GSTR 2000/36W - Goods and services tax: insurance settlements by making supplies of goods or services

This cover sheet is provided for information only. It does not form part of GSTR 2000/36W - Goods and services tax: insurance settlements by making supplies of goods or services

1 This Ruling has been replaced by GSTR 2005/D9

This document has changed over time. This is a consolidated version of the ruling which was published on 21 December 2005

GSTR 2000/36

FOI status: may be released Page 1 of 2

Notice of Withdrawal

Goods and Services Tax Ruling

Goods and services tax: insurance settlements by making supplies of goods or services

- 1. GSTR 2000/36 states the Commissioner's view on whether Division 11 or Division 78 of *A New Tax System (Goods and Services Tax) Act 1999* applies to a payment or supply made by an insurer in the course of settling a claim under an insurance policy.
- 2. The Ruling applies to insurers that provide, or are liable to provide, consideration for a supply in settlement of an insurance claim.
- 3. Goods and Services Tax Ruling GSTR 2000/36 is withdrawn with effect from today.
- 4. This document is replaced by Draft Goods and Services Tax Ruling GSTR 2005/D9 Goods and services tax: insurance settlements and entitlement to input tax credits.

Reason for Withdrawal

- 5. We have reviewed Goods and Services Tax Ruling GSTR 2000/36 to ensure consistency with in GSTR 2005/6, which addresses the scope of subsection 38-190(3), and draft Ruling GSTR 2005/D8, which deals with making supplies and analysing multi-party arrangements.
- 6. While the draft Ruling does not change any of the outcomes contained in GSTR 2000/36, the principles on which they are based have changed.
- 7. The draft Ruling takes the view that it is important to analyse the act or transaction that the insurer enters into when settling a claim to determine what supply is being made by whom and to whom. Essentially, the GST consequences for the insurer in these arrangements turn on the identification of:
 - a supply and its proper characterisation;
 - the recipient (acquirer) of the supply;
 - the entity to whom the supply is provided;
 - the consideration for that supply;
 - who provides, or is liable to provide, the consideration; and

GSTR 2000/36

Page 2 of 2 FOI status: may be released

- whether there is a sufficient nexus between the consideration and the supply.
- 8. The draft Ruling also addresses a number of other matters including:
 - a change of the Commissioner's interpretation of the two UK VAT cases (Customs and Excise Commissioners v. Redrow Group plc [1999] 2 All ER 1; [1999] STC 161; [1999] 1 WLR 408 and British Airways plc 16446 [2000] BVC 2207) that were discussed in GSTR 2000/36;
 - a discussion of the more recent UK VAT case, WHA
 Limited and Viscount Reinsurance Company Limited v.
 HM Commissioners of Customs and Excise [2004]
 EWCA Civ 559;
 - some minor corrections to the vouchers section following the issue of the vouchers ruling (GSTR 2003/5); and
 - the treatment of insurance excess payments.
- 9. For further information, refer to draft Ruling GSTR 2005/D9 Goods and services tax: insurance settlements and entitlement to input tax credits.

Commissioner of Taxation

21 December 2005

ATO references

NO: 2003/11684 ISSN: 1443-5160

ATOlaw topic: Goods and Services Tax ~~ Insurance ~~ insurance

settlements and claims