


GSTR 2000/32 - Goods and services tax: attributing GST payable on supplies of gas and electricity made by public utility providers

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Goods and Services Tax Ruling

Goods and services tax: attributing GST payable on supplies of gas and electricity made by public utility providers

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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 applies to 'public utility providers' that provide customers with the option to make payments for gas or electricity supplies prior to the issue of an invoice.

2. A 'public utility provider' is an authority or an enterprise the primary business of which is to provide electricity or gas to the public for domestic or business purposes. The public utility provider may be publicly or privately owned.

3. The Ruling is about attribution of Goods and Services Tax ('GST') payable under the *A New Tax System (Goods and Services Tax) Act 1999* ('GST Act') on supplies of gas or electricity made by a public utility provider where, under its payment arrangements, the customer makes payments before an invoice is issued. The Ruling only applies to a public utility provider that does not account for GST on a cash basis.

4. The Ruling explains the reasons for, and the effect of, the determination that the Commissioner has made under section 29-25 about when to attribute GST payable on supplies of this kind. A copy of the determination is attached to the Ruling. All legislative references are to the GST Act unless otherwise stated.

5. This Ruling does not address any issues about whether there is a taxable supply. The Ruling is only about when to account for GST payable on a taxable supply.

Date of effect

6. 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 of attribution

The basic attribution rules

7. 'Attribution' is the term used in the GST law to describe the way you account for GST payable, input tax credits and adjustments in order to work out your net amount of GST for the tax period. GST payable, input tax credits and adjustments are attributed to tax periods rather than being remitted or refunded, as the case may be, each time a taxable supply, creditable acquisition, creditable importation or adjustment is made.

8. The basic attribution rules are set out in Division 29¹ of Part 2-6 of the GST Act. These rules are about when to account for GST payable on taxable supplies, input tax credits for creditable acquisitions and creditable importations, and adjustments. The basic attribution rules differ depending on whether or not you account for GST on a cash basis.

¹ Sections 29-5, 29-10, 29-15 and 29-20.

9. You can find an explanation of the basic attribution rules in Goods and Services Tax Ruling GSTR 2000/29.²

Determination of particular attribution rules under section 29-25

10. The Commissioner may, under section 29-25, determine, in writing, the tax period or periods to which GST payable, input tax credits and adjustments for taxable supplies, creditable acquisitions and creditable importations of certain kinds are attributable.

11. The Commissioner can only make a determination under section 29-25 if satisfied that the application of the basic attribution rules and any relevant special rules under the GST Act would produce an inappropriate result in the circumstances described in subsection 29-25(2).

12. Determinations made under section 29-25 override the basic attribution rules and the special rules in Chapter 4 of the GST Act but only to the extent of any inconsistency³ and only to the extent provided for in the determination. Where the Commissioner makes a determination, attribution must be in accordance with that determination.

13. You may make a taxable supply or creditable acquisition of a kind specified in more than one determination made under section 29-5. This potentially attributes the same GST payable, input tax credits or adjustments to more than one tax period. To avoid this situation, the Commissioner has determined that where different determinations apply and have this effect in respect of a particular supply or acquisition or adjustment, the later tax period is the tax period to which the GST payable, input tax credit or adjustment is attributable. This gives overall effect to all the relevant determinations for a particular supply or acquisition.⁴

14. The rules about attribution in the GST Act including any attribution rules determined under section 29-25 do not alter the operation of the *A New Tax System (Goods and Services Tax Transition) Act 1999* ('GST Transition Act').

² Goods and Services Tax Ruling Goods and Services Tax: attributing GST payable, input tax credits and adjustments and particular attribution rules made under section 29-25.

³ Subsection 29-25(3).

⁴ *A New Tax System (Goods and Services Tax) Act 1999* (Application of Particular Attribution Rules Determinations) Determination (No.1) 2000. A copy of the determination is attached as Schedule 1 to GSTR 2000/29.

Ruling

A supply or acquisition occurring before the supplier or recipient knows the total consideration (paragraph 29-25(2)(e)).

15. Under section 29-25 the Commissioner may determine, in writing, the tax periods to which GST, input tax credits or adjustments are attributable in order to remedy an inappropriate application of the basic attribution rules and any relevant special rule in circumstances involving ‘a supply or acquisition occurring before the supplier or recipient knows the total consideration’.⁵

16. In the case of a public utility provider that does not account for GST on a cash basis, the Commissioner is satisfied that where, under its payment arrangements, the public utility provider receives payments for gas or electricity supplies in a tax period ending before an invoice is issued, the application of the basic attribution rules to those supplies produces an inappropriate result.

