



Explanatory Statement

Goods and Services Tax: Particular Attribution Rules Determination (No. 29) 2016 for Electricity Distribution Services

General outline of determination

1. This determination is made under subsection 29-25(1) of the *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act) on the basis that paragraph 29-25(2)(e) of the GST Act applies.
2. The determination sets out the particular attribution rules for GST and adjustments relating to taxable supplies of electricity distribution services in the circumstances described in the determination.
3. The determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Date of effect

4. The determination commences on the day after registration.

What is this determination about

5. Under section 29-25 of the GST Act, the Commissioner may determine the tax period or periods to which GST payable, input tax credits and adjustments for taxable supplies, creditable acquisitions and creditable importations of certain kinds are attributable on the basis that the basic attribution and the special rules in Chapter 4 of the GST Act apply inappropriately.
6. Subsection 29-25(2) of the GST Act provides the circumstances where the Commissioner may make these particular attribution rules. Paragraph 29-25(2)(e) involves a supply or acquisition occurring before the supplier or recipient knows the total consideration.
7. The determination sets out the particular attribution rules for GST payable and adjustments relating to taxable supplies of electricity distribution services by an entity who
 - makes a taxable supply of electricity distribution services and the invoice for the supply is issued by a billing agent who is not an associate; and
 - does not know the total consideration for the supply when any consideration is received for the supply or an invoice is issued relating to the supply; and

- ascertains the total consideration for the supply based on information provided by a billing agent, alternatively ascertains the amount of adjustment based on information provided by a billing agent; and
 - accounts on a non-cash basis.
8. In the circumstances described in Clause 4 of the determination, the GST payable relating to the taxable supply of electricity distribution services is attributable to the tax period in which the billing agent provides the information so that the total consideration can be ascertained.
 9. In the circumstances described in Clause 4 of the determination, the adjustment relating to the taxable supply of electricity distribution services is attributable to the tax period in which the entity in becomes aware of the adjustment.

What is the effect of this determination

10. The determination changes the basic attribution rules for GST payable in the circumstances set out in the determination. It overrides the attribution rule in subsection 29-5(1) of the GST Act for a taxable supply by an entity who accounts on a non cash basis.
11. This determination is not intended to override the requirement to hold a tax invoice or adjustment note prior to claiming an input tax credit or making a decreasing adjustment (subsection 29-10(3) and subsection 29-20(3) of the GST Act respectively). It does not override the provisions in the GST Act relating to resident agents acting for non-residents (Division 57); agents and insurance brokers (Division 153) or supplies and acquisitions made on a progressive or periodic basis (Division 156).
12. Compliance cost impact: minor- there will be no or minimal impacts for both implementation and ongoing compliance costs. The legislative instrument is minor or machinery in nature.

Background

13. This determination replaces the *A New Tax System (Goods and Services Tax) Act 1999 (Particular Attribution Rules for Suppliers of Electricity Distribution Services relying on information from Billing Agents) Determination 2003* (the previous determination)- F2006B00501. The replaced instrument is repealed on commencement of this determination.

Consultation:

14. Section 18 of the *Legislative Instruments Act 2003* specifically provides for circumstances where consultation may not be necessary or appropriate. One of those circumstances is where the instrument is considered minor or machinery in nature, and does not substantially change the law.
15. In this case, no further consultation has been undertaken in the development of this determination because there is no substantive change from the previous determination and it is considered minor or machinery in nature.

Legislative references:

A New Tax System (Goods and Services Tax) Act 1999

Legislative Instruments Act 2003

Timothy Dyce
Deputy Commissioner of Taxation
24 February 2016

Statement of Compatibility with Human Rights

This statement is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

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This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

This Legislative Instrument prescribes the particular attribution rules for GST payable and adjustments relating to the taxable supply of electricity distribution services in the circumstances described in the determination. It prevents the basic rules of attribution and special rules under Chapter 4 of the *A New Tax System (Goods and Services Tax) Act 1999* from applying inappropriately because the supply occurs before the supplier of electricity distribution services knows the total consideration.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms as it is considered to be minor or machinery in nature and does not substantially change the law.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.