


GSTA TPP 046 - Goods and services tax: Is a share for share swap a financial supply for GST purposes?

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 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: is a share for share swap a financial supply for GST purposes?

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

A share for share swap is a financial supply for GST purposes provided all the requirements of subregulation 40-5.09(1) of A New Tax System (Goods and Services Tax) Regulations 1999 (GST Regulations) are satisfied.

Background

Company A swaps its shares for shares in company B and vice versa.

Explanation

In such a situation, four transactions take place from a GST perspective:

- disposal of entity A's interest in the 'securities' by entity A;
- acquisition of entity A's interest in the 'securities' by entity B;
- disposal of entity B's interest in the 'securities' by entity B; and
- acquisition of entity B's interest in the 'securities' by entity A.

An interest in or under 'securities' is listed under Item 10 of subregulation 40-5.09(3) of the GST Regulations as a financial interest. In the above example, both entities are disposing of, and acquiring, interests in or under securities. Where the remaining requirements of subregulation 40-5.09(1) of the GST Regulations are satisfied, the four share for share swap transactions listed above are financial supplies.

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

Subject references:

share for share swap
script for script transaction
shares
securities
financial supply

Legislative references:

ANTS(GST)R 1999 40-5.09
TAA 1953 Sch 1 Div 358

ATO references

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