



Goods and Services Tax Advice

Goods and services tax: is GST payable on a dishonoured cheque fee?

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 is not payable on a dishonoured cheque fee.

Explanation

A dishonoured cheque fee charged by an Australian authorised deposit taking institution (ADI) in the course of its banking business is input taxed under item 1 in the table in subregulation 40-5.09(3) of the A New Tax System (Goods and Services Tax) Regulations 1999 (GST Regulations).

Where a dishonoured cheque fee is on-charged by a supplier to its customer, the payment made in relation to the on-charge is consideration for the supply of an interest under item 2 in the table in subregulation 40-5.09(3) of the GST Regulations, to the extent that the customer has a contractual obligation (express or implied) to make good the loss (the dishonoured cheque fee) incurred by the supplier.

Such a transaction is a financial supply for the purposes of subsection 40-5(2) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act), to the extent that the further requirements of subregulation 40-5.09(1) of the GST Regulations are met.

This analysis is not altered by the fact that the supplier increases the value of the on-charge over and above that which was originally levied on them.

Where no contractual obligation exists, the payment of the on-charged dishonoured cheque fee is a payment made for no supply.

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:

dishonoured cheque fee
on-charging

Legislative references:

ANTS(GST)A 1999 40-5(2)
ANTS(GST)R 1999 40-5.09
TAA 1953 Sch 1 Div 358

GSTA TPP 065

FOI status: **may be released**

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ATO references

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