



GSTA TPP 040 - Goods and services tax: Can an agent for a partnership of trusts use its own name and the partnership's ABN on valid tax invoices?

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 This document has changed over time. This is a consolidated version of the ruling which was published on 2 November 2005



Goods and Services Tax Advice

Goods and services tax: Can an agent for a partnership of trusts use its own name and the partnership's ABN on valid tax invoices?

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 2000/17 on tax invoices and GSTR 2000/37 on agency relationships**. You can rely on the information presented in this document, which provides advice on the operation of the GST system.*

Answer

No, an invoice that states the agent's name and the partnership's ABN is not a valid tax invoice.

Background

A partnership of two trusts engages a company to act as its agent and to manage its co-owned commercial property. As manager and agent, the company enters into contracts and makes supplies and acquisitions on behalf of the partnership. The company may choose not to register for an ABN (and if its turnover is less than \$50,000 does not have to register for GST).

Acting as agent, the company may make taxable supplies (or creditable acquisitions for more than \$1,000). Without an ABN, the company wishes to issue tax invoices on behalf of the partnership using its own name, but then using the ABN of its principal, the partnership.

Explanation

A third party can act on behalf of a partnership as its agent. Generally, the partnership gives the agent authority to act on its behalf in limited circumstances. It does not matter whether the agent is an individual or a company.

GSTR 2000/17 on tax invoices and GSTR 2000/37 on agency relationships explain that where an agent issues an invoice to a third party that document will be a valid tax invoice and meet the requirements of regulation 29-70.01 and subsection 29-70(1) regarding identifying the relevant parties if it sets out either:

- the principal's name and ABN without the agent's name and ABN as the supplier and issuer of the tax invoice; or
- the agent's name and ABN as the supplier and issuer, instead of the principal's name and ABN as the supplier.

Similarly, where a tax invoice is for an amount of \$1,000 or more subregulation 29-70.01(2) specifies that the tax invoice must also include (among other things) the name, and either the address or ABN of the recipient. Therefore if the recipient is acting as an agent, the tax invoice may set out either:

- the principal's name, and either the principal's address or ABN as the recipient; or
- the agent's name, and either the agent's address or ABN as the recipient.

Application of this GST Advice

This Advice is based on GSTR 2000/17 and 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 2 November 2005

Related Rulings/Determinations/GST Advice:

GSTR 2000/17
GSTR 2000/37
GSTA TPP 035

Subject references:

ABN
agent
partnership of trusts
principal
tax invoice

Legislative references:

ANTS(GST)A 1999 29-70(1)
ANTS(GST)R 1999 29-70.01
ANTS(GST)R 1999 29-70.01(2)

TAA 1953 37

ATO references

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