

GSTD 2004/D2 - Goods and services tax: is an invoice that is placed on a website 'issued' for the purposes of Division 29 of the A New Tax System (Goods and Services Tax) Act 1999?

 This cover sheet is provided for information only. It does not form part of *GSTD 2004/D2 - Goods and services tax: is an invoice that is placed on a website 'issued' for the purposes of Division 29 of the A New Tax System (Goods and Services Tax) Act 1999?*

This document has been finalised.



Draft Goods and Services Tax Determination

Goods and services tax: is an invoice that is placed on a website ‘issued’ for the purposes of Division 29 of the *A New Tax System (Goods and Services Tax) Act 1999*?

Preamble

*This document is a draft for industry and professional comment. As such, it represents the preliminary, though considered views of the Australian Taxation Office. This draft may not be relied on by taxpayers and practitioners as it is not a ruling or advice for the purposes of section 37 of the **Taxation Administration Act 1953**. The final Determination will be a public ruling for the purposes of section 37 and may be relied upon by any entity to which it applies.*

1. Yes, an invoice is ‘issued’ for the purposes of Division 29 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) when it is posted on a website, provided that:

- the invoice is posted in an area that is readily accessible by the entity to whom the invoice is to be issued; and
- the invoice can be downloaded or printed in a readable format by the entity; and
- the entity has been informed that the invoice has been placed on the website, for example, by email, or is aware by prior arrangement that invoices will be placed on the website.

Background

Invoice and tax invoice

2. An invoice is a document notifying an obligation to make a payment.¹ A tax invoice is a document that contains the information about a taxable supply required by the GST Act and the *A New Tax System (Goods and Services Tax) Regulations 1999*.² However, the one document can satisfy the requirements of both an invoice and a tax invoice. Similarly, a recipient created tax invoice (RCTI) can also be an invoice.

¹ Section 195-1 of the GST Act.

² Regulation 29-70.01 details the information that must be contained in a tax invoice.

GSTD 2004/D2

3. You must hold a tax invoice to claim an input tax credit for a creditable acquisition unless the Commissioner has made a written determination indicating otherwise.³ The supplier usually gives the recipient a tax invoice for the supply. However, the Commissioner has determined that, in certain industries, the recipient of a supply may issue a class of tax invoices, known as an RCTI, to the supplier for that supply.

4. The Commissioner has previously stated that tax invoices can be issued in electronic form, for example, by electronic data interchange (EDI).⁴

5. When we refer to invoice in this Determination, we are referring equally to an invoice issued by a supplier and to an RCTI issued by a recipient of a supply that also satisfies the definition of an invoice for GST purposes. We are also referring to an invoice prepared by a third party who is authorised to determine and notify an amount payable by one party to another.⁵

Attributing GST and input tax credits

6. Under section 29-5 of the GST Act, GST payable on a taxable supply made by a supplier that does not account for GST on a cash basis is attributable to (that is, must be brought to account for) the tax period in which any of the consideration is received for the supply. However, where an invoice is issued relating to the supply before any of the consideration is received, GST is attributable to the tax period in which the invoice is issued.

7. Under section 29-10 of the GST Act, the input tax credit for a creditable acquisition by a recipient who does not account on a cash basis is attributable to (that is, may be claimed for) the tax period in which any of the consideration is provided for the supply. However, where an invoice is issued before any of the consideration is provided, the input tax credit entitlement of the recipient is attributable to the tax period in which the invoice is issued, provided the requirement to hold a tax invoice is satisfied.

8. Therefore, where an invoice is issued in respect of a taxable supply before any of the consideration is provided by the recipient, the date of issue of the invoice will determine the earliest tax period in which GST and input tax credits are to be attributed.

Explanation

9. Where a supplier operates its business using a website on the internet, the supplier may make supplies to recipients and provide invoices by making them accessible to recipients on its website or the website of a third party. When a supply is made and an invoice is prepared, the supplier will usually advise the recipient by email or other medium that an invoice has been placed on the website. Alternatively, the supplier and recipient may have an arrangement or agreement that the recipient will access the website, either at the recipient's convenience or periodically, to download or print invoices placed on the website. To access an invoice, the recipient is usually required to log onto the website, enter a password and then print or download the invoice for the supply.

³ Subsection 29-10(3) of the GST Act.

⁴ Paragraph 24 of Goods and Services Tax Ruling GSTR 2000/17 (which deals with the requirements for tax invoices).

