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### Edited version of your written advice

**Authorisation Number: 1051375772318**

**Date of advice: 24 May 2018**

### Ruling

**Subject: GST and agency relationships**

### Question

Are the competition entry fees collected by Entity A (you) consideration for a supply made through you as agent for Entity B and, therefore, not consideration for a taxable supply made by you under section 9-5 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act)?

### Answer

Yes, the competition entry fees collected by you are consideration for a supply made through you as agent for Entity B. The fees are not consideration for a taxable supply made by you and you are not liable for GST payable on supplies you make as agent for Entity B.

### Relevant facts and circumstances

You are a not-for-profit incorporated association and you are registered for GST.

You are the peak body for a sport and support member organisations by providing a calendar covering various competitions.

Member organisations conduct competitions under your auspices, in accordance with various governing documents setting out the minimum standards required for the competition.

You adopted an online system for managing competition entries, scheduling and results.

You accept online competition entries up to the closing date for entries and later entries where they can be included in the programme.

You collect the entry fees and prepare and adjust the competition schedule prior to the competition, when it is sent to the organisation conducting the competition (host) for inclusion in a programme should they want to print one. Following deduction of any levies, you remit the balance of the entry fees to the host.

You have not entered into a written agreement with the host to treat supplies made by you on behalf of the host as two separate supplies under Subdivision 153-B of the GST Act.

### **Relevant legislative provisions**

*A New Tax System (Goods and Services Tax) Act 1999* Section 9-5

*A New Tax System (Goods and Services Tax) Act 1999* Section 9-10

*A New Tax System (Goods and Services Tax) Act 1999* Section 9-15

*A New Tax System (Goods and Services Tax) Act 1999* Division 153

*A New Tax System (Goods and Services Tax) Act 1999* Subdivision 153-A

*A New Tax System (Goods and Services Tax) Act 1999* Subdivision 153-B

### **Reasons for decision**

All legislative references in this ruling are to the GST Act unless otherwise stated.

Subsection 7-1(1) provides that GST is payable on taxable supplies. Under section 9-5 one of the requirements for making a taxable supply is that you make a supply for consideration.

Under section 9-10 a supply is not just a supply of goods or services. Supplies can also be made in relation to rights, obligations and information for GST purposes. Under section 9-15 the term 'consideration' is broadly defined as including any payment, or any act or forbearance, 'in connection with', 'in response to' or 'for the inducement' of a supply.

Therefore, to determine if you have made a taxable supply for which you received the payment, it is first necessary to consider whether you have made a supply for consideration.

## Agency relationships

In examining if you are acting in a capacity as an agent and supply anything for GST purposes, Goods and Services Tax Ruling GSTR 2000/37 provides guidance in relation to agency relationships. GSTR 2000/37 explains the general law and what is meant by agency relationships and states at paragraphs 10 to 12:

10. An entity may be authorised by another party to do something on that party's behalf. Generally, the authorised entity is called an agent. The party who authorises the agent to act on their behalf is called the principal...

11. For commercial law purposes, an agent is a person who is authorised, either expressly or impliedly, by a principal to act for that principal so as to create or affect legal relations between the principal and third parties.

12. The principal is bound by the acts of an agent as a result of the authority given to the agent...

The factors that indicate an agency relationship are discussed at paragraph 28 of GSTR 2000/37. In most cases, any relevant documentation about the business relationship, the description used by the parties and the conduct of the parties establish the existence of an agency relationship.

In your case, in accordance with the various governing documents, competitions are sanctioned by you. Competitions are held by hosts under your auspices, governing the conduct and control of competitions at selected and approved venues to ensure the orderly conduct of such events.

You collect the fees for competition entries, which can only be made via the online system used by you, and prepare and adjust the competition schedule prior to the competition, when it is sent to the host for inclusion in a programme should they want to print one. Following deduction of any levies, you remit the balance of the entry fees to the host.

In these circumstances, it is considered that the relevant documentation about the business relationship and the conduct of you and the host, establish that an agency relationship exists.

In relation to how the GST law operates, paragraph 45 of GSTR 2000/37 discusses Division 153, which is about transactions made through agents. Paragraph 45 explains that when an agent is authorised to undertake a transaction on behalf of the principal, then the transaction is made by the principal through the agent, and states:

45. Divisions 57 and 153 apply when a principal makes a relevant transaction (i.e., taxable supply, taxable importation, creditable acquisition or creditable importation) through an agent. The word 'make' and its derivatives, such as 'made', are used in the GST Act, inter alia, to connect the thing being transacted in the

course of an entity's enterprise with the paying or receiving of consideration. When an agent is authorised to undertake a transaction on behalf of the principal, thereby binding the principal to the legal effects of the transaction, then the transaction is made by the principal through the agent.

In your case, in relation to how Division 153 applies to your arrangements with the host, the special rules in Subdivision 153-A apply to you. You have not entered into a written agreement with the host where you are treated as a separate supplier under Subdivision 153-B.

Under Subdivision 153-A, if you are an agent and taxable supplies are made through you, the principal is liable for any GST payable on the supplies. Paragraph 55 of GSTR 2000/37 discusses liability for GST and explains that if you are an agent at general law, you are an agent for GST purposes unless Subdivision 153-B applies. Paragraph 55 states:

55. If you are an agent at general law, you are an agent for GST purposes unless Subdivision 153-B applies. Accordingly, if you are an agent (where taxable supplies are made through you), the principal is liable for any GST payable on the supplies. Also, if you are an agent (where creditable acquisitions are made through you), the principal is entitled to any input tax credits.

Therefore, in your case, it is considered that when you collect competition entry fees on behalf of the host, as principal, then the transactions are being made by the host through you.

## **Conclusion**

Consequently, the supplies of competition entries made through you as agent for the host (as principal) are not supplies you make for the purposes of section 9-10 and you will not be supplying anything for the purposes of section 9-5.

Accordingly, as all of the requirements of section 9-5 will not be satisfied, you will not be making taxable supplies and you are not liable for GST under subsection 7-1(1) for supplies made through you as agent for the host.

## **Additional information regarding the GST law and agency relationships**

Some additional information regarding the GST law and agency relationships is provided below for your reference.

## **Documentary requirements**

Under the basic GST rules about tax invoices and adjustment notes, a tax invoice for a taxable supply or an adjustment note must be issued by a principal who makes supplies through an agent. However, Subdivision 153-A provides that the principal's obligations are satisfied if the agent issues tax invoices and adjustment notes on behalf of the principal for those supplies made by the principal through the agent.

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