GSTR 2002/D8W - Withdrawal - Goods and services tax: when is a non-resident 'not in Australia when the thing supplied is done' for the purposes of item 2 of the table in subsection 38-190(1) of the A New Tax System (Goods and Services Tax) Act 1999?

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Notice of Withdrawal

Draft Goods and Services Tax Ruling

Goods and services tax: when is a non-resident 'not in Australia when the thing supplied is done' for the purposes of item 2 of the table in subsection 38-190(1) of the *A New Tax System (Goods and Services Tax) Act 1999*?

Goods and Services Tax Ruling GSTR 2002/D8 is withdrawn with effect from today.

The issues covered by GSTR 2002/D8 are now covered in a new draft ruling GSTR 2003/D9 that explains when a non-resident or other recipient of a supply is not in Australia for the purposes of item 2, item 3 and paragraph (b) of item 4.

GSTR 2002/D8 examined when a non-resident is not in Australia when the thing supplied is done for the purposes of item 2 only. We also examine this in the new draft Ruling. However, GSTR 2003/D9 has been expanded to explain the meaning of 'not in Australia' and 'outside Australia' for the purposes of item 3 and paragraph (b) of item 4 respectively.

The tests for determining whether or not a non-resident company or individual is in Australia remain unchanged. However, we have further clarified and, where necessary amended, some elements of the explanation.

The new draft ruling notifies a change in view of the meaning of 'non-resident' for the purposes of item 2 and paragraph (b) of item 4. In GSTR 2002/D8, we expressed the view that item 2 only applied to supplies made to a non-resident company or individual. We now consider that the better view is that it can apply to other entity types such as a partnership where all the partners are non-residents.

The new draft ruling also covers the application of subsection 38-190(4).

Commissioner of Taxation
19 December 2003

ATO references
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