GSTD 2003/2W - Goods and services tax: are there GST consequences when a partner in a partnership takes goods held as trading stock for private or domestic use?

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This Determination has been replaced by GSTD 2009/D1

This document has changed over time. This is a consolidated version of the ruling which was published on *8 April 2009*

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Notice of Withdrawal

Goods and Services Tax Determination

Goods and services tax: are there GST consequences when a partner in a partnership takes goods held as trading stock for private or domestic use?

Goods and Services Tax Determination GSTD 2003/2 is withdrawn with effect from today.

1. GSTD 2003/2 states that when goods are removed from trading stock by a partnership for private consumption by a partner, there is an application solely to private or domestic use by the partnership to which Division 130 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) applies. GSTD 2003/2 concludes that this application to private use by a partnership under Division 130 does not involve a supply made in the course or furtherance of an enterprise being carried on and Division 72 of the GST Act has no operation.

2. GSTD 2003/2 is being withdrawn as the Australian Taxation Office has revised its view and it is inconsistent with other rulings setting out the view as to when a supply made by a partnership to a partner will be made in the course or furtherance of the enterprise carried on by the partnership. These rulings include:

- Goods and Services Tax Ruling GSTR 2009/2 Goods and services tax: partitioning of land; and
- Goods and Services Tax Ruling GSTR 2003/13 Goods and services tax: general law partnerships.

3. GSTD 2003/2 is also inconsistent with Goods and Services Tax Determination GSTD 2009/1 Goods and services tax: is a supply by way of an *in specie* distribution of an asset that is applied or intended to be applied in an enterprise carried on by a discretionary trust to a beneficiary of the trust made 'in the course or furtherance of' the trust's enterprise.

4. GSTD 2003/2 is replaced by Draft Goods and Services Tax Determination GSTD 2009/D1, which states that when a partner in a partnership takes goods held as trading stock for private or domestic use there is a supply by the partnership to the partner in the course or furtherance of the partnership's enterprise. If the other elements of section 9-5 of the GST Act are satisfied, there will be a taxable supply by the partnership to the partner. Division 72 of the GST Act will apply where the partner provides no consideration or inadequate consideration for the supply. Division 130 of the GST Act, which deals with goods applied solely to private or domestic use, does not apply.

Commissioner of Taxation
8 April 2008

ATO references
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