

# ***GSTR 2004/6A3 - Addendum - Goods and services tax: tax law partnerships and co-owners of property***

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## Addendum

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### Goods and Services Tax Ruling

#### Goods and services tax: tax law partnerships and co-owners of property

This Addendum amends Goods and Services Tax Ruling GSTR 2004/6 to reflect amendments to the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act). In particular, the Addendum updated GSTR 2004/6 for amendments made to Subdivision 29-C.

The amendments to Subdivision 29-C are in relation to tax invoices and apply to net amounts for tax periods starting on or after 1 July 2010.

The Addendum also makes further minor amendments to GSTR 2004/6 to correct other minor non-technical errors and to update the references section of GSTR 2004/6.

#### **GSTR 2004/6 is amended as follows:**

##### **1. Date of Effect**

After paragraph 6, insert:

7. Changes made to this Ruling by Addenda that issued on 15 August 2007 and 27 March 2013 have been incorporated into this version of the Ruling.<sup>6A</sup>

##### **2. Paragraph 209**

Omit the paragraph; substitute:

209. In most cases, if a partner makes a creditable acquisition in the capacity as a partner, the enterprise partnership must hold a tax invoice to claim an input tax credit.<sup>92</sup> If the tax invoice is for a supply or supplies and the total price is at least \$1,000, or such higher amount as the regulations specify, subparagraph 29-70(1)(c)(ii) requires that the tax invoice include enough information to clearly ascertain the identity or the ABN of the recipient. Where the recipient is a partnership, enough information to clearly ascertain the identity of the partnership or its ABN is required. The identity requirement will be met if the tax invoice shows the names of

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<sup>6A</sup> Refer to each Addendum to see how that Addendum amends this Ruling.

<sup>92</sup> Subsection 29-10(3). See Goods and Services Tax Ruling GSTR 2013/1 which explains when you do not need to hold a tax invoice to claim an input tax credit.

all the partners, or the registered business name of the partnership.

### 3. Paragraph 210

Omit the paragraph; substitute:

210. However, there may be occasions when a document issued to the enterprise partnership as a tax invoice is for a supply or supplies with a total price of at least \$1,000, or such higher amount as the regulations specify, but contains only the identity of a partner. The Commissioner has made a determination under subsection 29-10(3) to waive the requirement for the partnership to hold a tax invoice before attributing an input tax credit to a tax period, if the partnership holds a document that contains the identity of a partner instead of the partnership, and that otherwise satisfies the requirements of paragraphs 29-70(1)(a) and 29-70(1)(c).<sup>94</sup>

### 4. Paragraph 211

Omit the paragraph; substitute:

211. If the tax invoice shows a total price of less than \$1,000, the fact that it shows the identity of a partner and not the identity of the partnership will make no difference. The identity of the recipient is not a requirement for tax invoices for this amount.<sup>95</sup>

### 5. Paragraph 212

Omit the paragraph; substitute:

212. Similarly, where partners make supplies in their capacity as partners of a partnership, tax invoices issued by the partnership should show enough information to clearly ascertain the partnership's identity and ABN.<sup>96</sup> The identity requirement will be met if the tax invoice shows the names of all the partners, or the registered business name of the partnership. However, the Commissioner has made a determination under subsection 29-10(3) to waive the requirement for a recipient to hold a tax invoice before attributing an input tax credit to a tax period, if the recipient holds a document that contains the identity of a partner instead of the partnership (where the supply was made on

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<sup>94</sup> *A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Acquisitions from or Acquisitions by a Partnership) Legislative Instrument 2013.*

<sup>95</sup> Paragraph 29-70(1)(c).

<sup>96</sup> Subparagraph 29-70(1)(c)(i). See paragraphs 21 to 24 of GSTR 20013/1.

behalf of the partnership) and that otherwise satisfies the requirements of paragraphs 29-70(1)(a) and 29-70(1)(c).<sup>97</sup>

## **6. Paragraph 217**

Omit the paragraph; substitute:

217. If an agent for a partnership issues a tax invoice for a supply made on behalf of the partnership that contains the agent's or property manager's identity and ABN, instead of the identity and ABN of the partnership, the document would not meet the requirements of subsection 29-70(1).<sup>105</sup> However, the Commissioner has made determinations<sup>106</sup> under subsection 29-10(3) to waive the requirement for a recipient to hold a tax invoice before attributing an input tax credit to a tax period, if the recipient holds a document that contains the identity and ABN of the partnership's agent or property manager, and that otherwise satisfies the requirements of subparagraphs 29-70(1) and 29-70(1)(c).<sup>107</sup>

## **7. Footnote 108**

Omit the footnote; substitute:

<sup>108</sup> See clause 5(1)(b) of the *A New Tax System (Goods and Services Tax) Adjustment Note Information Requirements Determination 2012*.

## **8. Footnote 109**

Omit the footnote; substitute:

<sup>109</sup> See clause 5(1)(c) of the *A New Tax System (Goods and Services Tax) Adjustment Note Information Requirements Determination 2012*. Note that these details will be required only where the adjustment note relates to a tax invoice showing a total amount payable of \$1,000 or more.

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<sup>97</sup> *A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Acquisitions from or Acquisitions by a Partnership) Legislative Instrument 2013*.

<sup>105</sup> The identity or ABN of the recipient is required only where the tax invoice relates to a supply or supplies and the total price is at least \$1,000, or such higher amount as the regulations specify. See subparagraph 29-70(1)(c)(ii).

