GSTR 2011/D1 - Goods and services tax: tax invoices

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This document has been Withdrawn.
There is a Withdrawal notice for this document.

A draft Legislative Instrument (LI) is proposed to replace *A New Tax System (Goods and Services Tax) Adjustment Note Information Requirements Determination (No. 1) 2000*, which contains the additional information requirements for adjustment notes outside of subsection 29-75(1) of the *A New Tax System (Goods and Services Tax) Act 1999*. As a result, information requirements for adjustment notes and recipient created adjustment notes will become more flexible.

Due to the connection between tax invoices and adjustment notes, the Explanatory Statement have been released for comment in conjunction with the publication of the draft Public Ruling.

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Draft Goods and Services Tax Ruling

Goods and services tax: tax invoices

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Preamble

This publication is a draft for public comment. It represents the Commissioner's preliminary view about the way in which a relevant taxation provision applies, or would apply to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

You can rely on this publication (excluding appendixes) to provide you with protection from interest and penalties in the following way. If a statement turns out to be incorrect and you underpay your tax as a result, you will not have to pay a penalty. Nor will you have to pay interest on the underpayment provided you reasonably relied on the publication in good faith. However, even if you don't have to pay a penalty or interest, you will have to pay the correct amount of tax provided the time limits under the law allow it.

What this Ruling is about

1. This Ruling sets out the minimum information requirements for a tax invoice under subsection 29-70(1) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act). It also explains when a document is in the approved form for a tax invoice.

2. This Ruling also explains the circumstances under subsection 29-70(1A) when a recipient of a supply can treat a document as a tax invoice even though it does not meet all of the tax invoice requirements.

3. It further explains when a document is taken to be a tax invoice under section 48-57 for the purposes of a GST group even though the group member that is the recipient of the supply is not identified in the document.

4. Subsection 29-70(1B) allows the Commissioner to treat a particular document as a tax invoice even though it does not meet all of the tax invoice requirements. This Ruling describes the general principles that the Commissioner will have regard to in making a decision whether to treat a document yet to be issued as a tax invoice under this provision.

5. The Ruling explains how the threshold for low value transactions under subsection 29-80(1) will apply such that a tax invoice is not required.

6. The Ruling also includes a summary of the circumstances where the Commissioner has determined under subsection 29-10(3) that you can claim an input tax credit without a tax invoice. The summary is included at Appendix 2 of this Ruling.

7. All legislative references in this Ruling are to the GST Act unless otherwise stated.

Previous Ruling

8. This Ruling replaces Goods and Services Tax Ruling GSTR 2000/17, which is withdrawn on and from 25 May 2011. To the extent that the Commissioner's views in that Ruling are still relevant to the new tax invoice provisions, they have been incorporated into this Ruling.

Ruling

9. A tax invoice is a key integrity measure under the GST system. It forms an essential Part of the audit trail and is an important indicator that a taxable supply has been made. For this reason, subject to specific exceptions, a recipient is required to hold a tax invoice to substantiate its entitlement to an input tax credit for a creditable acquisition.[1] It is therefore important that a tax invoice contain the required information[2] and is issued in a timely manner.[3]

Approved Form

10. A document is in the approved form for a tax invoice if it includes the information required by subsection 29-70(1). This includes a document issued by a recipient that combines a recipient created tax invoice and a tax invoice for a connected supply made to the supplier.

Clearly ascertained

11. Paragraph 29-70(1)(c) requires specific information to be clearly ascertainable from the document. This means that provided the information can be found in the document, or determined from information within the document, it does not matter that it is not specifically stated or in a particular format. This also means that it must be clear what the information represents.

[1] Subsection 29-10(3).
[2] Subsection 29-70(1).
[3] Under subsection 29-70(2), a supplier of a taxable supply is obliged to issue a tax invoice within 28 days of a request by a recipient.

12. If the information can only be determined by reference to another external source (such as the Australian Business Register (ABR)) or document, the information cannot be clearly ascertained from the document. However, a recipient may be able to treat a document that does not meet the tax invoice requirements as a tax invoice in the circumstances outlined at paragraphs 87 to 93 of this Ruling.

Identity of the supplier or recipient

13. A tax invoice must include information to establish the identity of the supplier, and the recipient if applicable. Information sufficient to identify the supplier or recipient includes, but is not limited to, the legal name of the entity, the business name, or the trading name.

