COMMONWEALTH OF AUSTRALIA

A NEW TAX SYSTEM (GOODS AND SERVICES TAX) ACT 1999 (CTH)

DETERMINATION:

I, Anthony Long in the exercise of the powers and functions conferred upon me, by delegation from the Commissioner of Taxation pursuant to section 8 of the *Taxation Administration Act 1953* (Cth), do hereby determine under subsection 29-20(3) of the *A New Tax System (Goods and Services Tax) Act 1999*:

Citation

1. This determination is the *A New Tax System (Goods and Services Tax) Waiver of Adjustment Note Requirement Determination (No. 5) 2004 – American Express International Inc. KR 1025 Electronic Data Feed.*

Commencement and application

2. (1) This determination commences on 1 July 2004.

(2) This determination terminates the *A New Tax System (Goods and Services Tax) Act 1999 Waiver of Adjustment Note Requirement Determination 2003 – AMERICAN EXPRESS INTERNATIONAL INC. KR 1025 LECTRONIC DATA FEED* (the "predecessor determination").

(3) This determination does not revoke or vary any other previous determination made by the Commissioner or a delegate of the Commissioner.

(4) This determination applies in relation to net amounts for tax periods starting on or after 1 July 2004.

(5) The predecessor determination ceases to apply in relation to net amounts for tax periods starting on or after 1 July 2004.

Circumstances where the requirement for an adjustment note does not apply

3. The circumstance set out in the following paragraphs is the circumstance of a kind in which the requirement for an adjustment note under subsection 29-20(3) of the Act does not apply.

4. A Member of American Express International Inc. that holds a daily or monthly KR 1025 electronic data feed will not be required to hold an adjustment note, for a decreasing adjustment arising from an adjustment event, relating to a creditable acquisition purchased with the Corporate Card, in order to attribute, to a tax period, an adjustment to an input tax credit previously attributed for an acquisition, provided that at the time the Member gives its GST return/Business Activity Statement (‘BAS’) for the tax period to the Commissioner:

(a) The Member holds a daily or monthly KR 1025 electronic data feed produced by American Express International Inc. that includes the following details:
   (i) The name of the Member;
   (ii) The name(s) of the person(s) who use(s) the American Express International Inc. Corporate Card to purchase the creditable acquisition(s) to which the adjustment relates;
   (iii) The Australian Business Number ('ABN') or address of the Member; and
   (iv) For each acquisition for which the Member may adjust the amount of input tax credit previously attributed, the daily or monthly KR 1025 electronic data feed has:
      - the date the Member facilitated the adjustment;
      - the supplier's name;
      - the supplier's ABN;
      - the supplier's Branch Registration Number (where applicable);
      - the difference between the price of the supply or supplies before the adjustment event and the new price of the supply or supplies subsequent to the adjustment being made;
      - a brief explanation of the reason for the adjustment, for example, "discount", "refund", "rebate", "return" or a code by which the reason is readily ascertained, such as REF for a refund;
      - the amount of the adjustment to the GST payable or a statement to the effect that the difference in the price of the taxable supply or supplies includes GST;

(b) The Member has an effectively regulated corporate policy for making adjustments for expenditure on the Corporate Card that is of a private or domestic nature and was not made in connection with the carrying on of the Member's enterprise;

(c) The Member has supplementary documentation supporting each adjustment on the daily or monthly KR 1025 electronic data feed that has a private or domestic component and the documentary evidence clearly identifies the creditable and non-creditable components of the adjustment; and

(d) American Express International Inc. meets the conditions set out in paragraphs 5 and 6 below.

5. American Express International Inc. must provide the date each adjustment on the daily or monthly KR 1025 electronic data feed statement was made.

6. Where all the information required on the daily or monthly KR 1025 electronic data feed is not provided by the merchant to American Express International Inc., the latter may, until 30 June 2006, separately obtain the supplier's ABN and GST registration status and then calculate the amount of GST on the adjustment provided American Express International Inc.:

(a) has obtained a signed statement from each merchant that states:
    (i) the merchant's ABN and Branch Registration Number (where applicable);
    (ii) whether or not the merchant is registered for GST;
    (iii) the type of supply or supplies (i.e., taxable, GST-free and/or input taxed) the merchant provides;
    (iv) where the merchant only provides taxable supplies, whether or not GST is calculated at $1/11^{th}$ of the price for all the taxable supplies the merchant provides; and
    (v) provides American Express International Inc. with an undertaking that it will be notified –
        - when the merchant ceases to be registered for GST; or
        - when the merchant ceases to make only taxable supplies where the GST is calculated at $1/11^{th}$ of the price;

(b) retains the signed statement for at least 5 years after the merchant ceases its association with American Express International Inc.;

(c) clearly identifies each adjustment in the daily or monthly KR 1025 electronic data feed that may relate to a GST-free, input taxed or mixed supply;

(d) clearly identifies each adjustment relating to a supply where GST may not be $1/11^{th}$ of the price;

(e) where an adjustment has been identified as relating to a supply that may be GST-free, input taxed or a supply where GST may not be $1/11^{th}$ of the price, advises the Member to obtain an adjustment note before attributing an adjustment to an input tax credit to a tax period; and

(f) where American Express International Inc. has obtained information that the merchant is not registered, or ceases to be registered for GST, American Express International Inc. must not calculate an amount of GST for adjustments from that merchant. Instead, American Express International Inc. must state that the amount of GST included in the adjustment is $nil.

7. Notwithstanding the absence of a brief explanation of the reason for the adjustment, the daily or monthly KR 1025 electronic data feed will be considered as satisfying the requirements of paragraph 4(a) until 30 June 2006.

Situations where an adjustment note is still required

8. The Member will still need to obtain an adjustment note before attributing an adjustment to a tax period for an adjustment on the daily or monthly KR 1025 electronic data feed where:

(a) the daily or monthly KR 1025 electronic data feed indicates that the adjustment relates to a supply that may be a mixed supply or a taxable supply where GST is not $1/11^{th}$ of the price; or

(b) where there is an error on the daily or monthly KR 1025 electronic data feed in relation to the adjustment.

Definitions

9. The following expressions are defined for the purposes of this determination:

the Act means the *A New Tax System (Goods and Services Tax) Act 1999*.

The person(s) who uses the Corporate Card includes a partner, sole trader, director or employee of an entity.

Daily or monthly KR 1025 electronic data feed is an electronic statement of liability that is issued by American Express International Inc. to one of its clients.

Corporate Card is a card that is issued to and in the name of an entity and is used to purchase goods and services for commercial purposes.

Member is the registered entity that is a corporate holder of the Corporate Card.

Mixed supply is a supply of one or more taxable supplies and any one of the following supplies:

- a supply that is GST-free or input taxed;
- a supply that was made before 1 July 2000.

Other expressions in this determination have the same meaning as in the Act.

Dated this 9th day of July 2004.

Anthony Long
ASSISTANT DEPUTY COMMISSIONER OF TAXATION
Goods and Services Tax (Financial Supplies & Insurance)