GSTR 2000/D16 - Goods and services tax: what is an invoice for the purposes of the A New Tax System (Goods and Services Tax) Act 1999 ('GST Act')?

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Draft Goods and Services Tax Ruling
Goods and services tax: what is an invoice for the purposes of the *A New Tax System (Goods and Services Tax) Act 1999* ('GST Act')?

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Preamble

This draft may be relied on by taxation officers, taxpayers and practitioners, as it is intended to be a ruling or advice in terms of section 37 of the ***Taxation Administration Act 1953****.*

What this Ruling is about

1. This Ruling clarifies what is an invoice for the purposes of the *A New Tax System (Goods and Services Tax) Act 1999* ('GST Act').

2. This Ruling applies to you **if you account for GST on a basis other than cash**.

3. The Ruling explains the difference between an invoice and a tax invoice.

4. The Ruling discusses whether different types of documents are invoices for the purposes of the GST Act.

5. All legislative references in this Ruling are to the GST Act unless otherwise stated.

Date of effect

6. This Ruling, when finalised, will apply on and from 8 July 1999 (the date of Royal Assent to the GST legislation).

Context

7. GST is accounted for in tax periods. The GST payable and entitlement to input tax credits are attributed to a tax period in which certain requirements are met.

8. The GST payable on a taxable supply is attributable to the earlier of the tax periods in which:

- any of the consideration for the supply is received; or
- an invoice is issued for the supply (subsection 29-5(1)).

9. The input tax credit for a creditable acquisition is attributable to the earlier of the tax periods in which:

- you provide any consideration; or
- an invoice is issued for the acquisition (subsection 29-10(1))

10. To claim an input tax credit for a particular tax period, you are required to hold a tax invoice when you give to the Commissioner a GST return for the period (subsection 29-10(3)). If the GST exclusive value of the taxable supply is $50 or less, then you will not need a tax invoice (section 29-80). For a detailed explanation of what constitutes a valid tax invoice, refer to GST Ruling GSTR 2000/17.

11. For GST purposes, it is important to identify an invoice that meets the definition of invoice in section 195-1 of the GST Act. In practice, some documents not referred to as invoices will meet the definition and result in attribution occurring when the document is issued.

Ruling

12. An 'invoice' is defined in section 195-1 of the GST Act to mean 'a document notifying an obligation to make a payment'. For the purposes of this definition:

> A **document** may be in the form of paper, a computer system, tapes, or computer disks and may be in an electronic form.
>
> **Notifying an obligation to make a payment** is the essential characteristic of a document which is an invoice. This characteristic exists where the document informs the parties that there is a presently existing obligation to make a payment and the amount of that payment.

Explanations (this forms part of the Ruling)

What is an invoice?

13. In a commercial environment, an invoice is prepared by a seller (supplier) and issued to a buyer (recipient) as the document against which payment of the debt is made.[1]

[1] Macquarie Dictionary of Business

14. An invoice is defined in section 195-1 of the GST Act to mean 'a document notifying an obligation to make a payment'.

Document

15. In the absence of a definition of the word 'document' in the GST Act, the definition of 'document' in section 25 of the *Acts Interpretation Act 1901* is applicable:

'document' includes:

(a) any paper or other material on which there is writing;

(b) any paper or other material on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them, and

(c) any article or material from which sounds, images or writings are capable of being reproduced with or without the aid of any other article or device."

16. An invoice need not be issued in paper form and may be conveyed solely through electronic means.

Notifying an obligation to make a payment

17. The definition of 'invoice' in the GST Act is similar to the definition of 'invoice' in section 2 of the *Goods and Services Act 1985* (NZ) which defines invoice to be 'a document notifying an obligation to make payment'.

18. The New Zealand Court of Appeal in *Shell NZ Holding Company Ltd v. CIR*[2] held that the term 'invoice' imports the essence of a commercial invoice, the essential feature of which is the notification of an obligation to pay. We believe that the approach of the New Zealand Court of Appeal is consistent with the meaning of the term invoice as defined in section 195-1.

