

# ***GSTR 2000/D13 - Goods and services tax: attributing GST payable on certain supplies of gas and electricity made by public utility providers***



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There is an Addendum notice for this document.

This document has been finalised.

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## **Draft Goods and Services Tax Ruling**

### **Goods and services tax: attributing GST payable on certain supplies of gas and electricity made by public utility providers**

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#### ***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 taxation officers, taxpayers and practitioners. When officially released it will be a public ruling for the purposes of section 37 of the Taxation Administration Act 1953 and may be relied upon by any person to whom it applies.*

#### **What this Ruling is about**

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1. This Ruling applies to ‘public utility providers’ who have an obligation arising from a Commonwealth, State or Territory law to provide customers with the option to make payments for gas or electricity supplies prior to the issue of an invoice.
2. A ‘public utility provider’ is an authority or an enterprise the primary business of which is to provide electricity or gas to the public for domestic or business purposes.
3. This Ruling is about attribution of Goods and Services Tax (‘GST’) payable under the *A New Tax System (Goods and Services Tax) Act 1999* (‘GST Act’) on certain supplies of gas and electricity made by a public utility provider of the kind referred to in paragraph 1. In particular, the Ruling explains the effect of, and the reasons for, the determination that the Commissioner proposes to make under section 29-25 about when to attribute GST payable. All legislative references are to the GST Act unless otherwise stated.
4. This is a draft Ruling. It does not represent the Commissioner’s final views as to whether the application of the basic attribution rules is inappropriate and the need for a determination about attribution. We seek your comments on the Commissioner’s proposal to make a determination. We will take your views into account in forming the final views of the Commissioner in relation to making the determination.
5. This Ruling does not address any issues about whether there is a taxable supply. The Ruling is only about when to account for GST payable.

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## Date of effect

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6. This Ruling, when finalised, will take effect on and from 8 July 1999 (the date of Royal Assent to the GST legislation).

## Context of attribution

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### *The basic attribution rules*

7. 'Attribution' is the term used in the GST law to describe the way you account for GST payable, input tax credits and adjustments in order to work out your net amount of GST for the tax period. GST payable, input tax credits and adjustments are attributed to tax periods rather than being remitted or refunded, as the case may be, each time a taxable supply, creditable acquisition or adjustment is made.

8. The basic attribution rules are set out in Division 29<sup>1</sup> of Part 2-6 of the GST Act. These rules are about when to account for GST payable on taxable supplies, input tax credits for creditable acquisitions and creditable importations, and adjustments. The basic attribution rules differ depending on whether or not you account for GST on a cash basis.

9. You can find an explanation of the basic attribution rules in Draft Goods and Services Tax Ruling GSTR 1999/D7<sup>2</sup>.

### *Determination of attribution rules under section 29-25*

10. The Commissioner may, under section 29-25, determine, in writing, the tax period or periods to which GST payable, input tax credits and adjustments for taxable supplies, creditable acquisitions and creditable importations of certain kinds are attributable.

11. The Commissioner can only make a determination under section 29-25 if satisfied that the application of the basic attribution rules and any relevant special rules under the GST Act would produce an inappropriate result in the circumstances described in subsection 29-25(2).

12. Determinations made under section 29-25 override the basic attribution rules and the special rules in Chapter 4 of the GST Act but

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<sup>1</sup> Sections 29-5, 29-10, 29-15 and 29-20.

<sup>2</sup> Draft Goods and Services Tax Ruling, Goods and Services Tax: attributing GST payable, input tax credits and adjustments.

only to the extent of any inconsistency<sup>3</sup> and only to the extent provided for in the determination. Where the Commissioner makes a determination, attribution must be in accordance with that determination.

13. The rules about attribution in the GST Act including any attribution rules determined under section 29-25 do not affect the operation of the *A New Tax System (Goods and Services Tax Transition) Act 1999* ('GST Transition Act'). This is because determinations made under section 29-25 only apply to override the application of Division 29 and Chapter 4 of the GST Act.

## **Proposed determination**

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### *The nature of the relevant transactions*

14. Many public utility providers are obliged to offer payment arrangements or plans to assist customers to spread their payments and help manage their budgets. These obligations arise from legislation designed to provide customer protection. For example, Gas Supply (Customer Protection) Regulation 1997 made under the *Gas Supply Act 1996 (NSW)* provides a framework for customer service codes that gas suppliers in NSW are required to comply with. The Natural Gas Customer Service Code provides for payment by instalments by residential customers.<sup>4</sup>

15. These payment arrangements or plans offered by public utility providers may:

- allow a customer to make instalment payments of any amount (above a minimum amount) during a billing period before a bill is received; or
- allow customers to spread the cost of their energy consumption over a whole year by providing for equal monthly payments based on an average of previous consumption over a whole year, irrespective of current usage.

16. Under these payment arrangements or plans customers may make payments before bills or invoices are issued. However, the great majority of recipients of supplies of gas and electricity make payments on receipt of a quarterly invoice that is issued after the meter is read.

17. Whether customers pay in advance under a special payment plan or not, the total consideration for each supply is not ascertained

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<sup>3</sup> Subsection 29-25(3).

<sup>4</sup> Item 4.3.4.

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until the meter is read or an estimate is made for the purposes of issuing an invoice.

18. The Commissioner has been informed that the current systems of many public utility providers are designed to reflect the fact that, for both accruals accounting and income tax purposes, revenue is recognised when meters are read and bills are issued.

