



GSTA TPP 036 - Goods and services tax: Who is liable for GST if a principal makes a taxable supply through an agent?

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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: Who is liable for GST if a principal makes a taxable supply through an agent?

Preamble

*This document is a ruling for the purposes of section 37 of the Taxation Administration Act 1953. It illustrates the principles contained in **Goods and Services Tax Ruling GSTR 2000/37 on agency**. You can rely on the information presented in this document, which provides advice on the operation of the GST system.*

Answer

Paragraph 55 of Goods and Service Tax Ruling GSTR 2000/37 on agency explains who is liable for GST in an agency context.

55. If you are an agent at general law, you are an agent for GST purposes unless Subdivision 153-B applies. Accordingly, if you are an agent (where taxable supplies are made through you), the principal is liable for any GST payable on the supplies. Also, if you are an agent (where creditable acquisitions are made through you), the principal is entitled to any input tax credits.

However, if a non-resident principal who is registered or required to be registered, makes a taxable supply or a creditable acquisition through a resident agent, under Division 57, the agent is liable for the GST on the supply and is entitled to the input tax credits on the acquisition.

Subdivision 153-B of the GST Act allows principals and agents to enter into agreements under which the principal and agent treat the supply of goods or services as two separate supplies or acquisitions as though principal and agent were acting as principal to principal.

A written agreement must be entered into to allow for this type of arrangement under which:

- the agent agrees that it is making supplies and/or acquisitions on behalf of the principal
- the kind of supplies/acquisitions are specified
- the agent is treated as a principal in making supplies or acquisitions

- the agent will issue tax invoices and adjustment notes to third parties in the agent's name and the principal will not issue such documents
- both parties must be registered.

Under the arrangement, the principal is taken to have made a taxable supply to the agent, the value of which is determined by reference to the amount the agent is actually required to pay the principal. Usually this amount will be the amount the third party is charged for the supply, less the amount the agent is permitted, under the contract with the principal, to keep as a commission or similar payment for agency services.

The principal is liable for the GST payable on the supply to the agent and the agent is entitled to the input tax credit on the acquisition from the principal. The agent is liable for the GST on the on-supply to a third party.

Subdivision 153-B applies in a similar way in relation to creditable acquisitions. If an agent makes a creditable acquisition from a third party on behalf of the principal, the agent is taken to have made an acquisition in its own right. The agent will be entitled to claim input tax credits on that acquisition. If the agent has a tax invoice in respect of the acquisition, it would include this amount in the Activity Statement under G11. The agent is then liable for the GST on the taxable supply to the principal, based on the amount the agent paid the third party plus the agent's fee or commission. The principal is entitled to claim the input tax credit on the acquisition from the agent.

Application of this GST Advice

This Advice is based on GSTR 2000/37. It 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

Related Rulings/Determinations/GST Advice:

GSTA TPP 037

Subject references:

agency

GST liability

entitlement to input tax credits

Legislative references:

ANTS(GST)A 1999 Div 57

ANTS(GST)A 1999 Subdiv 153-A

ANTS(GST)A 1999 Subdiv 153-B

TAA 1953 37

ATO references

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