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## Legislative Instrument

# A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Acquisitions from or Acquisitions by a Beneficiary of a Bare Trust) Legislative Instrument (No. 1) 2012

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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 from or Acquisitions by a Beneficiary of a Bare Trust) 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) a recipient that makes a creditable acquisition from a beneficiary through the trustee of the bare trust; or
- (b) a beneficiary of a bare trust that makes a creditable acquisition from a third party through the trustee, where the total price is at least \$1,000 (or such higher amount as the regulations specify);

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.

#### 4. Requirements for relief from holding a tax invoice

At the time the recipient or the beneficiary of the bare trust gives its GST return for the tax period to the Commissioner:

- (a) the recipient must hold a document for a creditable acquisition; or
- (b) the beneficiary or the trustee of the bare trust must hold a document for a creditable acquisition; and
- (c) the document must meet the information requirements set out in clause 5.

#### 5. Document information requirements

- (1) The document referred to in clause 4(a) must:
  - (a) meet the requirements of subsection 29-70(1) of the GST Act other than subparagraph 29-70(1)(c)(i) of the GST Act<sup>1</sup>; and
  - (b) contain enough information to enable the identity or ABN of the trustee of the bare trust or the bare trust to be clearly ascertained from the document.
- (2) The document referred to in clause 4(b) must:
  - (a) meet the requirements of subsection 29-70(1) of the GST Act other than subparagraph 29-70(1)(c)(ii) of the GST Act<sup>2</sup>; and
  - (b) contain enough information to enable the identity or ABN of the trustee of the bare trust or the bare trust to be clearly ascertained from the document.

#### 6. Definitions

- (1) **Bare trust** or **bare trustee** include a trust that may not strictly be a bare trust, because the trustee has minor active duties to perform, but nevertheless the trustee is required to act at the direction of the beneficiary in dealing with title to the trust property and has no independent role in respect of the trust property.
- (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.

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<sup>1</sup> In the case of bare trusts, in some circumstances it may be the beneficiary that makes the supply and paragraph 29-70(1)(c)(i) would be satisfied if the document contains the beneficiary's identity or ABN.

<sup>2</sup> In the case of bare trusts, in some circumstances it may be the beneficiary that makes the creditable acquisition and paragraph 29-70(1)(c)(ii) would be satisfied if the document contains the beneficiary's identity or ABN.

*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](http://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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Your City, State, Postcode

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Dated this DD MMMM 2012

James O'Halloran  
Deputy Commissioner of Taxation