GSTR 2000/7 - Goods and Services Tax: transitional arrangements - supplies, including supplies of rights, made before 1July 2000 and the extent to which such supplies are taken to be made on or after 1 July 2000

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 Ruling

Goods and services tax: transitional arrangements - supplies, including supplies of rights, made before 1 July 2000 and the extent to which such supplies are taken to be made on or after 1 July 2000

Contents Para

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.]*

What this Ruling is about

1. This Ruling considers the application of sections 11 and 12 of the *A New Tax System (Goods and Services Tax Transition) Act 1999* ('the Transition Act') to supplies, including supplies of rights, made before 1 July 2000.

2. The Ruling considers the meaning of 'reasonably expected to be exercised' in section 11.

3. This Ruling also considers when something is a supply for a 'period' or 'progressively over a period' for the purposes of section 12.

4. This Ruling does not deal with supplies that are not taxable supplies.

5. This Ruling does not deal with the interpretation of section 13, which, in broad terms, considers the extent to which supplies may be GST-free where you, as the supplier, have an existing written agreement which does not provide you with a review opportunity.

6. The Ruling also does not consider whether Goods and Services Tax ('GST') is payable in respect of supplies specifically dealt with by the following sections in the Transition Act:

(a) section 14 (which looks at whether GST is payable in respect of a supply of services or any other thing for life made under an agreement entered into prior to 1 July 2000);

(b) section 15 (which considers whether GST is payable with respect to a supply made under certain funeral arrangements); and

(c) section 19 (which deals with the extent to which GST is payable in respect of certain supplies made available after 1 July 2000 in accordance with a construction agreement made before 1 July 2000).

7. All legislative references are to the Transition Act unless otherwise stated.

Date of effect

8. This Ruling applies [to tax periods commencing] 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).

Context

Transition to a GST

9. The GST is only payable on a taxable supply or taxable importation to the extent that it is made on or after 1 July 2000.[1] The general rules for determining whether a supply or importation is made on or after 1 July 2000 are to be found in section 6 ('the general time of supply rules'). The rules are as follows:

(a) a supply or acquisition of **goods** is made:[2]

(i) when the goods are removed; or

(ii) if the goods are not to be removed – when the goods are made available to the recipient; or

(iii) if the goods are removed before it is certain that a supply will be made (for example, if the goods are given or taken on approval, sale or return, or similar terms) – when it becomes certain that a supply has been made.

(b) a supply or acquisition of real property is made when the property is made available to the recipient.[3]

(c) a supply or acquisition of services is made when the services are performed.[4]

(d) a supply or acquisition of any other thing is made when the thing is performed or done.[5]

10. Under the general time of supply rules, a supply consisting of the creation or grant of a right is made when the right is created or granted. Without a modification to these rules, rights created or granted prior to 1 July 2000 would be totally outside the ambit of the GST, notwithstanding that those rights might be exercised in whole or in part on or after 1 July 2000.

11. These general time of supply rules are, therefore, modified in certain situations by other provisions in the Transition Act. Sections 11 and 12 are two such provisions.

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[1] Section 7.
[2] Subsection 6(2).
[3] Subsection 6(3).
[4] Subsection 6(4).
[5] Subsection 6(5).

Ruling

12. Whether section 11 or section 12 applies will depend on the nature of the supply. Whilst rights attach to most supplies, the circumstances surrounding the supply will determine which section applies. Paragraphs 13 to 30 below set out the circumstances where we consider sections 11 and 12 will apply.

Section 11

13. Where there is a supply of a right that has been granted or is granted on or after 2 December 1998 but before 1 July 2000, which could reasonably be expected to be exercised on or after 1 July 2000, and section 13 does not apply, section 11 will apply.

14. Subsection 11(1) provides that a supply of a right is taken to be a supply made on or after 1 July 2000 if, and to the extent that, the right could reasonably be expected to be exercised on or after 1 July 2000, notwithstanding that it was or is granted on or after 2 December 1998, but before 1 July 2000. However, certain supplies of rights are excluded from the application of this rule and these are described in subsections 11(1A) and 11(1B). The rights excluded are those relating to:

- a supply of a right under a hire purchase agreement that is an option to purchase goods hired under that agreement;
- the supply of a right to use software in certain circumstances;
- the supply of a long-term lease made before 1 July 2000;
- the supply of a voucher where the holder is entitled to supplies up to a stated monetary value.