19. The Court in the *Shell case* was asked to determine which of two competing documents, an import entry form or a deferred duty statement, was an invoice for GST purposes. The taxpayer sought to deduct credits on imported petroleum goods before GST payments were made to Customs. The taxpayer's argument was based on the import entry form being an invoice for GST purposes.

20. The Commissioner of Inland Revenue argued that the input tax credit was not deductible until Customs had sent the taxpayer a deferred duty statement requiring payment. The Commissioner also

[2] *Shell NZ Holding Company Ltd v CIR* (1994) 16 NZTC 11,163.

argued that the deferred duty statement was an invoice for GST purposes, not the earlier import entry form.

21. The New Zealand Court of Appeal held that the import entry form was an invoice for GST purposes. In reaching this decision, the court commented as follows:

> 'Invoices are rendered in commercial transactions where goods are supplied or work is done by one party for another. Invoices record what was done and the charge. It may be a cash or credit transaction and in the latter case it is common for a monthly or other periodic statement to be issued subsequently. Whether payable on delivery or under the credit arrangement the invoice states the price or charge involved. And it is both unnecessary and uncommon in practice for commercial invoices to specify the time for payment.
>
> In our view the GST obligation is in the same position. The statutory definition of "invoice" recognises that it is not a commercial two party transaction. It uses the central feature of an invoice which is "a document notifying an obligation to make payment". The time for payment is not part of the definition. "Notify" has its ordinary dictionary meaning of "to give notice to -, to inform". Certainly when completed by the Customs officer it is the Customs document and a copy is furnished to the importer. It is the signing of the document by the Customs officer which under the statute is the entry of the goods. It is that act which constitutes the duty as a debt due to the Crown. At that point the document is notice to the importer of the obligation to make payment.'[3]

22. The New Zealand Court of Appeal considered that the GST obligation is the same as the obligation in commercial invoices. The central feature of both documents is a notice of an obligation to pay.

23. The ordinary meaning of an 'obligation' is defined in the Macquarie Dictionary (2nd ed) as 'a legal relationship between two persons, such that one person's right entails the other person's duty.'

24. In considering the meaning of 'obligation' in the definition of invoice in the New Zealand legislation, Heron J, in the *Shell case* at the New Zealand High Court, commented:

> 'The Act does not speak in terms of future obligation or conditional obligation or contingent obligation. It speaks of obligation. It is an obligation to make payment.'[4]

25. The words 'obligation to make a payment' refer in our view to a legal obligation which is analogous to being 'required to pay'. A

[3] *Shell NZ Holding Company Ltd v. CIR* (1994) 16 NZTC 11,163 at 11,168.
[4] *Shell NZ Holding Company Ltd v. CIR* (1993) 15 NZTC 10,136 at 10,139

party can only be regarded as under an obligation to make a payment if "…there is a requirement for either an actual payment or, at least, a present obligation to pay a sum certain at some future date."[5]

26. The existence of an obligation to pay will depend on the terms of the contract which govern the supply. In some circumstances, an obligation to pay may arise at a point in time preceding the time of supply, however, this will depend on the intention of the parties[6]. A supplier who has completed all that is required under the contract to demand payment of some or all of the contract price may issue a document notifying the recipient of an obligation to pay that part of the supply consideration. A document of this nature is an invoice for the purposes of the GST Act.

Example

27. Michael purchases an exotic sports car which is currently unavailable. The dealer informs him that delivery will be made in three months. Michael agrees with the dealer that he will pay the full purchase price in 30 days. The dealer gives Michael a document which shows the amount to be paid and the due date for payment. The document is an invoice for GST purposes.

28. A document will be an invoice if it notifies a presently existing obligation. In the *Shell case*[7], the word 'notify' was taken to mean its ordinary dictionary meaning of "to give notice to-, to inform".

