

GSTR 2004/1A7 - Addendum - Goods and services tax: reduced credit acquisitions

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Addendum

Goods and Services Tax Ruling

Goods and services tax: reduced credit acquisitions

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends GSTR 2004/1 in order to refer to the decision in *Commissioner of Taxation v. MBI Properties Pty Ltd* [2014] HCA 49; 2014 ATC 20-474; (2014) 92 ATR 241 and clarify, at paragraph 742, that acquisitions a recognised trust scheme makes by way of lease can in certain cases include acquisitions made under a lease granted before 1 July 2012. This clarification is relevant to the application of item 32 of the table in sub-regulation 70-5.02(2) to the *A New Tax System (Goods and Services Tax) Regulations 1999*, which sets out what supplies acquired by a recognised trust scheme, are reduced credit acquisitions.

GSTR 2004/1 is amended as follows:

1. Paragraph 742

Omit the last dot point; Substitute:

- real property by way of lease (other than a long-term lease) or licence where the lease or licence is granted on or after 1 July 2012;
- real property by way of lease (other than a long-term lease) where the lease was granted before 1 July 2012, and the lessor observes the obligation to provide the recognised trust scheme with use of the real property under the lease, on or after 1 July 2012.^{100A}

^{100A} At paragraph [36] of its decision in *Commissioner of Taxation v. MBI Properties Pty Ltd* [2014] HCA 49; 2014 ATC 20-474; (2014) 92 ATR 241, the High Court recognised that a lease of real property involved a supply being made when the lease was granted and a further supply which occurred progressively throughout the lease term as a result of the lessor observing the obligation to provide the lessee quiet enjoyment under the lease. While that conclusion was reached in the context of section 40-35 it also applies to supplies of real property by way of lease beyond residential premises.

2. Footnote 103

Omit the footnote; substitute:

¹⁰³ See Goods and Services Tax Determination GSTD 2013/3 *Goods and services tax: does item 32 of the table in subregulation 70-5.02(2) of the A New Tax System (Goods and Services Tax) Regulations 1999 apply to some extent in respect of an acquisition for a single fee by a managed investment fund that is a recognised trust scheme from a Responsible Entity?*

3. Related Rulings/Determinations

Omit 'GSTD 2013/D1'; substitute 'GSTD 2013/3'.

4. Case references

Insert:

- Commissioner of Taxation v. MBI Properties Pty Ltd [2014] HCA 49; 2014 ATC 20-474; (2014) 92 ATR 241

This Addendum applies on and from 1 July 2012.

Commissioner of Taxation

3 June 2015

ATO references

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