When does section 11 apply?

15. Except where section 13 or section 14 applies, we consider that where a supply of a right of unlimited duration is made on or after 2 December 1998 but before 1 July 2000, section 11 applies. GST is payable on the supply if, and to the extent, that the right could reasonably be expected to be exercised on or after 1 July 2000. (See Example 1.)

16. Except where section 13 applies, we consider that where the supply of a right is made on or after 2 December 1998 but before 1 July 2000, and the recipient is entitled to exercise the right on a fixed number of occasions without any time limitation on when it might be exercised or for a fixed number of hours without a specific starting date, section 11 applies. GST is payable on the supply if, and to the extent, that the right could reasonably be expected to be exercised on or after 1 July 2000. (See Examples 2 and 3.)

17. Except where section 13 applies, we consider that where the supply of a right is made on or after 2 December 1998 but before 1 July 2000, and the right is supplied on the basis that it is able to be exercised on a fixed number of occasions subject to an expiry date, section 11 applies. GST is payable on the supply if, and to the extent, that the right could reasonably be expected to be exercised on or after 1 July 2000. (See Examples 4 and 5.)

18. The types of rights to which section 11 could apply include:

(a) public transport travel cards that entitle the holder to undertake a fixed number of trips;

(b) booklets of movie tickets;

(c) vouchers that entitle the holder to a future service where no monetary value is stated on the voucher; and

(d) internet access agreements which entitle the user to a fixed number of hours access.

Meaning of 'reasonable expectation'

19. For the purposes of section 11, for there to be a 'reasonable expectation' that a right could be exercised on or after 1 July 2000, there must be about an even chance that the right in question could be exercised on or after that date. (See Example 6.)

20. The test of 'reasonable expectation' contemplated by section 11 is an objective test. The test should be applied at the time the right is granted.

Methods of determining extent

21. If a supplier reasonably expects a right granted in circumstances contemplated by section 11 to be exercised on or after 1 July 2000, then it will be necessary to apportion the value of that supply into:

(i) a part that reflects a reasonable expectation as to the extent of the exercise of the right before 1 July 2000; and

(ii) a part that reflects a reasonable expectation as to the extent of the exercise of the right on or after 1 July 2000.

22. Some suppliers may grant rights to which section 11 applies which are exercisable on future dates, some of which occur prior to 1 July 2000, and some of which occur on or after 1 July 2000. In these circumstances, a method for making the apportionment required by subsection 11(1) is:

$$\frac{\text{no. of occasions right can be exercised on and after 1 July 2000}}{\text{total no. of occasions right can be exercised}} \times \text{the value of the supply}$$

The figure derived from this calculation will represent the proportion of the total value of the supply attributable to the period commencing 1 July 2000.

No readily ascertainable method of determining extent

23. There will be circumstances where there is no readily ascertainable method for determining the extent to which a right could reasonably be expected to be exercised on or after 1 July 2000. In these cases, we will accept a method that gives an accurate reflection. Three methods we consider will give an accurate reflection are:

(a) **'the client usage method'**- the supplier may choose to apply the trends established by statistics it has collected on past usage patterns by specific clients to determine if, and the extent to which, those clients can reasonably be expected to exercise such a right on or after 1 July 2000 (see Example 5);

(b) **'the product usage method'** - the supplier may choose to apply the trends established by statistics it has collected on past product usage patterns to determine if, and the extent to which, recipients of the right can reasonably be expected to exercise such a right on or after 1 July 2000 (see Examples 2 and 3); or

(c) **'the industry statistics method'** - the supplier may choose to apply the trends established by statistics collected by an independent industry body on past product usage patterns for products similar to the supplier's product to determine if, and the extent to which, recipients of the right can reasonably be expected to exercise such a right on or after 1 July 2000 (see Example 1).

24. Where a supplier has statistics in relation to more than one method, the supplier must use the method which most accurately reflects the circumstances. We consider that, generally, method (a) will provide the most accurate reflection. However, where a supplier has a large number of clients, we consider method (b) will provide an equally accurate reflection. In our view method (c) will not give as accurate a reflection as methods (a) and (b) and would only be used where statistics under methods (a) or (b) were not available.

Section 12

25. Section 12 applies where an agreement is entered into prior to 1 July 2000 and provides that the thing supplied under the agreement is to be supplied either for a period which begins before 1 July 2000 and ends on or after 1 July 2000, or is to be supplied progressively over such a period.

