



***GSTA TPP 050W - Goods and services tax: Does the transfer of assets constitute a taxable supply under subdivision 72-A when a new trustee is appointed to replace the original trustee of a trust?***

 This cover sheet is provided for information only. It does not form part of *GSTA TPP 050W - Goods and services tax: Does the transfer of assets constitute a taxable supply under subdivision 72-A when a new trustee is appointed to replace the original trustee of a trust?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *4 June 2014*



## Notice of Withdrawal

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### Goods and Services Tax Advice

Goods and services tax: does the transfer of assets constitute a taxable supply under Subdivision 72-A when a new trustee is appointed to replace the original trustee of a trust?

Goods and Services Tax Advice GSTA TPP 050 is withdrawn with effect from today.

1. GSTA TPP 050 provides an explanation of the operation of subsection 184-1(2) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act). The advice explains that a trust is an entity in accordance with paragraph 184-1(1)(g) of the GST Act. In addition, subsection 184-1(2) of the GST Act ensures that the rights and obligations of the trust are placed on the trustee. The advice provides that where there is a change of trustee, the person who is taken to be the trust changes but there is only ever one entity being the trust.
2. GSTA TPP 050 further provides as there is no change in entity where there is a change in trustee then a transfer of assets from the former trustee to the new trustee is not a taxable supply.
3. GSTA TPP 050 is withdrawn because it is a duplication of an existing ATO view and there has been a subsequent legislative clarification of the position concerning changes of trustee.
4. The Commissioner's view concerning the interpretation of section 184-1 of the GST Act is contained in paragraphs 71 to 80 of Miscellaneous Taxation Ruling MT 2006/1 *The New Tax System: the meaning of entity carrying on an enterprise for the purposes of entitlement to an Australian Business Number*. Goods and Services Tax Determination GSTD 2006/6 *Goods and services tax: does MT 2006/1 have equal application to the meaning of 'entity' and 'enterprise' for the purposes of the A New Tax System (Goods and Services Tax) Act 1999?* confirms that the principles in MT 2006/1 apply equally to the term 'entity' for GST and can be relied upon for GST purposes.
5. In 2010 subsection 184-1(2) of the GST Act was amended to add Note 2. This note clarifies that the entity that is the trustee of a trust does not change merely because of a change of person who is the trustee of a trust.
6. Paragraph 55 of Goods and Services Tax Ruling GSTR 2006/9 *Goods and services tax: supplies* explains that an entity cannot make a supply to itself.

# GSTA TPP 050

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## Commissioner of Taxation

4 June 2014

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### ATO references

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