

***GSTA TPP 077 - Goods and services tax: Can an entity that purchases a rally car with a market value that exceeds the car limit claim input tax credits in excess of 1/11th of the car limit?***

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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:** Can an entity that purchases a rally car with a market value that exceeds the car limit claim input tax credits in excess of 1/11<sup>th</sup> of the car limit?

#### **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**

No, the purchaser of the rally car cannot claim input tax credits greater than 1/11<sup>th</sup> of the car limit. However, if the rally car is not actually a 'car' as defined, the amount of input tax credits available is not limited to 1/11<sup>th</sup> of the car limit.

#### **Background**

An entity purchases a car for use in car rally competitions. It is a standard passenger car and certain modifications are made to the car to make it go faster. Changes to the engine give the car additional horsepower and changes are made to its bodywork.

#### **Explanation**

Under section 69-10 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act), if the price of a car exceeds the car limit, generally the maximum GST credit claimable is 1/11<sup>th</sup> of the car limit. The car limit for 2005–06 is \$57,009.

If an entity registered for GST makes a creditable acquisition of a racing car or rally car, section 69-10 applies to restrict GST input tax credits if it is a 'car' as defined and the value exceeds the car limit.

Section 195-1 gives 'car' the same meaning as section 995-1 of the ITAA 1997. A 'car' is defined as a 'motor vehicle (except a motor cycle or similar vehicle) that is designed to carry a load of less than 1 tonne and fewer than 9 passengers'. A 'motor vehicle' is further defined as a 'motor powered road vehicle (including a 4 wheel drive vehicle)'.

The term 'road vehicle' is discussed in Sales Tax Ruling SST 13. Paragraph 3.2 states:

The term 'road vehicle' refers to the class of vehicle, not to the actual use to which a particular vehicle may be put. It is a road vehicle if it is in a **class of vehicle** that is **designed for use on public roads** and it would be a road vehicle even though it may never be used or registered for use on public roads.

Public roads can be closed to the public for the period of a racing or rally event. They are not public roads for the duration of the event.

If the nature and fundamental design of a vehicle used as a rally or racing car, including any modifications or add-ons, makes it of a class of vehicle suitable and capable of being registered for use on public roads, anywhere in the world, it is a 'car' as defined. Section 69-10 applies to restrict any input tax credits if the value exceeds the car limit. For example, where a standard passenger car is modified for rallying or racing and the modifications do not extend to changing its fundamental design, it will remain a car.

If the rally car or racing car, including any modifications or add-ons, is of a class of vehicle designed to be used only on racing or rally circuits or off-road, and is not capable of being registered for use on public roads, it is not a 'car' as defined. Section 69-10 will not apply to restrict input tax credits. If the car is used 100% for business use, the full amount of GST paid can be claimed as input tax credits. For example, where a racing car is designed and built from the ground up, or a standard passenger car is redesigned, stripped and rebuilt so that nature and fundamental design of the vehicle makes it incapable of being registered for use on public roads, it is not a 'car' as defined.

In conclusion, it is the Tax Office view that a 'car', that is modified for rally racing remains a car, subject to the extent of modifications that remove it from the classification of cars.

## 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.

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## Commissioner of Taxation

Date

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### **Subject references:**

racing car  
rally car  
input tax credits  
car limit

### **Legislative references:**

ANTS(GST)A 1999 69-10  
ANTS(GST)A 1999 195-1  
ITAA 1997 995-1  
TAA 1953 37

### **Other references:**

SST 13  
ATOID 2004/11

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### **ATO references**

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