

QUESTIONS WE'VE BEEN ASKED

GST – Importers and recalculated GST

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QB 22/04

This item clarifies when importers can claim input tax deductions where GST is overpaid to the New Zealand Customs Service (Customs).

Key provisions

Goods and Services Tax Act 1985 – ss 3A(1)(b), 12, and 20(3) and (3C)

Customs and Excise Act 2018 - ss 142 to 145

Question

Can an importer who overpays GST to the New Zealand Customs Service (Customs) claim an input tax deduction for the whole of the GST paid?

Answer

Yes – Customs is prevented from refunding overpaid GST where the importer is a registered person who can claim an input tax deduction. Therefore, the proper mechanism for obtaining a refund of overpaid GST where the importer is a registered person is to claim an input tax deduction for the whole of the GST paid to Customs.

Explanation

1. GST is collected by Customs on the importation of goods (not including fine metal) into New Zealand.
2. A registered person who enters goods for home consumption under the Customs and Excise Act 2018 is allowed an input tax deduction for GST levied by Customs, provided the imported goods are used for, or are available for use in making taxable supplies, other than:
 - the delivery of the goods to a person in New Zealand; or
 - arranging or making easier the delivery of the goods to a person in New Zealand.
3. Customs has powers allowing them to refund a duty, including GST, where:
 - the chief executive is satisfied that duty has been paid in error, either of law or of fact
 - an importer pays duty on goods based on a provisional Customs value and subsequently amends the assessment and the final Customs value results in a lower amount of duty being payable than the importer has already paid
 - duty has been paid on imported goods and a lower rate of duty, or an exemption in respect of the goods, is subsequently approved under the Tariff Act 1988
 - the imported goods:
 - have been damaged, destroyed, pillaged, or lost, or have diminished in value or deteriorated in condition, prior to their ceasing to be subject to the control of Customs; or

- are of faulty manufacture; or
 - have been abandoned to the Crown for destruction or any other form of disposal prior to their ceasing to be subject to the control of Customs.
4. However, Customs is not allowed to refund GST to any registered person in respect of goods imported for the purpose of carrying on that person's taxable activity if the person is entitled to make an input tax deduction in respect of the goods.
 5. Therefore, where GST has been overpaid by a registered person, the proper mechanism is for the registered person to claim an input tax deduction for the whole of the GST paid to Customs. The registered person cannot claim the amount back from Customs or from their customs broker.
 6. This issue will only arise if the GST has actually been paid to Customs. If, for example, GST has been wrongly calculated due to an error of law or fact, and that error is discovered prior to payment being made, the importer (or customs broker) should contact Customs to fix the error. In addition, this issue only arises for GST registered importers who can claim an input tax deduction. If the person cannot claim an input tax deduction Customs is allowed to refund any overpaid GST along with any other duty.

Examples

7. The following examples illustrate the above points.

Example 1 – Error of fact

Imports R Us Ltd imports a container of sports bags. It completes its Import Entry but makes a mistake in calculating the values, resulting in the values being much higher than they should have been. Imports R Us Ltd pays the Customs duties and GST based on the erroneous values. Subsequently, Imports R Us Ltd discovers the error and applies to have Customs amend the duties assessed.

Customs can refund the other duties that have been overpaid. However, Customs is unable to refund the overpaid GST. Instead, Imports R Us Ltd needs to claim an input tax deduction for the whole of the GST originally paid to Customs.

Example 2 – Amended provisional values

Big Time Imports Ltd imports a consignment of big brand shoes. It completes its Import Entry based on the provisional Customs value for the shoes and pays the

Customs duties and GST accordingly. Big Time Imports Ltd also claims an input tax deduction for the GST paid to Customs.

At the end of the income year, Big Time Imports Ltd undertakes its annual transfer pricing calculations. Following these calculations the value of the shoes it imported is decreased. Big Time Imports Ltd can amend its assessment and request a refund from Customs for the overpaid duties. Customs is unable to refund the overpaid GST. However, as Big Time Imports Ltd has already claimed an input tax deduction for the full GST paid there is no need to make any further amendments for the GST paid.

References

Legislative References

Customs and Excise Act 2018 - ss 142 to 145

Goods and Services Tax Act 1985 – ss 3A(1)(b), 12, and 20(3) and (3C)

About this document

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