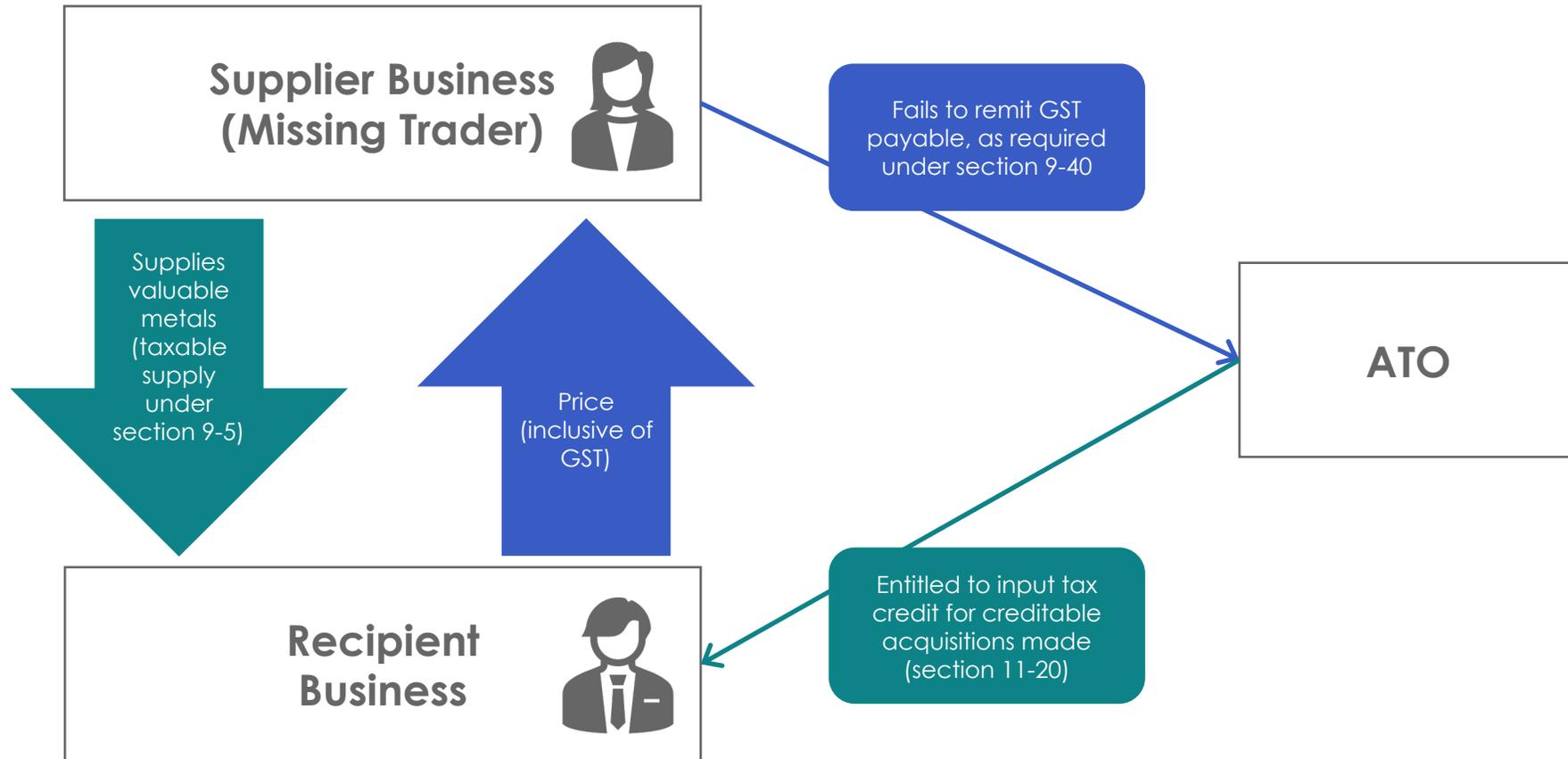


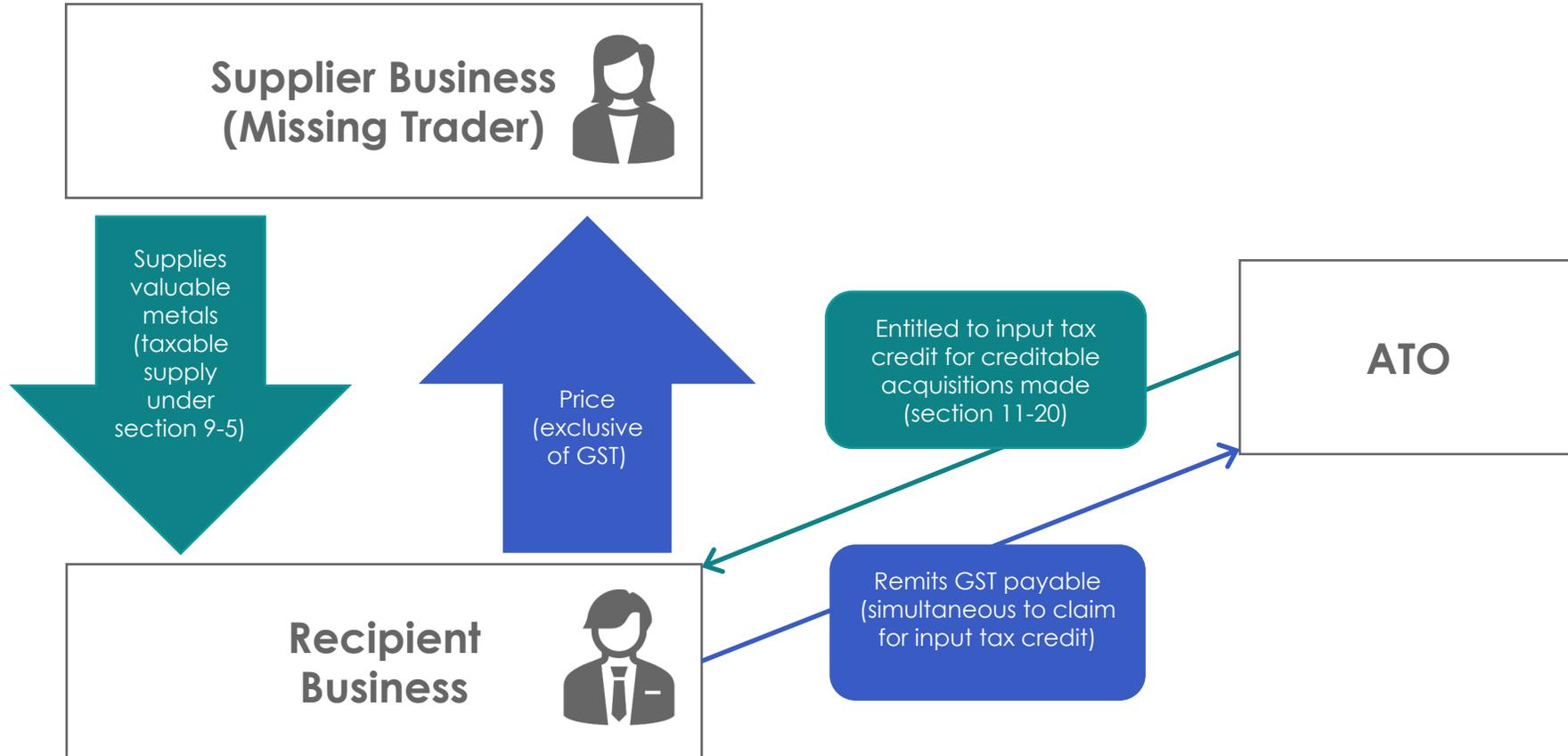
Are any commodities taxed differently depending on their form or use?

