



Legislative Instrument

Goods and Services Tax: (Particular Attribution Rules for Retention Payments) Determination 2017

I, Timothy Dyce, Deputy Commissioner of Taxation, make this determination under subsection 29-25(1) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).

Signed by Timothy Dyce

Deputy Commissioner of Taxation

Dated: 28/03/2017

1. Name of determination

This determination is the Goods and Services Tax: (Particular Attribution Rules for Retention Payments) Determination 2017.

2. Commencement

This determination commences on the day after its registration on the Federal Register of Legislation.

3. Repeal of previous determination

This determination repeals and replaces determination *A New Tax System (Goods and Services Tax) Act 1999 (Particular Attribution Rules for Retention Payments) Determination (No. 1) 2000 – F2006B11652*, registered on 29 November 2006.

4. Application

This determination applies to entities that:

- (a) do not account on a cash basis; and
- (b) make taxable supplies or creditable acquisitions where the contract provides for some or all of the consideration to be retained by the recipient until certain conditions under the contract are met.

The determination is substantially the same as the previous determination that it replaces. An entity that satisfied the requirements of the previous determination and that makes taxable supplies or creditable acquisitions where the contract provides for some or all of the consideration to be retained by the recipient until certain conditions under the contract are met will satisfy the requirements of the

determination.

5. Particular attribution rule for GST payable on a taxable supply made under a contract that provides for retention of some or all of the consideration until certain conditions under the contract are met

(a) This particular attribution rule applies if you make a taxable supply under a contract that provides for the recipient of the supply to retain some or all of the consideration until certain conditions are met.

(b) The **GST payable on the non-retained consideration** is attributable to the tax period when:

- (i) any of that consideration is received for the supply; or
- (ii) an invoice is issued relating to the supply;

whichever is earlier.

(c) The **GST payable on a retention amount** is attributable to the earlier of the tax period in which the retention amount is:

- (i) invoiced; or
- (ii) the tax period in which the retention amount is received (to the extent the GST payable on the retention amount has not been attributed to an earlier tax period).

6. Particular attribution rule for input tax credits arising from a creditable acquisition made under a contract that provides for retention of some or all of the consideration until certain conditions under the contract are met

(a) This particular attribution rule applies if you make a creditable acquisition under a contract that allows you to retain some or all of the consideration until certain conditions are met.

(b) The **input tax credit on the non-retained consideration** to which you are entitled for a creditable acquisition is attributable to the tax period when:

- (i) you provide any of the consideration for the acquisition; or
- (ii) an invoice is issued relating to the acquisition;

whichever is the earlier.

(c) The **input tax credit on a retention amount** is attributable to the earlier of the tax period in which the retention amount is:

- (i) invoiced; or
- (ii) the tax period in which the retention amount is paid (to the extent the input tax credit on the retention amount has not been attributed to an earlier tax period).

(d) This determination applies only if you do not account on a cash basis.

7. GST payable on the retention amount

(a) GST payable on the **retention amount** is worked out in the following way:

Step 1

Identify the **retention amount** as a percentage of the total of the consideration.

Step 2

Apply that percentage to the amount of GST payable on the taxable supply – the result is the **GST payable on the retention amount**.

(b) The **GST payable on the non-retained consideration** is the amount obtained by subtracting the amount of **GST payable on the retention amount** from the amount of GST payable on a taxable supply.

8. Input tax credit on the retention amount

(a) The **input tax credit on the retention amount** is worked out in the following way:

Step 1

Identify the **retention amount** as a percentage of the total of the consideration.

Step 2

Apply that percentage to the amount of the input tax credit for the creditable acquisition – the result is the **input tax credit on the retention amount**.

(b) The **input tax credit on the non-retained consideration** is the amount obtained by subtracting the amount of the **input tax credit on the retention amount** from the amount of the input tax credit that you are entitled to for a creditable acquisition.

(c) To avoid doubt, this determination is not intended to override subsection 29-10(3) or Division 156 of the GST Act.

9. Definitions

The following expressions are defined for the purposes of this determination:

GST payable on the non-retained consideration, in relation to a taxable supply, means the amount worked out in accordance with subparagraph 7(b);

GST payable on the retention amount, in relation to a taxable supply, means the amount worked out in accordance with subparagraph 7(a);

input tax credit on the non-retained consideration, in relation to a creditable acquisition, means the amount worked out in accordance with subparagraph 8(b);

input tax credit on the retention amount, in relation to a creditable acquisition, means the amount worked out in accordance with subparagraph 8(a);

invoice for the retention amount, means a document notifying an obligation to pay the retention amount issued in relation to that amount once certain conditions specified in the contract have been met and/or following the expiry of the defects liability period;

non-retained consideration, in relation to a taxable supply or a creditable acquisition, means the amount obtained by subtracting the retention amount (or amounts) from the consideration for that supply;

retention amount, in relation to a taxable supply or a creditable acquisition, means any part (or parts) of the consideration for the supply that the recipient of the supply retains under the terms of a contract which provide for the recipient to retain an amount or amounts until certain conditions specified in the contract are met;

Other expressions in this determination have the same meaning as in the GST Act.