


***GSTR 2005/4A - Addendum - Goods and services tax: arrangements of the kind described in Taxpayer Alerts TA 2004/6 and TA 2004/7: use of the Grouping or Margin Scheme provisions of the GST Act to avoid or reduce the Goods and Services Tax on the sale of new residential premises***

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## Addendum

### Goods and Services Tax Ruling

Goods and services tax: arrangements of the kind described in Taxpayer Alerts TA 2004/6 and TA 2004/7: use of the Grouping or Margin Scheme provisions of the GST Act to avoid or reduce the Goods and Services Tax on the sale of new residential premises

This Addendum amends Goods and Services Tax Ruling GSTR 2005/4 to reflect changes in the law as a result of the *Tax Laws Amendment (2010 GST Administration Measures No. 2) Act 2010*. These changes apply to tax periods starting on or after 1 July 2010.

The addendum also makes further minor amendments to GSTR 2005/4 to update the Related Rulings/Determinations section and to correct other minor non-technical issues.

#### **GSTR 2005/4 is amended as follows:**

##### **1. Paragraph 13**

After 'approval as a GST group,'; insert the footnote:

<sup>1A</sup> For tax periods starting on or after 1 July 2010, the approval of the Commissioner is no longer required for two or more entities to form a GST group. However, there is a requirement for the Commissioner to be notified, in the approved form, of the formation of the group – see paragraph 48-5(1)(c).

##### **2. Paragraph 17**

At the end of the first sentence, insert the footnote:

<sup>2A</sup> For tax periods starting on or after 1 July 2010, the approval of the Commissioner is no longer required for two or more entities to form a GST group. However, there is a requirement for the Commissioner to be notified, in the approved form, of the formation of the group – see paragraph 48-5(1)(c).

### 3. Footnote 4

Omit the footnote; substitute:

<sup>4</sup> Section 48-5 was amended with effect from tax periods starting on or after 1 July 2010. Prior to this amendment, entities were required to jointly apply for the Commissioner's approval to form a GST group and under paragraph 48-5(1)(c) as in force immediately before 1 July 2010, it was necessary for the application to nominate one of the entities to be the representative member for the group. For tax periods starting on or after 1 July 2010, the approval of the Commissioner is no longer required. However, the Commissioner must be notified, in the approved form, of the formation of the group and that notice must nominate one of the entities to be the representative member of the group.

### 4. Paragraph 19

At the end of the paragraph, insert the footnote:

<sup>4A</sup> GSTD 2008/1 explains the Commissioner's view that a member of a GST group, rather than the representative member of the GST group, is liable to pay GST that is attributable to a tax period in which the entity is not a member of the GST group. The Determination has been withdrawn due to amendments to subsection 48-40(1) that apply to tax periods starting on or after 1 July 2010. Although these amendments confirm the Commissioner's view as explained in GSTD 2008/1, the Determination continues to apply to tax periods starting before 1 July 2010.

### 5. Paragraph 21

At the end of the first sentence, insert the footnote:

<sup>4B</sup> GSTD 2008/1 explains the Commissioner's view that a member of a GST group, rather than the representative member of the GST group, is entitled to input tax credits that are attributable to a tax period in which the entity is not a member of the GST group. The Determination has been withdrawn due to amendments to subsection 48-45(1) that apply to tax periods starting on or after 1 July 2010. Although these amendments confirm the Commissioner's view as explained in GSTD 2008/1, the Determination continues to apply to tax periods starting before 1 July 2010.

### 6. Paragraph 23

At the end of the first sentence, insert the footnote:

<sup>4C</sup> Subsection 48-50(1) was amended with effect from tax periods starting on or after 1 July 2010. The amendments provide that any adjustment that an entity has and that is attributable to a tax period during which the entity is a member of a GST group, is to be treated as if the representative member has the adjustment.

## 7. Footnote 11

Insert at the end of the footnote:

GSTD 2008/1 explains the Commissioner's view that a member of a GST group, rather than the representative member of the GST group, is liable to pay GST that is attributable to a tax period in which the entity is not a member of the GST group. The Determination has been withdrawn due to amendments to subsection 48-40(1) that apply to tax periods starting on or after 1 July 2010. Although these amendments confirm the Commissioner's view as explained in GSTD 2008/1, the Determination continues to apply to tax periods starting before 1 July 2010.

## 8. Paragraph 47

At the end of the paragraph, insert the footnote:

<sup>12A</sup> Subsection 48-40(1) was amended with effect from tax periods starting on or after 1 July 2010. This amendment confirms the Commissioner's view in GSTD 2008/1 that a member of a GST group, rather than the representative member of the GST group, is liable to pay GST that is attributable to a tax period in which the entity is not a member of the GST group. GSTD 2008/1 has been withdrawn as a result of the amendments to subsection 48-40(1) but continues to apply to tax periods starting before 1 July 2010.

## 9. Related Rulings/Determinations

Insert 'GSTD 2008/1'.

## 10. Legislative references

Insert:

- ANTS(GST)A99 48-5

## 11. Case references

Omit:

- Network Ten Pty Limited v. TCN Channel Nine Pty Ltd (2004) HCA 14

Substitute:

- Network Ten Pty Limited v. TCN Channel Nine Pty Ltd [2004] HCA 14

This Addendum applies on and from 1 July 2010.

# GSTR 2005/4

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ATO references

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