

# The different types of government money

## Appropriations, deemed appropriations, and the Special Deposits Account (including working accounts)

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### Different types of government money

- The *NSW Constitution Act 1901* provides that all public money collected, received or held for or on behalf of the State, forms one Consolidated Fund except if another Act provides otherwise.
- Some legislation, such as the *Government Sector Finance Act 2018 (GSF Act)*, provides for money to be held in the Special Deposits Account (SDA) under certain circumstances. This means the money is separate from the Consolidated Fund.
- An appropriation is an authority to withdraw money from the Consolidated Fund. Types of appropriation include:
  - An annual appropriation. Ministers receive an appropriation under the authority of the annual Appropriation Act.
  - A deemed appropriation. Deemed appropriations provide a mechanism for the legally compliant expenditure of certain own source receipts. See ‘Deemed appropriations’ below.
  - A standing or special appropriation, which can provide for ongoing or one-off appropriations from the Consolidated Fund other than through the annual appropriations acts or GSF Act.
- The source of government money – for example, an appropriation compared to money in the SDA – can affect who is authorised to spend that money. This can affect the delegation required to legally expend.

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### The Consolidated Fund and the different types of appropriation

#### Annual appropriations

- Ministers are given authority to spend from the Consolidated Fund through an appropriation, which has been approved by Parliament. The annual Appropriation Bills tabled with the State Budget are the most common form.
- The authority to spend given to a Minister through an appropriation can be delegated under Division 9.2 of the GSF Act. You can read more about delegations in this factsheet: <https://www.treasury.nsw.gov.au/sites/default/files/2022-02/gsf-fact-sheet-delegating-roles-and-responsibilities-december-2021.pdf>.
- If an appropriation under the annual Appropriation Act is not applied or spent before the end of an annual reporting period, it lapses under section 4.8 of the GSF Act.

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## Standing and special appropriations

- These are appropriations other than those provided through the annual Appropriations Act or GSF Act. They can provide ongoing appropriations from Parliament, or one-off amounts. One example of a standing or special appropriations is the Parliamentary Remuneration Act 1989.

## Deemed appropriations

- Deemed appropriations provide a mechanism for the legally compliant expenditure of an agency's own source receipts in certain circumstances.
- 'Own source' receipts refers to instances where the agency generates its own income – either by receiving payment in return for a service or a product or agency-to-agency payment for services provided.
- When an agency receives “deemed appropriation money”, the Lead Minister or the agency is “deemed” to have been given an appropriation:
  - for an amount equal to the sum received; and
  - for the purposes set out in section 4.7(2) GSF Act).
- The kinds of money which are deemed appropriation money are listed in clause 13(1) of the GSF Regulation. In general, these are kinds of money that agencies have traditionally considered as “own-source revenue” and do not include funding distributions under annual appropriations (previously called cluster grants).
- Money must also meet the following criteria to be deemed appropriation money:
  - the money must form part of the Consolidated Fund on receipt; AND
  - the money must be received from outside the receiving agency's cluster.
- Transactions between two GSF Agencies can give rise to a deemed appropriation if:
  - The money received is of a kind described in clause 34 of the GSF Regulation; and
  - The receiving GSF Agency and paying GSF Agency have either different lead Ministers or the GSF Agency is a Special Office.
- Where a transaction between two GSF Agencies in different clusters gives rise to a deemed appropriation, it also gives rise to a charge against the paying agency's appropriation (if the payment is made under the authority of an appropriation).
- These provisions provide legal authority for the lead Minister for the receiving agency to spend deemed appropriation money. The Minister can delegate the authority to expend deemed appropriation money.
- The purpose for which a deemed appropriation can be used is set out in section 4.7(2) of the GSF Act.
  - If the receiving agency is a Special Office, the deemed appropriation is for the services of the Special Office.
  - For all other agencies, deemed appropriations are for the services of the lead Department for the agency. “For the services of the lead Department” is interpreted broadly and refers to the services of all agencies for which the lead Department is their lead Department.
- “Lead Minister” and “Lead Department” are defined in the GSF Act (section 4.7(8)). It may not be clear who your Lead Department or Lead Minister is, or there may be more than one Lead Department for an agency. In these cases, please contact NSW Treasury who can work with you

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to confirm who the Lead Department or Lead Minister is for the purposes of deemed appropriations.

