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Public Ruling Duties Act:

INSURANCE DUTY ON CONTRACTS OF GENERAL INSURANCE SUBJECT TO GST

A Public Ruling, when issued, is the published view of the Commissioner on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, memoranda, manuals and advice provided by the Commissioner in respect of the issue/s it addresses. Where a change in legislation or case law (the law) affects the content of a Public Ruling, the change in the law overrides the Public Ruling—that is, the Commissioner will determine the tax liability or eligibility for a concession, grant, subsidy or exemption, as the case may be, in accordance with the law.

What this Ruling is about

1. This Public Ruling clarifies how insurance duty is imposed on contracts of general insurance, other than accident insurance, under Chapter 8 of the *Duties Act 2001* (the Duties Act) in relation to policies which attract the goods and service tax (GST).
2. Insurance duty is imposed on insurance premiums charged under contracts of general insurance.¹
3. The term premium is defined under s.353 of the Duties Act as follows:
 - (a) A premium for general or life insurance is the total consideration given to a general insurer or life insurer by or for the insured person to effect the insurance without deductions for any amounts paid or payable, allowed or allowable, by way of commission or discount to an insurance intermediary.
 - (b) However, a premium does not include—
 - (i) an amount paid to an insurance intermediary by the insured person as a fee under a contract between the insured person and the intermediary if the amount can be clearly identified as a fee; or
 - (ii) an amount of duty under the Duties Act or a corresponding Act².
4. The rates of insurance duty for general insurance are prescribed under ss.362(1), (2) and (4) of the Duties Act.

¹ Section 349 of the Duties Act

² Corresponding Act is defined in Schedule 6 of the Duties Act.

5. Under *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (GST Act), GST is imposed on taxable supplies at 10% of the value of the supply.³
6. The value of a taxable supply is 10/11ths of the price.⁴
7. The price of a taxable supply is the amount or market value of the consideration for the supply without any discount for the amount of GST (if any) payable on the supply.⁵
8. GST is payable by the person who makes the taxable supply.⁶

Ruling and explanation

9. Where an insurer increases a premium for general insurance to take account of the insurer's liability for GST, the increased premium will form part of the premium as defined under s.353 of the Duties Act upon which insurance duty is imposed.
10. Where an insurer for general insurance demands the payment of a premium plus an amount for the GST payable by the insurer, the separately itemised GST component forms part of the consideration for the supply. This is because the consideration is determined without any discount for the GST payable on the supply.⁷ As such, the sum of the premium and the separate GST component will form part of the premium as defined under s.353 of the Duties Act upon which insurance duty is imposed.

Date of effect

11. This Public Ruling takes effect from the date of issue.

David Smith
 Commissioner of State Revenue
 Date of Issue 24 February 2009

References

Public Ruling	Issued	Dates of effect	
		From	To
DA353.1.1	24 February 2009	24 February 2009	15 April 2010
Supersedes Revenue Ruling DA 6.1	1 March 2002	1 March 2002	23 February 2009

³ Sections 7-1 and 9-70, GST Act

⁴ Section 9-75, GST Act

⁵ Section 9-75, GST Act

⁶ Section 9-40, GST Act

⁷ Section 9-75, GST Act