



GSTA TPP 014 - Goods and services tax: Is an assignment of trade debts by a registered entity reporting on a cash basis GST-free if the assignment is made under an arrangement for the supply of an enterprise as a GST-free going concern?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *14 June 2005*



Goods and Services Tax Advice

Goods and services tax: Is an assignment of trade debts by a registered entity reporting on a cash basis GST-free if the assignment is made under an arrangement for the supply of an enterprise as a GST-free going concern?

Preamble

*This document is a ruling for the purposes of section 37 of the Taxation Administration Act 1953. It illustrates the principles contained in **Goods and Services Tax Ruling GSTR 2002/5 on going concerns**. You can rely on the information presented in this document, which provides advice on the operation of the GST system.*

Answer

Yes. Trade debts can be things necessary for the continued operation of an enterprise. They can be assigned under an arrangement for the supply of the enterprise. If the supply of a going concern is GST-free under section 38-325 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) the assignment of the trade debts included under the arrangement is also GST-free

Example

S is a registered entity for GST and reports on a cash basis. S makes taxable supplies to customers and carries trade debts of \$11,000 in relation to these supplies. S supplies its enterprise to P, who is also registered, as a GST-free supply of a going concern and assigns the trade debts to P under the arrangement. P agrees to pay S \$11,000 for the assignment. S tells its customers that it has assigned their debts. P also agrees to notify S when it receives any payments from the debtors. Some time after settlement, one of the customers pays P \$550 for a supply that S had made.

Explanation

When a vendor supplies an enterprise and assigns to the purchaser the rights to collect its trade debts, the assignment, and the consideration for the assignment, is separate to the original supplies made by the vendor. As the debtors accounts can be things necessary for the continued operation of an enterprise, the assignment of the debts by the vendor to the purchaser can form part of a GST-free supply of a going concern under section 38-325 of the GST Act.

When the customer pays P \$550, S becomes liable for GST of \$50. S is required to pay the GST in the tax period in which P receives the payment. The payment by the customer is treated as consideration for the earlier taxable supply made by S. If the customer only pays part of the debt, S is liable for GST to the extent of 1/11 of the amount paid.

In the contractual arrangements, S needs to ensure that P will notify it about each payment it receives. This is because S is still liable for the GST on the earlier supplies it has made and, in this case, would be liable for GST of \$50 even if not notified by P.

Note: Division 135 of the GST Act requires the purchaser to make increasing adjustments if the supplies that the purchaser intends to make are input taxed. As no supplies are input taxed in the situation outlined here, then Division 135 does not apply.

Application of this Advice

This Advice is based on GSTR 2002/5. That Ruling replaced GSTR 2001/5, which explains our view of the law as it applied from 1 July 2000. You can rely on this Advice on and from its date of issue for the purposes of section 37 of the *Taxation Administration Act 1953*. Goods and Services Tax Ruling GSTR 1999/1 explains the GST rulings system and our view of when you can rely on our interpretation of the law in GST public and private rulings.

If this Advice conflicts with a previous private ruling that you have obtained, this public ruling prevails. However, if you have relied on a private ruling, you are protected in respect of what you have done up to the date of issue of this public ruling. This means that if you have underpaid an amount of GST, you are not liable for the shortfall prior to the date of issue of this later ruling. Similarly, you are not liable to repay an amount overpaid by the Commissioner as a refund.

Commissioner of Taxation

Date

Previous Rulings/Determinations/GST Advice:

GSTR 2001/5

Subject references:

GST-free
going concern
debts

Legislative references:

ANTS(GST)A 99 38-325
ANTS(GST)A 99 Div 135
TAA 1953 37

ATO references

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