- Deemed appropriations do not lapse at the end of a financial year (section 4.8(3) GSF Act). The regulations can prescribe otherwise but do not currently do so. Deemed appropriations can be transferred to the new Minister where there is a Machinery of Government change (section 4.9A(2) GSF Act).

For more information please contact [legislation@treasury.nsw.gov.au](mailto:legislation@treasury.nsw.gov.au)

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## The Special Deposits Account

- The Special Deposits Account (SDA) is created by section 4.15 of the GSF Act. The Special Deposits Account allows public money to be held outside of the Consolidated Fund under certain circumstances.
- The SDA broadly consists of two different sub-types:
  - Money directed into the SDA under specific enabling legislation that is not the GSF Act. This kind of money in the SDA is called a **statutory SDA account**.
  - Money directed into the SDA by the Treasurer under section 4.17 of the GSF Act. These are called **working accounts**.
- Money cannot be in the Consolidated Fund and SDA simultaneously. It's not possible because of the definitions in the Constitution Act and GSF Act.
- These are ledger accounts and do not necessarily need a segregated bank account.
- Accounts in the SDA have compliance and reporting obligations under the GSF Act arising from sections 4.16 and 7.8.

### Statutory SDA accounts

- A statutory SDA account is established to segregate money for a specific purpose identified in the enabling legislation.
- The legislative provisions that establish a statutory SDA account generally specify:
  - who is responsible for the account;
  - the types of money that are to be paid into the account;
  - the purposes for which money can be paid out of the account; and
  - authority for money in the account to be invested.
- There are no other actions required to establish a Statutory SDA account – once the legislative provisions are enacted the account has been established.
- Examples of statutory SDA accounts are:
  - Restart NSW (established by the *Restart NSW Fund Act 1992*). It delivers high-priority infrastructure projects funded through asset recycling.
  - The Debt Retirement Fund (established by the *NSW Generations Funds Act 2018*), which holds ring-fenced assets that intend to grow over time and ease the debt burden on future generations.

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- The Building Insurers Guarantee Fund (established by the *Home Building Act 1989*) which receives contributions from relevant insurers, which are used to meet any obligations arising from the State's indemnity in relation to certain building insurance policies.
  - The Responsible Gambling Fund (established by the *Casino Control Act 1982*), which receives a levy on each casino license and is used for purposes relating to responsible gambling.
  - The Casino Supervisory Fund (established by the *Casino Control Act 1982*). This Fund receives a levy from casino licensees, used to fund the regulator, the NSW Independent Casino Commission.
- It is not necessary for funds in a statutory SDA account to be in a separate bank account.

### Working accounts

- These are created by the Treasurer under the powers of section 4.17 of the GSF Act, following a request from the agency's Accountable Authority.
- The GSF Regulation at clause 35 requires the GSF Agency's Accountable Authority to apply to the Treasurer in an approved form requesting that a working account be established. It also defines 'working account money' – which is the kinds of money that are permitted to be recorded in a working account.
- The GSF Act prohibits some types of government money from being recorded in working accounts, being:
  - money from taxes or fines received by an agency for the benefit of the State generally;
  - money arising from royalty payments on natural resources;
  - money from general purpose Commonwealth grant received by a GSF Agency; and
  - money provided to the GSF Agency from an appropriation under an annual Appropriation Act.
- At the time of the Treasurer's approval, the authorisation will specify:
  - the kinds of money that may be paid into the working account;
  - the permitted purposes for money to be paid out of the working account;
  - the use of investment returns on the money in the working account; and
  - who the responsible manager is for the working account. Generally this would be the Accountable Authority.
- The authorisation may also include any other terms or conditions relating to the establishment or operation of the working account (see clause 35(2)(d) of the GSF Regulations).
- Working accounts are only permitted to record the transaction types listed in the authorisation signed by the Treasurer.
- An agency may need a working account if it receives "working account money" (as defined under clause 35 of the GSF Regulation). Examples may include receiving donations and bequests, or revenue generated for on-payment to a non-government entity and/or for a specific purpose.