<sup>106</sup> See *A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Acquisitions under an Agency Relationship) Legislative Instrument 2013* and *A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Acquisitions from Property Managers) Legislative Instrument 2013*.

<sup>107</sup> [Omitted.]

## 9. Paragraph 259

Omit the paragraph; substitute:

259. In most cases, each co-owner must hold a tax invoice to claim an input tax credit for a creditable acquisition.<sup>121</sup> If the tax invoice is for a supply or supplies and the total price is at least \$1,000, or such higher amount as the regulations specify, subparagraph 29-70(1)(c)(ii) requires that the tax invoice include enough information to clearly ascertain the identity or the ABN of the recipient. If all of the co-owners are recipients of the supply, enough information to clearly ascertain the identities of all of the co-owners or their ABNs is required.

## 10. Paragraph 260

Omit the paragraph; substitute:

260. However, there may be occasions when the document issued as a tax invoice shows the identity or ABN of only one co-owner. If the acquisition is included on a tax invoice and the total price is less than \$1,000, the fact that the identity of only one co-owner appears on the tax invoice will not affect its ability to meet the tax invoice requirements. The identity of the recipient is not a requirement for tax invoices for this amount.

## 11. Paragraph 261

Omit the paragraph; substitute:

261. A co-owner may act as an agent for the other co-owners under an express or implied agency arrangement (that is not as a partner) in making an acquisition. If the acquisition on the tax invoice has a total price of at least \$1,000, or such higher amount as the regulations specify, subparagraph 29-70(1)(c)(ii) requires that the tax invoice include enough information to clearly ascertain the identity or the ABN of the recipient. If all of the co-owners are recipients of the supply, enough information to clearly ascertain the identities of all of the co-owners or their ABNs is required to satisfy subparagraph 29-70(1)(c)(ii). Paragraphs 216 to 218 of this Ruling set out the requirements for a tax invoice in cases involving supplies or acquisitions made through a manager agent.

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<sup>121</sup> Subsection 29-10(3). However, paragraph 71 of Goods and Services Tax Ruling GSTR 2013/1 explains when you do not need to hold a tax invoice to claim an input tax credit.

**12. Paragraph 262**

Omit the paragraph; substitute:

262. Each co-owner would normally be required to hold a tax invoice to claim an input tax credit. However, where one co-owner acts as agent for the other co-owners, the document may include enough information to clearly ascertain the identity or ABN of the 'agent co-owner' rather than all of the co-owners. The Commissioner has made a determination under subsection 29-10(3) to waive the requirement for a co-owner to hold a tax invoice before attributing an input tax credit to a tax period, if the co-owner holds the document that contains the identity and ABN of the 'agent co-owner', and that otherwise satisfies the requirements of paragraphs 29-70(1)(a) and 29-70(1)(c).<sup>123</sup>

**13. Paragraph 263**

Omit the paragraph; substitute:

263. If a single tax invoice is issued for a supply made by all the co-owners, it should show enough information to clearly ascertain the identities and ABNs of all the co-owners. However, the document may only contain the identity and ABN of one co-owner as 'agent co-owner' for the other co-owners. The Commissioner has made a determination under subsection 29-10(3) to waive the requirement for a recipient to hold a tax invoice before attributing an input tax credit to a tax period, if the recipient holds the document that contains the identity and ABN of the 'agent co-owner' provided the document otherwise complies with paragraphs 29-70(1)(a) and 29-70(1)(c).<sup>124</sup>

**14. Paragraph 266**

Omit the paragraph; substitute:

266. To be in the approved form, the tax invoice must be issued by the co-owners making the supply or supplies and contain enough information to enable the following to be clearly ascertained:

- the supplier's identity and ABN;
- the recipient's identity or ABN if the total price is \$1,000, or such higher amount as the regulations specify;

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<sup>123</sup>Subdivision 153-A may apply to attribute the input tax credit for a creditable acquisition of a co-owner to the tax period in which another co-owner acting as agent holds the relevant tax invoice.

<sup>124</sup>See *A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Acquisitions under an Agency Relationship) Legislative Instrument 2013*.

- what is supplied, including the quantity and price of what is supplied;
- the extent to which each supply is a taxable supply;
- the date the document is issued;
- the amount of GST payable; and
- such other matters as the regulations specify.

## 15. Related Rulings/Determinations

Omit:

- GSTR 2000/17

Insert:

- GSTR 2013/1

## 16. Legislative references

Omit:

- ANTS(GST) A99 29-70(1)(b)
- ANTS(GST) R99 29-70.01
- ANTS(GST) R99 29-70.01(2)(c)
- ANTS(GST) R99 29-70.01(3)
- ANTS(GST) R99 29-70.01(3)(c)

Insert:

- ANTS(GST) A99 29-70(1)(c)
- ANTS(GST) A99 29-70(1)(c)(i)
- ANTS(GST) A99 29-70(1)(c)(ii)

## 17. Other references

Omit:

- A New Tax System (Goods and Services Tax) Act 1999  
Adjustment Note Information Requirements Determination 2000

Insert:

- A New Tax System (Goods and Services Tax) Adjustment Note Information Requirements Determination 2012
- A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Acquisitions from or Acquisition by a Partnership) Legislative Instrument 2013.
- A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Acquisitions under an Agency Relationship) Legislative Instrument 2013
- A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Acquisitions from Property Managers) Legislative Instrument 2013.

This Addendum explains the Commissioner's view of the law as it applies from 1 July 2010.

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**Commissioner of Taxation**

27 March 2013

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ATO references

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