


GSTA TPP 053 - Goods and services tax: Is GST payable on the taxable importation of consignment stock into Australia when ownership passes to the vendor as is the case with taxable supplies?

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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 GST payable on the taxable importation of consignment stock into Australia when ownership passes to the vendor as is the case with taxable supplies?

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, GST payable on taxable importations is payable by the importer to Customs at the same time and place, and in the same manner, as the customs duty on the goods is payable (or would be payable if the goods were subject to customs duty)

Background

The ATO takes the view that where there is a 'sale or return' basis supply the GST liability for a taxable supply only arises in the tax period in which the supply is certain. This applies to many items taken on consignment.

For example, many imported books are acquired under a consignment stock arrangement. Under this type of arrangement, an entity only becomes the legal owner of the books once it sells them.

However, under section 13-5 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) the goods imported are subject to GST at the time of importation (taxable importation). Goods are regarded as being entered for home consumption regardless of the fact that they have not been imported by the legal owner of the goods. When goods are imported on consignment, the importer is not the legal owner at that stage (title does not pass until the goods are sold).

Explanation

The basic rules apply to both the taxable importation of consignment goods and the taxable supply of consignment goods. Section 33-15 of the GST Act describes how and when GST on taxable importations is payable. Section 29-5 of the GST Act describes the attribution of GST on taxable supplies. The rules have a different application depending on whether there is a taxable supply or a taxable importation. The attribution rules in section 29-5 apply to taxable supplies but not to taxable importations. They describe which tax periods GST should be attributable. GST on taxable importations is not attributed to tax periods. It is required to be paid by the importer to the Commonwealth at the same time as customs duty is paid, or within a further time in circumstances specified in the regulations. Each of these sets of rules apply whether goods are consignment goods or not.

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If the importer is registered for GST, it can claim a GST credit for the GST paid on importation in the same tax period as the importation occurs. Alternatively, the importer may wish to seek approval for the GST deferral scheme.

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; GSTR 2000/29

Subject references:

Taxable supply
Taxable importation
attribution

Legislative references:

ANTS(GST)A 1999 29-5
ANTS(GST)A 1999 33-15
TAA 1953 Sch 1 Div 358

Other references:

Australian Customs Notice 2000/30

ATO references

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