17. Accordingly, the Commissioner has determined the tax period to which GST payable on taxable supplies of this kind is attributable. A copy of the determination is attached to the Ruling as Schedule 1.

18. The particular attribution rule is that the GST payable is attributable to:

- (a) if an invoice is issued relating to the supply, the tax period in which the invoice is issued; or
- (b) the tax period in which an invoice would be issued if the payment arrangement did not apply;

whichever is the earlier.

19. If you make a supply of the kind described in this determination, the particular attribution rule made under *A New Tax System (Goods and Services Tax) (Particular Attribution Rules Where Total Consideration Not Known) Determination (No 1) 2000*⁶ does not apply. The determination attached to this Ruling applies.

⁵ Paragraph 29-25(2)(e).

⁶ Goods and Services Tax Ruling GSTR 2000/29 Goods and Services tax: attributing GST payable, input tax credits and adjustments and particular attribution rules made under section 29-25, Schedule 5 at page 62

Explanation

The nature of the relevant transactions

20. Many public utility providers offer payment arrangements or plans to assist customers to spread their payments and help manage their budgets. These payment plans may be offered either because of a statutory obligation or to conform with industry practice.

21. Statutory obligations to offer payment plans arise from legislation designed to provide customer protection. For example, Gas Supply (Customer Protection) Regulation 1997 made under the *Gas Supply Act 1996 (NSW)* provides a framework for customer service codes that gas suppliers in NSW are required to comply with. The Natural Gas Customer Service Code provides for payment by instalments by residential customers.⁷

22. Other public utility providers that are not subject to any statutory obligation to do so, nevertheless offer payment plans in line with industry practice.

23. These payment arrangements or plans offered by public utility providers may, for instance:

- allow a customer to make instalment payments of any amount (above a minimum amount) during a billing period before a bill is received; or
- allow customers to spread the cost of their energy consumption over a whole year by providing for equal monthly payments based on an average of previous consumption over a whole year, irrespective of current usage.

24. Under the payment arrangements or plans offered by the public utility providers, customers may make payments before bills or invoices are issued.

Is the application of the basic attribution rules inappropriate?

25. If you do not account for GST on a cash basis, the GST payable on the supply of gas or electricity for a billing period is attributable to the earlier of:

- the tax period in which any of the consideration is received for the supply; or

⁷ Item 4.3.4.

- the tax period in which an invoice is issued relating to the supply.⁸

26. Whether customers pay in advance under a payment arrangement or plan or not, the total consideration for each supply is not ascertained until the meter is read or an estimate is made for the purposes of issuing an invoice.

27. The great majority of recipients of supplies of gas and electricity make payments on receipt of a quarterly invoice that is issued after the meter is read. Application of the basic attribution rule does not, therefore, produce an inappropriate result in the majority of cases.

28. Where the customer makes a payment before an invoice is issued, the receipt of the payment triggers attribution of GST payable on the supply in the tax period in which the payment is received. If the supplier has not ascertained the consideration for the supply in that tax period, the supplier attributes the GST payable on the supply but only to the extent of the consideration received in that tax period. This particular attribution rule was made by the Commissioner on 30 June 2000 under section 29-25 for supplies or acquisitions where consideration is received before the total consideration can be ascertained.⁹

29. This means that a supplier of gas or electricity is required to attribute GST payable to a tax period in which a payment is received for the supply even if an invoice is not issued in that tax period for the supply. The Commissioner has been informed that the current systems of many public utility providers are designed to reflect the fact that, for both accruals accounting and income tax purposes, revenue is recognised when meters are read and bills are issued. Further the accounting systems of most public utility providers would require major modification to be able to account for GST payable to the extent of the payment received, where a payment is received in a tax period ending before an invoice is issued.

30. Significant expenditure would have to be incurred to redesign systems so that public utility providers can recognise revenue based on receipt of payments for a small minority of the customer base, rather than on invoicing.

31. The application of the attribution rules in these circumstances would impose unreasonable compliance costs and the Commissioner is satisfied that this is an inappropriate application of those rules.

⁸ Subsection 29-5(1).

⁹ Goods and Services Tax Ruling GSTR 2000/29, paragraphs 92 to 98 and Schedule 5.

Determination under section 29-25

32. Accordingly, the Commissioner has made a determination under section 29-25 to alter the attribution rule for supplies of gas and electricity made by public utility providers where payments are received under payment arrangements or plans in a tax period ending before an invoice is issued. The particular attribution rule, referred to in paragraph 18 above, is contained in the Determination attached to this Ruling.

33. The effect of the determination is to defer attribution of GST payable which would otherwise be triggered by the receipt of a payment or payments under a special payment plan, until the tax period in which an invoice is issued or, if an invoice is not issued, the meter is read and the amount of the liability is established.

