


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 *31 October 2012*



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 1/11th of the car limit?

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

No, the purchaser of the rally car cannot claim input tax credits greater than 1/11th 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 1/11th 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 1/11th 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 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

6 July 2005

Related Rulings/Determinations/GST Advice:

TR 2006/10

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 Sch 1 Div 358

Other references:

SST 13
ATOID 2004/11

ATO references

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