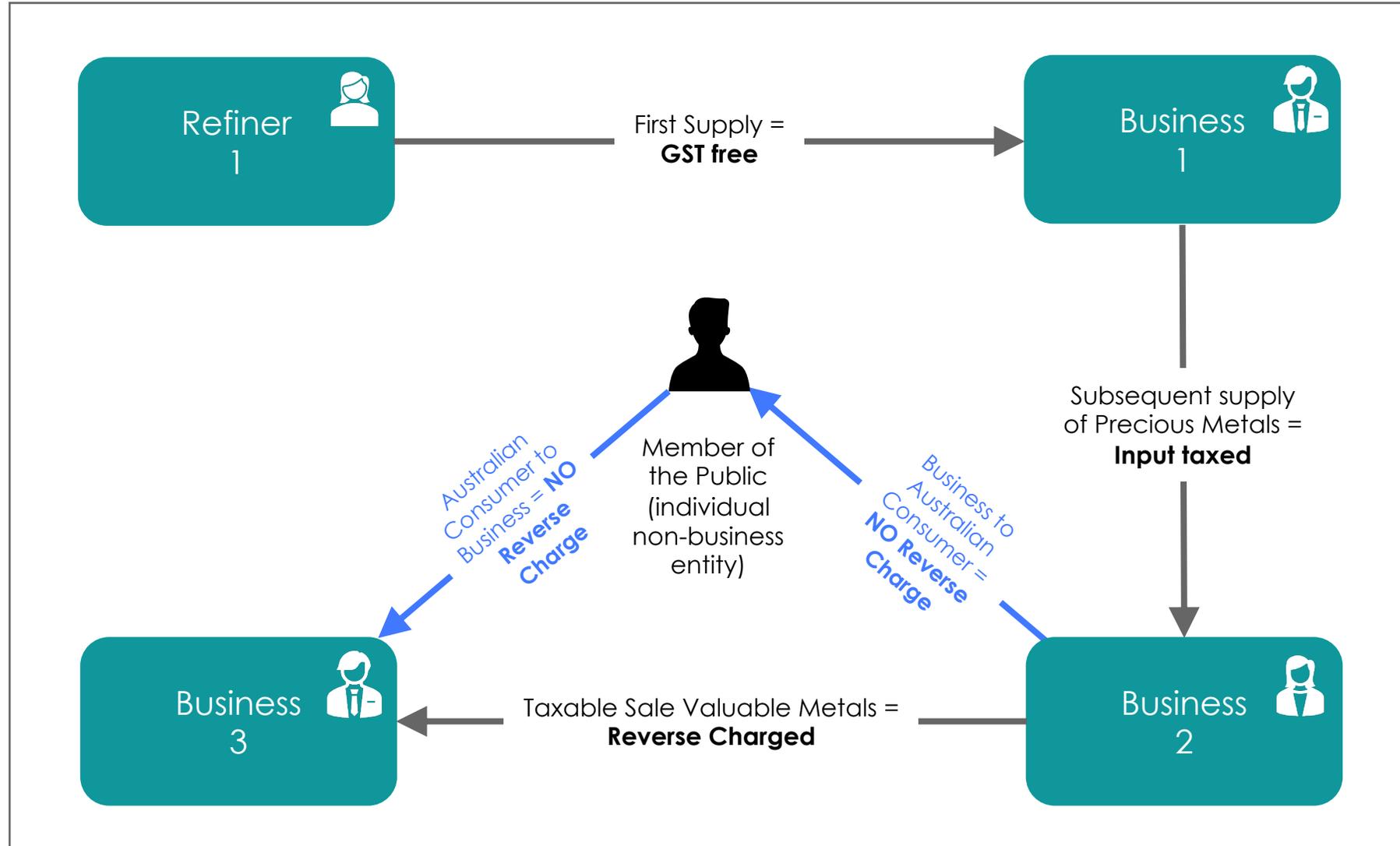


Are there any commodities that are current identified risks?

