

## **Briefing Paper on GST**

Applicability of GST on environmental certificates (STCs, VEECs and ESCs) has at times been a difficult issue for the solar and energy efficiency industry. There has often been confusing and contradictory information about in the market place. The Australian Tax Office (ATO) has had an extensive audit program running for the last few years focused on the solar industry. It appears that the ATO will be targeting the energy efficiency industry soon with a view to ensuring that the industry complies with the legislation.

There are several important principles that govern the treatment of GST relating to environmental certificates and it is important that these are understood by the industry. The two key principles are:

1. The “sale of the system” and the “assignment of the right” to create certificates are two separate transactions:
  - The first transaction is where the supplier/installer sells a system to customer. GST must be paid on the full value of the supply, before accounting for the value of the certificates; and
  - The second transaction is where the customer assigns the right to create the certificates to the registered (approved) certificate creator (i.e. a “registered person” pursuant to Division 2 Part 2 of the Renewable Energy (Electricity) Act 2000 which is commonly referred to as a “registered agent”). If the customer is not registered for GST then no GST is attributable to this transaction. If the customer/system owner is registered for GST then the customer must invoice the registered certificate creator to which it has assigned the rights to create the certificates for the GST.

The ATO has made it clear that it is not possible to net off these supplies. Each transaction must be accounted for separately.

2. An input tax credit (deduction for the GST paid) cannot be claimed by the registered certificate creator unless it has a compliant tax invoice from the customer that has assigned it the right to create the certificates. This means that the invoice must come from the system owner/customer and not from the installer or any-one else.

The ATO has developed a guideline on the issue which is available from the ATO’s website: <http://www.ato.gov.au/Business/GST/In-detail/Your-industry/Other-industries/GST-and-the-small-scale-renewable-energy-scheme/>

An extract of the relevant guideline is attached below.

RAA has been in discussions with the ATO to assist members and other industry participants develop an understanding of the ATO’s requirements and to illustrate this by way of an example. Together with the ATO we have developed a flow diagram that illustrates the transactions in a typical process whereby the customer / system owner is registered for GST. This is included as an attachment to this Briefing Paper and has been deemed to be compliant by the ATO.

**Disclaimer:** Use of any information from this site or any other web site referred to is for general information only. RAA does not provide advice on any personal or business tax requirements or issues and accepts no liability for the content of this briefing paper or other information on this website. Parties should procure their own independent tax, accounting and/or legal advice.

## Extract from the ATO website

### **Offsetting**

*For GST purposes, the GST consequences of each transaction have to be accounted for separately. There is no provision to 'net off' sales and apply GST to the net figure.*

*It is understood that price offsetting commonly occurs for the purchase of eligible solar water heaters and small generation units where the customer chooses to assign their rights to create a STC to another entity. The payment received for the sale of the assignment of the rights is then applied to reduce the amount paid by the customer to the seller of the eligible system for the purchase of the system.*

### **Example 2 - Separate transactions**

*A retailer of a solar water heater sells an eligible system to a customer for a GST inclusive price of \$4,400. The customer signs an agreement to assign their right to create STCs in relation to the solar water heater to the retailer, who is a RET registered agent. In return for the assignment, the retailer makes a payment to the customer. However, rather than the payment being made directly to the customer, the retailer of the solar water heater applies this payment as a reduction in the price of the solar water heater.*

*The retailer offers a reduction in the price of the solar water heater (commonly referred to as a credit, discount or rebate) of say, \$600, to a customer which represents the payment made for the assignment of the customer's right to create STCs to the retailer. The customer will pay the retailer a net price of \$3,800.*

*There are two supplies happening here which need to be examined and accounted for separately for GST purposes.*

