


# ***GSTA TPP 010 - Goods and services tax: What are the registration requirements for resident agents acting for non-residents?***

 This cover sheet is provided for information only. It does not form part of *GSTA TPP 010 - Goods and services tax: What are the registration requirements for resident agents acting for non-residents?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *31 October 2012*



## Goods and Services Tax Advice

### Goods and services tax: what are the registration requirements for resident agents acting for non-residents?

#### Preamble

*This document was published prior to 1 July 2010 and was a public ruling for the purposes of former section 37 of the **Taxation Administration Act 1953** and former section 105-60 of Schedule 1 to the **Taxation Administration Act 1953**.*

*From 1 July 2010, this document is taken to be a public ruling under Division 358 of Schedule 1 to the **Taxation Administration Act 1953**.*

*A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.*

*If you rely on this ruling, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you – provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.*

**[Note:** *This is a consolidated version of this document. Refer to the Legal Database (<http://law.ato.gov.au>) to check its currency and to view the details of all changes.]*

#### Answer

In the situation where:

- the annual turnover of a resident agent in its own right is less than \$50,000, and
- the annual turnover of a non-resident is less than \$50,000

neither the resident agent nor the non-resident is required to be registered for GST. If neither chooses to register, supplies and acquisitions they make are not taxable or creditable under the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).

Where:

- the annual turnover of a resident agent in their own right is \$50,000 or more, and
- the annual turnover of a non-resident is less than \$50,000

the resident agent is required to be registered for GST in its own right under section 23-5 of the GST Act. Furthermore, the non-resident is not required to be registered under section 23-5 of the GST Act (although it may choose to register under section 23-10 of the GST Act).

In this situation, the resident agent registers in its own right and accounts for GST in relation to supplies, importations, and acquisitions that it alone makes. However, supplies and acquisitions made by the non-resident through the resident agent are not taxable or creditable under section 9-5 or 11-5 of the GST Act, as the non-resident is not registered or required to be registered for GST.

On the other hand, if the non-resident chooses to register under section 23-10 of the GST Act, then the resident agent is liable for taxable supplies and taxable importations the non-resident makes through the resident agent. Similarly, the resident agent is entitled to input tax credits on creditable acquisitions and creditable importations the non-resident makes through the resident agent.

Where:

- the annual turnover of a resident agent in its own right is more than \$50,000, and
- the annual turnover of a non-resident reaches \$50,000 (excluding Division 83 supplies)

the non-resident is required to be registered under section 23-5 of the GST Act, and the resident agent is required to be registered under both section 23-5 and 57-20 of the GST Act

In this situation, the resident agent is liable for GST and entitled to input tax credits for taxable supplies, taxable importations, creditable acquisitions and creditable importations respectively that it makes in its own right. Further, the resident agent is liable for GST and entitled to input tax credits for taxable supplies and taxable importations, and creditable acquisitions and creditable importations the non-resident makes through the resident agent (in the resident's capacity as resident agent).

Where:

- the annual turnover of the resident agent in its own right is less than \$50,000, and
- the annual turnover of a non-resident reaches \$50,000 (excluding Div 83 supplies)

the non-resident is required to be registered for GST under section 23-5 of the GST Act, and the resident agent is required to be registered for GST under section 57-20 of the GST Act.

In this situation, the resident agent is liable for GST and entitled to input tax credits for taxable supplies, taxable importations, creditable acquisitions and creditable importations respectively that it makes in its own right.

Further, the resident agent is liable for GST on taxable supplies and taxable importations and is entitled to input tax credits, for creditable acquisitions and creditable importations that the non-resident makes through the resident agent (in the resident's capacity as resident agent).

The appendix below contains a table summarising these registration requirements.

## **Background**

A resident agent acts for a non-resident. Both the resident agent and the non-resident are carrying on an enterprise.

### **Application of this GST Advice**

This Advice applies [to tax periods commencing] both before and after its date of issue. However, this Advice will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Advice (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

### **Commissioner of Taxation**

6 July 2005

### **Related Rulings/Determinations/GST Advice:**

TR 2006/10; GSTR 2003/15

### **Subject references:**

resident agent  
acquisitions by agents  
importations by agents  
supplies by agents  
input tax credits  
creditable acquisitions  
creditable importations  
taxable supplies  
taxable importations  
registration  
required to be registered

### **Legislative references:**

ANTS(GST)A 1999 9-5  
ANTS(GST)A 1999 11-5  
ANTS(GST)A 1999 15-5  
ANTS(GST)A 1999 23-5  
ANTS(GST)A 1999 23-10  
ANTS(GST)A 1999 57-20  
TAA 1953 Sch 1 Div 358

### **ATO references**

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## Appendix

	<b>Resident entity</b>	<b>Non-resident Principal*</b>	<b>GST implications</b>
1)	Turnover in own right (GST-free and taxable) \$50, 000 plus Required to be registered (section 23-5 of the GST Act)	Turnover (GST-free and taxable) Less than \$50 000 (after excluding supplies subject to Division 83) Not required to be registered (section 23-5 of the GST Act) May choose to be registered (section 23-10 of the GST Act)	Resident must register and account only on the supplies that it makes. Resident agent not entitled to input tax credits (ITCs) for acquisitions made on behalf of the principal (subsection 11-15(1) of the GST Act) If non-resident chooses to register, resident agent must register and account for GST on all supplies. (section 57-20 of the GST Act)
2)	Turnover in own right less than \$50 000 Not required to be registered (section 23-5 of the GST Act) May choose to be registered (section 23-10 of the GST Act)	Turnover less than \$50 000 (after excluding supplies subject to Division 83) Not required to be registered (section 23-5 of the GST Act)	No registration required (section 23-5 of the GST Act). No GST to be accounted for. No entitlement to ITC's. If resident chooses to register, resident agent must account for GST only on supplies it makes.
3)	Once the turnover of the non-resident principal meets or exceeds the turnover threshold, the resident entity is required to be registered. The resident entity's turnover is irrelevant. Resident agent required to be registered (section 57-20 of the GST Act)	Turnover \$50 000 plus (after excluding supplies subject to Division 83) Required to be registered (section 23-5 of the GST Act)	Resident agent must register (section 57-20 of the GST Act) and account for GST on all supplies.