

G'Day All,

Just a reminder to those who are entitled to purchase a car GST free. You do not have to keep the car for two (2) years or 40,000kms if your medical or your needs change. See below./

Purchasing a car GST-free

Issue

Does the entity, an eligible disabled person who purchased a car <<GST>>-free under Subdivision 38-P of the *A New Tax System (Goods and Services Tax) Act 1999* (<<GST>> Act), have a goods and services tax (<<GST>>) liability when they dispose of the car before the 'Subdivision 38-P period' has expired?

Decision

No, the entity does not incur a <<GST>> liability when they dispose of the car before the 'Subdivision 38-P period' has expired.

Facts

The entity is an individual who is an eligible disabled person. The entity purchased a car <<GST>>-free under Subdivision 38-P of the <<GST>> Act.

At the time of purchasing the car the entity had the intention of using it for the prescribed use under Subdivision 38-P of the <<GST>> Act for at least two years or until the car travelled 40,000 kilometres.

Due to the entity's deteriorating medical condition, the car was no longer suitable for their needs. The entity disposed of the car in order to purchase a more suitable car.

The entity owned the car for less than two years and the car had travelled less than 40,000 kilometres.

The entity is not registered or required to be registered for <<GST>>.

Reasons for Decision

Under Subdivision 38-P of the <<GST>> Act, a supply of a car to a disabled person may be <<GST>>-free.

One of the requirements for a supply of a car to be <<GST>>-free is that the eligible disabled person intends to use the car for the prescribed use under Subdivision 38-P of the <<GST>> Act during all of the 'Subdivision 38-P period'.

Section 195-1 of the <<GST>> Act defines the 'Subdivision 38-P period', in relation to the supply of a car to an individual, as the period starting when he or she acquires the car and ending at the earliest

of the following times:

- (a) The end of 2 years after the acquisition;
- (b) The time when the car is no longer reasonably capable of being used for the purpose for which cars of that kind are ordinarily used;
- (c) a time that the Commissioner considers to be appropriate in special circumstances.

For the purposes of paragraph (c) of the above definition, the Commissioner considers that an appropriate circumstance is where the car has travelled 40,000 kilometres.

The entity satisfied the intention test at the time of purchase of the car. The entity's deteriorating medical condition required the individual to dispose of the car before the end of the 'Subdivision 38-P period'.

There are no provisions in the <<GST>> Act that impose a <<GST>> liability where an eligible disabled person acquires a car <<GST>>-free and disposes of it before the 'Subdivision 38-P period' has expired. Therefore, the entity will not incur a <<GST>> liability when they dispose of the car before the 'Subdivision 38-P period' has expired.

Note: An entity's intention at the time of acquisition will be a question of fact. In the normal course of events the Commissioner would expect that intention to match the actual use. Where the actual use does not match the intended use the Commissioner would expect a valid reason.

Date of decision: 9 July 2002

Legislative References:

A New Tax System (Goods and Services Tax) Act 1999
Subdivision 38-P
Section 195-1

Related ATO Interpretative Decisions

ATO ID 2001/395
ATO ID 2001/496

Keywords

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Cars for disabled <<veterans>>

Cars for other disabled people

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