PS LA 2012/1 (GA) - How to calculate input tax credits and bad debt adjustments when a dividend is paid to creditors

Practice Statement Law Administration (General Administration)

PS LA 2012/1 (GA)

FOI status: may be released

This practice statement is issued under the authority of the Commissioner of Taxation and must be read in conjunction with Law Administration Practice Statement PS LA 1998/1. It must be followed by tax officers unless doing so creates unintended consequences or is considered incorrect. Where this occurs tax officers must follow their business line's escalation process.

SUBJECT:	**How to calculate input tax credits and bad debt adjustments when a dividend is paid to creditors**
PURPOSE:	**To assist representatives of incapacitated entities in calculating input tax credits and bad debt adjustments when a dividend is paid to creditors**

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About this practice statement

1. This practice statement applies to representatives of an incapacitated entity who pay a dividend of less than 100 cents in the dollar to creditors towards satisfaction of debts owed by the incapacitated entity. The payment of such a dividend may create either an increasing adjustment (as a consequence of the creditor writing off the remainder of the debt), or an input tax credit entitlement, depending on the incapacitated entity's accounting basis for goods and services tax (GST) purposes. This practice statement discusses how representatives may calculate the increasing adjustment (which we refer to as a 'bad debt increasing adjustment')[1] or the input tax credit and its impact upon the dividend, if any, payable by the representative to the Commissioner.

2. This practice statement does not consider the GST consequences for creditors who receive a dividend from the representative of an incapacitated entity.

3. All subsequent legislative references in this practice statement are to the *A New Tax System (Goods and Services Tax) Act 1999* unless otherwise indicated.

Date of effect

4. This practice statement applies to tax periods commencing both before and after its date of issue.

BACKGROUND

5. The formulas contained in this practice statement were previously contained in GSTB 2003/1, which has now been withdrawn. GSTB 2003/1 referred to Division 147 which was repealed and replaced by Division 58 on 4 December 2009. Although the accepted formulas previously contained in GSTB 2003/1 remain unchanged, the discussion on the operation of these formulas has been revised to reflect the legislative provisions of Division 58.

STATEMENT

6. The Commissioner will accept the use of the formulas set out in the Explanation section of this practice statement to calculate the amount of:

   (i) a bad debt increasing adjustment arising from a final dividend payment[2]

   (ii) a bad debt decreasing adjustment arising from an additional dividend payment[3] or

   (iii) an input tax credit entitlement arising from the payment of a first and final dividend.[4]

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[1] This expression refers to increasing adjustments under section 21-15 of the *A New Tax System (Goods and Services Tax) Act 1999*, in relation to creditable acquisitions, as a consequence of debts being written off by the supplier or overdue for 12 months or more.
[2] Paragraphs 11 to 20 of this practice statement.
[3] Paragraphs 39 to 52 of this practice statement.
[4] Paragraphs 56 to 64 of this practice statement.

EXPLANATION

7. A representative of an incapacitated entity is required to be registered for GST if the incapacitated entity was registered or required to be registered for GST. A representative is:[5]

   - a trustee in bankruptcy
   - a liquidator
   - a receiver
   - a controller (within the meaning of section 9 of the *Corporations Act 2001*)
   - an administrator appointed under Division 2 of Part 5.3A of the *Corporations Act 2001*
   - a person appointed, or authorised, under an Australian Law[6] to manage the affairs of an entity because it is unable to pay all of its debts as and when they become due and payable, or
   - an administrator of a deed of company arrangement executed by the entity.

8. An incapacitated entity is:[7]

   - an individual who is bankrupt
   - an entity that is in liquidation or receivership, or
   - an entity that has a representative.

9. A representative, in the course of their duties, may pay a dividend to unsecured creditors[8] of the incapacitated entity. At the time that an entity becomes incapacitated it may have a number of creditors, including the Commissioner.

10. The dividend is calculated by dividing the pool of funds available for distribution to unsecured creditors by the total amount of the admitted proofs of debt. This practice statement assumes the dividend is less than the amount owed to creditors, that is, less than 100 cents in the dollar. A dividend that pays 100 cents in the dollar does not give rise to an increasing adjustment.

Incapacitated entities accounting on a non-cash basis

Bad debt increasing adjustments

11. A dividend payment of less than 100 cents in the dollar may result in the creditors writing off as bad the parts of their debts which remain unpaid (that is, the debt minus the dividend payment).