⁵ Paragraph 32 of Goods and Services Tax Ruling GSTR 2000/34 (which explains what is an invoice for the purposes of the GST Act).

10. Attribution of GST and input tax credits occurs if an invoice is 'issued' by the supplier before any of the consideration for the supply is received.⁶ The ordinary meaning of the verb 'issue' in this context means 'to send out; discharge; emit'.⁷

11. The Commissioner considers that an invoice is issued when the supplier 'sends' the invoice to the recipient. The date when the invoice issues is the date that the invoice is electronically transmitted, posted, couriered, hand delivered or is sent by similar method.⁸

12. In our view, a supplier can provide an invoice to a recipient when it is placed on the supplier's website, or is hosted on the website of a third party, in an area that is readily accessible by the recipient and the invoice can be downloaded or printed in a readable format. This is provided that the recipient has been informed that the invoice has been placed on the website, for example, by email, or is aware by prior arrangement with the supplier that invoices will be placed on the website.

13. The date that the recipient is informed that the invoice has been provided via the website is the date that the invoice is issued for the purposes of the attribution rules in Division 29 of the GST Act. Alternatively, if there is a prior arrangement that the supplier will place invoices on its website and the recipient will access those invoices at its convenience, the date that the invoice is issued for attribution purposes is the date that the invoice is placed on the website.

14. This Determination applies equally to RCTIs.

Example

15. *A supplier of spare parts, GoodGear Pty Ltd ('GoodGear'), places invoices for supplies made to Best Parts Pty Ltd ('Best Parts') on its website. It is the usual practice of GoodGear to send an email to Best Parts on the same day informing them that invoices have been posted to the website. Occasionally, the email may not be sent until a day or two later.*

16. *The date that the invoice provided by GoodGear is issued is the date that GoodGear emails Best Parts informing them that the invoice has been placed on the website.*

17. *Alternatively, if the agreed business practice between the two parties is for GoodGear to place invoices for supplies made on its website when the invoice is prepared, then the date that the invoice is issued is when it is placed on the website.*

Date of effect

18. This draft Determination represents the preliminary, though considered, view of the Australian Taxation Office. This draft may not be relied on by taxpayers or practitioners. When the final Determination is officially released, it will explain our view of the law as it applies from 1 July 2000.

19. The final Determination will be a public ruling for the purposes of section 37 of the *Taxation Administration Act 1953* and may be relied upon, after it is issued, by any entity to which it applies. Goods and Services Tax Ruling GSTR 1999/1 explains the GST rulings

⁶ Paragraphs 29-5(1)(b) and 29-10(1)(b) of the GST Act.

⁷ The Macquarie Dictionary, Revised Third Edition, 2001.

⁸ Paragraph 33 of GSTR 2000/34.

GSTD 2004/D2

system and our view of when you can rely on our interpretation of the law in GST public and private rulings.

20. If the final public ruling conflicts with a previous private ruling that you have obtained, the public ruling prevails. However, if you have relied on a private ruling, you are protected in respect of what you have done up to the date of issue of the final public ruling. This means that if you have underpaid an amount of GST, you are not liable for the shortfall prior to the date of issue of the later ruling. Similarly, you are not liable to repay an amount overpaid by the Commissioner as a refund.

Your comments

21. We invite you to comment on this draft Goods and Services Tax Determination. Please forward your comments to the contact officer by the due date.

Due date: 13 August 2004
Contact officer: Brian Hayes
E-mail address: brianl.hayes@ato.gov.au
Telephone: 07 3213 5610
Facsimile: 07 3213 5055
Address: GST Rulings Unit
GPO Box 920
BRISBANE QLD 4001

Commissioner of Taxation

14 July 2004

Previous draft:

Not previously issued in draft form

Related Rulings/Determinations:

GSTR 1999/1; GSTR 2000/17;
GSTR 2000/34

Subject references:

- electronic data interchange
- invoice
- issue date
- recipient created tax invoice
- record keeping
- tax invoice
- website

Legislative references:

- ANTS(GST)A 1999 Div 29
- ANTS(GST)A 1999 29-5
- ANTS(GST)A 1999 29-5(1)(b)
- ANTS(GST)A 1999 29-10
- ANTS(GST)A 1999 29-10(1)(b)
- ANTS(GST)A 1999 29-10(3)
- ANTS(GST)A 1999 195-1
- ANTS(GST)R 1999 29-70.01
- TAA 1953 37

Other references:

- Macquarie Dictionary, Revised Third Edition, 2001

ATO references

NO: 2004/6239

ISSN: 1443-5179