Financial arrangements - commodity derivates agreement -

Primary Production Industry Partnership

Financial arrangements – commodity derivates agreement

This publication provides you with the following level of protection:

This publication (excluding appendixes) is a public ruling for the purposes of 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.

Commodity derivates agreement

Question

1. Is primary produce (for example, wool or cotton) traded through the futures market, subject to GST when:

- the futures contracts are created, or
- only when there is a physical delivery of produce?

Answer

2. GST is payable on the primary produce at the time it is delivered, not at the time the futures contracts are created.

Explanation

3. Futures contracts are agreements or instruments, the value of which depends on or is derived from the value of assets, liabilities or an index or a rate. Hence the name derivative. In the case of commodity derivatives the value of the agreement is derived from the commodity price. Hence the name commodity derivative.

4. Under a futures contract each party gives its binding undertaking to perform its transaction when the nominated time comes. The delivery is enforceable under the futures contract at the nominated time and the liability to pay arises only after the delivery of the commodity. Hence a futures contract is not an invoice for GST purposes.

5. Because the contract may result in the physical delivery of a commodity, the price quoted in the contract will generally be based on the GST inclusive price of the commodity.

6. There are two basic scenarios possible where produce is traded through the futures market:

   a. the underlying produce is actually delivered, or

   b. the futures contract is settled without delivery of the underlying produce.

The underlying produce is delivered

7. When the commodity is delivered, the GST Regulations provide that GST is payable on:

- any premium on a taxable deliverable commodity derivative, and
- the price on settlement.

Cash settlements without delivery of produce

8. In some instances, the futures contract may be cash-settled without delivery of the commodity. Where this is the case, no GST is payable on the cash settlement and there is no entitlement to any input tax credit. This is because the cash settlement results in a financial supply.

9. This explanation applies both to exchange-traded transactions and over-the-counter transactions, which have the same form.