


GSTA TPP 063 - Goods and services tax: Is a partner who receives more than \$50,000 in profit distributed by the partnership required to be registered for GST?

 This cover sheet is provided for information only. It does not form part of *GSTA TPP 063 - Goods and services tax: Is a partner who receives more than \$50,000 in profit distributed by the partnership required to be registered for GST?*

 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 partner who receives more than \$50,000 in profit distributed by the partnership required to be registered for GST?

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 partner is not required to be registered for GST. The partner is not carrying on an enterprise or making supplies. Annual turnover for GST purposes does not meet the registration turnover threshold.

Background

A person is a partner in a partnership. The partnership carries on an enterprise. The partners do not make supplies or carry on an enterprise in

their own right. The partnership distributes \$60,000 profit to the partner during the financial year. The partnership made the profit by making taxable supplies in the course of its enterprise.

Explanation

Under section 23-5 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act), you are required to be registered if you are carrying on an enterprise and your annual turnover meets the registration turnover threshold. The question of enterprise in relation to the registration of partnerships is discussed in paragraphs 109 and 110 of Goods and Service Tax Ruling GSTR 2004/6 on tax law partnerships.

109. An enterprise partnership may register for GST. It is required to register if it meets the registration turnover threshold. The registration turnover threshold is \$50,000 (or a higher amount as specified in the GST regulations). A tax law partnership that does not carry on an enterprise cannot be registered for GST.

110. The partners of an enterprise partnership cannot register for GST, nor can they acquire an ABN in relation to the enterprise carried on by the partnership. However, they may be registered in relation to a separate enterprise that they carry on in their own right.

Note: Annual turnover is defined in section 195-1 of the GST Act and has the meaning given in subsections 188-10(1) and 188-10(2) of the GST Act. It consists of the value of supplies made in a twelve-month period. It does not include distributions of profit.

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).

Related Rulings/Determinations/GST Advice:

TR 2006/10
GSTR 2004/6
GSTR 2003/13

Subject references:

partnership
net income
supply
annual turnover threshold

Legislative references:

ANTS(GST)A 1999 23-5
ANTS(GST)A 1999 9-10
ANTS(GST)A 1999 188-10
ANTS(GST)A 1999 195-1
TAA 1953 Sch 1 Div 358

ATO references

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