34. The particular attribution rule that the Commissioner has determined for supplies of gas and electricity made by public utility providers means that the supplies made to customers under special payment plans can be treated the same way for GST attribution purposes as the majority of their supplies where the customers made payments on invoicing.

Supplies spanning 1 July 2000

35. The GST Transition Act contains the rules for working out whether a supply is made on or after 1 July 2000.¹⁰ GST is only payable on a supply to the extent that it is made on or after 1 July 2000.¹¹

36. Under section 12 of the GST Transition Act, supplies of electricity and gas are taken to be made continuously and uniformly over the billing period. The part of the supply that is made on or after 1 July 2000 is subject to GST. To work out the value of the supply that is subject to GST, the total value of a supply for the billing period would have to be apportioned according to the proportion of the period that is on or after 1 July 2000. The amount of GST payable is worked out on this value.

37. The determination that the Commissioner has made under section 29-25 of the GST Act does not change the operation of the rules in the GST Transition Act about whether GST is payable on a supply that spans 1 July 2000. The attribution rules including any particular attribution rule determined by the Commissioner simply provide when the GST payable on a supply is to be accounted for.

¹⁰ The GST Transition Act, section 6.

¹¹ The GST Transition Act, section 7.

Detailed contents list

38. Below is a detailed contents list for this Ruling

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Commissioner of Taxation

26 July 2000

Previously released:

Previously released in draft form as
GSTR 2000/D13

Related Rulings/Determinations:

TR 2006/10; GSTR 2000/29

Subject references:

- attribution
- cash basis
- consideration
- creditable acquisition
- electricity
- gas
- GST payable
- input tax credits
- invoice
- public utility
- public utility provider
- taxable supply
- tax invoice

Legislative references:

- ANTS(GST)A99 Div 29
- ANTS(GST)A99 29-5
- ANTS(GST)A99 29-5(1)
- ANTS(GST)A99 29-5(2)
- ANTS(GST)A99 29-10
- ANTS(GST)A99 29-15
- ANTS(GST)A99 29-20
- ANTS(GST)A99 29-25
- ANTS(GST)A99 29-25(1)
- ANTS(GST)A99 29-25(2)
- ANTS(GST)A99 29-25(2)(e)
- ANTS(GST)A99 29-25(3)
- ANTS(GSTT)A99 6
- ANTS(GSTT)A99 7
- ANTS(GSTT)A99 10
- ANTS(GSTT)A99 12
- TAA 1953 Sch 1 Div 358
- Gas Supply Act 1996 (NSW)

ATO references:

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Schedule 1**COMMONWEALTH OF AUSTRALIA*****A NEW TAX SYSTEM (GOODS AND SERVICES TAX) ACT 1999*****DETERMINATION**

Under subsection 29-25(1) of the *A New Tax System (Goods and Services Tax) Act 1999*, I make the following determination, being satisfied under paragraph 29-25(2)(e) of the Act that it is necessary to prevent the provisions of Division 29 and Chapter 4 applying in a way that is inappropriate in circumstances involving a supply or acquisition occurring before the supplier or recipient knows the total consideration:

Citation

1. This Determination is the *A New Tax System (Goods and Services Tax) Act 1999 (Particular Attribution Rules for Supplies of Gas or Electricity made by Public Utility Providers) Determination (No. 1) 2000*.

Application of Determination

2. This Determination applies to a taxable supply of gas or electricity made on or after the commencement of the *A New Tax System (Goods and Services Tax) Act 1999* by an entity that:

- (a) is a public utility provider; and
- (b) has a payment arrangement with the recipient of that supply; and
- (c) does not account on a cash basis.

Particular attribution rule for GST payable on a taxable supply of gas or electricity made by a public utility provider

3. The GST payable on a taxable supply of gas or electricity made by a public utility provider is attributable to:

- (a) if an invoice is issued in relation to that supply - the tax period in which that invoice is issued; or

- (b) the tax period in which an invoice would have been issued by the supplier in relation to that supply if the supplier did not have a payment arrangement with the recipient;

whichever is the earlier.

Definitions

- 4. (1) The following expressions are defined for the purposes of this Determination:

payment arrangement means an arrangement between a public utility provider and a recipient where the provider may receive consideration from the recipient in respect of a supply made or to be made by the provider before any invoice is issued by the provider to the recipient in relation to that supply;

public utility provider means an authority or an enterprise the primary business of which is to provide electricity or gas to the public for domestic or business purposes.

- (2) Other expressions in this Determination have the same meaning as in the Act.

Signed this 26th day of July 2000
Lawrie Hill
Assistant Commissioner
Rulings
Goods and Services Tax Program
Delegate of the Commissioner