

***GSTD 2005/4A2 - Addendum - Goods and services tax: are 'wholesale holdback' and 'retail holdback' payments made by a motor vehicle manufacturer or importer of new motor vehicles to a dealer consideration for a supply?***

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## Addendum

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### Goods and Services Tax Determination

Goods and services tax: are 'wholesale holdback' and 'retail holdback' payments made by a motor vehicle manufacturer or importer of new motor vehicles to a dealer consideration for a supply?

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Goods and Services Tax Determination GSTD 2005/4 to

- reflect the amendments to the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) which were made by *Tax and Superannuation Laws Amendment (2012 Measures No. 1) Act 2012*. In particular it reflects the amendment that inserted section 9-17 into the GST Act. Section 9-17 contains exclusions from the meaning of 'consideration' formerly contained in subsection 9-15(3). Section 9-17 is now also referred to in the definition of 'consideration' as defined by section 195-1. The amendments apply to payments made on or after 1 July 2012.
- update references to legislation and relevant rulings that have issued since this Determination was issued.

#### **GSTD 2005/4 is amended as follows:**

##### **1. Preamble**

Omit the text: substitute;

##### ***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*

# GSTD 2005/4

*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.]

## 2. Paragraph 12

Omit the third sentence and footnote 3; substitute 'This is discussed in Goods and Services Tax Ruling GSTR 2006/9<sup>3</sup> in relation to grants of financial assistance by government.'

## 3. Footnote 2

Omit the footnote; substitute;

2. Consideration is defined in section 195-1 of the GST Act. Supply is defined in section 9-10 of the GST Act.

## 4. Footnote 4

Omit the footnote; substitute;

4. Relevantly, at paragraphs 102-103.

## 5. Date of Effect (Paragraph 26 and 27)

Omit paragraphs 26 and 27; substitute;

26. This Ruling applies both before and after its date of issue. However, this Ruling 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 Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

**Note:** the Addendum to this Determination that issued on 21 August 2013 explains our view of the law as it applied from 1 July 2012.

27. [Omitted]

## 6. Related Rulings / Determinations

Omit:

GSTR 2000/11

Substitute:

GSTR 2006/9

## 7. Legislative references

Omit:

- ANTS(GST)A 1999 9-15
- TAA 1953 37

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<sup>3</sup> GSTR 2006/9 Goods and services tax: *supplies*.

Insert:

- TAA 1953 357-60
- TAA 1953 Div 358

This Addendum applies on and from 1 July 2012.

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**Commissioner of Taxation**

21 August 2013

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ATO references

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Goods and Services Tax ~~ General rules and concepts ~~ supply

Goods and Services Tax ~~ General rules and concepts ~~ adjustment events