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[5] Representative is defined in section 195-1.
[6] An Australian Law is defined in section 995-1 of the *Income Tax Assessment Act 1997* as a law of the Commonwealth, a State or a Territory.
[7] Incapacitated entity is defined in section 195-1.
[8] 'Unsecured creditors' in this context refers to ordinary unsecured creditors and not other special classes of unsecured creditors, such as employees.

12. For an entity that accounts for GST on a non-cash basis, an input tax credit for a creditable acquisition can be attributed to the tax period in which an invoice is issued or any of the consideration is paid (whichever occurs earlier), provided that, where required, a tax invoice is held when the entity's business activity statement for the period is lodged[9]. The entity has a bad debt increasing adjustment[10] in respect of the acquisition when the supplier (creditor) writes all or part of the debt off as bad.[11]

13. It is reasonable to assume that creditors will have written off the remainder of the debts as bad by the time the final dividend is paid. However, the incapacitated entity and the representative will not usually be aware if individual creditors have previously written off all or part of the debt as bad. In those circumstances, if the dividend payment to a creditor is for a creditable acquisition that the incapacitated entity had made before the appointment, but not fully paid for, the bad debt increasing adjustment may be attributed wholly to the tax period in which the representative pays the final dividend.

14. The amount of the increasing adjustment in respect of an acquisition which was fully creditable is equal to 1/11th of the amount written off.[12] However, if the acquisition by the incapacitated entity was only partly creditable, the increasing adjustment is calculated in proportion to the extent of the creditable purpose and/or extent of the consideration.[13]

15. The Commissioner will accept the use of the following formula for calculating the bad debt increasing adjustment arising from a final dividend payment. It is referred to as the 'bad debt increasing adjustment formula'.

Bad debt increasing adjustment formula

Bad debt increasing adjustment $B = A [1 - (Y / X)]$

Dividend rate $= Y / (X + B)$

Where:

- **B** is the total bad debt increasing adjustment to be notified to the Commissioner.
- **A** is the amount of input tax credits the incapacitated entity was entitled to in relation to the unsecured creditors' admitted debts. This figure takes into account fully and partly creditable acquisitions made by the incapacitated entity.
- **Y** is the total funds that are available to be paid as distributions to the unsecured creditors.
- **X** is the total admitted unsecured debts, before any bad debt increasing adjustments that arise as a consequence of creditors writing off part of the debts as bad.

[9] If a taxpayer does not take into account an input tax credit in a GST return for the tax period to which it is attributable to under subsections 29-10(1), 29-10(2) or 29-10(3), then under subsection 29-10(4) the input tax credit is attributable to the first tax period in which it is included in a GST return by the taxpayer.
[10] Section 21-15.
[11] For further discussion on when a debt is 'bad' refer to Goods and Services Tax Ruling GSTR 2000/2 which is about adjustments for bad debts and Taxation Ruling TR 92/18 which is about bad debts.
[12] Section 21-15.
[13] Section 136-10.

Example 1

16. *Mark, the representative of Fabulous Fabrics Pty Ltd (the incapacitated entity), has admitted unsecured creditors' claims of $5,152,991. Input tax credits of $294,368, for acquisitions from these creditors included in the admitted claims, were claimed by Fabulous Fabrics Pty Ltd prior to Mark's appointment. The admitted unsecured creditors' claims include a debt to the Commissioner of $493,587. Mark has funds of $1,405,646 available to pay unsecured creditors.*

17. *Accordingly, applying the bad debt increasing adjustment formula:*[14]

A = $294,368

Y = $1,405,646

X = $5,152,991

B = 294,368 [1 - (1,405,646 / 5,152,991)]

B = $214,069.55

18. *The total bad debt increasing adjustment (that is, the amount by which the Commissioner would increase its proof of debt) is $214,069.55. As the bad debt increasing adjustment increases the Commissioner's claim, the total admitted unsecured debts (X) will also increase by this amount. The dividend must be calculated on this new amount. The ATO dividend is based on the increased proof of debt of $707,656.55.*

Dividend rate = 1,405,646 / (5,152,991 + 214,069.55)

Dividend rate = 0.26190

= 26.190 cents in the dollar

19. *The dividend payable to the Commissioner is calculated as follows*

ATO dividend = 0.26190 x $707,656.55

= $185,335.25

20. The bad debt increasing adjustment formula assumes that bad debt increasing adjustments relating to acquisitions referable to the unsecured creditors' admitted claims have not previously been made. This formula is not to be used to the extent that bad debt increasing adjustments (that have arisen in respect to debts that have been outstanding for 12 months or more or previously written off) have already been made in a business activity statement of:

- the entity prior to the appointment of the representative, or
- the incapacitated entity, or
- the representative.