*Is the application of the basic attribution rules inappropriate?*

19. If you do not account for GST on a cash basis, the GST payable on the supply of gas or electricity for a billing period is attributable to the earlier of:

- the tax period in which any of the consideration is received for the supply; or
- the tax period in which an invoice is issued relating to the supply.<sup>5</sup>

20. This means that the receipt of a payment before an invoice is issued triggers attribution of GST payable in the tax period in which the payment is received. Before the invoice issues, the supplier has not ascertained the consideration for the supply.

21. The Commissioner explained in Draft Goods and Services Tax Ruling GSTR 1999/D7 that it is proposed to make a determination under section 29-25 about the attribution rule to apply where consideration is received before the total consideration can be ascertained.<sup>6</sup> The attribution rule proposed under that determination will have the effect that a supplier, who accounts for GST on a basis other than cash, attributes GST payable on taxable supplies for which consideration is received before the total consideration is known, to a tax period or periods in which the consideration is received but only to the extent that consideration is received in that tax period.

22. However, the accounting systems of most public utility providers would require major modification to be able to account for GST payable to the extent of the payment received, where a payment is received before an invoice is issued.

23. Significant expenditure would have to be incurred to redesign systems so that public utility providers can recognise revenue based on receipt of payments for a small minority of the customer base, rather than on invoicing.

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<sup>5</sup> Subsection 29-5(1).

<sup>6</sup> Draft Goods and Services Tax Ruling GSTR 1999/D7, paragraphs 97 to 99.

*Proposed determination*

24. Paragraph 29-25(2)(e) allows the Commissioner to remedy an inappropriate application of the basic attribution rules and any relevant special rule in circumstances involving 'a supply or acquisition occurring before the supplier or recipient knows the total consideration'.

25. The Commissioner is satisfied that, where you account for GST on a basis other than cash, the application of the basic attribution rules to taxable supplies of gas or electricity which are the subject of the special payment arrangements described in paragraph 15 above, produces an inappropriate result.

26. Accordingly, the Commissioner proposes to make a determination under section 29-25 about the tax period to which the GST payable on these taxable supplies is attributable. The determination will only apply to public utility providers who do not account for GST on a cash basis.

27. The Commissioner proposes to determine that the GST payable on a taxable supply of gas or electricity made by a public utility provider and in respect of which the public utility provider is obliged by law to accept payments before an invoice is issued under a special payment plan as described in paragraph 15 above, is attributable to:

- (a) if an invoice is issued relating to the supply, the tax period in which the invoice is issued; or
- (b) the tax period in which an invoice would be issued if the special payment arrangement did not apply;

whichever is the earlier.

28. The effect of the determination will be to defer attribution of GST payable which would otherwise be triggered by the receipt of a payment or payments under a special payment plan, until the tax period in which an invoice is issued or the meter is read and the amount of the liability is established.

29. This determination will not apply if you account for GST on a cash basis.

## **Supplies spanning 1 July 2000**

30. The GST Transition Act contains the rules for working out whether a supply is made on or after 1 July 2000.<sup>7</sup> GST is only

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<sup>7</sup> The GST Transition Act, section 6.

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payable on a supply to the extent that it is made on or after 1 July 2000.<sup>8</sup>

31. Under section 12 of the GST Transition Act supplies of electricity and gas are taken to be made continuously and uniformly over the billing period. The part of the supply that is made on or after 1 July 2000 is subject to GST. To work out the value of the supply that is subject to GST, the total value of a supply for the billing period would have to be apportioned according to the proportion of the period that is on or after 1 July 2000. The amount of GST payable is worked out on this value.

32. The determination that the Commissioner proposes to make under section 29-25 of the GST Act does not change the operation of the rules in the GST Transition Act about whether GST is payable on a supply that spans 1 July 2000. The attribution rules including any special attribution rule determined by the Commissioner simply provide when the GST payable on a supply is to be accounted for.

## Detailed contents list

33. Below is a detailed contents list for this Draft Ruling:

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<sup>8</sup> The GST Transition Act, section 7.

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## Your comments

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34. If you wish to comment on this draft ruling, please send your comments by 21 June 2000 to:

**Contact officer:** Lyn Staples  
**Telephone:** (07) 3853 4840  
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**Address:** GST Rulings Unit  
GPO Box 920  
BRISBANE QLD 4001.

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### Commissioner of Taxation

8 June 2000

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*Previous draft:*

Not previously issued in draft form

*Related Rulings/Determinations:*

GSTR 1999/D7

*Subject references:*

- attribution
- cash basis
- consideration
- creditable acquisition
- electricity
- gas
- GST payable
- input tax credits
- invoice
- public utility
- public utility provider
- taxable supply
- tax invoice

*Legislative references:*

- ANTS(GST)A99 Div 29
- ANTS(GST)A99 29-5
- ANTS(GST)A99 29-5(1)
- ANTS(GST)A99 29-5(2)
- ANTS(GST)A99 29-10
- ANTS(GST)A99 29-15
- ANTS(GST)A99 29-20
- ANTS(GST)A99 29-25
- ANTS(GST)A99 29-25(1)
- ANTS(GST)A99 29-25(2)
- ANTS(GST)A99 29-25(2)(e)
- ANTS(GST)A99 29-25(3)
- ANTS(GSTT)A99 6
- ANTS(GSTT)A99 7
- ANTS(GSTT)A99 10
- ANTS(GSTT)A99 12
- Gas Supply Act 1996 (NSW)

ATO references:

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