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## Legislative Instrument

# A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Creditable Acquisition by a Lessee Following a Sale of a Reversion in Commercial Premises) 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 (Creditable Acquisition by a Lessee Following a Sale of a Reversion in Commercial Premises) 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 creditable acquisitions made by a lessee of commercial premises following the sale of the reversion in those premises to the extent that the input tax credits for creditable acquisitions are attributable to 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 lessee is not required (under subsection 29-10(3) of the GST Act) to hold a tax invoice for the creditable acquisition where the requirements provided by this instrument are satisfied.

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

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

- (a) the lessee or their agent must hold a document that was issued by the current owner of the commercial premises;
- (b) the lessee or their agent must hold a document that was issued by the owner or sub-lessor who originally granted the lease or sub-lease of the commercial premises; and
- (c) the documents meet the information requirements set out in clause 5.

#### 5. Document information requirements

- (1) The document referred to in paragraph 4(a) must contain enough information to enable the following to be clearly ascertained:
  - (a) the identity and ABN of the current owner of the commercial premises;
  - (b) the address of the commercial premises; and
  - (c) the consideration or part of the consideration payable for the lease for which there is an entitlement to an input tax credit.
- (2) The document referred to in paragraph 4(b) must meet the requirements of subsection 29-70(1) as they applied to the owner or sub-lessor who originally granted the lease or sub-lease of the commercial premises.

#### 6. Definitions

- (1) **Commercial premises** includes all forms of premises other than residential premises, supplies of which are input taxed under section 40-35 of the GST Act.
- (2) **Current owner of the commercial premises** means the owner of the reversion in the commercial premises. It also refers to an assignee that becomes the sub-lessor when a leasehold estate is assigned subject to a sub-lease of commercial premises.
- (3) **Lessee** includes a sub-lessee.
- (4) **Reversion** means the freehold interest acquired when commercial premises are sold subject to a lease. It also refers to the interest acquired when a leasehold estate is assigned subject to a sub-lease of commercial premises.
- (5) 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](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

DRAFT FOR CONSULTATION