



GSTA TPP 087 - Goods and services tax: Is a partnership entitled to an input tax credit for an acquisition if the relevant tax invoice contains the name of only one partner, and that partner is reimbursed by the partnership for the cost of the acquisition?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *26 October 2005*



Goods and Services Tax Advice

Goods and services tax: Is a partnership entitled to an input tax credit for an acquisition if the relevant tax invoice contains the name of only one partner, and that partner is reimbursed by the partnership for the cost of the acquisition?

Preamble

*This document is a ruling for the purposes of section 37 of the Taxation Administration Act 1953. It illustrates the principles contained in **Goods and Services Tax Ruling GSTR 2003/13 on general law partnerships and Goods and Services Tax Ruling GSTR 2004/6 on tax law partnerships**. You can rely on the information presented in this document, which provides advice on the operation of the GST system.*

Answer

Yes, a partnership is entitled to an input tax credit for an acquisition if the relevant tax invoice contains the name of only one partner, and that partner is reimbursed by the partnership for the cost of the acquisition.

Background

A partner makes an acquisition of goods on behalf of the partnership in his capacity as a partner and provides the consideration for the acquisition. The supplier of the goods issues a tax invoice that states the name of the partner who acquired the goods, but not the name of the partnership. The partner is reimbursed for the cost of the acquisition by the partnership.

Explanation

If a partner makes an acquisition in a capacity **other than in his or her capacity as partner of the partnership**, but which is for an expense that is directly related to his or her activities as partner of the partnership, section 184-5 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) does **not** apply. However, if the partnership subsequently reimburses the partner, the partnership may become entitled to an input tax

credit in respect of that acquisition under Division 111.

GSTR 2003/13 on general law partnerships states:

110. A partner making an acquisition in relation to the enterprise of the partnership ordinarily makes it in the capacity as partner. However, partners may incur expenses that are directly related to their activities as partners of the partnership, but not actually incurred in their capacities as partners. An example is a partner making calls from a private telephone to partnership clients.

111. When the partnership reimburses the partner for the expense, Division 111 treats the reimbursement as consideration for an acquisition that the partnership makes from the partner. This Division allows registered entities to claim input tax credits on certain acquisitions made by their employees, agents, officers or partners where such expenses are reimbursed. A registered partnership is entitled to an input tax credit if the requirements of Division 111 are satisfied.

112. One of the requirements of this Division is that the supply to the partner must be taxable. The partner needs to provide the partnership with the tax invoice (except where the value is \$50 or less) it obtained for this supply, as the partnership may claim an input tax credit if it holds this tax invoice.

113. Where a partner makes an acquisition and is acting in the capacity as a partner of the partnership, the acquisition is taken to be by the partnership. The question of reimbursements in this instance will not arise (see subsection 111-5(3A)).

If the partnership holds a tax invoice in the name of one partner only, the partnership may be entitled to an input tax credit under Division 111, provided that all the other requirements of Division 111 are met. GSTR 2000/17 on tax invoices notes that invoices that are in the name of the officer who is reimbursed are acceptable for this purpose. It states:

73. Division 111 has special rules covering the situation where you reimburse an employee, an officer of a company or a partner for an expense they incur for an acquisition directly related to that position.

74. Providing the requirements of the Division are met, the reimbursement is treated as consideration for an acquisition you make from that person. You may claim

the input tax credit for a creditable acquisition if you hold the tax invoice that was issued to the person you reimbursed. The tax invoice may identify that person and not you as the recipient of the taxable supply.

In GSTR 2004/6 on tax law partnerships, the same information appears at paragraphs 169 to 172.

Application of this GST Advice

This Advice is based on GSTR 2003/13 and GSTR 2004/6. It 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

26 October 2005

Related Rulings/Determinations/GST Advice:

GSTR 2000/17
GSTA TPP 086
GSTA TPP 088

Subject references:

tax invoice
partnership
partner
input tax credits
acquisition

Legislative references:

ANTS(GST)A 1999 184-5
ANTS(GST)A 1999 Div 111
TAA 1953 37

ATO references

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