Is it the incapacitated entity or the representative that has the adjustment?

21. The representative is personally liable for a bad debt increasing adjustment if:

- the making of the acquisition to which the bad debt increasing adjustment relates is within the scope of the representative's responsibility or authority for managing the incapacitated entity's affairs,[15] and

[14] Please note for calculation accuracy, figures should only be rounded at the final stage of the calculation, to the nearest cent.

[15] Subsection 58-10(1).

- the adjustment is attributable to a tax period applying to the representative in their capacity as representative of the incapacitated entity.[16]

22. The incapacitated entity has bad debt increasing adjustments for pre-appointment acquisitions. The incapacitated entity also has a bad debt increasing adjustment for post-appointment acquisitions where the bad debt increasing adjustment is attributable to a tax period after the cessation of the representative's appointment. The latter will arise where a debt remains outstanding when the representative of the incapacitated entity ceases their appointment and the entity resumes normal trading. If the creditor writes off the debt after the representative's appointment has ceased then the entity is liable for the bad debt increasing adjustment.

Notification prior to declaring a dividend

23. A representative of an incapacitated entity must notify the Commissioner, in the prescribed form, of an amount of GST for which the incapacitated entity is liable or an increasing adjustment that the incapacitated entity has if:

- the representative becomes aware, or could reasonably be expected to have become aware, of the amount of GST or the adjustment, and
- the amount of GST or adjustment has not been taken into account in a previously lodged GST return, and
- the Commissioner has not previously been notified of the amount of GST or the adjustment.[17]

24. The representative is required to notify the Commissioner of such an amount before the day on which a dividend is declared to unsecured creditors of the incapacitated entity.[18] In cases where there is more than one dividend to be paid to creditors, notification will be required prior to the declaration of each dividend. Each successive notification will only need to notify relevant liabilities that have not been included in prior notifications.

Interim dividends

25. A bad debt increasing adjustment does not necessarily arise as a result of an interim dividend payment. This is because creditors may not write off the whole or part of a debt owed by the incapacitated entity as bad until it is certain that no further payments will be received. In any case, representatives will not usually know whether creditors have written off any part of the debt as bad at that point. The Commissioner therefore accepts that payment of an interim dividend does not in itself trigger an increasing adjustment.

26. When a representative makes a final dividend payment, creditors will generally make a bona fide commercial decision that the unpaid portion of the debt is unlikely to be recovered and therefore write off the remainder of the debt.[19] Thus, a bad debt increasing adjustment potentially arises when a final dividend is paid and it is at this point the bad debt increasing adjustment formula may be used to calculate it.[20]

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[16] Subsection 58-10(4).
[17] Subsection 58-60(1).
[18] Subsection 58-60(2).
[19] See paragraph 37 of GSTR 2000/2 and paragraphs 3 and 4 of TR 92/18.
[20] Section 21-15. See paragraphs 37 and 38 of this practice statement for a discussion of debts overdue for 12 months or more.

27. Where a representative pays interim dividends to unsecured creditors, those payments are based on the admitted claims of the creditors. In the case of dividend payments that are made to the Commissioner, the interim dividends may be based on the admitted claim (including amounts owed to the Commissioner), prior to any bad debt increasing adjustments which may arise as a consequence of the remainder of the debts being written off after these dividend payments have been paid.

28. The interim dividend(s) paid to the Commissioner may not have taken bad debt increasing adjustments into account because the interim dividend(s) will usually be based on the Commissioner's original proof of debt, which will not have taken into account increasing adjustments that do not arise until creditors write off the remainder of the debts owed by the incapacitated entity. Consequently, in addition to the bad debt increasing adjustment, an equalisation payment to the Commissioner is required.[21] The equalisation payment may be made at the time the final dividend is paid. The representative will need to ensure that sufficient funds are set aside for this equalisation payment and may wish to make an estimate of the amount of the equalisation payment, at the time of paying the interim dividend(s).