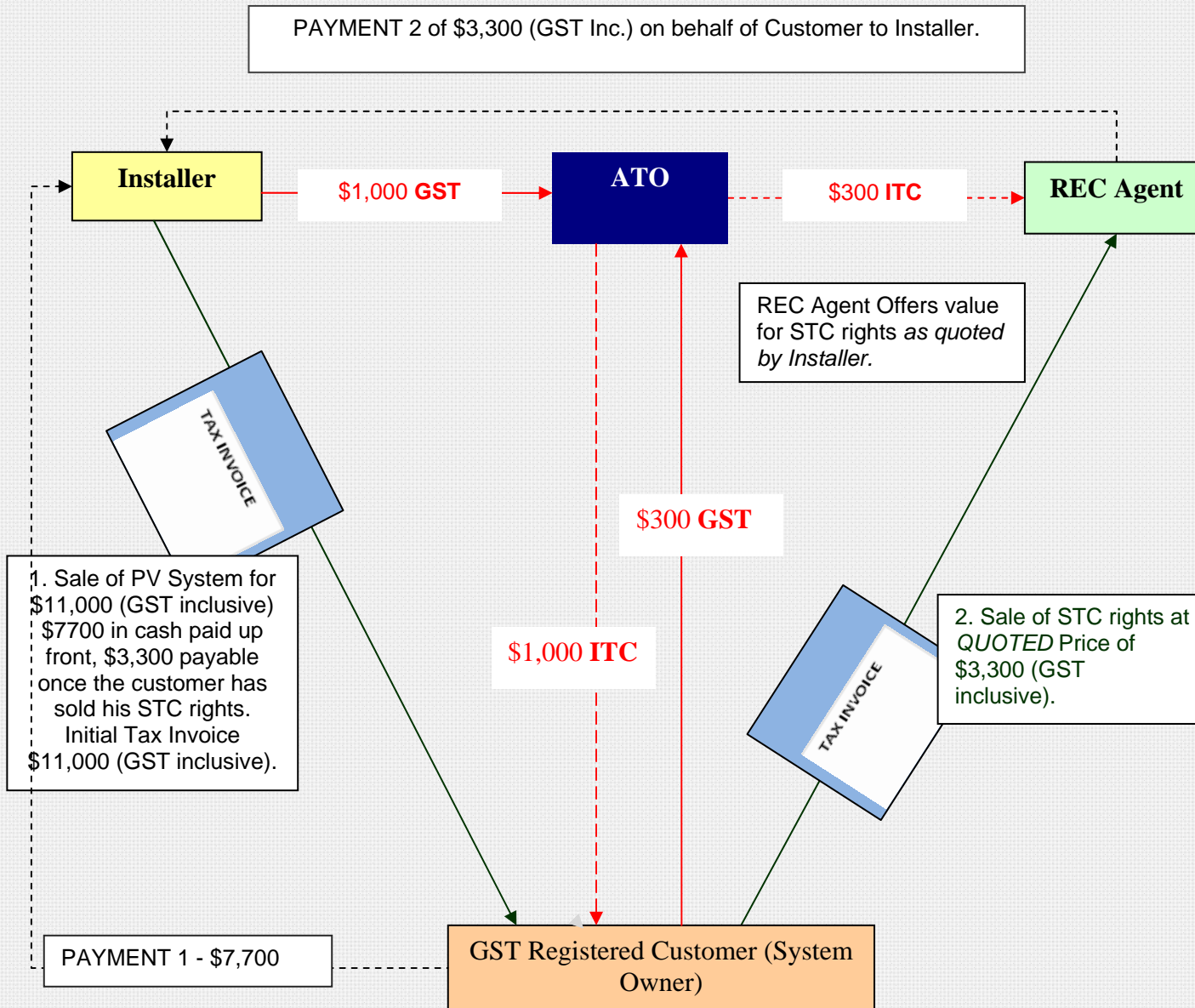
*The first supply is the supply of the installed solar water heater to the customer for the GST inclusive price of \$4,400. The retailer is liable to remit GST of one-eleventh of the price of this supply. Note that this GST liability is calculated **before** the reduction in price arising from the application of the payment made for the assignment of the right to create the STC as it is a separate transaction.*

