



GSTA TPP 089 - Goods and services tax: If the recipient of a supply cancels its GST registration before receiving a tax invoice for a creditable acquisition, is it entitled to an input tax credit for the acquisition?

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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: If the recipient of a supply cancels its GST registration before receiving a tax invoice for a creditable acquisition, is it entitled to an input tax credit for the acquisition?

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 recipient of a supply that cancels its GST registration before it receives a tax invoice for a creditable acquisition is not entitled to an input tax credit for the acquisition.

Background

A GST registered entity makes a supply of goods to a GST registered recipient. Both parties account for GST on a cash basis and believe that the supply is a GST-free supply. The Tax Office audits the supplier and advises that the supply was a taxable supply and GST is payable. The supplier then issues the recipient with a tax invoice. The recipient has since cancelled its GST registration.

Explanation

In the circumstances described, the input tax credit cannot be claimed because it is not attributable to a tax period. As the recipient is neither registered for GST, nor required to be registered, it does not have tax periods applying to it. Therefore, it does not give a GST return to the Commissioner showing a 'net amount' for the periods after it has cancelled its registration.

An entity whose registration is cancelled may still have acquisitions and importations for which entitlements to input tax credits have arisen. Section 138-15 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) may allow amounts of GST, input tax credits and adjustments that have not been attributed to a previous tax period to be attributed to the entity's concluding tax period. The tax period in which you cease to be registered is your concluding tax period.

Subsection 138-15(1) states that the input tax credit to which you are entitled for a creditable acquisition is attributable to a particular tax period, and no other, if:

- (a) during the tax period, your registration is cancelled; and
- (b) immediately before the cancellation, you were accounting on a cash basis; and
- (c) the input tax credit on the acquisition was not attributable, to any extent, to a previous period during which you accounted on a cash basis; and
- (d) it would have been attributable to that previous tax period had you not accounted on a cash basis during that period.

You must attribute any amounts of GST, input tax credits or adjustments that you have not yet accounted for and for which you hold a tax invoice to your concluding tax period. If a recipient does not hold a tax invoice at the time it ceases to be registered and has completed the activity statement for its concluding tax period, it cannot attribute input tax credits to the concluding period.

The normal attribution rules in the GST Act do not allow an input tax credit to be claimed if a tax invoice is not held (subsection 29-10(3) of the GST Act). Therefore, if after an entity ceases to be registered it receives a tax invoice for a creditable acquisition it made while registered, the GST Act does not allow the entity to claim an input tax credit.

Note: The Commissioner has discretion under subsection 29-70(1) of the GST Act to treat a document as a tax invoice that does not meet the requirements for a tax invoice. The Commissioner may exercise his discretion in circumstances where a recipient's registration is cancelled before they hold a tax invoice. However, this would be considered on a case-by-case basis after an analysis of documents the recipient held at the time of preparing a GST return for the concluding tax period and all other relevant circumstances.

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

26 October 2005

Subject references:

input tax credits
cancellation of registration
tax invoice

Legislative references:

ANTS(GST)A 1999 138-15
ANTS(GST)A 1999 29-10
ANTS(GST)A 1999 29-70
TAA 1953 37

ATO references

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