29. It is not sufficient that the obligation exists and that the document merely evidences the existence of the liability. The document must also inform the recipient of the obligation to make a payment and the amount of that payment.

30. A contract creates a contractual obligation to make a payment. If the obligation created is a presently existing one, a copy of the executed contract, which is returned to the recipient of the supply, will be a document which notifies that obligation, if it specifies the amount due by the recipient to the supplier. The copy of the contract will be an invoice. However, many contracts do not create an immediate obligation to pay. This will depend on the terms of the contract and the intention of the parties.

31. The amount notified by an invoice must be a sum certain. It is not enough that an amount might become payable in the future upon the happening of some contingency.[8]

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[5] *Dingwall v FC of T* 95 ATC 4345 at 4351
[6] *McDonald v Dennys Lascelles Ltd* (1933) 48 CLR 457 at 476
[7] (1994) 16 NZTC 11, 163
[8] *Dingwall v. FC of T* 95 ATC 4345 at 4351

32. A third party who is authorised to determine and notify an amount payable by one party to another can issue an invoice for the purposes of sections 29-5 and 29-10. For example, the certificate issued by an independent quantity surveyor who assesses the amount due in relation to each progress claim under a construction contract will be an invoice.

When is an invoice issued?

33. An invoice is issued when the supplier sends a document which notifies the recipient of the obligation to pay. The actual date when the invoice issues may not be the preparation date. The actual date is the date when the invoice is electronically transmitted, posted, couriered, hand delivered or similar. This date determines the tax period to which the GST payable and input tax credits are attributed.

Contents of an invoice

34. In commercial practice, many documents may be referred to as an invoice. An invoice may include:

- Date of issue
- Date of supply
- Names and addresses of the suppliers and recipients
- Description of the goods or services supplied including quality, quantity and unit prices
- Terms of sale, due date for payment and whether any discount is available
- Amount payable

35. Although the date of issue of an invoice is a question of fact and can be ascertained by reference to records of the enterprise, it will assist you to identify the attribution date if the issue date is recorded on the invoice. For GST purposes, it is desirable that an invoice contains sufficient information to identify or ascertain:

- Date of issue
- The supplier
- The recipient
- The amount payable

The recipient is entitled to rely on the date of issue stated on the invoice in the absence of any evidence to the contrary.

36. It is accepted that documents used in commercial practice that are not referred to as an 'invoice' may satisfy the definition of invoice under the GST Act.

Other Examples

Example: Delivery docket

37. *Frank, a baker, purchases flour from Milling Ltd, a flour miller. At the time of each delivery, Frank is presented with Milling Ltd's delivery docket. It contains the date of issue, date of delivery, name of the supplier, name of the recipient and the amount payable. This delivery docket is an invoice for GST purposes.*

Example: Supplies on account

38. *Stan's print shop has a business account with a paper supplier. Stan, from time to time, orders further supplies of paper. At the time of each delivery of paper, a delivery docket is presented. It states only the date of issue, date of delivery, name of the supplier, name of the recipient, description of the goods and quantity of the goods supplied. As the amount payable is not specified, there is no notification of an obligation to pay. The delivery docket is not an invoice for GST purposes.*

39. *The paper supplier sends a monthly statement which contains the date of issue of the statement, the name of the supplier, the name of the recipient and the amount payable. This statement is an invoice for GST purposes. The date of issue of this statement determines the tax period for attribution purposes.*

Example: Sale of goods

43. *Mark purchases an outboard motor for delivery in 30 days. He signs a contract of purchase and is given a copy. The contract is a standard sale of goods contract under which no liability to pay arises until property in the outboard passes. A copy of the contract will not be an invoice because it does not notify a presently existing obligation to make a payment.*