29. If there is more than one interim dividend, the bad debt increasing adjustment formula is applied only at the time of the expected final dividend. The equalisation payment, that takes into account the interim dividends, is also required at the time of the final dividend. If the bad debt increasing adjustment formula is applied at the time of the expected final dividend, but there is a later dividend, the bad debt decreasing adjustment formula must also be applied in respect of the later dividend.

Example 2

30. *Paul, the representative of Stunning Services Pty Ltd (the incapacitated entity), has admitted unsecured creditors' claims of $5,250,000. Input tax credits of $300,000, for acquisitions from these creditors were claimed by Stunning Services Pty Ltd prior to Paul's appointment. The admitted unsecured creditors' claims include the Commissioner's claim of $400,000. Paul pays an interim dividend to unsecured creditors of 20 cents in the dollar ($1,050,000).*

31. *There is no bad debt increasing adjustment at this time. The Commissioner receives an interim dividend based on a debt of $400,000 (that is, $80,000). Paul may wish to make an estimate of the equalisation payment that will be due to the Commissioner and set these funds aside.*

32. *Paul then declares a final dividend and has $787,500 (including the amount set aside as the equalisation payment) available for this payment.*

33. *Accordingly, applying the bad debt increasing adjustment formula:*

A = $300,000

Y = $1,837,500 (that is, $1,050,000 + $787,500)

X = $5,250,000

B = 300,000 [1 - (1,837,500 / 5,250,000)]

B = $195,000

[21] This assumes that the Commissioner has amended the proof of debt to claim the increase in its debt due to the bad debt increasing adjustments. A creditor's entitlement to equalisation payments arises under regulation 5.6.55 & 5.6.68 of the Corporations Regulations 2001 and section 144 of the *Bankruptcy Act 1966.*

34. *Y is the total funds that are paid as a dividend (that is, interim dividend plus final dividend). The total amount of the bad debt increasing adjustment (that is, the amount by which the Commissioner will increase the proof of debt) is $195,000. As the adjustment increases the ATO claim, the total admitted unsecured debts (X) also increases by this amount. The dividend rate must be calculated on this new amount.*

Dividend rate = 1,837,500 / (5,250,000 + 195,000)

Dividend rate = 0.33747

= 33.747 cents in the dollar

35. *The Commissioner's claim is now $595,000 (that is, $400,000 + $195,000) and the final dividend rate is calculated to be 13.747 cents in the dollar (that is, 0.33747 - 0.20). Based on this figure, the final dividend payment to the Commissioner would be $81,794.65. However, the first dividend payment to the Commissioner was based on the lesser debt and therefore the Commissioner is entitled to an equalisation payment. The equalisation payment is calculated as:*

Equalisation payment = (595,000 x 0.20) - 80,000

Equalisation payment = $39,000

36. *The final payment to the Commissioner consists of $81,794.65 for the final dividend and $39,000 for the equalisation payment. The total payments made to the Commissioner by the representative are $200,794.65 (that is, $80,000 + $39,000 + $81,794.65).*

Bad debt increasing adjustments – debts overdue for 12 months or more

37. A bad debt increasing adjustment also arises when a debt has been overdue for 12 months or more, if it has not already been written off.[22]

38. This may occur prior to the appointment of the representative or during the period of representation, prior to the payment of the final dividend. Adjustments are attributable to the tax period in which you become aware of them.[23] This could require a series of bad debt increasing adjustments to be attributed as the representative becomes aware of each adjustment.

Bad debt decreasing adjustments

39. In situations where a dividend was expected to be the final dividend, but a subsequent dividend is paid, a bad debt decreasing adjustment may arise.[24]

40. A bad debt decreasing adjustment will arise if an increasing adjustment[25] arose when the earlier dividend, which was expected to be the final, was paid. Where a subsequent dividend is paid which results in a decreasing adjustment, the Commissioner's admitted debt will decrease. This is because the previous dividend payment was based on the admitted debt, which included the bad debt increasing adjustment, but did not take into account the subsequent decreasing adjustment.

41. The amount effectively overpaid may be deducted from the final dividend payment to the Commissioner, or the Commissioner may be required to repay the overpaid amount.

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[22] Paragraph 21-15(1)(c).
[23] Subsection 29-20(1).
[24] Section 21-20.
[25] Section 21-15.