14. In the case of a tax invoice issued by the trustee of a trust it is the trustee's identity and ABN (as trustee) that must be clearly ascertainable from the document. Information sufficient to identify the trustee would include the legal name of the trustee acting in that capacity.

What is supplied

15. A tax invoice must contain sufficient information to identify the thing supplied including quantity and price.

16. For a supply comprising multiple taxable items that are identified separately on a tax invoice (for example on a 'multiple-line' basis), the price for each taxable supply of items does not have to be shown, only enough information to determine the price for each taxable supply. A tax invoice that relates to a number of separate taxable supplies made during a time period must include enough information to determine the price of each supply.

Example 1 – description and price of what is supplied

17. *A stationery store sells 20 pens, 10 boxes of staples and 4 staplers to Jim, who requests a tax invoice. The tax invoice may show these items as:*

20 pens	*20.00*
10 boxes of staples	*10.00*
4 staplers	*140.00*
GST	*17.00*
Total price	*$187.00*

Each supply of items is fully taxable.

18. *Alternatively, the tax invoice may show these items as:*

	Unit price (including GST)
**20 pens*	*@ $1.10*
**10 boxes of staples*	*@ $1.10*
**4 staplers*	*@ $38.50*
Total price	*$187.00*

*(*100% taxable supply)*

19. *The alternative shows the quantity and unit price from which the price for each taxable supply of items can be determined. Additionally, it is clear that each supply of items is fully taxable and the GST payable can be determined.*

The extent to which each supply is a taxable supply

20. A tax invoice must contain enough information to determine the extent to which a supply is a taxable supply. This requirement will be satisfied if the tax invoice includes:

- the amount of GST payable for each taxable supply; or
- a statement of the extent to which the supply is a taxable supply; or
- asterisking each taxable supply with a corresponding statement of the extent to which the supply is a taxable supply.

Document intended to be a tax invoice or recipient created tax invoice

21. The document must make clear that it was intended to be a tax invoice or recipient created tax invoice. This must be satisfied by reference to the document itself. Other documents relating to the intentions of the supplier are irrelevant.

22. This requirement may be satisfied by including the words ‘Tax Invoice’ or ‘GST Invoice’ or ‘Recipient Created Tax Invoice’, ‘Tax Invoice Issued by the Recipient’ or ‘Recipient Created GST Invoice’ in the heading of the document. A statement in the body of the document could also make it clear.

When a recipient can treat a document as a tax invoice

23. A document issued by the supplier that does not meet all of the tax invoice requirements may be treated by the recipient as a tax invoice if:

- it is clear from the document that it is intended to be a tax invoice;
- it would be a tax invoice but for the missing information; and
- all of that missing information can be clearly ascertained from other documents given to the recipient by the supplier.[4]

24. If a document contains information but it is incorrect, for example it contains an incorrect ABN, then the ABN is effectively 'missing information' as the correct ABN is not shown.

25. A recipient can, however, still request:

- the supplier to issue a valid tax invoice; or
- the Commissioner to exercise the discretion under subsection 29-70(1B) to treat the document as a tax invoice.[5]

Example 2 – missing information

26. *XYZ Pty Ltd has a document (the first document) that satisfies the tax invoice requirements but for the fact that the ABN has a transposition error and the extent to which the supplies are taxable is not clear.*

27. *XYZ Pty Ltd has a second document issued by the supplier that relates to the supplies on the first document. The second document shows the supplier's correct ABN and also makes it clear the extent to which each supply on the first document is taxable. XYZ Pty Ltd may treat the first document as a tax invoice given the information that is contained in the second document also issued by the supplier in relation to the supply. Alternatively, XYZ Pty Ltd may request the supplier to provide a tax invoice that complies with the requirements of subsection 29-70(1); or may request the Commissioner to exercise the discretion to treat the document as a tax invoice.*

[4] Subsection 29-70(1A).
[5] The recipient should have made a reasonable attempt to obtain the tax invoice from the supplier before making a request to the Commissioner.

When a supplier can treat a document as a recipient created tax invoice

28. A document issued by the recipient that does not meet all of the recipient created tax invoice requirements may be treated by the supplier as a tax invoice if:

- it is clear from the document that it is intended to be a recipient created tax invoice;
- it would be a recipient created tax invoice but for the missing information;[6] and
- all of that missing information can be clearly ascertained from other documents given to the supplier by the recipient.

