GSTA TPP 014 - Goods and services tax: Is an assignment of trade debts by a registered entity reporting on a cash basis GST-free if the assignment is made under an arrangement for the supply of an enterprise as a GST-free going concern?

This cover sheet is provided for information only. It does not form part of *GSTA TPP 014 - Goods and services tax: Is an assignment of trade debts by a registered entity reporting on a cash basis GST-free if the assignment is made under an arrangement for the supply of an enterprise as a GST-free going concern?*

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: is an assignment of trade debts by a registered entity reporting on a cash basis GST-free if the assignment is made under an arrangement for the supply of an enterprise as a GST-free going concern?

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

Yes. Trade debts can be things necessary for the continued operation of an enterprise. They can be assigned under an arrangement for the supply of the enterprise. If the supply of a going concern is GST-free under section 38-325 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) the assignment of the trade debts included under the arrangement is also GST-free

Example

S is a registered entity for GST and reports on a cash basis. S makes taxable supplies to customers and carries trade debts of $11,000 in relation to these supplies. S supplies its enterprise to P, who is also registered, as a GST-free supply of a going concern and assigns the trade debts to P under the arrangement. P agrees to pay S $11,000 for the assignment. S tells its customers that it has assigned their debts. P also agrees to notify S when it receives any payments from the debtors. Some time after settlement, one of the customers pays P $550 for a supply that S had made.

Explanation

When a vendor supplies an enterprise and assigns to the purchaser the rights to collect its trade debts, the assignment, and the consideration for the assignment, is separate to the original supplies made by the vendor. As the debtors accounts can be things necessary for the continued operation of an enterprise, the assignment of the debts by the vendor to the purchaser can form part of a GST-free supply of a going concern under section 38-325 of the GST Act.

When the customer pays P $550, S becomes liable for GST of $50. S is required to pay the GST in the tax period in which P receives the payment. The payment by the customer is treated as consideration for the earlier taxable supply made by S. If the customer only pays part of the debt, S is liable for GST to the extent of 1/11 of the amount paid.

In the contractual arrangements, S needs to ensure that P will notify it about each payment it receives. This is because S is still liable for the GST on the earlier supplies it has made and, in this case, would be liable for GST of $50 even if not notified by P.

Note: Division 135 of the GST Act requires the purchaser to make increasing adjustments if the supplies that the purchaser intends to make are input taxed. As no supplies are input taxed in the situation outlined here, then Division 135 does not apply.

Application of this 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
14 June 2005

***Previous Rulings/Determinations/GST Advice*:**

TR 2006/10; GSTR 2001/5

Subject references:

GST-free
going concern
debts

Legislative references:

ANTS(GST)A 99 38-325
ANTS(GST)A 99 Div 135
TAA 1953 Sch 1 Div 358

ATO references

NO:	05/3095
ISSN:	1833-0053