*The second supply is the supply by the customer of the assignment of the right to create STCs to the retailer, the consideration for which is \$600 applied as a reduction in the price of the solar water heater to the customer.*

*Where the customer is not registered or required to be registered for GST, the supply is not subject to GST. Where, however, the customer is registered or required to be registered for GST, the supply is a taxable supply and the customer is liable to remit GST of one-eleventh of the price of this supply. The GST registered customer should provide a tax invoice to the retailer so they can claim the relevant GST credits.*

*It is therefore not possible to net off these supplies and apply GST to the net figure. Each transaction must be accounted for separately.*

# Attachment - Compliant Process based on ATO Rules



## Case 1: STC Converted Price (CP) = STC Quoted Price (QP)

### Facts of this case:

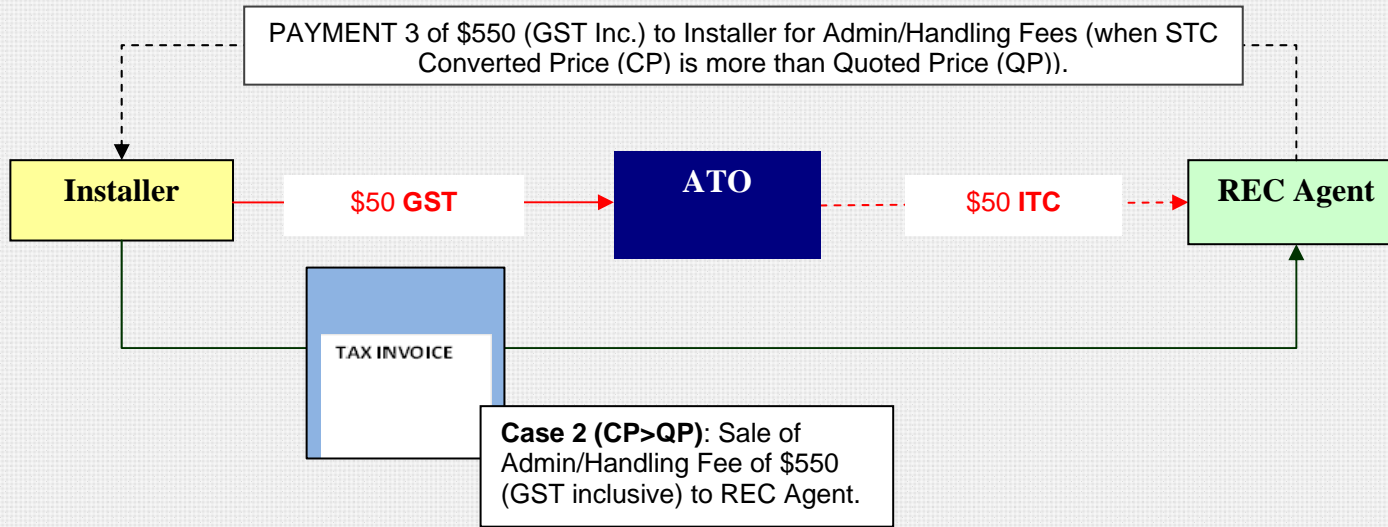
- An installer (registered for GST) sells a PV System to a GST registered customer.
- The total system price is \$11,000 (GST Inclusive).
- The customer has accepted an agreement with the installer to assign the STCs rights for the delayed payment of \$3,300 which is equal to the quoted GST-Inclusive value of the STC rights (QP).
- The installer is prepared to receive a portion of the payment, in this case \$3,300, via the REC Agent after the STCs have been created.
- The customer has instructed, through the assignment form, that all payment due for the assignment of right to create STCs plus GST will be made to installer.
- All parties account for GST on an accrual basis.
- The quoted price for the STC rights is based on prevailing market valuation at the time of quote.
- The Converted Price (CP) for the STC rights, which is the price the installer agrees to receive from the REC Agent, is equal to the Quoted Price (QP).

