


GSTA TPP 047 - Goods and services tax: Is it the trust or the trustee that is registered for GST?

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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

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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

The trustee registers for GST in its capacity as trustee of the trust.

Explanation

Paragraph 59 of GSTR 2000/17 explains that it is the trustee of the trust that is registered on the Australian Business Register and is issued with an ABN.

59. Although an entity is defined to include a trust, a trust has no legal personality and so will not be registered in its own right on the Australian Business Register. Rather, the trustee of the trust will be registered and will be issued with an ABN in its capacity as trustee. The legal name of the entity will be identified on the register as the trustee for the particular trust, for example 'The Trustee for the Jones' Family Trust'.

Paragraph 51 of Miscellaneous Taxation Ruling MT 2000/1 on the meaning of enterprise is to the same effect. Section 23-5 of the GST Act states that it is the entity that carries on the enterprise that is required to be registered. It follows that the trustee of a trust carrying on the trust's enterprise is the entity that is registered for GST and if this is the case, the trust itself is taken to be registered.

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).

Related Rulings/Determinations/GST Advice:

TR 2006/10; GSTR 2000/17; MT 2000/1; GSTA TPP 048

Subject references:

ABN
entity
enterprise
trust
registered

Legislative references:

ANTS(GST)A 1999 23-5
TAA 1953 Sch 1 Div 358

ATO references

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