


GSTR 2000/33 - Goods and services tax: international travel insurance

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 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: international travel insurance

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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 explains the treatment of international travel insurance for passengers and goods under Subdivision 38-K of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).

2. The Ruling explains:

- whether insuring transport under item 6 of section 38-355 extends to travel from home to airport (i.e., domestic legs of international flights and sea voyages) and during the period the insured is travelling overseas;
- whether insuring transport under item 6 of section 38-355 applies to passengers' luggage;
- the GST treatment of any **commission** earned by travel agents, brokers, internet travel insurance agents/brokers

and administrators in arranging insurance for international transport in relation to item 7 of section 38-355;

- the GST treatment of **executive or corporate insurance policies** that cover both domestic and international travel;
- whether insurance cover taken for the cancellation of **travel** is included in item 6 of section 38-355; and
- the GST treatment of emergency assistance providers and the application of GST in respect of assistance provided to the insured during overseas travel.

3. The Ruling applies to entities that insure the transport of passengers or goods, and it applies to travel agents and brokers.

4. Certain terms used in this Ruling are defined or explained in the Definitions section of the Ruling. These terms, when first mentioned elsewhere in the Ruling, appear in **bold type**. Unless otherwise stated, all legislative references in this Ruling are to the GST Act.

Date of effect

5. 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).

Background

6. In the travel insurance industry, travel agents arrange domestic and international travel insurance policies for travellers. Under the requirements of the *Insurance (Agents and Brokers) Act 1984* and Division 153, a travel agent acts as an agent of the insurer.

7. Broadly speaking, there are two types of international travel insurance policies:

- standard travel insurance (international travel); and
- executive or corporate travel insurance (annual, multi-trip policies covering domestic and international travel).

8. Standard travel insurance policies cover risks from the traveller's place of departure to the airport and beyond, and returning to the traveller's place of departure. Standard travel insurance policies offer a range of different covers including:

- overseas medical;
- baggage;
- travel documents; and
- rental vehicle insurance excess.

9. Executive travel policies usually offer cover for unlimited domestic and international travel for a 12 month period. The insurer does not have any information about the number of trips and whether they are domestic or international trips. However, each trip cannot exceed 90 days in length and the trip can be for either business and/or leisure travel. The policy usually covers accompanying persons (for example, a spouse and dependant children).

10. Generally, corporate travel policies offer insurance cover for a period of 12 months where the insured estimates the number of domestic and international trips. The types of cover may vary but often includes:

- cancellation;
- overseas medical;
- baggage;
- accidental death;
- personal liability; and
- hijack and kidnap.

11. Some policies may provide cover for:

- the cost of replacement staff needed due to the traveller's illness or injury; and
- loss of income due to injury sustained overseas.

12. Often, free emergency assistance is offered with these policies where the emergency assistance provider 'usually' charges an initial flat fee and case handling fees to the insurer. For this consideration, the emergency assistance providers will provide assistance to the insured when travelling overseas.

Summary

13. Insuring transport under item 6 of section 38-355 applies to the transport of passengers from and to their place of departure, including the period when the insured is travelling overseas. Also, transport referred to in item 6 of section 38-355 includes the transport of passengers' luggage.

14. Insurance cover for the cancellation of international travel is included in item 6 of section 38-355.

15. A premium for an executive insurance policy is apportioned between domestic and international travel. The apportionment of the premium is based on historical data.

16. Any supply of services for which a commission may be charged by travel agents, brokers, internet travel insurance agents/brokers and administrators for arranging insurance for international transport is GST-free under item 7 of section 38-355.

17. The supply of emergency assistance to the insured during travel overseas is GST-free under item 3 of section 38-190. However, the supply between an emergency assistance provider and the insurer could be a taxable supply under Division 9. This will depend largely on where the emergency assistance provider and the insurer are located.

Ruling with explanations

Transport of passengers to and from place of departure

18. Insuring transport under item 6 of section 38-355 applies to the transport of passengers from and to their place of departure, and during the period that the insured is travelling overseas. Generally, there is only one insurance policy that covers the insured for both the domestic transport and while overseas.

19. The travel from and to the place of departure is usually a very small part of international transport. A recent sample of over 500 claims by value of claim under standard policies of industry associations shows that only 0.17% of claims arose from incidents occurring between the traveller's place of departure and the airport, and from the airport to the traveller's place of departure.

20. This examination of claims history indicates that the value to be attributed to this domestic component of the international travel policy is less than 0.5% of the total value of the transport. Provided the claims history for a particular product demonstrates that this domestic component is less than about 0.5%, there will be no need to apportion between the taxable domestic component and the GST-free international component. That portion of the cover can be included under item 6 of section 38-355 and can be treated as being GST-free.

Cancellation of international travel

21. Insuring for the cancellation of international travel is included in item 6 of section 38-355. Insuring against a cancellation is insurance against whether or not the travel actually takes place. It is in respect of insuring transport covered by item 1 of section 38-355, which is the transport of a passenger from and to Australia. You can regard it as being for insuring transport, irrespective of whether or not the transport actually takes place.

Passengers' baggage

22. Item 6(b) of section 38-355 refers to insuring international transport of goods covered by item 5. 'International transport' of goods under section 195-1 means:

- '(a) in relation to the export of goods - the transport of goods from their place of export in Australia to a destination outside Australia (including loading and handling within Australia that is part of that transport);
or
- (b) in relation to the import of goods – the transport of the goods from a place outside Australia to their place of consignment in Australia (excluding loading and handling within Australia).'

