



A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Creditable Acquisition of Taxi Travel) Legislative Instrument 2013

Explanatory Statement

General outline of this instrument

1. This legislative instrument is made under subsection 29-10(3) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).
2. This instrument waives the requirement for a recipient making a creditable acquisition of taxi travel to hold a tax invoice for an input tax credit to be attributable to a tax period when they hold a document (for the supply of taxi travel) that meets the requirements prescribed in this instrument.
3. This instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
4. All legislative references in this explanatory statement are to provisions in the GST Act unless otherwise specified.

Commencement and application of this instrument

5. This instrument commences on 1 July 2010 and applies to net amounts for tax periods commencing on or after that date.
6. The retrospective application of this instrument does not have an adverse effect on the rights or liabilities of any person other than the Commonwealth.¹ The effect of this instrument is to the advantage of affected parties. It waives the requirement for a recipient making a creditable acquisition of taxi travel (including a reimbursement of taxi travel to an employee, associate, agent, officer or partner) to hold a tax invoice before an input tax credit is attributable to a tax period when the recipient holds a document that meets the requirements prescribed in the instrument.

¹ Subsection 12(2) of the *Legislative Instruments Act 2003* provides that a retrospective legislative instrument (or provision of that instrument) will be of no effect if it applies to adversely affect the rights or liabilities of any person other than the Commonwealth or under an authority of the Commonwealth.

7. These prescribed requirements are not substantively different to those set out in circumstances under which documents that contained the taxi driver's licence or accreditation number and the driver's Australian business number (ABN), were treated as tax invoices in the 'Record Keeping' section of the Taxi Industry Issues Register. Suppliers that applied the previous information requirements therefore do not have to change their software or accounting systems to comply with this instrument.

8. This instrument applies retrospectively to align with the date of effect of the legislative change for tax invoices.²

What is this instrument about?

9. The effect of this instrument is that an input tax credit for a creditable acquisition is attributable to a tax period for acquisitions of taxi travel when the recipient or their agent holds a document other than a tax invoice. This instrument also sets out the particular information that must be included in this document for the input tax credit to be attributed to that tax period.

What is the effect of this instrument?

10. This instrument relieves a recipient from the requirement to hold a tax invoice before an input tax credit for a creditable acquisition is attributable to a tax period when the recipient or their agent holds a document that meets the requirements of this instrument.

11. This instrument intends to give effect to the same general treatment as when the Commissioner exercised the discretion in the 'Record Keeping' section of the Taxi Industry Issues Register to treat documents that contain the taxi driver's licence or accreditation number as a tax invoice.

12. Compliance cost impact: An assessment of the compliance cost impact indicates that the impact will be minimal for both the implementation and on-going compliance costs. The instrument is routine in nature.

Background

13. Generally, when a recipient makes a creditable acquisition, an input tax credit for the acquisition is not attributable to a tax period until they hold a tax invoice. A tax invoice is a document that meets the requirements in subsection 29-70(1).

14. In some cases, the necessity for the recipient to hold a document that meets the requirements of subsection 29-70(1) may impose a disproportionate burden on a supplier or a recipient, particularly if the document that they hold has most of the required features of a tax invoice.

15. The Commissioner had stated in the Taxi Industry Issues Register the particular circumstances in which the discretion under former subsection 29-70(1) to treat a document as a tax invoice would be exercised. The Commissioner's discretion to treat a document as a tax invoice is now contained in subsection 29-70(1B).

16. The Commissioner's discretion under subsection 29-70(1B) is administrative and can only be exercised on a case by case basis. Therefore it is no longer appropriate to deal with this matter in a public ruling. Instead, the Commissioner is making a

² See *Tax Laws Amendment (2010 GST Administration Measure No.2) Act 2010* and the repeal of regulations 29.70.01 and 29.70.02 to the *A New Tax System (Goods and Services Tax) Regulations 1999* by the *A New Tax System (Goods and Services Tax) Amendment Regulations 2010 (No.1)* (206 of 2010).

determination under subsection 29-10(3) to ensure that taxpayers do not have to change their administrative practices.

Explanation

17. Provided the requirements of this instrument are met, for the purposes of attributing an input tax credit for a creditable acquisition to a tax period, a recipient that makes a creditable acquisition of taxi travel is not required (under subsection 29-10(3)) to hold a tax invoice for the creditable acquisition.

18. This includes situations covered by Division 111 where a recipient reimburses an employee (or associate), an agent, an officer of a company or a partner for taxi travel related to their activities in that role.

Creditable acquisition of a supply of taxi travel

19. Where a recipient makes a creditable acquisition of taxi travel the document issued by the taxi driver, for example a CabCharge or EFTPOS receipt, will not be a tax invoice if it does not contain enough information to clearly ascertain the identity of the taxi driver.³

20. The document will usually contain the taxi driver's licence or accreditation number (issued by a State or Territory government regulatory body authorising a person to drive a taxi) instead of the taxi driver's identity. This is because of the limitation of the EFTPOS terminal which links to the taxi meter for which the taxi driver's licence or accreditation number is the unique identifier.

21. This means that an input tax credit for a creditable acquisition of the taxi travel would not be attributable to a tax period until the recipient holds a tax invoice, which the recipient may never be able to obtain. This instrument recognises this difficulty and where a recipient holds a document that contains the taxi driver's licence or accreditation number and the taxi driver's ABN, and that otherwise satisfies the requirements of paragraphs 29-70(1)(a) and 29-70(1)(c), this instrument has the effect of allowing the input tax credit for a creditable acquisition of the taxi travel to be attributed at the time the recipient gives their GST return for the tax period to the Commissioner.

22. This instrument ensures that the Commissioner need not exercise the administrative discretion in subsection 29-70(1B) for each creditable acquisition of taxi travel that a recipient makes.

Consultation

23. 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.

³ Subparagraph 29-70(1)(c)(i) provides that a tax invoice must contain enough information to be able to clearly ascertain the supplier's identity.

24. Although the instrument was considered minor or machinery in nature, and does not substantially change the law, consultation was carried out to the following extent:

- comment was invited from the Australian Taxation Office's National Tax Liaison Group GST Subcommittee; and
- comment was invited from members of the community through the publication of a consultation draft of this instrument and explanatory statement.

James O'Halloran

Deputy Commissioner of Taxation

19 March 2013

Legislative references

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

29-10(3)

29-70(1)

29-70(1)(a)

29-70(1)(c)

29-70(1)(c)(i)

29-70(1B)

Div 111

Legislative Instruments Act 2003

12(2)

18

Human Rights (Parliamentary Scrutiny) Act 2011

Part 3

3

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

29-70.01

29-70.02

Other references

Taxi Industry issues register

Subject references

Goods and services tax

Acquisitions and supplies by agents

Attribution rules

Creditable acquisition

GST input tax credits & creditable acquisitions

Reimbursement of employees

Taxable supply

Tax invoices

Tax Office references

NO:

ISSN:

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

This instrument waives the requirement for a recipient making a creditable acquisition of taxi travel to hold a tax invoice for an input tax credit to be attributable to a tax period when they hold a document for the supply of taxi travel that meets certain conditions.

Human Rights Implications

On an assessment of the compatibility of this instrument with the seven core international human rights treaties to which Australia is a party, it has been determined that this instrument does not engage any of the applicable rights or freedoms because the instrument is minor or machinery in nature.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

James O'Halloran
Deputy Commissioner of Taxation