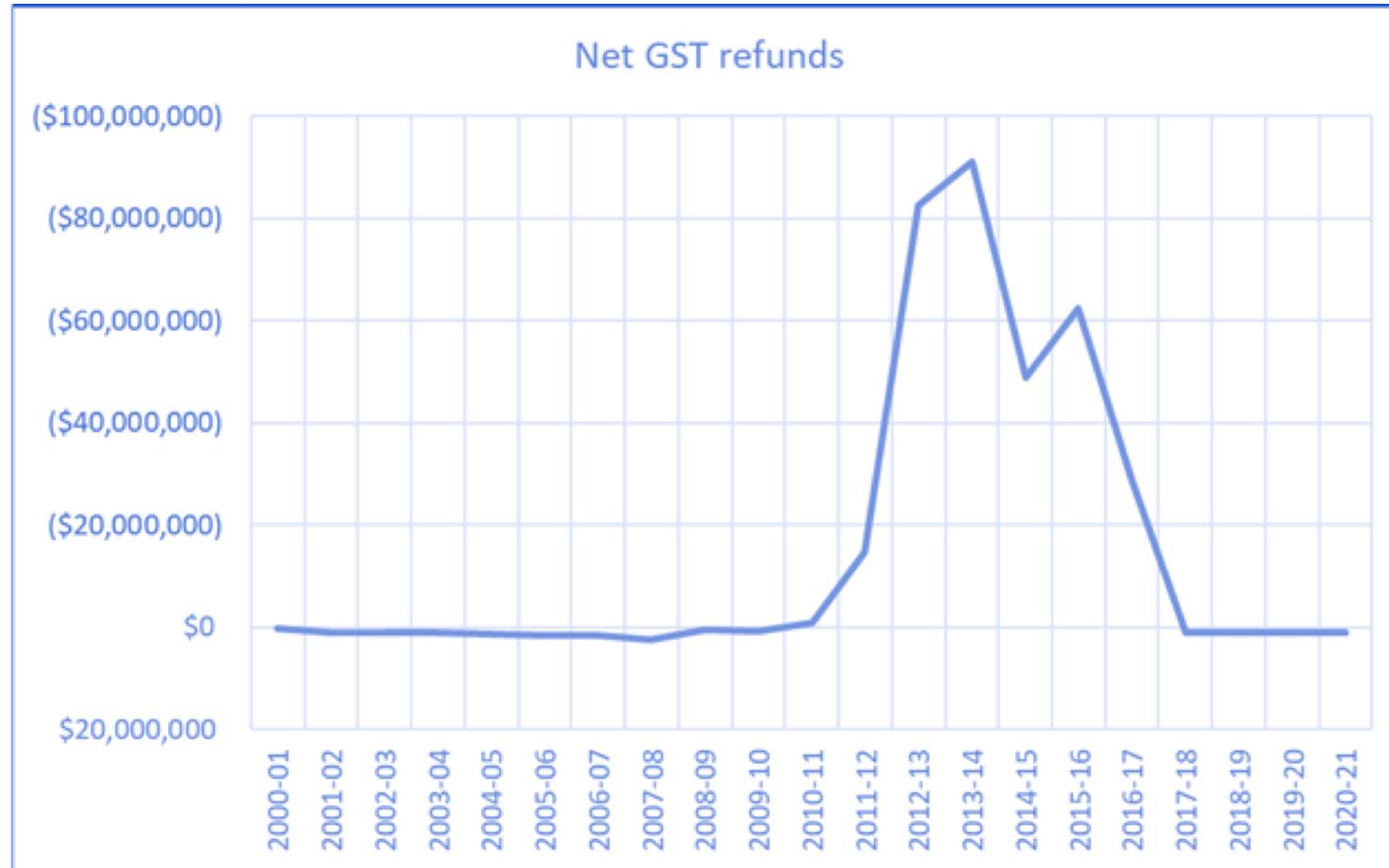






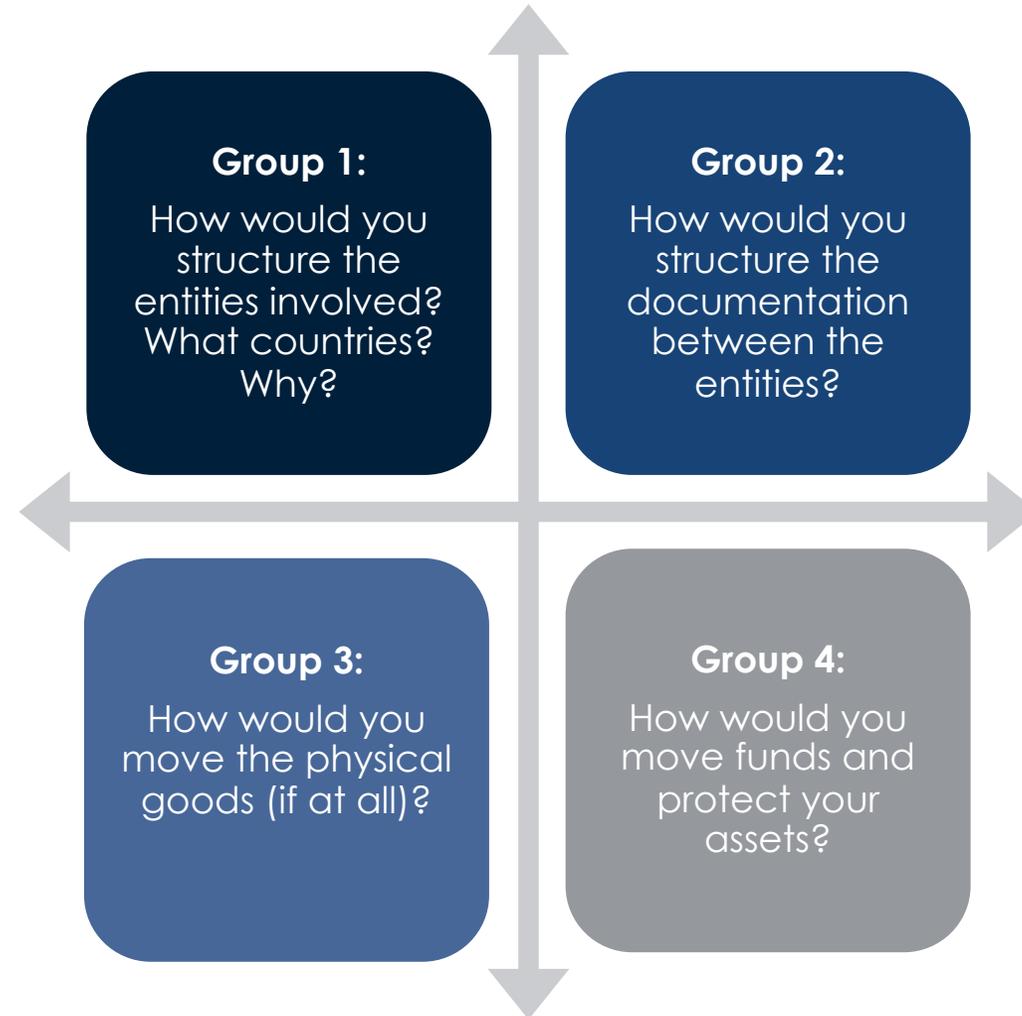


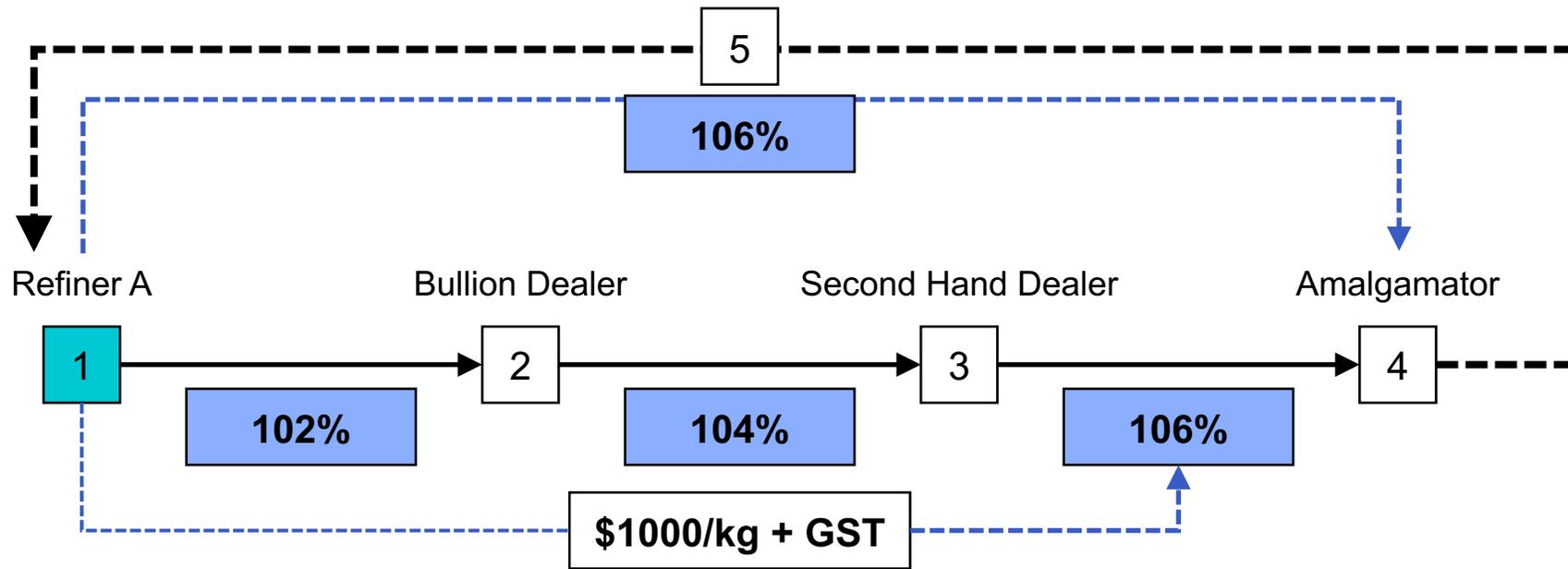
The graph below shows BAS refunds paid to precious metal refiners. Prior to commencement of the scheme, refiners were a net remitter of GST. From 