26. Subsection 12(2) provides that, in such circumstances, the supply is taken to be made continuously and uniformly throughout the period. This, in effect, means that the proportion of the supply attributed to the part of the period before 1 July 2000 is not subject to GST, but the proportion of the supply attributed to the part of the period on or after 1 July 2000 is. However, section 12 does not apply to a supply of a warranty if the value of the warranty is included in the price[6] or to a supply of a long term lease made before 1 July 2000.[7]

When does section 12 apply?

27. Except where section 13 applies, where a supply is made before 1 July 2000, and the supply is for the duration of a period which begins before 1 July 2000 and ends on or after 1 July 2000, section 12 applies. GST is payable in respect of the proportion of the supply attributable to the part of the period occurring on or after 1 July 2000. (See Examples 7 and 8.)

28. We consider the following types of supplies are within the ambit of section 12, provided they relate to a period commencing before 1 July 2000 and ending on or after that date:

(a) public transport tickets issued for a specified period (e.g., a monthly train, tram or bus ticket);

(b) the supply of specified services for, or over, a specific period (e.g., a cleaning company agrees to clean the business premises of another company for twelve months or a power company agrees to supply you with power for a period of three months).

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[6] Subsection 12(1A).
[7] Subsection 12(4).

Meaning of 'for a period' and 'progressively over a period'

29. Section 12 applies where the supply is made with regard to or with respect to a specified division or portion of time which begins before 1 July 2000 and concludes on or after 1 July 2000, or is supplied progressively throughout the duration of such a specified division or portion of time.

30. We consider that the imposition of an expiry date to a supply does not constitute a thing supplied for a period or progressively over a period.

Explanations (this forms part of the Ruling)

Interaction between sections 6, 11 and 12

31. Subsections 6(4) and (5) cover supplies of services or supply of a thing. Such supplies are made when the services are performed or the thing is performed or done. Where the service or thing has a known completion or performance date, e.g., you purchase a bus ticket on 15 June 2000 to travel from Brisbane to Sydney on 15 July 2000, section 6 will apply to determine when the supply is made.

32. However, where you purchase a right to a service or supply but the actual performance or completion date is unknown, e.g., you purchase a travel card on 15 June 2000 which entitles you to 10 bus trips at any time within a certain area, section 11 will apply to determine when the supply is made.

33. Where the service or supply is for a period or progressively over a period e.g., you purchase a monthly bus ticket on 15 June 2000 entitling you to travel whenever you like within a certain area in the next month, section 12 will apply to determine when the supply is made.

34. In determining whether section 12 will apply to the supply it is necessary to identify the true nature of the supply. This involves consideration of the substance and value of the supply. Is it a supply of a particular thing for a period and is the period fundamental to the supply? Whilst rights will attach to most supplies, where the supply is essentially for a thing over a period, section 12 will apply rather than section 11. (See Examples 9 and 10.)

Section 11

35. Section 11 covers the situation where there is a supply of a right that has been granted, or is granted, on or after 2 December 1998 but before 1 July 2000, which could be exercised on or after 1 July 2000. In these circumstances, it provides that the supply of the right is taken to be a supply made on or after 1 July 2000 if, and to the extent that, the right could reasonably be expected to be exercised on or after 1 July 2000.

36. If section 11 applies to such a supply, the supplier must consider whether the right could reasonably be expected to be exercised on or after 1 July 2000.

Meaning of 'reasonable expectation'

37. The phrase 'could reasonably be expected' is not defined in either the Transition Act or the *A New Tax System* (*Goods and Services Tax*) *Act* 1999 ('the GST Act'). To find the meaning, you must look to the ordinary meaning of the words in the phrase. You must also take into account both the legislative context in which the phrase appears and any comments made by judges interpreting statutes that have provisions which incorporate the concept of 'reasonable expectation'.

38. *The Macquarie Dictionary* defines the words, 'reasonable', 'reason' and 'expectation', in contexts similar to the present, as follows:

(a) 'reasonable':[8] '3. not exceeding the limit prescribed by reason; not excessive: *reasonable terms*. …'

(b) 'reason':[9] '4. sound judgment or good sense. …'

(c) 'expectation':[10] '7. The degree of probability of the occurrence of something' …'

39. The legislative context in which the phrase is found is in a provision which sets out rules for the transition to a new indirect taxation system. The provision in which the phrase is found is not an anti-avoidance provision, but it is a provision included in the Transition Act to make sure that the government's policy on the taxation of final consumption expenditure on or after 1 July 2000 is implemented.

