



GSTA TPP 046 - Goods and services tax: Is a share for share swap a financial supply for GST purposes?

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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: Is a share for share swap a financial supply for GST purposes?

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 2002/2 on financial supplies**. You can rely on the information presented in this document, which provides advice on the operation of the GST system.*

Answer

A share for share swap is a financial supply for GST purposes provided all the requirements of subregulation 40-5.09(1) of A New Tax System (Goods and Services Tax) Regulations 1999 (GST Regulations) are satisfied.

Background

Company A swaps its shares for shares in company B and vice versa.

Explanation

In such a situation, four transactions take place from a GST perspective:

- disposal of entity A's interest in the 'securities' by entity A;
- acquisition of entity A's interest in the 'securities' by entity B;
- disposal of entity B's interest in the 'securities' by entity B; and
- acquisition of entity B's interest in the 'securities' by entity A.

An interest in or under 'securities' is listed under Item 10 of subregulation 40-5.09(3) of the GST Regulations as a financial interest. In the above example, both entities are disposing of, and acquiring, interests in or under securities. Where the remaining requirements of subregulation 40-5.09(1) of the GST Regulations are satisfied, the four share for share swap transactions listed above are financial supplies.

Application of this GST Advice

This Advice is based on GSTR 2002/2. 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

Subject references:

share for share swap
script for script transaction
shares
securities
financial supply

Legislative references:

ANTS(GST)R 1999 40-5.09
TAA 1953 37

ATO references

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