

Net settlements -

⚠ This cover sheet is provided for information only. It does not form part of *Net settlements -*

⚠ This publication is extracted from the Insurance Industry Partnership - issues register. See issue 8 of that register. This publication should be read in conjunction with the related content of that register where further context is required.

⚠ This document has changed over time. This is a consolidated version of the ruling which was published on *17 July 2020*



Insurance Industry Partnership

Net settlements

📌 This publication provides you with the following level of protection:

This publication (excluding appendixes) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you – provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

Net settlements

Issue

1. An insurer and another party each make claims against the other. The parties agree to give up their respective claims on the making of a net payment by the other party to the insurer. What is the GST treatment? Are the cross claims disregarded?

ATO view

2. One entity surrenders its rights against the second entity in exchange for the second entity (a) surrendering its rights against the first entity and (b) paying it the net difference between the claims (or some other agreed amount). The first entity is making a supply of the surrender of rights in exchange for consideration (the other entity's supply of the surrender of rights and the net amount paid). The second entity is also making a supply - a supply of the surrender of its rights against the first entity - in exchange for the first entity surrendering its rights against the second entity.

3. The supplies will be taxable supplies if the conditions of section 9-5 are met. There will also be accompanying creditable acquisitions if the conditions of section 11-5 are met. See also GSTR 2001/4 - Goods and Services Tax: GST consequences of court orders and out-of-court settlements.

4. If the supplies are taxable, what is the amount of GST? The first entity will be liable to GST of 1/11 of the monetary part of the consideration plus 1/11 of the GST inclusive market value of the second entity's supply of the surrender of its rights against the first entity.

5. The second entity will be liable to GST of 1/11 of the GST inclusive market value of the first entity's supply of the surrender of its rights against the second entity.

6. If the acquisitions are creditable acquisitions, what are the amount of the input tax credits? Assuming the acquisitions are 100% for a creditable purpose, the first entity will be entitled to an input tax credit equal to the GST liability the second entity has. The second entity will be entitled to an input tax credit equal to the GST liability the first entity has.