40. The courts, in interpreting the concept of 'reasonable expectation', have always been careful to interpret it in the precise statutory context in which it is found. Although there is no existing body of case law on the interpretation of the GST law, it is nevertheless helpful to examine what was said about the concept in two relatively recent cases involving the interpretation of two different pieces of Commonwealth legislation.

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[8] op.cit. at 1468.
[9] op.cit. at 1468.
[10] op.cit at 610.

41. The first case is *News Corporation Ltd and Others v. National Companies and Securities Commission* (1984) 5 FCR 87 ('News Corporation'), a case before the Full Federal Court. It involved an appeal by the applicants against a decision of the Administrative Appeals Tribunal ('the AAT') refusing them access under the *Freedom of Information Act 1982* ('the FOI Act') to certain documents obtained and compiled by the respondent in the course of an investigation it was carrying out with respect to certain alleged activities of the applicants. The AAT's decision was based on its interpretation of paragraph 37(1)(a) of the FOI Act, which was framed in the following terms:

42. (1) 'A document is an exempt document if its disclosure under the Act would, or **could reasonably be expected** to-

(a) prejudice the conduct of an investigation of a breach, or possible failure, to comply with a law relating to taxation or prejudice the enforcement or proper administration of the law in a particular instance.'

43. In dismissing the applicants' appeal, Woodward J, one of the majority judges, said at 101:

> 'I think that the words "would, or could reasonably be expected to … prejudice" mean more than "would or might prejudice". A reasonable expectation of an event requires more than a possibility, risk or chance of the event occurring. On the other hand, if the legislature had required a probability of prejudice it could have easily have said so. In my view it is reasonable to expect an event to occur if there is about an even chance of its happening and, without attempting to suggest words alternative to those chosen by the draftsman, it is in that general sense that the phrase should be read.'

44. The second case is *FC of T v. Peabody* (1994) 181 CLR 357; 94 ATC 4663, a decision of the Full High Court. In that case, the court was called upon to determine whether Part IVA of the *Income Tax Assessment Act 1936* ('ITAA 1936'), the general anti-avoidance provision in the ITAA 1936, applied to cancel certain alleged tax benefits that were identified by the Commissioner in relation to a reorganisation of the ownership interests of a business in which the Peabody family held equity interests. In the course of its deliberations, the court was called upon to determine whether the purchaser of certain shares might reasonably be expected to have been a company that acted as trustee of the Peabody Family Trust. It answered the question in the negative, and in the process, made the following comments on the concept of 'reasonable expectation':

> '… A reasonable expectation requires more than a possibility. It involves a prediction as to events which would have taken place if the relevant scheme had not been entered into or

carried out and the prediction must be sufficiently reliable for it to be regarded as reasonable.'[11]

45. The message to be derived from both cases is that the concept of 'reasonable expectation' requires more than a possibility that an event take place. Woodward J in *News Corporation* elaborates further. He makes the point that the standard required by the concept does not extend to there having to be a probability that the event take place. He set the bench-mark in the middle of the two parameters mentioned above and said that 'it is reasonable to expect an event to occur if there is about an even chance of its happening'.[12] Both cases also confirm that the test of reasonable expectation is an objective one.

46. We consider, for the purposes of section 11, for there to be a reasonable expectation that a right could be exercised on or after 1 July 2000, there must be about an even chance on the date of granting the right that the right in question could be exercised on or after 1 July 2000. The Commissioner believes that this interpretation is consistent with the ordinary meaning of the words in the phrase, the nature of the provision and the sentiments expressed in the above two cases (in particular News Corporation which deals with the concept in an environment not too dissimilar to that provided by the Transition Act).

Section 12

47. Section 12 considers the supply of a thing under an agreement or an enactment that provides that the thing is to be supplied for a period, or is to be supplied progressively over a period, where that period begins before 1 July 2000 and concludes on or after 1 July 2000. In those circumstances, the provision stipulates that the supply is taken to be made continuously and uniformly over the period. In effect this provides a simple time apportionment as the appropriate method for determining the extent to which the supply is made on or after 1 July 2000. It does this by looking at how much of the supply should be attributed to the part of the period before 1 July 2000 and how much should be attributed to the part of the period on or after 1 July 2000.