29. However, a recipient cannot treat a document that does not meet the recipient created tax invoice requirements as a tax invoice by relying on other documents. Subsection 29-70(1A) only allows the entity that receives a document to treat it as a tax invoice and, in the case of a recipient created tax invoice, this is the supplier.

Circumstances in which the Commissioner may exercise the discretion to treat a document as a tax invoice

30. The Commissioner has the discretion to treat a document that does not satisfy the tax invoice requirements as a tax invoice.[7] This discretion can also be used to treat a document that does not meet the requirements for a recipient created tax invoice as a tax invoice. It is up to the supplier, or the recipient in the case of a recipient created tax invoice, to demonstrate that its circumstances make it appropriate for the Commissioner to treat the document as a tax invoice as the Commissioner is under no obligation to exercise the discretion.

31. Some of the guiding principles the Commissioner will have regard to in the exercise of this discretion are explained in Law Administration Practice Statement PS LA 2004/11 and at paragraphs 94 to 103 of this Ruling. These principles are not exhaustive and there may be other circumstances that will be relevant in a particular case.

Review rights if the Commissioner does not exercise the discretion

32. If Commissioner decides not to exercise the discretion, the supplier or recipient may request an informal review of that decision under the Taxpayers' Charter, or seek a review of the decision under the *Administrative Decisions (Judicial Review) Act 1977*.

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[6] Information to satisfy a particular requirement is missing if the information that is included is incorrect.
[7] Subsection 29-70(1B).

33. A recipient may also object against an assessment resulting from the decision under Part IVC of the TAA. If the Commissioner disallows the objection may apply to a Tribunal or Court under Part IVC of the TAA.

34. The table at paragraph 38 summarises the circumstances and conditions for particular situations in which the Commissioner may treat a document that does not comply with the requirements of subsection 29-70(1) as a tax invoice.

Requirement to issue a tax invoice within 28 days of request by a recipient where the discretion is exercised

35. If the Commissioner exercises the discretion to treat a document as a tax invoice it is a tax invoice for both the supplier's and the recipient's purposes. The supplier will have satisfied the requirement to give a tax invoice to the recipient where the supplier issues the document in respect of which the Commissioner's discretion has been exercised within 28 days of the request by a recipient.

36. If the supplier does not issue a document in which the discretion has been exercised, or the discretion has not been exercised for a document, within 28 days of request being made, the supplier may be liable to a penalty under subsection 288-45(1) of Schedule 1 to the TAA for failing to issue a tax invoice.

Special rules that affect tax invoices

37. The GST Act provides special rules for certain types of taxable supplies that affect tax invoices.

38. The following table sets out how those special rules impact on tax invoices.

Special rule	Affect on tax invoices
Agents and insurance brokers – Subdivision 153-A	If you make a taxable supply through an agent, either you or your agent may issue a tax invoice in relation to the supply. Similarly, you may claim an input tax credit for a creditable acquisition you make through your agent if your agent holds the tax invoice. An insurance broker may also issue a tax invoice on behalf of the insurer as Subdivision 153-A treats a broker who is an agent for a recipient as an agent of the insurer.
Representatives of incapacitated entities – Division 58	If a representative of an incapacitated entity makes a supply in that capacity it is a supply made by the incapacitated entity. The representative of the incapacitated entity can issue the tax invoice.

Special rule	Affect on tax invoices
Supplies made on a progressive or periodic basis – Division 156	Division 156 treats each progressive or periodic component of the supply as a separate supply. As a supplier, you do not have to issue separate tax invoices for each component of the supply. A single document can be a tax invoice for all components of the supply if it satisfies the requirements in subsection 29-70(1), and it includes enough information to ascertain the price of each component of the supply.
Simplified accounting methods – Division 123	If you use a simplified accounting method you must issue a tax invoice that meets the requirements of subsection 29-70(1).
Reimbursements of employees etc – Division 111	Where Division 111 requirements are met, reimbursements are treated as creditable acquisitions you make from the entity you reimbursed. You may claim an input tax credit if you hold a tax invoice that was issued to that entity.
Pre-establishment costs – Division 60	A company may claim an input tax credit for creditable acquisitions made by its officers before it is incorporated. The company must hold a copy of the tax invoice that is held by that officer.
GST groups – Division 48	Division 48 makes the representative member liable to pay the GST, even though you are the entity that makes the taxable supply. You must issue a tax invoice that meets the requirements of subsection 29-70(1), unless you authorise the representative entity to do so. Division 48 makes the representative member entitled to claim an input tax credit, even though you are the entity that makes the creditable acquisition. Ordinarily a tax invoice for acquisitions with a total price of at least $1,000 must contain sufficient information to ascertain your identity and ABN as recipient of the supply. If a document contains sufficient information to clearly show the identity of your GST group, the representative member or another member of your GST group, and would otherwise be a tax invoice if it contained information from which your identity or ABN could be determined, then the document is taken to be a tax invoice. See Example 3 at paragraphs 39 to 40 of this Ruling.
GST branches – Division 54	You must show the GST branch number on a tax invoice (or recipient created tax invoice) for a taxable supply made through a GST branch.