42. The following bad debt decreasing adjustment formula can be used to calculate the decreasing adjustment.

Bad debt increasing adjustment formula

Decreasing adjustment (D) = A (Y / X)

Dividend Rate = Y / (X - D)

Where:

- **D** is the decreasing adjustment of the incapacitated entity.
- **A** is the amount of input tax credits the incapacitated entity was entitled to in relation to the unsecured creditors' admitted debts. This figure takes into account fully and partly creditable acquisitions made by the incapacitated entity and is the same as that used in originally applying the bad debt increasing adjustment formula.
- **Y** is the extra funds that are available for distribution to the unsecured creditors.
- **X** is the total admitted unsecured debts. This figure includes the bad debt increasing adjustment calculated previously.

Example 3

43. *Mark, the representative of Fabulous Fabrics Pty Ltd (the incapacitated entity), has previously paid what was expected to be the final dividend. Fabulous Fabrics Pty Ltd had an increasing adjustment for the bad debt amount written off using the final bad debt increasing adjustment formula as provided in Example 1 at paragraph 16 of this practice statement.*

44. *Mark has now become aware of an asset that was not previously included in the records of Fabulous Fabrics Pty Ltd. The asset is sold by Mark who now has available additional funds of $400,222 (net of costs and GST on the sale) to pay a further dividend to the unsecured creditors. The amount of input tax credits previously claimed by the incapacitated entity that relate to acquisitions for which there was a bad debt increasing adjustment remains unchanged at $294,368. The total of the admitted unsecured debts is now $5,367,060.55 (which includes the increasing adjustment of $214,069.55).*

45. *Accordingly, applying the bad debt increasing adjustment formula:*

Y = $400,222

X = $5,367,060.55

A = $294,368

ATO debt = $707,656.55

46. *As Fabulous Fabrics Pty Ltd has a decreasing adjustment in relation to amounts previously written off by creditors when Mark pays the dividend, the dividend rate will increase.*

47. *The decreasing adjustment of Fabulous Fabrics Pty Ltd is calculated as follows:*

D = A (Y / X)

= 294,368 x (400,222 / 5,367,060.55)

= $21,951.04

48. *The decreasing adjustment is $21,951.04. This decreasing adjustment is offset against the outstanding Commissioner's claim. The total of the unsecured creditors' debts is reduced by the amount of the decreasing adjustment and the dividend rate is calculated as follows:*

Dividend rate = Y / (X - D)

= 400,222 / (5,367,060.55 - 21,951.04)

= 0.07488

= 7.488 cents in the dollar

49. *As the Commissioner's claim is reduced by the amount of the decreasing adjustment, the total unsecured creditors' amount (X) is reduced by this amount. The Commissioner is still entitled to a dividend payment, although this will be calculated on the reduced debt of $685,705.51.*[26]

50. *Also, as the previous dividend payment to the Commissioner was based on the admitted debt of $707,656.55 (including the bad debt increasing adjustment) and the final Commissioner's claim is $685,705.51 (taking into account the decreasing adjustment), the Commissioner effectively has been overpaid by the initial dividend payment. Therefore, a calculation of the overpayment must be made.*

51. *The total dividend rate paid to unsecured creditors is 33.678 cents in the dollar (that is, 26.190 + 7.488). The total dividend payment to the Commissioner is calculated on the final debt:*

= $685,705.51 x 0.33678

= $230,931.90

52. *Therefore, the final dividend paid to the Commissioner is:*

= $230,931.90 - $185,335.25[27]

= $45,596.65

Incapacitated entities accounting on a cash basis

Input tax credits as a result of a first and final dividend to creditors

53. Entities that account for GST on a cash basis are entitled to claim input tax credits to the tax period in which they provide the consideration for the acquisition.[28]

54. For example, if the consideration for a creditable acquisition is $220 and the entity pays $110 of that amount in a given tax period, it is entitled to claim an input tax credit of $10 to that tax period.[29] This means that, to the extent that the purchases of an incapacitated entity (which accounts for GST on a cash basis) referable to the unsecured creditors' admitted claims were creditable acquisitions, input tax credits in proportion to the rate of the dividend paid by the representative are attributed when the dividend is paid.[30]

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[26] Refer to Example 1 at paragraph 16 of this practice statement for the Commissioner's proof of debt.
[27] This is the amount of the interim dividend paid to the Commissioner – refer to Example 1 at paragraph 16 of this practice statement.
[28] Subsection 29-10(2); provided that, where required, they hold a tax invoice at the time of lodging their business activity statement: subsection 29-10(3).
[29] Subsection 29-10(2); provided that, where required, they hold a tax invoice at the time of lodging their business activity statement: subsection 29-10(3).
[30] Subsection 29-10(2); provided that, where required, they hold a tax invoice at the time of lodging their business activity statement: subsection 29-10(3).