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[11] *FC of T v Peabody* (1994) 181 CLR at 385; 94 ATC at 4671.
[12] *The News Corporation Ltd and Others v. National Companies and Securities Commission* (1984) 5 FCR at 102.

Meaning of 'for a period' and 'progressively over a period'

48. We are of the view that section 12 applies where a supply is made for a period which begins before 1 July 2000 and concludes on or after 1 July 2000, or is supplied progressively over such a period. As the words 'for', 'over' and 'period' are not defined in the legislation, we interpret those words as having the meanings given to them, in contexts similar to the present, in *The Macquarie Dictionary, 2nd edition.*[13] Those meanings are as follows:

(a) 'for':[14] '8. with regard or respect to: *pressed for time, too warm for April*. …'

(b) 'over':[15] '17. throughout the duration of: *over a long term of years*. …'

(c) 'period':[16] '2. any specified division or portion of time. …'

49. The imposition of an expiry date does not, of itself, identify a period for the purposes of section 12. This is because we do not consider an expiry or 'use by' date to be fundamental to the supply. Generally, a supply with an expiry date will fall under section 11. For example, it would be inappropriate to apply section 12 where on 1 May 2000 you purchase a bus pass entitling you to 10 trips with a 12 month expiry date and you use up all the trips within 2 weeks. Under section 12, the trips would be considered to be used continuously and uniformly over the twelve months. This means that 83% of the trips would be considered to be used on or after 1 July 2000 and, therefore, be subject to GST. Under section 11, if there is a reasonable expectation you will use the trips before 1 July 2000 no GST is payable.

[13] *The Macquarie Dictionary*, 2nd Edition, (the Macquarie Library Pty Ltd, Macquarie University).
[14] op.cit. at 679.
[15] op.cit. at 1263.
[16] op.cit. at 1318.

Examples

Section 11

Example 1 - supply of a railway ticket that can be used anytime in the future

50. In April 2000 Broome Railways ('Broome') sells Dora a single trip ticket. The ticket can be used anytime and has no expiry date. Broome does not know when Dora is likely to exercise her right of travel. It has no statistics showing trends on past usage of its single ticket product, but it does have access to industry statistics which show that single railway tickets issued by railways similar to Broome, and on similar conditions to those issued by Broome, are utilised on average within 5 days of purchase.

51. No GST will be payable on the supply of the railway ticket to Dora as we will accept that Broome could not reasonably expect that the right represented by the issue of the ticket would be used on or after 1 July 2000. This is an example of the 'industry statistics' method of apportionment referred to in this Ruling.

Example 2 - supply of a travel-card with entitlements to a fixed number of trips that can be taken anytime in the future

52. Caroline purchases a multi-trip travel card on 1 May 2000 from Connie's Trams ('Connie's) which entitles her to take 10 short trips anytime. There is no period attached to the travel right and there is no expiry date attached to the product. Connie's has no idea when Caroline is likely to exercise her right to travel under the travel-card, but it has collected data over the years that it has offered this product which shows that all trips are usually completed within 3 weeks of purchase.

53. The Commissioner will accept that, for the purpose of section 11, the right represented by the issue of the travel-card could not reasonably be expected to be used on or after 1 July 2000 and that, therefore, there will be no GST payable in respect of the supply of the travel-card. This is an example of the 'product usage' method of apportionment mentioned in this Ruling.

Example 3 - supply of internet access rights for a designated number of hours

54. Web Inc ('Web') is an internet service provider which is offering its customers 50 hours of 'surfing' for a set price. There is no expiry date attached to this offer. Steve signs up for the package on 1 June 2000.

55. Web will need to apply section 11 to the circumstances of the supply to determine whether GST is payable on the supply. In applying section 11, Web has to determine the extent that the right to internet access could reasonably be expected to be exercised on or after 1 July 2000. Web knows, from the statistics that it holds in relation to past usage patterns for this product, that users exhaust their access entitlements within 6 weeks of purchase. Web could reasonably expect the right to be exercised evenly over the 6 week period and, therefore, we would accept an apportionment based on time in this case. As 14 days out of the total 42 days in the average user period occur after 30 June 2000, 33.3% of the supply is expected to be exercised on or after 1 July 2000. This is an example of the 'product usage' method of apportionment mentioned in this Ruling.