Example 3 – GST groups

39. *A supplier issues a document intended as a tax invoice to a recipient that is a member of a GST group. The document complies with all of the tax invoice requirements other than that it does not include the supplier's ABN; and it only includes the identity of the representative member of the GST group as the recipient (and does not include the ABN of either the representative member or the recipient member).*

40. *The supplier's ABN is included on another document issued by the supplier to the recipient and so, under subsection 29-70(1A), the recipient could treat the document as a tax invoice but for the fact that it identifies the representative member of the GST group, rather than the recipient. However, the further concession in subsection 48-57(1) allows the document to be treated as a tax invoice as it identifies the representative member of the GST group that the recipient belongs to.*

Circumstances in which a tax invoice is not required

41. In certain circumstances a recipient of a taxable supply does not need to hold a tax invoice in order to claim an input tax credit for a creditable acquisition in its Business Activity Statement (BAS)[8]. The recipient must, however, have records to substantiate its input tax credit claim for a creditable acquisition.

42. Those circumstances in which a tax invoice need not be held are as follows.

- the value of the taxable supply is less than $75 or such higher amount as the regulations specify;
- the GST is reverse charged, for example, under Division 83,[9]
- a recipient is claiming an input tax credit for a creditable importation,[10]
- the GST on the taxable supply is payable by the recipient because of section 15C of Division 2 of the *A New Tax System (Goods and Services Tax Transition) Act 1999*[11] (GST Transition Act); or

[8] Your GST return forms Part of your BAS.
[9] Section 83-35.
[10] See further at paragraph 292 of Goods and Services Tax Ruling GSTR 2003/15 Goods and services tax: importation of goods into Australia.
[11] Division 2 of Part 3 of the GST Transition Act applies to agreements spanning both 1 July 2000 and 1 July 2005. In the circumstances described in section 15C of that Act, the GST on a taxable supply made under such an agreement is payable by the recipient (to the extent the supply is made on or after a certain date occurring on or after 1 July 2005). Subsection 15H(3) of that Act provides that subsection 29-10(3) of the GST Act does not apply, so that the recipient may claim an input tax credit without holding a tax invoice.

- a determination by the Commissioner under subsection 29-10(3) applies to your circumstances (these are summarised at Appendix 3);
- a recipient is claiming an input tax credit for second-hand goods acquired for the purposes of sale or exchange in accordance with Division 66.

Date of effect

43. When the final Ruling is issued, it is proposed to apply on and from 1 July 2010.

44. A document or documents treated as a tax invoice under the previous provisions will continue to be treated as a tax invoice under the current provisions. Therefore a document or documents treated as a tax invoice under GSTR 2000/17 will continue to be treated as a tax invoice under this Ruling.

45. However, this Ruling will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

Commissioner of Taxation
25 May 2011

Appendix 1 – Explanation

This Appendix is provided as information to help you understand how the Commissioner's view has been reached. It does not form Part of the binding public ruling.

Overview

46. The GST Act presumes GST is ultimately borne by end consumers. A key design feature of the GST system to ensure this occurs and to avoid double taxation is, subject to exceptions, to allow a corresponding input tax credit to a recipient of a taxable supply in business to business transactions. To give effect to this the recipient needs to know the treatment adopted by a supplier for a supply and the Commissioner needs to be able to reconcile the input tax credit claimed by the recipient. This is achieved by way of the tax invoice.[12] It is therefore important that a tax invoice contains the information about a taxable supply as required by the GST Act which is explained at paragraphs 54 to 86 of this Ruling.