55. When the representative pays a dividend to unsecured creditors for acquisitions made by the incapacitated entity prior to the appointment of the representative, the entitlement to input tax credits remains with the incapacitated entity.

How is the amount of the input tax credit calculated?

56. The Commissioner will accept the following method for calculating the input tax credit entitlement which arises where there is a payment of a first and final dividend.[31] This is referred to as the 'input tax credit formula'. A representative may use the input tax credit formula upon payment of a first and final dividend to calculate the input tax credit entitlement.

57. Note that Division 3 in Part IIB of the *Taxation Administration Act 1953* provides that these input tax credits will be offset against the outstanding tax debt of the incapacitated entity before any refund is issued.

58. Where the input tax credit amount is larger than the debt owed by the incapacitated entity to the Commissioner, the incapacitated entity is entitled to a refund of the excess amount. This refund will be included in the funds available for distribution by the representative. If, however, the input tax credit amount is less than the debt owed to the Commissioner, there is no refund to the incapacitated entity. The debt owed to the Commissioner is merely reduced by this amount.

Input tax credit formula

Step 1

Input tax credit (ITC) = A (Y / X)

If the ITC is greater than the debt to the Commissioner, go to Step 2.

If the ITC is less than or equal to the debt to the Commissioner, go to Step 3.

Step 2

Dividend rate = (Y + ITC - ATO Debt) / (X - ATO Debt)

Do not go to step 3. This is the **end** of the calculation.

Step 3

Dividend Rate = Y / (X - ITC)

Where:

- **ITC** is the input tax credit entitlement of the incapacitated entity referable to the unsecured creditors' admitted claims.
- **A** is the GST component included in the admitted unsecured debts of the incapacitated entity to the extent that the incapacitated entity is entitled to an input tax credit. This figure takes into account fully creditable and partly creditable acquisitions made by the incapacitated entity.
- **Y** is the total funds that are available to be paid as distributions to the unsecured creditors.
- **X** is the total admitted unsecured debts.
- **ATO Debt** is the total debt owed to the Commissioner by the incapacitated entity.

[31] That is, where only one dividend is anticipated.

Example 4

59. *Tan, the representative of Kerry Club Pty Ltd (the incapacitated entity) has admitted unsecured creditors claims of $525,000 and has funds available of $164,249 to pay these debts. The GST component of the total admitted unsecured creditors' claims is $38,674 and the debt that Kerry Club Pty Ltd owes to the Commissioner is $74,007.*

60. *Accordingly, applying the input tax credit formula:*

Y = $164,249

X = $525,000

A = $38,674

ATO debt = $74,007

61. *As Kerry Club Pty Ltd is entitled to input tax credits when Tan makes the dividend payment, the dividend rate will increase. The input tax credit of Kerry Club Pty Ltd is calculated as follows:*

Step 1

Calculate the amount of input tax credits.

ITC = A (Y / X)

= 38,674 x (164,249 / 525,000)

= $12,099.36

62. *As the amount of the ITC is less than the tax debt to the Commissioner, Step 3 is applied.*

63. *The amount of the input tax credits to which Kerry Club Pty Ltd is entitled is $12,099.36. These input tax credits are offset against the outstanding Commissioner's claim with the result that the total of the unsecured creditors' debts is also reduced by the amount of the input tax credits and the dividend rate is calculated as follows:*

Step 3

Dividend Rate = Y / (X - ITC)

= 164,249 / (525,000 - 12,099.36)

= 0.32024

= 32.024 cents in the dollar

64. *The Commissioner is still entitled to a dividend payment, although this will be calculated on the reduced debt. As the Commissioner's claim is not cleared by the input tax credits, there is no refund. The amount of money that is available for distribution (Y) remains unchanged.*

Interim dividends

65. A representative may pay interim dividends to creditors which result in input tax credits being attributed to the tax period in which each dividend is paid. However, the input tax credit formula cannot be applied at the time of the interim dividend as this will result in an inaccurate calculation of the input tax credit amount.

