


GSTA TPP 049 - Goods and services tax: Is a trustee's in-specie distribution to a beneficiary a taxable supply?

 This cover sheet is provided for information only. It does not form part of *GSTA TPP 049 - Goods and services tax: Is a trustee's in-specie distribution to a beneficiary a taxable supply?*

 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: is a trustee's in-specie distribution to a beneficiary a taxable 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.*

However, the supply of something in specie from a trust to a beneficiary is a supply between associated entities. As the supply from a trust to a beneficiary is made to an associate for no consideration, Subdivision 72-A should be considered. When a beneficiary is not registered or required to be registered for GST, or is receiving the in specie distribution other than for a creditable purpose, subdivision 72A will apply. The in specie distribution will be a taxable supply. The value of the supply is the GST-exclusive market value of the supply.

Note: The disposal, by way of redemption, of units held by a beneficiary in a unit trust for consideration consisting of an in specie distribution from the trust, involves both the trust and the beneficiary making a supply for consideration.

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

Answer

A distribution made by a trust to a beneficiary does not involve consideration in the form of the surrender to the trust of any rights held by the beneficiary. Therefore, there is no supply for consideration and the supply is not a taxable supply under section 9-5 of the GST Act.

Related Rulings/Determinations/GST Advice:

TR 2006/10

Subject references:

trust
beneficiary
in-specie
associate

Legislative references:

ANTS(GST)A 1999 Subdiv 72-A
TAA 1953 Sch 1 Div 358

Other references:

Representatives of Incapacitated Entities Frequently Asked Questions. "20. Is an in-specie distribution made from a representative to a shareholder a taxable supply?"

ATO ID 2001/503
ATO ID 2001/504
ATO ID 2001/505

ATO references

NO:	05/3095
ISSN:	1833-0053