


GSTD 2002/D2 - Goods and Services Tax: is a token of appreciation given to a speaker consideration for the supply of the speaking services?

 This cover sheet is provided for information only. It does not form part of *GSTD 2002/D2 - Goods and Services Tax: is a token of appreciation given to a speaker consideration for the supply of the speaking services?*

This document has been finalised.

Draft Goods and Services Tax Determination

Goods and Services Tax: is a token of appreciation given to a speaker consideration for the supply of the speaking services?

Preamble

Draft Goods and Services Tax Determinations (DGSTDs) present the preliminary, though considered, views of the Australian Taxation Office. DGSTDs should not be relied on; only final Goods and Services Tax Determinations represent authoritative statements by the Australian Taxation Office.

1. No. Where a speaker supplies speaking services for no consideration at a conference or similar event, and the conference organiser subsequently presents the speaker with a token of appreciation, the token of appreciation will not be consideration for the supply of the speaker's services for the purposes of the *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act).

Background

2. It is common practice for conference organisers to make formal presentations to speakers at the conclusion of their speaking engagements. The thing presented to the speaker may be a mere gesture of thanks by the conference organiser. Alternatively, it may have the character of consideration for a taxable supply made by the speaker.

Taxable supplies

3. An essential characteristic of a taxable supply is that the supply is made for consideration.¹ A payment will be consideration for a supply if the payment is 'in connection with', 'in response to' or 'for the inducement of' the supply.² A payment (including an in kind payment) is consideration for a supply if there is sufficient nexus between the supply and the payment made.³

¹ Section 9-5 of the GST Act.

² Goods and Services Tax Ruling: non-monetary consideration (GSTR 2001/6) at paragraph 67, in explaining subsection 9-15(1) of the GST Act.

³ GSTR 2001/6 at paragraph 68.

4. The test as to whether there is a sufficient nexus is an objective test.⁴ The motive of the supplier and the recipient also may be relevant in determining whether the supply was made for consideration, if a reasonable assessment of the evidence supports that motive.⁵

Tokens of appreciation

5. A token of appreciation is a thing given as a mere gesture of thanks to speakers for supporting the conference at which they speak for no charge. For the purposes of this Determination, where a supply of a speaker's services is made for consideration (for example, a fee), a thing that is subsequently provided by the conference organiser to the speaker is not a token of appreciation. It is an in kind payment in connection with and in response to the supply of speaking services and has the character of consideration for that supply.

6. Typically, a token of appreciation takes the form of a book, a bottle of wine, a bunch of flowers or some other small non-monetary thing. If the thing is a mere gesture of thanks, there is not a sufficient nexus with the supply of services for it to be consideration for that supply. However, if a speaker is entitled under an agreement to receive anything in connection with, in response to, or for the inducement of the speaking services, then the thing will be consideration for the supply of speaking services.

7. For a thing to be a token of appreciation it must have a value that, in the particular circumstances, reflects its purpose as a mere gesture of thanks. If the value of a thing provided to a speaker exceeds what, in the circumstances, is reasonable for this purpose, the thing is not a mere gesture of thanks and is not a token of appreciation for the purposes of this Determination. It is consideration for the supply of the speaker's services if there is sufficient nexus between it and the services.

Speaker's services supplied for no charge

8. Many speakers supply their speaking services for no charge. That is, the speaker supplies services with no entitlement to receive anything from the conference organiser in return.

9. Where the conference organiser subsequently presents a token of appreciation to a speaker who has supplied speaking services for no charge, it will not be consideration for the speaker's supply. This is because, as a mere gesture of thanks, there is not a sufficient nexus between it and the supply for it to be consideration for the supply.

Supply of speaker's services made for consideration

10. Where a speaker supplies speaking services for a payment, the speaker is making a supply for consideration. It is a taxable supply if it satisfies the other requirements of section 9-5 of the GST Act.

11. In this situation, a thing subsequently presented to the speaker in connection with and in response to the supply of the speaking services will be an in kind payment having

⁴ GSTR 2001/6 at paragraph 68.

⁵ GSTR 2001/6 at paragraph 72.

the character of consideration for the supply.⁶ The thing will not be a token of appreciation for the purposes of this Determination.

