

TAX BULLETIN

An update publication for our clients

May 2013

New ATO determination on correcting GST mistakes

On 10 May 2013 the Australian Taxation Office issued a new Determination on correcting GST mistakes, *GSTE 2013/1 Goods and Services Tax: Correcting GST Errors Determination 2013* ("Determination"). This Determination sets out the circumstances under which the ATO will allow taxpayers to correct a GST error in the next Business Activity Statement ("BAS") they lodge in circumstances where the error was made in a previous BAS.

Where GST errors are corrected in the next BAS to be lodged in accordance with the requirements of the Determination, no penalties or general interest charges will apply.

The Determination is a Legislative Instrument issued in accordance with the GST Act and replaces the ATO's previous *Correcting GST Mistakes Guide*. It applies to returns lodged with the Commissioner on or after 10 May 2013.

What is an error?

The Determination recognises that a taxpayer may make either a **debit** error or a **credit** error:

- A **debit** error is a mistake that is made in working out the net amount for a tax period and as a result, the net amount or assessed net amount is understated (i.e. reporting or paying not enough GST);
- A **credit** error is a mistake that is made in working out the net amount for a tax period and, as a result, the net amount or assessed net amount is overstated (i.e. reporting or paying too much GST).

The Explanatory Memorandum that accompanies the Determination provides the following examples of what can constitute a **debit** or **credit** error:

- clerical errors such as failing to include the GST payable on a taxable supply or reporting GST payable on taxable supplies twice;
- understating or overstating the GST payable, for example, entering GST sales as \$10,800 rather than the correct amount of \$10,000;
- overstating or under claiming an input tax credit for a creditable acquisition; or
- omitting, understating or overstating an increasing or decreasing adjustment.

Correcting a credit error

The Commissioner has adopted a more concessionary approach to the correction of **credit** errors. Credit errors are no longer subject to value limits or time limits and may be corrected in the next BAS lodged provided:

- the errors are corrected within the applicable 4 year review period;
- the errors have not been corrected in another BAS; and
- the tax period in which the error was made is not subject to ATO compliance activity.

ATO compliance activity includes reviews, audits, verification checks, record-keeping reviews/audits and similar activities.

Correcting a debit error

The Determination also provides a more concessionary approach to fixing **debit** errors compared to the Commissioner’s earlier *Correcting GST Mistakes Guide*. A debit error can be corrected in the current BAS providing the following conditions are satisfied:

- the tax period in which the error was made is not subject to ATO compliance activity;
- the error has not been corrected in another BAS;
- the error was not a result of recklessness as to the operation of a GST law or intentional disregard of a GST law;
- the error was made within the debit error time limit that corresponds with the taxpayer’s GST turnover (see below); and
- the debit error or the net sum of the debit errors is within the debit error value limit (see below).

Time and value limits for debit errors

As outlined in the conditions above, time and value limits will continue to apply before a **debit** error adjustment can be included in a current BAS. These limits are dependent on the GST turnover of the entity that wishes to make a correction.