2012 the ATO paid significant refunds to the refiners. A significant decline in refunds coincided with the implementation reverse charge mechanism and other ATO strategies including the implementation of the refund retention strategy.



In your groups, imagine you are a criminal syndicate that is engaged in a indirect tax fraud scheme involving gold:

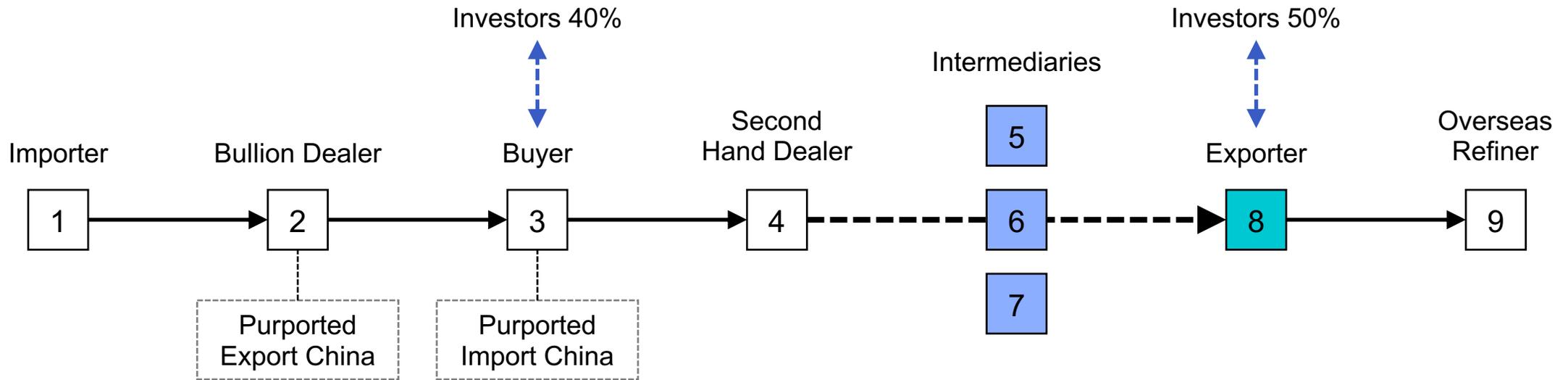
Think about a range of options and how they may increase or decrease the ability for tax administrations to detect/disrupt the arrangements.





