



A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Acquisitions by Recipients Using Electronic Purchasing Systems) Legislative Instrument (No. 1) 2012

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* (the GST Act).
2. This instrument waives the requirement for a recipient making a creditable acquisition using electronic purchasing systems¹ to hold a tax invoice for an input tax credit to be attributable to a tax period.
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.² The effect of the instrument is to the advantage of affected parties. It waives the requirement for a recipient making a creditable acquisition of a thing or things using electronic

¹ Electronic purchasing systems include 'evaluated receipt settlement', 'purchase without invoice' and 'automatic invoicing' systems.

² 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.

purchasing systems to hold a tax invoice before an input tax credit is attributable to a tax period when the recipient holds documents that together meet the information requirements prescribed in the instrument.

7. These prescribed information requirements are not substantively different to the requirements under which certain documents relating to an electronic purchasing system were together treated as tax invoices in Goods and Services Tax Ruling GSTR 2000/17 – Goods and services tax: tax invoices (withdrawn on 25 May 2011). This means that a recipient does not have to change their software or accounting systems to issue documents that would comply with this instrument.

8. If this instrument did not apply retrospectively, a recipient could be liable to an administrative penalty and the imposition of the General Interest Charge in respect of input tax credits attributed to a tax period in which the recipient did not hold a document that complied with the requirement for the document to contain enough information to clearly ascertain what is supplied, including the quantity (if applicable) and the price of what is supplied under subparagraph 29-70(1)(c)(iii), after the withdrawal of GSTR 2000/17. This is because the documents held by the recipient at the time of lodging its GST return³ must be considered individually for the purposes of meeting the information requirements for a tax invoice⁴ and cannot be treated together as a tax invoice,⁵ and the input tax credit would therefore be incorrectly attributed to a tax period.

What is this instrument about?

9. This instrument explains that an input tax credit for a creditable acquisition is attributable to a tax period for acquisitions made using an electronic purchasing system when the recipient holds documents other than a tax invoice. This instrument also sets out the particular information that should be included in these documents 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 holds documents relating to an electronic purchasing system that together meet the requirements of this instrument.

11. This instrument is intended to effect the same general treatment as when the Commissioner had exercised the discretion to treat documents (or a combination of documents) that a recipient held as a tax invoice when using electronic purchasing systems in GSTR 2000/17.

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.

³ The GST return forms part of the Activity Statement.

⁴ Subsection 29-10(3) provides that a recipient must hold a tax invoice for an input tax credit for a creditable acquisition to be attributable to a particular tax period.

⁵ Unless, on a recipient's request, the Commissioner exercised the discretion under subsection 29-70(1B) to treat a document as a tax invoice.

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 requirement 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 recipient, particularly if that document has most of the required features of a tax invoice.

15. GSTR 2000/17 outlined circumstances under which a recipient may arrange and record supplies and issue recipient created tax invoices, using an electronic purchasing system, that were treated as tax invoices because the Commissioner exercised the discretion under former subsection 29-70(1). These systems may create a document that complies with the requirements for a tax invoice, apart from the requirement to be able to clearly ascertain what is supplied, including the quantity (if applicable) and the price of what is supplied under subparagraph 29-70(1)(c)(iii), but refer to another document from which this information could be obtained, such as a purchase order. 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. The binding statements in GSTR 2000/17 may have confined or restrained the Commissioner's discretion and in light of this it is therefore not appropriate to deal with this matter in a public ruling.

17. To avoid imposing an administrative burden on suppliers and recipients who relied on GSTR 2000/17 the Commissioner has chosen to make a determination under subsection 29-10(3) to allow these administrative practices to continue.

Explanation

18. A recipient created tax invoice is an exception to the requirement that the supplier must issue a tax invoice.⁶ To be a recipient created tax invoice, a document issued by a recipient must comply with the information requirements for a recipient created tax invoice under subsection 29-70(1).

19. An electronic purchasing system allows a recipient to make creditable acquisitions, arrange and record supplies, and issue documents that are intended to be recipient created tax invoices.

20. These systems produce a summary document of the taxable supplies acquired from a supplier that otherwise satisfies the requirements of subsection 29-70(1), except for the requirement to be able to clearly ascertain what is supplied, including the quantity (if applicable) and the price of what is supplied under subparagraph 29-70(1)(c)(iii).

21. As a result, a summary document produced by the electronic purchasing system and issued by the recipient would not satisfy the requirements of section 29-70(1). An input tax credit for a creditable acquisition would therefore not be attributable to a tax period until the recipient held a document that complied with the requirements for a tax invoice.

⁶A recipient created tax invoice is a tax invoice belonging to a class of tax invoices that the Commissioner has determined in writing may be issued by the recipient of a taxable supply.

22. However, where a recipient, in addition to the summary document, holds another document referred to in that summary document, and that other document describes each thing supplied, including the quantity (if applicable) and the price of what is supplied, this instrument allows the input tax credit to be attributed on the basis of those documents together at the time the recipient gives their GST return for the tax period to the Commissioner.

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.

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:

- feedback was invited from the 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.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

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25. This 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

26. This instrument waives the requirement for a recipient to hold a tax invoice before an input tax credit is attributable to a tax period for creditable acquisitions made using electronic purchasing systems.

Human rights implications

27. On an assessment of the compatibility of this instrument with the seven core international human rights treaties to which Australia is a party, this instrument has been determined not to engage any of the applicable rights or freedoms.

Conclusion

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

James O'Halloran
Deputy Commissioner of Taxation

[date of issue]

Related Rulings / Determinations

GSTR 2000/17 (Withdrawn)

Legislative references

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

29-10(3)

29-70(1)

29-70(1)(c)(iii)

29-70(1B)

Legislative Instruments Act 2003

12(2)

18

Human Rights (Parliamentary Scrutiny) Act 2011

Part 3

3

Subject references

Goods and services tax

Acquisitions and supplies by agents

Attribution rules

Creditable acquisition

GST input tax credits & creditable acquisitions

Taxable supply

Tax invoices

Tax Office references

NO:

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