**N.B. the installer is neither offering a 'discount' (merely accepting a delayed payment) nor do they ever 'own' the STC rights.**

### The ATO has made it clear that:

1. The sale of the PV system to the customer **must be** a separate transaction to the assignment of the right to create STCs by the customer.
2. For GST purposes, the system owner is the supplier of the right to create STCs.
3. An Input Tax Credit (ITC) **CANNOT** be claimed by the REC Agent unless they hold a compliant tax invoice from the customer for a taxable supply of the right to create STCs.

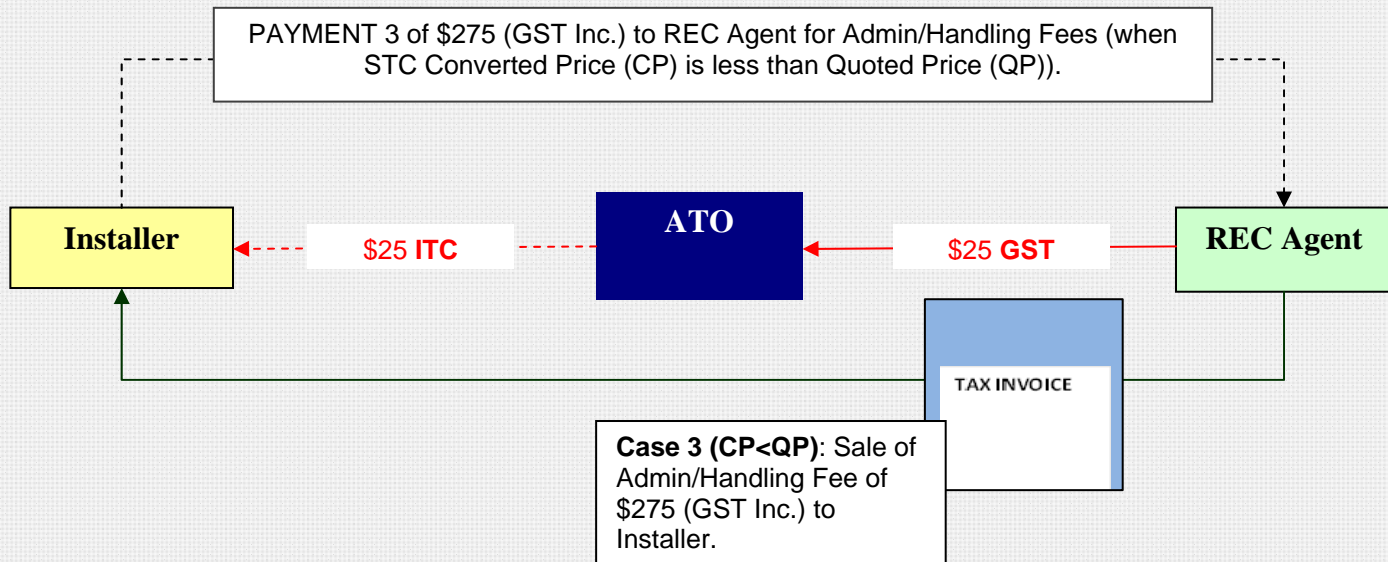
# Attachment - Compliant Process based on ATO Rules



## Case 2: STC Converted Price (CP) > STC Quoted Price (QP)

### Facts of this case:

- Same as Case 1, except that the Converted Price (CP) for the STC rights, say \$3,850 (GST inclusive), is more than the Quoted Price (QP) of \$3,300 (GST inclusive).
- The REC agent agrees to pay the Installer an Admin/ Handling Fee for the difference of \$550 (GST inclusive).



## Case 3: STC Converted Price (CP) < STC Quoted Price (QP)

### Facts of this case:

- Same as Case 1, except that the Converted Price (CP) for the STC rights, say \$3,025 (GST inclusive), is less than the Quoted Price (QP) of \$3,300 (GST inclusive).
- The Installer agrees to pay the REC agent an Admin/Handling Fee for the difference of \$275 (GST inclusive) without further recovery recourse from customer.