Transactions

- > Refiner A supplies 'precious metal' (GST free) to Bullion Dealer (not associated) at 102% (spot price).
- > Bullion Dealer supplies 'precious metal' (Input Taxed) to Second Hand Dealer at 104% (spot price) on credit terms – this customer represents 90% of total supplies of Bullion Dealer.
- > Second Hand Dealer alters form of 'precious metal' (melting and recasting) and supplies to Amalgamator.
- > Refiner advances Amalgamator 106% (spot price GST inclusive) on notification of volume availability.
- > Amalgamator issues RCTI to Second Hand Dealer and makes payment (106% spot price GST inclusive).
- > Second Hand Dealer pays Bullion Dealer, 104% (spot price) as per credit terms.
- > Amalgamator supplies non-precious metal to Refiner – all metal supplied is high purity (99.99%) and invoices commission of \$1000/kg + GST for metal supplied.
- > Second Hand Dealer is a non-lodger contends that supplies and acquisitions were 'in an investment form' and input taxed.
- > Amalgamator contends that all acquisitions were non-investment form.
- > Refiner contends that all acquisitions were non-investment form – records indicate that some acquisitions are likely to have been received 'in an investment form'.



Transactions

- > Buyer receives funds from investors, orders and makes payment for 'precious metal' with Bullion Dealer.
- > Bullion Dealer advances funds (100%) to the Importer for supply of 'precious metal'.
- > Importer arranges customs clearance and delivery of 'precious metal' (confirmed by customs interception) direct to Bullion Dealer.
- > Buyer purportedly collects 'precious metal' and provides to representative of Chinese entity for export.
- > Second Hand Dealer purportedly imports scrap from an overseas Chinese entity which is supplied to intermediaries.
- > Intermediaries supply scrap to Exporter (Second Hand Dealer facilitates transaction lock in price and transport with Exporter in most instances).
- > Exporter makes payment to intermediaries who retain a commission with balance paid to Second Hand Dealer.
- > Second Hand Dealer retains a commission with balance paid to Buyer.
- > Second Hand Dealer and intermediaries do not require capital to find the transactions as payment is not required until funds are received from Exporter.
- > Exporter supplies scrap to off shore refiner and receives payments for precious metal content (customs interception confirms that exported material is not precious metal (22k consists of copper as the principal alloy)).
- > Exporter makes payment to investors (50% return on investment/gross profit) from ATO refund.
- > Buyer makes payment to investors (40% return on investment/gross profit).

Note:

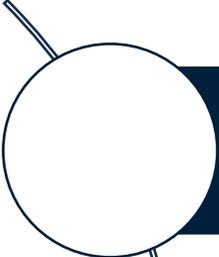
Compliance activities confirm that the purported export and import transactions for the Buyer and Second Hand Dealer did not occur.

Buyer and Second Hand Dealer are unable to identify the company representative of the individual who collected 'precious metal' or substantiate bona-fides of transactions.

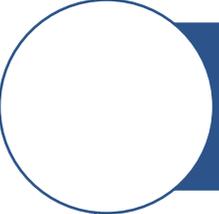
Enquiries reveal that funds for purported export are received directly from Second Hand Dealer.

The structure of transactions provides evidence that there was no margin in the transactions to allow for profit by either the overseas buyer or seller.

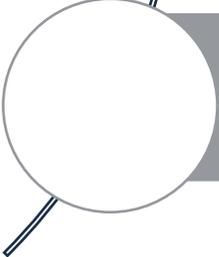
In your groups, imagine you are a tax administration dealing with the syndicate:



What are some things you can do to make it easier to detect such arrangements?



What can you do to disrupt these arrangements?



What can you do to prevent these arrangements?