Example: Progress claim

44. *Miller and Son provides supplies of concreting services to the building industry. It enters into a contract for the construction of a parking station with a projected completion date of 2 years. Under the contract, Miller and Son may submit claims in writing on a monthly basis for work done.*

45. *The contract expressly provides that no obligation to pay arises on the presentation of the claim and any progress payment which is ultimately made is on account of the agreed contract price. The obligation to pay any progress claim only arises upon certification by an independent third party. Miller and Son does not issue a further document after the third party assesses the amount due in relation to each claim.*

46. *On certification, a copy of the certificate which specifies the amount due is provided to each party. The certificate is an invoice. The initial claim submitted by Miller and Son is not an invoice.*

Example: Insurance renewal notice

47. *Cheryl receives a renewal notice for a house and contents insurance policy. The policy sets out the details of sums insured, the period of insurance and the amount payable. This document is not an invoice as it is only an offer to enter into a new contract with the insurance company. Cheryl accepts the offer by making a payment. The GST payable by the insurance company on the supply is attributable to the tax period in which Cheryl makes the payment.*

Example: Job quote

48. *City Plaza , a company that owns and leases commercial accommodation to tenants, requests City View Curtains Co to provide it with a price for the supply and installation of vertical blinds to all windows in the 20 storey building it owns.*

49. *City View Curtains attends the premises, measures the windows for size and quantity of vertical blinds and sends a written document to City Plaza. The document specifies the type of blinds City View Curtains will supply and install, the date by which all work will be completed and the total price. This document is generally known as a quote. City Plaza is not obliged to make any payment nor accept the quote. It is not an invoice for GST purposes.*

Example: Deferred payment plan

50. *John purchases an air conditioner for his business for $1 650 on a plan under which he pays no deposit, no interest and no repayments for 6 months. John receives immediate possession of the air conditioner.*

51. *The retailer has arranged the deferred payment plan with an unrelated financial services company. Under this arrangement, the financial services company makes a payment to the supplier for the*

supply of the air conditioner upon acceptance of the finance agreement.

52. *John receives a receipt for this purchase from the supplier. However, this receipt is not an invoice because it does not notify an obligation to pay. The obligation to pay is satisfied by a payment made on behalf of John by the finance provider.*

Example: Standard land contract

53. *Brian enters into a contract with Desiree for the purchase of the freehold interest in a 5 acre property owned by her. The purchase price is $220 000 (GST inclusive). A deposit of $22 000 is paid by Brian on entering into the contract and is held by Desiree's real estate agent as stakeholder. Settlement occurs in 30 days. The balance of the purchase price ($198 000) is paid at settlement in exchange for a transfer in Brian's name and the certificate of title.*

54. *This standard land contract is not an invoice because it does not notify an existing obligation to make a payment as the obligation to pay is contingent upon a range of matters, including title passing*[9].

Example: Lease

55. *Dale offers to enter into an agreement to lease a shop from Generous Life Insurance, the owner of a large suburban shopping centre. The lease document is signed by Dale and forwarded to Generous Life Insurance. A duplicate copy of the lease is returned to Dale after the lease is executed by Generous Life Insurance.*

56. *The lease is for a nominal period of three years with rent payable monthly in advance. The terms of the lease expressly provide that the right to occupy is contingent upon rent being paid on the due date each month and a schedule of monthly payments is annexed to the lease document.*

57. *The duplicate lease document may be an invoice in respect of the rent for the first month of the lease period, because the liability to pay rent arises monthly in advance. The lease is not an invoice for the balance of the lease period because it is not notice of an obligation to pay a currently existing liability to pay rent in respect of the subsequent monthly periods.*[10]

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[9] Refer to GSTR 2000/23
[10] Refer to GSTR 2000/D18

What is the difference between an invoice and a tax invoice?

58. An invoice notifies a recipient of an obligation to pay. The effect of an invoice is to allow you to attribute the GST payable and input tax credits to the correct tax period. A tax invoice will enable you to claim input tax credits on your GST return. You cannot claim an input tax credit unless you hold a tax invoice. You do not have to hold a tax invoice when the GST exclusive value of the taxable supply is $50 or less.

