



GSTA TPP 095 - Goods and services tax: Are there circumstances in which repairs and additions to plant and equipment are not included as 'assets' for the purposes of an increasing adjustment under Division 138 of the GST Act upon cessation of registration?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *1 February 2006*



Goods and Services Tax Advice

Goods and services tax: Are there circumstances in which repairs and additions to plant and equipment are not included as 'assets' for the purposes of an increasing adjustment under Division 138 of the GST Act upon cessation of registration?

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

Yes, there are circumstances in which repairs and additions to plant and equipment are not included as 'assets' for the purposes of an increasing adjustment under Division 138 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) upon cessation of registration. If the items of repair or additions made to an asset have been consumed over the life of the asset or do not exist as a discrete asset in their own right at the time of cessation of registration, there is no increasing adjustment under Division 138 for these acquisitions. If spare parts are included in the entity's assets on hand at the cessation of registration, Division 138 applies in determining the amount of any increasing adjustment.

Background

A mining company owns plant and equipment worth \$5M. The equipment has undergone various repairs and additions over its life worth \$0.5M. The company ceases business and abandons the plant and equipment as its scrap value is zero. The entity was entitled to input tax credits for its acquisitions. There are no adjustment periods relating to the plant, equipment, or spare parts.

Explanation

Division 138 of the GST Act deals with increasing adjustments for cessation of GST registration. Subsection 138-5(1) of the GST Act provides that an entity has an increasing adjustment if its registration is cancelled and, immediately before the cancellation, its assets include anything for which it was, or is, entitled to input tax credits.

The term 'asset' is not defined in the GST legislation and takes its ordinary meaning. *The Macquarie Dictionary* defines 'asset' as, '1. a useful thing or quality. 2. an item of property; an economic resource.' The existence of an asset for GST purposes is a matter of fact.

Section 195-1 of the GST Act defines 'thing' as 'anything that can be supplied or imported'. The thing referred to in Division 138 of the GST Act is the thing supplied to the entity or imported by the entity, for which the entity was or is entitled to an input tax credit, and which is included in the assets of the entity immediately before the cancellation of registration takes effect.

The 'GST inclusive market value' of a thing, or supply or acquisition of a thing, is defined in section 195-1 of the GST Act. It means the market value of the consideration or thing, without any discount for any amount of GST or luxury car tax payable on the supply.

'Market value' is not a defined term but an objective test. Goods and Services Tax Ruling GSTR 2001/6, which is about non-monetary consideration, gives some guidance regarding how 'market value' is determined. It states at paragraph 141:

Market value is regarded as the price that would be negotiated at a specified time between a knowledgeable and willing but not anxious buyer and a knowledgeable and willing but not anxious seller acting at arm's length in an appropriate market.

You may determine the GST inclusive market value of the thing by applying a method that produces a reasonable GST inclusive market value. The method will differ depending on the particular circumstances.

Examples of reasonable valuation methods are outlined in GSTR 2001/6 at paragraph 144. They include:

- the market value of an identical good, service or thing;

- the market value of a similar good, service or thing;
- the market value of the supply; or
- a professional appraisal.

Although Division 138 of the GST Act applies in relation to each item of plant and equipment that is included in the assets of an entity immediately before the cancellation of its registration takes effect, whether it will result in there being an increasing adjustment will depend on the circumstances of the entity at that time. For example:

- if a thing does not exist as a discrete asset in its own right, Division 138 does not apply. For example, an increasing adjustment for painting repairs does not arise when the entity's registration is cancelled as the repair does not exist in its own right at that time;
- a thing may exist but there is no increasing adjustment if its GST inclusive market value is zero. For example, old machinery or spare parts with a scrap value of zero; or
- the item may exist as an integral part of an item of plant or equipment. For example, spare parts used to repair a machine. The GST inclusive market value of the spare parts can be calculated using a reasonable method. Once this value has been calculated, the applicable value can be determined and applied in the formula contained in subsection 138-5(2) of the GST Act to calculate the amount of the increasing adjustment.

Note: Taxation Ruling TR 2002/20, which is about thin capitalisation and the definition of assets and liabilities, is limited to the operation of Division 820 of the Income Tax Assessment Act 1997. It has no application in determining the value of assets for purposes of Division 138 of the GST Act.

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 ruling that you have obtained, this public ruling prevails. However, if you have relied on a previous 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

Related Rulings/Determinations/GST Advice:

GSTR 2001/6
GSTA TPP 094
GSTA TPP 096

Subject references:

adjustment events
asset
increasing adjustment
market value
GST registration
registration cancellation

Legislative references:

ANTS(GST)A 1999 Div 138
ANTS(GST)A 1999 138-5(1)
ANTS(GST)A 1999 138-5(2)
ANTS(GST)A 1999 195-1
TAA 1953 37

Other references:

The Macquarie Dictionary, Revised Third Edition

ATO references

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