



GSTA TPP 059 - Goods and services tax: Will the Tax Office refund overpaid GST if a supplier makes a mistake in preparing its activity statement and incorrectly includes a supply as a taxable supply?

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 This document has changed over time. This is a consolidated version of the ruling which was published on 6 July 2005



Goods and Services Tax Advice

Goods and services tax: Will the Tax Office refund overpaid GST if a supplier makes a mistake in preparing its activity statement and incorrectly includes a supply as a taxable supply?

Preamble

This document is a ruling for the purposes of section 37 of the Taxation Administration Act 1953. You can rely on the information presented in this document, which provides advice on the operation of the GST system.

Answer

Yes, the Tax Office will provide a refund of overpaid GST to the supplier.

Background

An entity makes a supply on which no GST is properly payable. The invoice issued in respect of that supply indicates that no GST has been included in the price for the supply (i.e. the supply is GST-free or input taxed). The entity makes a mistake in preparing its activity statement, incorrectly includes this supply as a taxable supply and pays GST on that supply.

Explanation

GST has not been included in the price charged to the recipient. If the recipient is registered for GST, it is not entitled to claim an input tax credit. If the recipient is not registered for GST, it has not borne any GST in the price paid for the goods or services. The supplier is entitled to a refund of GST. Section 39 of the *Tax Administration Act 1953* does not place any restriction on that refund. The supplier may correct the mistake in a later activity statement if the mistake is within the terms of the *Correcting GST Mistakes Fact Sheet*. Alternatively, it can revise the activity statement for the tax period in which the mistake occurred.

Note: If the 'tax invoice' issued in relation to the supply did not indicate that GST was not included in the price, the prima facie position would be that GST was (incorrectly) included in the price. In these circumstances, the terms of PS LA 2002/12 on GST

refunds would need to be followed before the Commissioner could make a decision in the matter.

Application of this GST Advice

This Advice 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:

correcting GST mistakes
business activity statement
non-taxable supplies
reimbursement of receipts
refund

Legislative references:

TAA 1953 37
TAA 1953 39

Other references:

PS LA 2002/12
Correcting GST mistakes – fact sheet

ATO references

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