



GSTA TPP 018 - Goods and services tax: Can an interest charge be a change in consideration and therefore an adjustment event (as opposed to a financial supply)?

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 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: can an interest charge be a change in consideration and therefore an adjustment event (as opposed to a financial supply)?

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

No, an interest charge is consideration for a financial supply and does not give rise to an adjustment event.

Explanation

Goods and Services Tax Ruling GSTR 2000/19 making adjustments under Division 19 for adjustment events (as amended) explains how Division 19 of the GST Act operates. In relation to late payment charges it comments:

29. A charge for late payment that is consideration for the supply of an interest in a credit arrangement does not give rise to an adjustment event. The charge is consideration for a financial supply. Whether a charge for late payment is consideration for the acquisition of an interest in a credit arrangement will depend on the facts of each case. The description given to the charge (for example, as 'damages' or 'liquidated damages') by the parties is relevant but not conclusive. It is necessary to determine the true character of the arrangement having regard to the terms of the agreement and other relevant circumstances.

Example – interest charge

31. Henry supplies goods to Andrew under terms that require the amount invoiced to be paid within 30 days after which interest will accrue at 14% per annum. In addition to the amount originally invoiced to Andrew, Henry demands payment of the interest. As the agreement contemplates late payment, Henry has supplied Andrew with an interest in a credit arrangement. The late payment charge is consideration for a financial supply and is not an adjustment event.

Example – flat charge

32. George's Plumbing sells goods to Jasper on the basis that if payment is not received within 30 days, a fee of 2% of the amount due will be payable. The terms of trading refer to this as a 'fee for account keeping services'. However, no additional services are provided to Jasper by George's Plumbing. Jasper makes the payment (including the 2% fee) after the due date. Although described by the parties as a fee for account keeping services, the fee is in reality a charge for the late payment. The fee is consideration for the supply of an interest in a credit arrangement and is therefore consideration for a financial supply.

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

14 June 2005

Related Rulings/Determinations/GST Advice:

TR 2006/10; GSTR 2000/19

Subject references:

interest charge
consideration
adjustment event
financial supplies

Legislative references:

ANTS(GST)A 1999 Div 19
TAA 1953 Sch 1 Div 358

ATO references

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