59. GST Regulation 29-70.01 of the GST Act specifies the information that must be contained in a tax invoice. The requirements of an invoice and a tax invoice are:

ATTRIBUTES	INVOICE (GST)	TAX INVOICE (Supplies less than $1000)	TAX INVOICE (Supplies more than $1000)
• 'Tax Invoice' stated prominently		X	X
• Date of issue	X*	X	X
• Name of supplier	X	X	X
• ABN of supplier		X	X
• Name of recipient	X*		X
• Address or ABN of recipient			X
• Brief description of each thing supplied		X	X
• For each description – the quantity of the goods or the extent of the services supplied			X
• The GST-inclusive price of the taxable supply	X	X	X
• If GST payable = $1/11^{th}$ of total price, either: (a) a statement like 'the total price includes GST', or (b) the total amount of GST		X	X
• If GST payable is less than $1/11^{th}$ of total price (a) the amount payable (excluding GST) and (b) the total amount of GST		X	X

* Recommended for attribution purposes.

60. A tax invoice may be an invoice for the purposes of sections 29-5 and 29-10 of the GST Act. An invoice will only be a tax invoice if it satisfies the requirements as listed in the table above or if the Commissioner uses the discretion under section 29-70 to treat a document as if it were a tax invoice.

61. If a tax invoice is issued after payment, it cannot be an invoice as the obligation to make a payment has been satisfied by the earlier payment.

62. For attribution purposes, if more than one tax invoice issues in relation to a supply, it is the first tax invoice which establishes the entitlement to claim input tax credits. An input tax credit entitlement in relation to a supply arises only once, even if more than one tax invoice issues.

Example

63. *Ross operates a panel beating business and accounts on a basis other than cash. He lodges his Business Activity Statement (BSA) quarterly. On 28 September 2000, Ross receives an invoice for paint supplied to him by Aussie Paints for an amount of $2 200. The invoice has the date of issue, the name of the supplier, the name of the recipient and the GST inclusive price of the taxable supply but does not include the ABN of the supplier or the word 'tax invoice' stated prominently. Therefore, it is not a tax invoice.*

64. *As Ross does not hold a tax invoice at the date of lodgment, he cannot claim an input tax credit of $200 in his quarterly BAS which he lodges on 21 October 2000.*

65. *On 25 October 2000, Ross contacts Aussie Paints and requests a tax invoice which he receives on 1 November 2000. Ross can claim an input tax credit of $200 in his BAS for the December quarter.*

Detailed contents list

66. Below is a detailed contents list for this draft Ruling:

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Your comments

67. If you wish to comment on this draft Ruling, please send your comments promptly by 18 July 2000 to:

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Commissioner of Taxation
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Previously released:
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Related Rulings/Determinations:
GSTR 2000/17; GSTR 2000/23; GSTR 2000/D18

Subject references:
- attribution
- cash basis
- consideration
- contracts
- GST payable
- input tax credits
- invoice
- on a basis other than cash
- standard land contract
- taxable supply
- tax invoice

Legislative references:
- ANTS(GST)A99 29-5(1)
- ANTS(GST)A99 29-10(1)
- ANTS(GST)A99 29-10(3)
- ANTS(GST)A99 29-70
- ANTS(GST)A99 29-80
- ANTS(GST)A99 195-1
- ANTS(GST) Regulation 29-70.01
- Acts Interpretation Act 1901 25
- Goods and Services Act 1985 (NZ) 2

Case references:
- *Dingwall v. FC of T* 95 ATC 4345
- *McDonald v. Dennys Lascelles Ltd* (1933) 48 CLR 457
- *Shell NZ Holding Company Ltd v.* CIR (1993) 15 NZTC 10,136; (1994) 16 NZTC 11,163

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