

GSTD 2000/7 - Goods and services tax: is the supply of the services of apprentices or trainees by a Group Training Company to host employers under a Group Training Scheme a taxable supply in terms of section 9-5 of the A New Tax System (Goods and Services Tax) Act 1999?

! This cover sheet is provided for information only. It does not form part of *GSTD 2000/7 - Goods and services tax: is the supply of the services of apprentices or trainees by a Group Training Company to host employers under a Group Training Scheme a taxable supply in terms of section 9-5 of the A New Tax System (Goods and Services Tax) Act 1999?*

! From 1 July 2015, the term 'Australia' is replaced in nearly all instances within the GST, Luxury Car Tax, and Wine Equalisation Tax legislation with the term 'indirect tax zone' by the *Treasury Legislation Amendment (Repeal Day) Act 2015*. The scope of the new term, however, remains the same as the now repealed definition of 'Australia' used in those Acts. This change was made for consistency of terminology across the tax legislation, with no change in policy or legal effect. For readability and other reasons, where the term 'Australia' is used in this document, it is referring to the 'indirect tax zone' as defined in subsection 195-1 of the GST Act.

! 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 Determination

Goods and services tax: is the supply of the services of apprentices or trainees by a Group Training Company to host employers under a Group Training Scheme a taxable supply in terms of section 9-5 of the *A New Tax System (Goods and Services Tax) Act 1999*?

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.]

Date of Effect

This Determination applies [to tax periods commencing] both before and after its date of issue. However, this Determination 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 Determination (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

1. The supply of services of apprentices or trainees by a Group Training Company to host employers under a Group Training Scheme is typically a taxable supply.
2. A Group Training Scheme means an industrial organisation or body corporate that is approved to employ apprentices and trainees but uses the facilities of its members or other employers to train those apprentices or trainees.

3. In relation to a typical Group Training Scheme, a Group Training Company (“Group Training Company”):

- employs apprentices and trainees, placing them into group training schemes for the duration of their apprenticeship or traineeship;
- coordinates the training and industry placements of the apprentices and trainees and is responsible for the administration and compliance aspects of the employment;
- is the legal employer of the apprentices and trainees;
- places apprentices or trainees with a host employer where they receive on the job training which is complemented by formal training provided by registered training organisations etc; and
- invoices the Host Employer for the time the apprentices or trainees are placed with its business. The fee to the Host Employer is based on: basic wage, Superannuation Guarantee Charge, Work Cover, administrative fee less any government incentives.

4. Under section 9-5 of the *A New Tax System (Goods and Services Tax) Act 1999* (‘GST Act’) an entity makes a taxable supply if:

- the entity makes the supply for consideration; and
- the supply is made in the course or furtherance of an enterprise the entity carries on; and
- the supply is connected with Australia; and
- the entity is registered, or required to be registered.

5. In the typical situation the supply of the services of apprentices or trainees by the Group Training Company to the Host Employer is a taxable supply as the conditions of section 9-5 are satisfied:

- A supply of services/labour in the form of apprentices or trainees, is made by the Group Training Company to the Host Employer;
- Consideration is made by the Host Employer for the supply;
- Supply of apprentices or trainees is made in the course of the Group Training Company’s enterprise;
- Supply is connected with Australia; and
- The Group Training Company is registered, or required to be registered.

6. Pursuant to subsection 7-1(1) of the GST Act, GST is payable on the taxable supply between the Group Training Company and the Host Employer. Under subsection 7-1(2) the Host Employer is entitled to input tax credits for the GST included in the fee for the supply of apprentices or trainees where the other conditions for a creditable acquisition are met.

7. Wages and salaries of employees are excluded from the definition of enterprise under the GST Act and are therefore not subject to GST. In the above situation the entity paying wages and salaries is the Group Training Company and these payments will be subject to withholding payments under the Pay As You Go (PAYG) System.

Previous draft:

Not previously issued in draft form.

- taxable supply
- enterprise
- PAYG

Related Rulings/Determinations:

TR 2006/10

Legislative references:

Subject references:

- goods & services tax
- GST supply

- ANTS(GST)A 7-1(1)
- ANTS(GST)A 7-1(2)
- ANTS(GST)A 9-5
- TAA 1953 Sch 1 Div 358

ATO references:

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