

Transfer of going concern

68. (1) Where any taxable person (hereinafter referred to as the “transferor”) transfers his business to another person (hereinafter referred to as the “transferee”) as a going concern—

- (a) for the purposes of determining whether the transferee is liable to be registered under this Act, the transferee shall be treated as having carried on the business before as well as after the transfer and any supply by the transferor shall be treated as supplied by the transferee; and
- (b) the transferor shall transfer to the transferee, unless otherwise permitted in writing by the officer of goods and services tax upon the request of the transferor, all records relating to the business as required under section 36 and the transferee shall keep the records in accordance with section 36.

(2) Where a business or part thereof carried on by a taxable person is transferred as a going concern to a transferee, who is or is to be a taxable person by virtue of the transfer together with the assets of the business—

- (a) any right of the transferor to a credit for input tax or a refund of tax shall become the right of the transferee whether or not existing at the date of the transfer and when the transferor has made a claim for credit for input tax or refund of tax before the date of transfer, it shall be treated as having been made by the transferee; and
- (b) any liability of the transferor existing at the date of the transfer to furnish a return or to account for or pay tax under section 41 shall become the liability of the transferee and any return furnished or tax accounted for or paid by the transferor shall be treated as having been made by the transferee.

(3) Where a business carried on by a transferor, who has been approved to account for the tax on a payment basis, is transferred in circumstances where subsection 20(4) applies, the transferee shall continue to account for and pay the tax on the supplies made and received by him on or after the date of transfer as if he were the transferor who was given the approval to account for the tax on a payment basis.

(4) The transferor and transferee may claim any input tax incurred which is incidental to the transfer of going concern.