

# ***TA 2005/4 - Creation of Goods and Service Tax (GST) input tax credits by barter exchanges.***

 This cover sheet is provided for information only. It does not form part of *TA 2005/4 - Creation of Goods and Service Tax (GST) input tax credits by barter exchanges.*



# Taxpayer Alert

The Tax Office view for the arrangement is set out in [GSTD 2006/5](#)

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**FOI status: may be released**

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*Taxpayer Alerts are intended to be an "early warning" of significant new and emerging higher risk tax planning issues or arrangements that the Tax Office has under risk assessment.*

*Taxpayer Alerts will provide information that is in the interests of an open tax administration to taxpayers. Taxpayer Alerts are written principally for taxpayers and their advisers and they also serve to inform Tax officers of new and emerging higher risk tax planning issues. Not all potential tax planning issues that the Tax Office has under risk assessment will be subject of a Taxpayer Alert, and some arrangements that are the subject of a Taxpayer Alert may on further examination be found not to be of concern to the Tax Office.*

*Taxpayer Alerts will give the title of the issue (which may be a scheme, arrangement or particular transaction), briefly describe the issue and will highlight the features which the Tax Office considers give rise to taxation issues. These issues will generally require more detailed analysis to provide a Tax Office view to taxpayers.*

*Taxpayers who have entered into or are contemplating entering into an arrangement similar to that described in this Taxpayer Alert can seek a formal determination of the Tax Office's position through a Private Ruling. (It should be noted that section 14ZAN of the Taxation Administration Act 1953 sets out circumstances where the Commissioner may decline to issue such a ruling). Such taxpayers might also contact the Tax officer named in the Alert and/or obtain their own advice.*

*This Taxpayer Alert is issued under the authority of the Commissioner.*

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**TITLE:           Creation of Goods and Services Tax (GST) input tax credits by barter exchanges.**

This Taxpayer Alert describes arrangements where a barter exchange buys and sells in its own right, effectively acting as a member with its own trading account. The barter exchange has access to unlimited trade dollars to spend on the acquisition of goods and services often at commercially unrealistic prices from its members. Consequently, large GST refunds are claimed by ensuring that its acquisitions continually exceed its supplies by significant amounts within the barter operation.

## **DESCRIPTION**

This alert applies to arrangements that exhibit some or all of the following features:

1. The barter exchange acts as a member with its own trading account to record transactions with its members.
2. The barter exchange debits or credits the account in trade dollars each time it makes an acquisition or supply respectively.
3. The barter exchange acquires goods and services from its members at grossly inflated prices that do not reflect the commercial value of the acquisition. Additionally, acquisitions of services from members, particularly advertising are disproportionately high relative to the level of activity carried on in the barter exchange.
4. The amounts “paid” by the barter exchange in trade dollars are higher than it would have paid, had it paid in Australian dollars on the open market. For example, under a typical agreement, the barter exchange acquires advertising space from a member for 5,500 trade dollars where the market value is \$550.
5. Acquisitions by the barter exchange in trade dollars create a GST liability for the supplying member. In some instances, the member offsets its liability through additional acquisitions in trade dollars at grossly inflated prices.
6. The barter exchange records its acquisitions by debiting its trading account. This account becomes increasingly overdrawn, as acquisitions are not limited to the amount of trade dollars in its account. (In many cases, there is no third party requirement that the overdrawn amount be repaid).
7. The barter exchange lodges a Business Activity Statement (BAS) claiming GST refunds as its acquisitions exceed its supplies.
8. In some instances goods and services “acquired” do not exist or do not take place.

## **FEATURES WHICH THE TAX OFFICE CONSIDERS GIVE RISE TO TAXATION ISSUES**

The Tax Office considers that the arrangement outlined above gives rise to taxation issues that include whether:

- (a) The acquisitions made using the trading account of the barter exchange in the circumstances described above are creditable acquisitions under Division 11 of the *A New Tax System (Goods and Services Tax) Act 1999* (‘GST Act’).
  - (b) The barter exchange is carrying on an enterprise as defined by subsection 9-20(1) of the (GST Act) and
  - (c) The anti-avoidance provisions of Division 165 of the GST Act apply, as the arrangements appears artificial and contrived in their design and execution (see note 1).
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### **Note 1**

In appropriate cases possible sanctions under criminal law may apply, for example, where the supplies are shams.

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The Australian Taxation Office is examining these arrangements.

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*subject references:*                      barter  
   barter exchange  
   trade dollars  
   Goods and Services Tax  
   enterprise  
   input tax credit  
   GST liability  
   GST refund

*related taxation rulings:*              GSTR 2003/14  
   MT 2004/D3 (withdrawn)  
   MT 2006/1  
   IT 2668

*legislative references:*                GST Act Division 9  
   GST Act Division 11  
   GST Act Division 165

*related taxpayer alerts:*

*related practice statements:*        PS LA 2008/15 - Taxpayer Alerts

*related media releases:*

*file references:*

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