


GSTA TPP 003 - Goods and services tax: Can an employer claim input tax credits for expenses incurred on behalf of a superfund?

 This cover sheet is provided for information only. It does not form part of *GSTA TPP 003 - Goods and services tax: Can an employer claim input tax credits for expenses incurred on behalf of a superfund?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *31 October 2012*



Goods and Services Tax Advice

Goods and services tax: can an employer claim input tax credits for expenses incurred on behalf of a superfund?

Preamble

*This document was published prior to 1 July 2010 and was a public ruling for the purposes of former section 37 of the **Taxation Administration Act 1953** and former section 105-60 of Schedule 1 to the **Taxation Administration Act 1953**.*

*From 1 July 2010, this document is taken to be a public ruling under Division 358 of Schedule 1 to 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.

[Note: *This is a consolidated version of this document. Refer to the Legal Database (<http://law.ato.gov.au>) to check its currency and to view the details of all changes.]*

Answer

No, the employer is not entitled to the input tax credit for the expenses where the acquisition is made by the superannuation fund.

Background

Vendors supply goods and services to a superannuation fund. An employer pays for the goods and services on behalf of the superannuation fund.

Explanation

Under the GST Act, input tax credits are generally available to a registered entity in relation to things acquired in the course of carrying on its enterprise. A superannuation fund is a separate entity and enterprise to that of the employer. Where an employer incurs expenses on behalf of the superannuation fund, the employer is generally not entitled to input tax credits for the GST included in the expenses. This is because although the employer is providing the consideration for the supply, it is not a creditable acquisition to the employer. The supply is made to the recipient – the superannuation fund – not the employer. Therefore, the company has not made a creditable acquisition under section 11-5 of the GST Act. However, there are some limited circumstances where, depending on fact and degree, the employer may be entitled to input tax credits for expenses incurred on behalf of a superannuation fund. This would be where it can be established that the employer has made the acquisition but directed the acquisition to be provided to the superannuation fund.

Application of this GST Advice

This Advice applies [to tax periods commencing] both before and after its date of issue. However, this Advice will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Advice (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

Commissioner of Taxation
14 June 2005

Related Rulings/Determinations/GST Advice:

TR 2006/10; MT 2005/1

Subject references:

entity
creditable acquisition
input tax credits
superannuation

Legislative references:

TAA 1953 Sch 1 Div 358
ANTS(GST) A99 11-5

ATO references

NO:	05/3095
ISSN:	1833-0053