Accommodation, transport and meals

12. Conference organisers will often make things available to speakers to enable them to attend conferences. Examples of this are accommodation, transport, meals and admission to the rest of the conference. The provision of these things will not necessarily form consideration for the supply of the speaker's services. Where things such as accommodation, transport and meals are merely provided to enable a speaker to make a supply of speaking services, the things will not be consideration for the supply by the speaker. They are not provided to the speaker in connection with, in response to or for the inducement of the speaker's services.⁷

13. However, where accommodation and meals are provided outside the period of the conference, it is likely that this will be consideration for the supply of the speaker's services. This is because the extended accommodation and meals are not something that is necessary for the speaker to supply the services. It is something of economic value⁸ to the speaker, which suggests that 'a reasonable assessment of the evidence'⁹ may point to the accommodation being given in connection with, in response to or for the inducement of the speaker's services.

14. Similarly, if additional accommodation or transport is provided for the speaker's family to accompany him or her during the conference, it is likely that this will be consideration for the supply of the speaker's services.

Example

Provision of a bottle of wine

15. *Liam and Tess are lawyers, registered for GST, who are each invited to address the Society's annual conference. Liam does so under an agreement with the Society whereby he will receive \$2000 for his services. Liam is making a taxable supply to the Society. Tess agrees to supply her services for no consideration.*

16. *At the end of the conference, the Society presents each speaker with a bottle of wine, having a GST inclusive market value of \$110. Neither speaker had an entitlement to receive the bottle of wine. Tess has not made a supply for consideration and, in the circumstances, the value of the bottle of wine is reasonable for a mere gesture of thanks. The bottle of wine is a token of appreciation to Tess. She has not made a taxable supply of her speaking services.*

17. *In Liam's case, the bottle of wine has the same character as the fees paid by the Society. The wine is provided by the Society in connection with and in response to Liam's supply of speaking services. It is not a token of appreciation for the purposes of this Determination. Liam has made a taxable supply of his services, for total consideration of \$2110.*

⁶ See footnote 2 above.

⁷ GSTR 2001/6 at paragraphs 90 to 94.

⁸ GSTR 2001/6 at paragraph 81.

⁹ GSTR 2001/6 at paragraph 72.

Example

Provision of accommodation, transport and meals.

18. *In the above example, the conference is held over two days at a coastal location. To enable Liam and Tess to attend the conference, the Society pays for their accommodation including meals at the resort where the conference is being held. The provision of the accommodation and meals is not a payment to Liam or Tess for their services. It is necessary to enable Liam and Tess to supply their services, rather than being provided to Liam and Tess in connection with, in response to or for the inducement of their services.*

19. *However, Liam is also provided with accommodation at the resort for two weeks following the end of the conference. In addition, the organisers pay for Liam's wife and children to fly to the resort and stay with him for this period. These extra things will be non-monetary consideration for Liam's supply. This will be in addition to the remuneration of \$2000 he is to receive under an agreement with the organiser and the bottle of wine presented to him at the end of the conference.*

Example

Provision of a wrist watch

20. *Bert is a high profile personality with a background as an internationally accomplished sportsman. He speaks professionally and is known to charge in the region of \$3000 for an after dinner engagement. Bert agrees to appear and speak at a youth sporting conference. Though he has agreed to speak for no charge, the organiser is aware the conference is lucky to secure a speaker of Bert's calibre.*

21. *After Bert has spoken, the conference organiser presents him with a wristwatch with a value of \$400. The value of the watch exceeds what is reasonable for a mere gesture of thanks for Bert's support and is not a token of appreciation for the purposes of this Determination. A reasonable assessment of the evidence supports the conclusion that the supply of speaking services has been made for consideration. The watch is provided in connection with and in response to the supply and is consideration for the supply.*

Your comments

22. We invite you to comment on this draft Goods and Services Tax Determination. We are allowing 5 weeks for comments before we finalise the Determination. If you want your comments considered, please provide them to us within this period.

Comments by Date: 2 August 2002
Contact Officer: Stephen Willis
E-mail address: stephen.willis@ato.gov.au
Telephone: (07) 3213 5668
Facsimile: (07) 3213 5055
Address: GST Rulings Unit
GPO Box 920
BRISBANE QLD 4001

Previous draft:

Not previously released in draft form

Related Rulings/Determinations

GSTR 2001/6

Subject references:

- consideration
- GST
- supply
- taxable supplies

Legislative references:

- ANTS(GST)A99 9-5
 - ANTS(GST)A99 9-15(1)
-

ATO references:

NO:

ISSN: 1443 - 5179