66. A representative may apply the input tax credit formula at the time of the final dividend to calculate the total amount of the input tax credits. However, at the time of the final dividend, the Commissioner effectively will have been overpaid on the previous dividend(s) if the interim dividends were based on

the admitted debt before taking into account the input tax credits attributable as a result of the part payment of the creditors.

67. The amount may be deducted from the final dividend payment to the Commissioner, or the Commissioner may be required to repay the overpaid amount.[32]

Example 5

68. *Marius, the representative of Norved Pty Ltd (the incapacitated entity), has admitted unsecured creditors' claims of $780,000 and has declared an interim dividend of 20 cents in the dollar to the unsecured creditors (that is, Marius is distributing $156,000). The GST component of the total admitted unsecured creditors' claims is $54,003 and the debt owed to the* Commissioner *by Norved Pty Ltd (the incapacitated entity) is $103,000. Marius pays the interim dividend to the Commissioner based on the admitted proof of debt (without any adjustments to the ATO claim for input tax credits that result from the interim dividend payment). The interim dividend payment to the ATO is $103,000 x 0.20 = $20,600.*

69. *Marius has funds available of $186,050 for the final dividend making the total funds distributed to the unsecured creditors $342,050. This example illustrates how the input tax credit entitlement of Norved Pty Ltd is attributed at the time of the final dividend is calculated using the formula.*

70. *Accordingly, applying the input tax credit formula:*

Y = $342,050

X = $780,000

A = $54,003

ATO debt = $103,000

Step 1

Calculate the amount of input tax credits.

ITC = A (Y / X)

= 54,003 x (342,050 / 780,000)

= $23,681.70

71. *As the amount of the ITC is less than the tax debt to the Commissioner, Marius applies Step 3.*

72. *The amount of the input tax credits to which Norved Pty Ltd is entitled is $23,681.70. These input tax credits are offset against the outstanding ATO claim with the result that the total of the unsecured creditors' debts is also reduced by the amount of the input tax credits.*

Step 3

Dividend rate = Y / (X - ITC)

= 342,050 / (780,000 - 23,681.70)

= 0.45226

= 45.226 cents in the dollar

[32] Under regulation 5.6.55 of the Corporations Regulations 2001 and section 144 of the *Bankruptcy Act 1966.*

73. *The Commissioner is still entitled to a dividend payment, although this will be calculated on the reduced debt of $79,318.30. As the debt to the Commissioner is greater than the input tax credits, there is no entitlement to a refund. The amount of money that is available for distribution (Y) remains unchanged. The Commissioner received the interim dividend payment based on the admitted debt of $103,000. However, the final debt to the Commissioner after taking into account the input tax credits available to Norved Pty Ltd, is reduced to $79,318.30. Therefore, the Commissioner effectively has been overpaid by the interim dividend and when Marius pays the final dividend to the Commissioner, this overpayment is taken into account so that the Commissioner receives a total dividend based on the reduced debt (that is, $79,318.30 x 0.45226 = $35,872.49). Marius pays the Commissioner a final dividend of $15,272.49 (that is, $35,872.49 - $20,600).*

Subject references	bad debts decreasing adjustment dividends increasing adjustment input tax credits representatives of incapacitated entities
Legislative references	ANTS(GST)A 1999 21-15 ANTS(GST)A 1999 21-15(1)(c) ANTS(GST)A 1999 21-20 ANTS(GST)A 1999 29-10(1) ANTS(GST)A 1999 29-10(2) ANTS(GST)A 1999 29-10(3) ANTS(GST)A 1999 29-10(4) ANTS(GST)A 1999 29-20(1) ANTS(GST)A 1999 Div 58 ANTS(GST)A 1999 58-10(1) ANTS(GST)A 1999 58-10(4) ANTS(GST)A 1999 58-60(1) ANTS)GST)A 1999 58-60(2) ANTS(GST)A 1999 Div 147 (repealed) ANTS(GST)A 1999 136-10 ANTS(GST)A 1999 195-1 ITAA 1997 995-1 TAA 1953 Div 3 Pt IIB Bankruptcy Act 1966 144 Corporations Act 2001 9 Corporations Act 2001 Div 2 Corporations Regulations 2001 5.6.55 Corporations Regulations 2001 5.6.68
Related public rulings	GSTB 2003/1 GSTR 2002/2 TR 92/18
File references	1-2WIL1TI
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