23. 'Place of consignment' of goods under section 195-1 means:

- '(a) if the goods are posted to Australia - the place in Australia to which the goods are addressed; or
- (b) in any other case - the port or airport of final destination as indicated on the transportation document.'

24. 'Transportation document' under section 195-1 includes the following:

- (a) a consignment note;
- (b) a house bill of lading;
- (c) an ocean bill of lading;
- (d) a house air waybill;
- (e) a master air waybill;
- (f) a sea waybill;
- (g) a straight line air waybill;
- (h) a sub-master air waybill;
- (i) other similar documents'.

25. These documents evidence a contract for the carriage of goods. Some of the documents in the list have certain additional functions. However, all are documents in respect of the carriage of goods.

26. Usually, an airline ticket will be labelled as a *Passenger Ticket and Baggage Check* and has two functions:

- it evidences a contract of carriage for a person; and
- it is a contract of carriage for goods.

27. The *Passenger Ticket and Baggage Check* will carry with it some terms concerning the carriage of baggage such as a notice under the Warsaw Convention about limitation of liability for luggage claims, and the application of other International Air Transport Association (IATA) baggage regulations and allowances. It will also set out the airport of final destination (that is, the last airport to be used).

28. Accordingly, the *Passenger Ticket and Baggage Check* is included in 'other similar documents' in the list of transportation documents. Insuring transport under item 6 of section 38-355 also includes passengers' luggage.

Executive or corporate travel policies

29. Executive or corporate travel policies are in respect of both domestic and international travel. Insurance for international travel is GST-free under section 38-355. Insurance cover for domestic travel is taxable under Division 9.

30. As stated in paragraphs 9 and 10, these policies are for a period of 12 months, and cover both domestic and international travel that are unrelated to each other. Section 38-355 only provides for the GST-free status of insurance cover in respect of international travel. Therefore, there may be an element of a taxable supply being provided.

31. However, the domestic component of the risk (unlike standard policies) is not negligible. In respect of executive travel policies, the extent of the taxable supply is determined by the insurer based on historical data. For example, if the claims history for the last three years for a particular product shows that 45% of claims relate to domestic travel, this indicates that the risk being insured under that product relates to 45% for domestic travel. Therefore, the policy is a taxable supply to the extent of 45%.

32. Where corporate policies are undertaken and the insured estimates the number of international and domestic trips, the insurer uses that estimate as the basis for its apportionment between domestic and international travel. This is the basis on which it is making its supply of risk cover - being cover of a domestic travel risk that is taxable and an international travel risk that is GST-free.

33. If there is an adjustment to the premium when the insured knows the actual number of domestic and international trips undertaken, there is an adjustment event and the insurer adjusts its supply of risk cover to the actual risk. Accordingly, the extent of domestic versus international travel determines the proportion of the supply that is subject to GST.

Commission

34. A supply of services for which a commission may be charged by travel agents, brokers and other administrators for arranging insurance for overseas travel is GST-free. The commission is payable for a GST-free supply of arranging insurance that is covered by item 6 of section 38-355. Therefore, the commission is covered by item 7(c) of section 38-355. However, in respect of executive or corporate travel policies, there is a mixed supply. That is, the supply to which the commission relates is taxable to the same extent that the insurance policy is taxable.

Emergency assistance

35. Emergency assistance provided under an international insurance policy to an insured outside Australia is GST-free under item 3 of section 38-190. The supply is made to a person who is not in Australia when the supply is made. For example, the insured is overseas when the emergency assistance takes place. Also, the use and enjoyment of that emergency assistance takes place when the insured is outside of Australia.

36. However, the service provided by an emergency assistance provider to an insurer is generally a taxable supply under section 9-5. The emergency assistance provider supplies the service to the insurer for consideration. The service that is provided to the insurer is the provision of assistance when required. However, the supply will not be a taxable supply if the emergency assistance provider is not registered or required to be registered. For example, an offshore emergency assistance provider may not be registered for GST because the amount of its GST turnover of supplies connected with Australia is less than \$75,000.

Definitions

Travel

37. Travel means the transport of passengers or goods from a place in Australia to a destination outside Australia, from a place outside Australia to a place inside Australia and entirely outside Australia.

Commission

38. Commission means the remuneration generally based on a percentage of the travel policy's premium and paid by the insurance company for arranging an insurance policy.

Executive or corporate policies

39. Executive or corporate policies means cover in respect of executives and corporates for unlimited domestic and international travel generally during a 12 month period.

Detailed contents list

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Commissioner of Taxation

9 August 2000

Previous draft:

Previously released in draft form as GSTR 2000/D14.

Related Rulings/Determinations:

TR 2006/10

Subject references:

- agents for travel insurance
- brokers for travel insurance
- commission
- corporate policies
- executive policies
- GST turnover
- international travel

- internet travel insurance agents
- travel insurance

Legislative references:

- ANTS(GST)A 1999 Div 9
- ANTS(GST)A 1999 9-5
- ANTS(GST)A 1999 195-1
- ANTS(GST)A 1999 Subdiv 38-K
- ANTS(GST)A 1999 38-190
- ANTS(GST)A 1999 38-355
- ANTS(GST)A 1999 Div 153
- Insurance (Agents and Brokers) Act 1984
- TAA 1953 Sch 1 Div 358

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ATO references:

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