GSTR 2000/36W - Goods and services tax: insurance settlements by making supplies of goods or services

This cover sheet is provided for information only. It does not form part of *GSTR 2000/36W - Goods and services tax: insurance settlements by making supplies of goods or services*

This Ruling has been replaced by GSTR 2005/D9

This document has changed over time. This is a consolidated version of the ruling which was published on *21 December 2005*

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Notice of Withdrawal

Goods and Services Tax Ruling

Goods and services tax: insurance settlements by making supplies of goods or services

1. GSTR 2000/36 states the Commissioner's view on whether Division 11 or Division 78 of *A New Tax System (Goods and Services Tax) Act 1999* applies to a payment or supply made by an insurer in the course of settling a claim under an insurance policy.

2. The Ruling applies to insurers that provide, or are liable to provide, consideration for a supply in settlement of an insurance claim.

3. Goods and Services Tax Ruling GSTR 2000/36 is withdrawn with effect from today.

4. This document is replaced by Draft Goods and Services Tax Ruling GSTR 2005/D9 Goods and services tax: insurance settlements and entitlement to input tax credits.

Reason for Withdrawal

5. We have reviewed Goods and Services Tax Ruling GSTR 2000/36 to ensure consistency with in GSTR 2005/6, which addresses the scope of subsection 38-190(3), and draft Ruling GSTR 2005/D8, which deals with making supplies and analysing multi-party arrangements.

6. While the draft Ruling does not change any of the outcomes contained in GSTR 2000/36, the principles on which they are based have changed.

7. The draft Ruling takes the view that it is important to analyse the act or transaction that the insurer enters into when settling a claim to determine what supply is being made by whom and to whom. Essentially, the GST consequences for the insurer in these arrangements turn on the identification of:

- a supply and its proper characterisation;
- the recipient (acquirer) of the supply;
- the entity to whom the supply is provided;
- the consideration for that supply;
- who provides, or is liable to provide, the consideration; and

- whether there is a sufficient nexus between the consideration and the supply.

8. The draft Ruling also addresses a number of other matters including:

- a change of the Commissioner's interpretation of the two UK VAT cases (*Customs and Excise Commissioners v. Redrow Group plc* [1999] 2 All ER 1; [1999] STC 161; [1999] 1 WLR 408 and *British Airways plc 16446* [2000] BVC 2207) that were discussed in GSTR 2000/36;
- a discussion of the more recent UK VAT case, *WHA Limited and Viscount Reinsurance Company Limited v. HM Commissioners of Customs and Excise* [2004] EWCA Civ 559;
- some minor corrections to the vouchers section following the issue of the vouchers ruling (GSTR 2003/5); and
- the treatment of insurance excess payments.

9. For further information, refer to draft Ruling GSTR 2005/D9 Goods and services tax: insurance settlements and entitlement to input tax credits.

Commissioner of Taxation
21 December 2005

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