



Legislative Instrument

A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Acquisitions under an Agency Relationship) Legislative Instrument (No. 1) 2012

I, James O'Halloran, Deputy Commissioner of Taxation, make this legislative instrument under subsection 29-10(3) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).

1. Name of instrument

This legislative instrument is the *A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Acquisitions under an Agency Relationship) Legislative Instrument (No. 1) 2012*.

2. Commencement and application of this instrument

- (a) This legislative instrument commences on 1 July 2010.
- (b) This legislative instrument applies to net amounts for tax periods commencing on or after 1 July 2010.
- (c) This legislative instrument does not revoke, amend or vary any previous legislative instrument made by the Commissioner or delegate.

3. Relief from the requirement to hold a tax invoice

For the purposes of attributing an input tax credit for a creditable acquisition to a tax period, a recipient that makes an acquisition of a thing or things:

- (a) through their agent;
- (b) through their insurance broker;¹ or
- (c) by way of a supply made through the supplier's agent,²

is not required (under subsection 29-10(3) of the GST Act) to hold a tax invoice for the creditable acquisition if the requirements provided by this instrument are satisfied. However, this instrument does not apply to acquisitions covered by Division 111.

¹ Subsection 153-25(1) treats an insurance broker who is an agent for a recipient as an agent of the insurer.

² It does not matter that the agent for either the recipient or the supplier may have transacted either by disclosing the agency relationship but without naming the principal or by not disclosing either the agency relationship or the principal.

4. Requirements for relief from holding a tax invoice

At the time the recipient gives its GST return for the tax period to the Commissioner:

- (a) the recipient or their agent must hold a document for the creditable acquisition of the thing or things that was issued by:
 - (i) the supplier's agent; or
 - (ii) the recipient's insurance broker; and
- (b) the document must meet the information requirements set out in clause 5.

5. Document information requirements

The document referred to in clause 4 must:

- (a) meet the requirements of subsection 29-70(1) of the GST Act, other than subparagraphs 29-70(1)(c)(i) and (ii) of the GST Act; and
- (b) contain enough information to enable the following to be clearly ascertained from the document:
 - (i) where the recipient makes a creditable acquisition of a thing or things by way of a supply made through the supplier's agent or an insurance broker – the identity and ABN of the supplier's agent or an insurance broker; and
 - (ii) where the recipient makes a creditable acquisition through their agent – the identity or ABN of their agent if the total price for the supply of the thing or things is at least \$1,000 (or such higher amount as the regulations specify).

6. Definitions

- (1) **Insurance broker** has the same meaning as in the GST Act, and includes a reinsurance broker.
- (2) Other expressions in this legislative instrument have the same meaning as in the GST Act.

Your comments

You are invited to comment on this draft legislative instrument, which is explained in the attached draft explanatory statement. Please forward your comments to the contact officer by the due date.

Compendium of comments

A compendium of comments is also prepared for the consideration of the relevant Rulings Panel or relevant tax officers. An edited version (names and identifying information removed) of the compendium of comments will also be prepared to:

- provide responses to persons providing comments; and
- publish on the ATO office website at www.ato.gov.au.

Please advise if you do not want your comments included in the edited version of the compendium.

Due date: 7 September 2012
Contact officer: Grant Murphy
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Dated this DD MMMM 2012

James O'Halloran
Deputy Commissioner of Taxation

DRAFT FOR CONSULTATION