

CR 2017/43 - Goods and services tax: Queensland Department of Transport and Main Roads - transitional assistance payments made to participants in the Queensland taxi and limousine industry

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Class Ruling

Goods and services tax: Queensland Department of Transport and Main Roads – transitional assistance payments made to participants in the Queensland taxi and limousine industry

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1 This publication provides you with the following level of protection:

This publication (excluding appendixes) is a public ruling for the purposes of 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.

Summary – what this ruling is about

1. This Ruling sets out the Commissioner’s opinion on the way in which the relevant provisions identified below apply to the defined class of entities, who take part in the scheme to which this Ruling relates.

Relevant provisions

2. The relevant provisions dealt with in this ruling are:

- section 9-5 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act)
- section 9-10 of the GST Act
- section 9-15 of the GST Act.

Class of entities

3. The class of entities to which this Ruling applies is entities that hold a Queensland taxi service or limousine service licence or are listed on the Queensland Department of Transport and Main Roads licence register as the holder of the relevant licence immediately before 11 August 2016.

Qualifications

4. The Commissioner makes this Ruling based on the precise Scheme identified in this Ruling.

5. The class of entities defined in this Ruling may rely on its contents provided the scheme actually carried out is carried out in accordance with the scheme described in paragraphs 8 to 18 of this Ruling.

6. If the scheme actually carried out is materially different from the scheme that is described in this Ruling, then:

- this Ruling has no binding effect on the Commissioner because the scheme entered into is not the scheme on which the Commissioner has ruled, and
- this Ruling may be withdrawn or modified.

Date of effect

7. This Ruling applies from 20 December 2016 to 24 March 2017. The Ruling continues to apply after 24 March 2017 to all entities within the specified class who entered into the specified scheme during the term of the Ruling. However, this Ruling 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 Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

Scheme

8. The following description of the scheme is based on information provided by the applicant.

9. In response to emerging technologies and changing customer expectations, the Queensland Government announced a new framework for the State's personalised transport industry. The framework features the changes to certain regulations governing the industry to facilitate the use of new technologies to meet the changing needs of customers.

10. Further, the Queensland Government recognised challenges may exist for some industry participants in transitioning to the new framework and has made available payments for qualifying participants to assist with this transition.

11. The purpose of the financial assistance is defined in Part 3 of the Regulations:

‘... to assist relevant holders of relevant licences to adjust to changes in the taxi service industry and limousine service industry.’

12. The Transitional Assistance Payments Scheme (TAPS) payments fall under the Industry Adjustment Assistance Package which also includes a range of financial, advisory and incentive measures.

13. To be eligible for the TAPS payments provided by the Queensland Department of Transport and Main Roads (trading as Translink), a person must be a ‘relevant holder’ of a ‘relevant licence’.

14. According to subsection 7A(1) of the *Taxi and Limousine Industry Assistance Scheme Regulation 2016 (Qld)* (the Regulation), a ‘relevant holder’ is:

- a person stated to be the relevant holder of the licence (the stated person) by the transport chief executive, or
- a person listed on the Department of Transport and Main Roads licence register as the holder of the licence immediately before 11 August 2016.

15. According to subsection 5(1) of the Regulation, a ‘relevant licence’ is:

- a taxi service licence, or
- a limousine service licence.

16. Section 8 of the Regulation states that the TAPS payments for the relevant holder of a relevant licence (relevant licence holder) is:

- \$20,000 per taxi licence (capped at two licences per licence holder), and/or
- \$10,000 per limousine service licence (other than special purpose limousines) with no licence cap.

17. The TAPS payments are managed by Queensland Rural Adjustment Authority (QRAA) on behalf of Translink. QRAA is a statutory authority with the primary function to administer State and Commonwealth approved schemes of support for Queensland industry.

18. To apply for the TAPS payments the application must have been:

- in the approved form
- accompanied by any other documents stated in the approved form, and

- given to the QRAA by the end of 24 March 2017.

Ruling

19. There are no GST consequences arising from the arrangement for the defined class of entities in regard to the TAPS payment.
20. An entity is liable for GST if the entity makes a taxable supply – GST is payable on taxable supplies.
21. The term 'entity' is a defined term in the GST Act and is referred to as 'you'. An entity has a liability to pay the 'net amount', broadly the GST.
22. You make a taxable supply if:
- (a) you make the supply for *consideration; and
 - (b) the supply is made in the course or furtherance of an *enterprise that you *carry on; and
 - (c) the supply is *connected with the indirect tax zone; and
 - (d) you are *registered, or *required to be registered.
23. The GST Act also requires that the supply must not be GST-free or input taxed.
24. Some arrangements do not involve anyone making any supply whatsoever. If no supply has been made, a key element of the definition of taxable supply is not met.
25. It is understood that relevant licence holders are not required to undertake any activity (other than making an application in accordance with the Regulations), or enter into any agreement to do something or refrain from doing something (for example, refrain from commencing an action against Translink).
26. The relevant licence holder that applies for and receives a TAPS payment has no liability to pay GST as they do not make a taxable supply. In meeting the criteria under the Regulations, the relevant licence holder does not supply any goods, services, or anything else to Translink or any other entity for the TAPS payment.

27. Translink does not make a creditable acquisition giving rise to an input tax credit entitlement when it provides the TAPS payment as there is no taxable supply made by the relevant licence holder for the payment.

Commissioner of Taxation

12 July 2017

Appendix 1 – Detailed contents list

28. The following is a detailed contents list for this Ruling:

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References

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

TR 2006/10; GSTR 2006/9;
GSTR 2012/2

Legislative references:

- ANTS(GST)A 1999
 - ANTS(GST)A 1999 9-5
 - ANTS(GST)A 1999 9-10
 - ANTS(GST)A 1999 9-15
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ATO references

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