



# ***GSTA TPP 049 - Goods and services tax: Is a trustee's in-specie distribution to a beneficiary a taxable supply?***

 This cover sheet is provided for information only. It does not form part of *GSTA TPP 049 - Goods and services tax: Is a trustee's in-specie distribution to a beneficiary a taxable supply?*

 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 a trustee's in-specie distribution to a beneficiary a taxable supply?

#### **Preamble**

*This document is a ruling for the purposes of section 37 of the Taxation Administration Act 1953. You can rely on the information presented in this document, which provides advice on the operation of the GST system.*

#### **Answer**

A distribution made by a trust to a beneficiary does not involve consideration in the form of the surrender to the trust of any rights held by the beneficiary. Therefore, there is no supply for consideration and the supply is not a taxable supply under section 9-5 of the GST Act.

However, the supply of something in specie from a trust to a beneficiary is a supply between associated entities. As the supply from a trust to a beneficiary is made to an associate for no consideration, Subdivision 72-A should be considered. When a beneficiary is not registered or required to be registered for GST, or is receiving the in specie distribution other than for a creditable purpose, subdivision 72A will apply. The in specie distribution will be a taxable supply. The value of the supply is the GST-exclusive market value of the supply.

*Note: The disposal, by way of redemption, of units held by a beneficiary in a unit trust for consideration consisting of an in specie distribution from the trust, involves both the trust and the beneficiary making a supply for consideration.*

#### **Application of this GST Advice**

This Advice 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

#### **Subject references:**

trust  
beneficiary  
in-specie  
associate

#### **Legislative references:**

ANTS(GST)A 1999 Subdiv 72-A  
TAA 1953 37

#### **Other references:**

*Representatives of Incapacitated Entities Frequently Asked Questions.* "20. Is an in-specie distribution made from a representative to a shareholder a taxable supply?"

ATO ID 2001/503  
ATO ID 2001/504  
ATO ID 2001/505

#### **ATO references**

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