



GSTA TPP 009 - Goods and services tax: Is an entity that enters into an agreement to make a subsequent supply making two taxable supplies?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *14 June 2005*



Goods and Services Tax Advice

Goods and services tax: Is an entity that enters into an agreement to make a subsequent supply making two taxable supplies?

Preamble

This document is a ruling for the purposes of section 37 of the Taxation Administration Act 1953. You can rely on the information presented in this document, which provides advice on the operation of the GST system.

Answer

If there is no separate consideration for the agreement that supply is not a taxable supply.

Background

It is common in the case of tenancies for an owner of premises to enter into an agreement to lease with a prospective tenant, because premises may not be in a state ready to be leased. A formal lease is then executed when the premises are available. The definition of supply in section 9-10 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) means that there are two supplies, one upon entering into the contract (the agreement to lease) and again when the underlying asset is delivered (the underlying lease).

Explanation

If there are two distinct supplies; being the entry into the agreement to make a subsequent supply and the subsequent supply itself, the GST consequences of each transaction depend on whether there is separate consideration for each supply. If there is no separate consideration for the agreement, that transaction is not a taxable supply under section 9-5 of the GST Act. However, if the recipient provides distinct consideration for an option or right to receive a subsequent supply of something at a later date, the granting of the option or right may be a taxable supply distinct from the subsequent supply.

Application of this GST Advice

This Advice explains our view of the law as it applied from 1 July 2000. You can rely on this Advice on and from its date of issue for the purposes of section 37 of the *Taxation Administration Act 1953*. Goods and Services Tax Ruling GSTR 1999/1 explains the GST rulings system and our view of when you can rely on our interpretation of the law in GST public and private rulings.

If this Advice conflicts with a previous private ruling that you have obtained, this 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 this 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 this later ruling. Similarly, you are not liable to repay an amount overpaid by the Commissioner as a refund.

Commissioner of Taxation

Date

Subject references:

taxable supply
consideration

Legislative references:

ANTS(GST)A 1999 9-10
ANTS(GST)A 1999 9-5
TAA 1953 37

ATO references

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