



GSTA TPP 086 - Goods and services tax: Is a partnership entitled to an input tax credit for an acquisition if the relevant tax invoice contains the name of only one partner?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *26 October 2005*



Goods and Services Tax Advice

Goods and services tax: Is a partnership entitled to an input tax credit for an acquisition if the relevant tax invoice contains the name of only one partner?

Preamble

*This document is a ruling for the purposes of section 37 of the Taxation Administration Act 1953. It illustrates the principles contained in **Goods and Services Tax GSTR 2003/13 on general law partnerships and Goods and Services Tax Ruling GSTR 2004/6 on tax law partnerships**. You can rely on the information presented in this document, which provides advice on the operation of the GST system.*

Answer

Yes, a partnership is entitled to an input tax credit for an acquisition if the relevant tax invoice contains the name of only one partner.

Background

A partner makes an acquisition of goods on behalf of the partnership in his capacity as a partner. The supplier of the goods issues a tax invoice that states the name of the partner who acquired the goods, but not the name of the partnership. The consideration for the acquisition is provided by the partnership.

Explanation

Subsection 184-5(1) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) provides that a supply, acquisition or importation made by or on behalf of a partner of a partnership in his or her capacity as a partner is taken to be a supply, acquisition or importation made by the partnership and is not taken to be a supply, acquisition or importation made by that partner or any other partner. It does not prescribe the information that a tax invoice should contain. Subsection 29-70(1) of the GST Act and Regulation 29-70.01 of the *A New Tax System (Goods and Services Tax) Regulations 1999* (GST Regulations) set out the information that a tax invoice should contain.

Subregulation 29-70.01(2) of the GST Regulations contains specific name requirements for tax invoices. In circumstances where these name requirements are not strictly complied with, the Commissioner will exercise the discretion in subsection 29-70(1) of the GST Act as outlined in GSTR 2003/13 on general law partnerships:

114. In most cases, where a partner makes a creditable acquisition in the capacity as a partner, the partnership must hold a tax invoice to claim an input tax credit. If the tax invoice is for supplies totalling \$1,000 or more, Regulation 29-70.01 requires that it contains the name, and either the address or ABN of the recipient. Where the recipient is a partnership, the details required will be the name of the partnership and either its address or ABN. The name requirement will be met if the tax invoice shows the names of all the partners, or the business or trading name.

115. However, there may be occasions when a document issued to the partnership as a tax invoice is for a total amount payable of \$1,000 or more, but contains only the name of a partner. The Commissioner exercises his discretion under subsection 29-70(1) to treat the document as a tax invoice if it contains the name of a partner instead of the partnership, but otherwise complies with subsection 29-70(1). This gives practical effect to the operation of subsection 184-5(1), and provides a result which is consistent with the treatment of tax invoices relating to reimbursements, discussed in paragraphs 110 to 113 above.

116. Where the tax invoice shows a total amount payable of less than \$1,000, the fact that it shows the name of a partner and not the name of the partnership will make no difference. The name of the recipient is not a requirement for tax invoices for this amount.

In GSTR 2004/6 on tax law partnerships, the same information appears at paragraphs 209 to 211.

Application of this GST Advice

This Advice is based on GSTR 2003/13 and GSTR 2004/6. It 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

26 October 2005

Related Rulings/Determinations/GST Advice

GSTA TPP 087
GSTA TPP 088

Subject references:

tax invoice
partnership
partner
input tax credits
acquisition

Legislative references:

ANTS(GST)A 1999 184-5(1)
ANTS(GST)A 1999 29-70(1)
ANTS(GST)R 1999 29-70.01
ANTS(GST)R 1999 29-70.01(2)
TAA 1953 37

ATO references

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