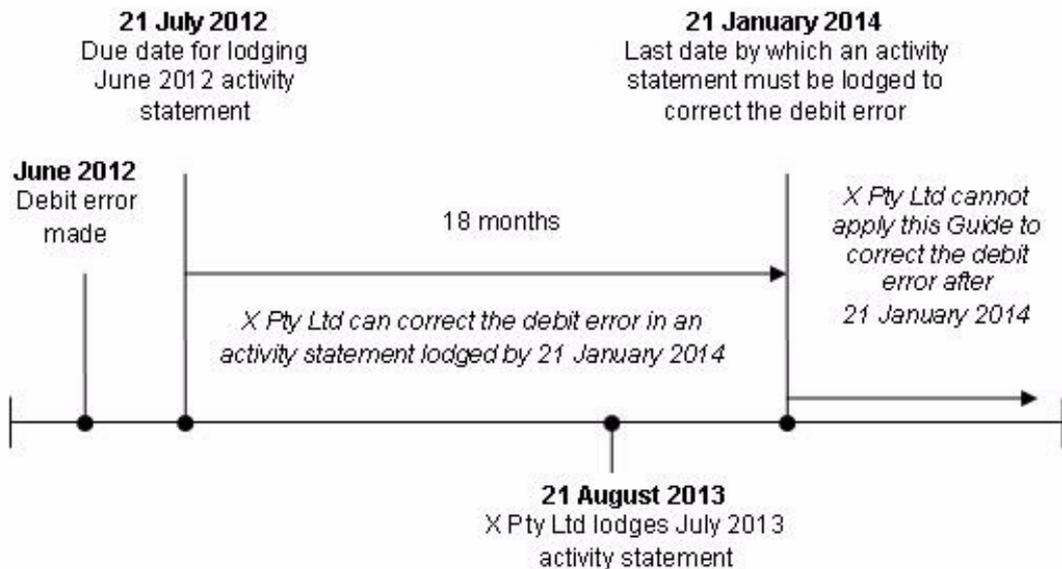
The table below summarises the **debit** error value limits and time limits for correcting mistakes based on a taxpayer’s GST turnover.

GST Turnover	Debit Error Value Limit	Debit Error Time Limit
Less than \$20 million	Less than \$10,000	The debit error must be corrected in a BAS that is lodged within 18 months of the due date of the BAS in which the error was made.
\$20 million to less than \$100 million	Less than \$20,000	The debit error must be corrected in a BAS that is lodged within 12 months of the due date of the BAS in which the error was made.
\$100 million to less than \$500 million	Less than \$40,000	
\$500 million to less than \$1 billion	Less than \$80,000	
\$1 billion and over	Less than \$450,000	

On a positive note, the time limits applicable to taxpayers have been simplified and the monetary thresholds increased.

For entities with a GST turnover of less than \$20 million, the error must be corrected within 18 months from the due date of the BAS that contains the error. For entities with a GST turnover of \$20 million or more, the applicable time limit is 12 months.

The following example from the Explanatory Memorandum illustrates the application of the debit error time limit threshold for making adjustments.



Where the debit error occurs outside of the applicable time limit, irrespective of the monetary value, it will be necessary to amend the original BAS.

Net sum of debit errors

In working out whether a debit error satisfies the time and value thresholds above, a taxpayer is able to add together all **debit** errors that are identified and to subtract any **credit** errors that are also applicable to the review period.

Providing the net sum of the errors is within the applicable value limit set out in the table above, the error can be corrected in the current BAS in accordance with the Determination.

For example, where a taxpayer's GST turnover is less than \$20 million and the taxpayer has made several GST mistakes (both debit and credit errors) in the past 12 months, and the net sum of those errors is less than \$10,000, the taxpayer is entitled to correct the net GST error in a current BAS.

Late input tax credit claims - transactions that are not errors

A failure to claim an input tax credit in the period that it is available is of itself not an error within the terms of the Determination. This is because input tax credits can be claimed in a later tax period through the normal application of the GST Act. For example, a situation where

a taxpayer discovers a valid tax invoice from 12 months ago that has not been included in any previous BAS is not an error.

By way of contrast, a taxpayer does make a GST error where due to clerical error, only a partial GST input tax credit is claimed but the taxpayer is actually entitled to a full input tax credit.

Accordingly, input tax credit entitlements that have not been claimed at all should be disregarded when working out whether the applicable value limit has been exceeded.

Exceeding the debit error value limit

In situations where the sum of the **debit** errors exceeds the **debit** error value limit, it is possible to make a correction up to the relevant value limit in the current BAS and to amend or revise the original BAS to correct the remainder of the error.

For example, an entity with a turnover of less than \$20 million is subject to an error value limit of \$10,000 and has discovered a debit error of \$12,000 in a prior BAS. The entity can include a \$10,000 adjustment in its next BAS that is due for lodgement but will have to amend the original BAS in which the error was made for the remaining amount of \$2,000.

When an error may not be corrected

A taxpayer cannot correct an error if it relates to an amount to which the four year time limits applies and that time limit has expired.

Further information

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