Example 4 - supply of single ticket that can be exercised anytime, provided it is exercised within twelve months of the date of purchase

56. On 5 February 2000, Josef purchases a single ticket from Brisbane to Noosa Heads on the Chermhouse Bus Company ('Chermhouse'). The ticket has no fixed date of travel attached but there is a condition attached that requires that the trip must be completed by 5 February 2001.

57. As we consider the imposition of an expiry date condition to a supply of a right does not constitute a thing supplied for a period or progressively over a period, section 12 has no application to this case. We consider that section 11 applies in these circumstances. Chermhouse can use the apportionment methods referred to in this ruling to determine if, and the extent to which, the ticket could reasonably be expected to be exercised on or after 1 July 2000.

Example 5 - supply of a voucher that is a taxable supply

58. Last year, as every year, Madelaine received a voucher for her birthday from Helen for a facial from 'Myra's Beauty Parlour' ('Myra') in the city. This voucher is a taxable supply and is not covered by the exception in paragraph (b) of subsection 11(1B) because it is not a voucher that carries an entitlement on redemption to have supplies provided up to a monetary value stated on the voucher. The voucher contains a condition that it must be used within 12 months from the date of purchase which was 15 October 1999.

59. As we consider the imposition of a 'use by date' condition to a supply of a right does not constitute a thing supplied for a period or progressively over a period, section 12 has no application to this case. As a result, Myra has to consider the implications of section 11. As Myra keeps statistics which show that every year Madelaine uses the voucher within a week after she receives it, it is reasonable for Myra to expect that the supply of the right will not be exercised on or after 1 July 2000. We will accept that, in these circumstances, no GST will be payable in respect of the supply of the facial voucher. This is an example of a supplier using the 'client usage' apportionment method mentioned in this Ruling.

Example 6 - using statistics to make a reasonable expectation

60. At 5.00pm on 27 June 2000, Holistic Health sells a voucher to Kathy entitling her to a back massage. The business has the following statistics:

- 30% of customers use their voucher on day 1;
- 20% of customers use their voucher on day 2;
- 20% of customers use their voucher on day 3;
- 10% of customers use their voucher on day 7;
- 15% of customers use their voucher on day 10; and
- 5% of customers use their voucher on day 30.

On average it takes 5 days to use a voucher.

61. On 27 June 2000, the business must form a reasonable expectation as to whether Kathy will use her voucher after 1 July 2000. In Kathy's case the business cannot say that there is about an even chance that Kathy will use her voucher after 1 July 2000 as the statistics show that it is most likely that she will use it within 3 days of purchase. As the right cannot reasonably be expected to be exercised on or after 1 July 2000 no GST would be applicable.

Section 12

Example 7 - supply of services for a period that spans 1 July 2000

62. Clean your Room Ltd. proposes to enter into a cleaning contract with Web Inc to provide twice daily cleaning services. The value of the service after the repeal of sales tax and before the imposition of GST is $3,000. The contract will be signed on 1 May 2000 and will run for 3 months from the date of signing the contract.

63. As there will be a supply for a specific period (1 May to 31 July 2000) which spans the introduction date for the GST (1 July 2000), Clean your Room Ltd will need to apportion the supply in accordance with section 12. The value of the supply will need to be apportioned on a time basis. The proportion of the supply which will be subject to GST will be 31/92 x $3,000= $1,010.87, as there are 92 days in the period covered by the contract, 61 of which will occur before 1 July 2000 and 31 will occur on or after 1 July 2000. The GST payable on the $1,010.87 will be 10% of $1,010.87 being $101.08 giving a total price of $3,101.08. Clean your Room Ltd will charge Web Inc $3101.09 and remit $101.09 to the ATO.

Example 8 - uneven supply for a period that spans 1 July 2000

64. Clean your Room Ltd enters into another cleaning contract with Smith Pty Ltd which runs a furnished apartment building. Clean your Room provides weekly cleaning services for 6 apartments (2 hours per week per apartment) for 12 months plus a major spring clean (2 days per apartment) in September. The contract is signed on 30 April 2000. The value of the services is $6500 (after the repeal of sales tax and before taking GST into account).

