

GSTD 2003/D2 - Goods and services tax: are all supplies made by the joint venture operator to participants in a GST joint venture to be treated as if they are not taxable supplies?

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This document has been finalised.

Draft Goods and Services Tax Determination

Goods and services tax: are *all* supplies made by the joint venture operator to participants in a GST joint venture to be treated as if they are not taxable supplies?

Preamble

*This document is a draft for industry and professional comment. As such, it represents the preliminary, though considered views of the Australian Taxation Office. This draft may not be relied on by taxpayers and practitioners as it is not a ruling or advice for the purposes of section 37 of the **Taxation Administration Act 1953**. The final Determination will be a public ruling for the purposes of section 37 and may be relied upon by any entity to which it applies.*

1. No. Not all supplies made by an entity that is nominated as the joint venture operator of a GST joint venture to participants in the joint venture are treated as if they were not taxable supplies. Rather, subsection 51-30(2) of the *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act) operates only in respect of supplies made by the entity in its capacity as joint venture operator.
2. Subsection 51-5(1) provides that the Commissioner must approve 2 or more entities as the participants in a GST joint venture if certain requirements are satisfied. These include a requirement that the application nominates one of those entities, or another entity, to be the joint venture operator of the joint venture (paragraph 51-5(1)(e)).
3. Subsection 51-30(2) provides that a supply that the joint venture operator of an approved GST joint venture makes is treated as if it were not a taxable supply if:
 - (a) it is made to another entity that is a participant in the joint venture; and
 - (b) the participant acquired the thing supplied for consumption, use or supply in the course of the activities for which the joint venture was entered into.
4. We consider that subsection 51-30(2) does not apply to supplies by an entity, that is nominated as the joint venture operator, which are not made in its capacity as joint venture operator. For example, it does not apply in relation to supplies of an entity's share of the product of the joint venture that the entity may make to another participant in the joint venture. While the supplier is the joint venture operator, the supply is not made in that capacity.

GSTD 2003/D2

Related Rulings/Determinations:

GSTR 1999/1; GSTD 2003/D3

Subject references:

- Joint venture
- GST joint venture

Legislative references:

- TAA 1953 37
- ANTS (GST)A99 Div 48
- ANTS (GST)A99 48-1
- ANTS (GST)A99 48-40(2)
- ANTS (GST)A99 Div 51
- ANTS (GST)A99 51-1
- ANTS (GST)A99 51-5(1)
- ANTS (GST)A99 51-30(2)
- A New Tax System (Indirect Tax and Consequential Amendments) Bill 1999

Other references:

- Explanatory Memorandum to the New Tax System (Indirect Tax and Consequential Amendments) Bill 1999
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ATO references

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