

GSTA TPP 088 - Goods and services tax: If a partner pays for an acquisition as an expense out of the revenue of the partnership, is this an indicator that the partner is acting in his or her capacity as partner?

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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: if a partner pays for an acquisition as an expense out of the revenue of the partnership, is this an indicator that the partner is acting in his or her capacity as partner?

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

Yes, if a partner makes an acquisition that is paid as an expense out of the revenue of the partnership, this is an indicator that the partner is acting in his or her capacity as partner.

Background

A partner makes an acquisition of goods on behalf of the partnership. 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 partner pays for the goods as an expense out of the revenue of the partnership.

Explanation

Paragraph 30 of GSTR 2003/13 lists factors that tend to indicate that an acquisition is made by a partner in that capacity. One factor is where an acquisition is 'paid for out of partnership profits or from a partnership account'.

Note: This reference to profits is intended to be read in a wide sense to refer to all moneys coming into the partnership. The meaning to be attributed to 'paid out of partnership profits' in paragraph 30 of GSTR 2003/13 is 'paid as an expense out of the revenue of the business'.

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
26 October 2005

Related Rulings/Determinations/GST Advice
TR 2006/10; GSTR 2003/13;
GSTR 2004/6; GSTR 2011/D1

Subject references:

partnership
partner
profits
acquisition

Legislative references:

TAA 1953 Sch 1 Div 358

ATO references

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