65. As there is a supply for a specific period (12 months from 1 May), Clean your Room will need to apportion the supply in accordance with section 12. The value of the supply will need to be apportioned on a time basis. It makes no difference that there is a greater value of supply in the month of September. The proportion of the supply which will be subject to GST is 304/365 x $6,500 = $5413.69. There are 365 days in the period covered by the contract, 61 of which will occur before 1 July 2000 and 304 will occur on or after 1 July 2000.

Example 9 - irregular supply over a 12 month period

66. Rick, having had a bad experience with computer viruses, purchases an anti virus package that includes weekly virus updates and support services for 12 months as well as a computer disk with current anti virus software. The 12 month period commences when Rick purchases the package on 1 May 2000 from Computer HELP. The value of the package is $100 (after the repeal of sales tax and before taking GST into account).

67. As there will be a supply for the specific period of 12 months which spans 1 July 2000, Computer HELP will need to apportion the supply in accordance with section 12. The value of the taxable supply should be apportioned on a time basis. There are 365 days in the period of the supply, of which 304 occur on or after 1 July 2000. The proportion of the taxable supply which is subject to GST is 304/365 x $100 = $83.28. The GST payable on the taxable supply is 10% x $83.28 = $8.32. The total price of the package is $108.32.

68. It makes no difference to this example that the value which Rick may receive in some weeks may be more than others e.g., if he uses the support service extensively for an 8 week period and then not at all for the rest of the year. If the supply is to be made progressively or periodically, it does not matter if the supplies are made at irregular intervals or are of varying value.

Example 10 - irregular supply with unknown commencement date

69. Using the same facts as in Example 9 above but Rick is required to register with a third party provider, Virus Blaster, before his 12 month updates and support services can begin. In this case, Computer HELP would not be able to apportion the supply under section 12 as it does not know when the supply will begin. It would need to apply section 11 and consider to what extent it could reasonably be expected that Rick would exercise his right to the updates and support services on or after 1 July 2000.

70. Virus Blaster, who developed and supplied the anti virus package to Computer HELP, would also need to determine whether there was any GST payable on this supply. Virus Blaster would determine this by reference to section 11. The supply is not for a period, so section 12 would not apply. Virus Blaster would need to determine whether there was a reasonable expectation that an end user would register after 1 July 2000. Virus Blaster could use one of the methods outlined in paragraph 22 above to estimate how long it will be from the sale of the package by them until registration by the ultimate user taking into account any other resellers in the chain.

Detailed contents list

71. Below is a detailed contents list for this Ruling:

Commissioner of Taxation
12 April 2000

Previous draft:
Previously issued as GSTR 1999/D12

Related Rulings/Determinations:
TR 2006/10

Subject references:
- Goods and Services Tax
- transitional
- supply of rights
- progressive or periodic supplies
- reasonable expectation

Legislative references:
- ANTS(GST)A 9-5
- ANTS(GST)A 9-15
- ANTS(GST)A 9-20
- ANTS(GST)A 9-25
- ANTS(GST)A 11-5
- ANTS(GST)A 11-20
- ANTS(GST)A 13-5(1)
- ANTS(GST)A 15-5
- ANTS(GST)A 38-1
- ANTS(GST)A 40-1
- ANTS(GST)A 40-5(2)
- ANTS(GST)A 195-1
- ANTS(GSTT)A 6
- ANTS(GSTT)A 6(1)
- ANTS(GSTT)A 6(2)
- ANTS(GSTT)A 6(3)
- ANTS(GSTT)A 6(4)
- ANTS(GSTT)A 6(5)
- ANTS(GSTT)A 7
- ANTS(GSTT)A 11
- ANTS(GSTT)A 11(1)
- ANTS(GSTT)A 11(1A)
- ANTS(GSTT)A 11(1B)
- ANTS(GSTT)A 11(2)
- ANTS(GSTT)A 12
- ANTS(GSTT)A 12(1)
- ANTS(GSTT)A 12(2)
- ANTS(GSTT)A 13
- ANTS(GSTT)A 14
- ANTS(GSTT)A 15
- ANTS(GSTT)A 19
- FOIA 1982 37(1)(a)
- ITAA 36 Part IVA
- TAA 1953 Sch 1 Div 358

Case references:
- The News Corporation Ltd and Others v. National Companies and Securities Commission (1984) 5 FCR 88
- FC of T v. Peabody (1994) 181 CLR 357; 94 ATC 4663

ATO references:
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