

## How are you treating your GST on deposits? The ATO certainly wants to know...



... In recent times, there has been a vast amount of press on this issue and ATO **threats of increased audit activity** with regard to GST and the motor industry. Given the recent release of an ATO Ruling on GST and deposits, much of the attention has focused on this particular area of GST.

Given our dealings with the ATO, it should be a timely reminder to revisit your dealerships treatment of GST on deposits. In general, it is our understanding that the ATO has not changed their position on the treatment of deposits. They have, however, clarified their position with regard to **what constitutes a deposit**, in a binding ruling.

Under current legislation, the GST received on a security deposit must be remitted in the period in which the deposit is forfeited or applied towards the consideration for a vehicle.

**The ruling specifically identifies what a security deposit is and its characteristics. In summary the ATO identifies that a security deposit should:**

- 1 Be held as security for the performance of an obligation;
- 2 The contract, conduct and intent of the parties to the contract must be consistent with the payment being a security deposit;
- 3 Be at risk of forfeiture upon failure to perform the obligation; and
- 4 Be a reasonable amount (generally 10% or thereabouts is considered reasonable).

Importantly, the ATO identifies that a security deposit should be distinguished from instalments or part-payments. Generally in this situation, when a part payment is made on a vehicle, the entire GST on the vehicle must be remitted to the ATO in the period in which the part payment is received.

Given the cashflow advantages of deferring GST until the latest possible time, the ATO is **defending its revenue position** by ensuring that dealerships are not disguising part payments as security deposits. For this reason, the ATO have gone on the attack. Firstly by releasing this ruling and secondly, by an increase in audit activity.

It is our recommendation that you should ensure that the deposits received in your dealership meet the above requirements, and sufficient evidence is obtained to support each deposit. As

stipulated above, in most instances, this will not change the way GST is accounted for or remitted to the ATO.

If you have any concerns relating to the treatment of GST in your dealership, we strongly urge you to contact our office so that a thorough review of your GST compliance can be undertaken. Significant ATO penalties can be avoided through correcting genuine mistakes prior to any ATO involvement.

**Should you require any further information on this issue please do not hesitate to contact one of our Motor Dealer Services team:**

**T 9611 6601**

**David Buckley**

Director

E [dbuckley@gtvic.com.au](mailto:dbuckley@gtvic.com.au)

**Frank Genobile**

Director

E [fgenobile@gtvic.com.au](mailto:fgenobile@gtvic.com.au)

**Craig Lawson**

Director

E [clawson@gtvic.com.au](mailto:clawson@gtvic.com.au)

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**Grant Thornton (Vic) Pty Ltd**

ABN 86 281 367 292

ACN 066 421 832

**Chartered Accountants & Business Advisers**

Level 35, South Tower

Rialto Towers

525 Collins Street

Melbourne 3000 Australia

GPO Box 4369

Melbourne VIC 3001

**T +61 3 9611 6601**

**W [www.grantthornton.com.au](http://www.grantthornton.com.au)**

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