47. To ensure this communication occurs, a recipient must hold a tax invoice to substantiate a claim for an input tax credit for a creditable acquisition made in a particular tax period.[13] Similarly, a supplier must provide a tax invoice within 28 days of being requested to do so by the recipient.[14] However, there are circumstances in which it is not necessary for the supplier to issue a tax invoice[15] and circumstances in which a recipient is not required to hold a tax invoice to claim an input tax credit. These circumstances are explained at paragraphs 112 to 122 of this Ruling.

48. If a recipient does not receive a tax invoice within 28 days after the request, the recipient may be able to treat the document issued by the supplier as a tax invoice or request the Commissioner to treat a document as a tax invoice. A recipient should make a genuine attempt[16] to contact the supplier to request a tax invoice prior to making a request for the Commissioner to treat a document as a tax invoice. These matters are further explained at paragraphs 87 to 93 and 94 to 104 of this Ruling.

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[12] As defined in section 195-1 a tax invoice is document that complies with the requirements of subsections 29-70(1) and 48-57(1), and includes a document that the Commissioner treats as a tax invoice under subsection 29-70(1B). However, it does not include a document that does not, pursuant to section 54-50, set out the GST branch registration number for taxable supplies made through a GST branch (if applicable).

[13] Subsection 29-10(3).

[14] Subsection 29-70(2).

[15] For instance, the supplier makes a supply that is GST-free, input taxed, or not taxable as the supplier is unregistered and not required to be registered.

[16] A written request made to the supplier, while not required by the GST Act, would provide clear evidence of the attempt.

An invoice in comparison to a tax invoice

49. An invoice is a document notifying an obligation to make a payment,[17] whereas a tax invoice is a document that contains the information about a taxable supply required by the GST Act.[18] This information may not otherwise appear on an invoice.

50. A document does not have to be created for the sole purpose of satisfying the tax invoice requirements. A single document such as a modified invoice or receipt can be both an invoice and a tax invoice. Ordinary commercial documents such as lease agreements and contracts are also capable of being tax invoices.

Tax invoices in electronic form

51. A tax invoice may be issued in electronic form, for example by Electronic Data Interchange (EDI). Section 25 of the *Acts Interpretation Act 1901* defines 'document' to include any article or material from which sounds, images or writings are capable of being reproduced with or without the aid of any other article or device. Therefore, a document in electronic form that meets the requirements of subsection 29-70(1) is a tax invoice.

Correcting errors on a tax invoice

52. If a supplier re-issues a document because it did not meet the requirements for a tax invoice, the document showing the correct information is the tax invoice.[19]

53. If, however, the Commissioner has exercised the discretion to treat the document as a tax invoice, a supplier need not re-issue the document.

Requirements for a tax invoice and recipient created tax invoice

Tax invoice

54. A tax invoice is a document that complies with the following requirements:

- it is issued by the supplier of the supply or supplies to which the document relates *(paragraph 29-70(1)(a))*;

[17] Section 195-1.

[18] As defined in section 195-1 a tax invoice is document that complies with the requirements of subsections 29-70(1) and 48-57(1), and includes a document that the Commissioner treats as a tax invoice under subsection 29-70(1B). However, it does not include a document that does not, pursuant to section 54-50, set out the GST branch registration number for taxable supplies made through a GST branch (if applicable).

[19] A supplier may also re-issue a document to satisfy its obligation to provide a tax invoice where a recipient has treated the original document as a tax invoice under subsection 29-70(1A). This is because the exercise of the discretion under this subsection applies only to the recipient.

- it is in the approved form *(paragraph 29-70(1)(b))*;
- it contains enough information to enable the following to be clearly ascertained:
  - the identity and ABN of the supplier *(subparagraph 29-70(1)(c)(i))*;
  - the identity or ABN of the recipient if the total price of the supply or supplies is at least $1,000, or such higher amount as the regulations specify *(subparagraph 29-70(1)(c)(ii))*;
  - what is supplied, including the quantity (if applicable) and the price *(subparagraph 29-70(1)(c)(iii))*;
  - the extent to which each supply included on the document is a taxable supply *(subparagraph 29-70(1)(c)(iv))*;
  - the date the document is issued *(subparagraph 29-70(1)(c)(v))*;
  - the amount of GST (if any) payable in relation to each supply included on the document *(subparagraph 29-70(1)(c)(vi))*; and
  - such other matters as the regulations specify *(subparagraph 29-70(1)(c)(viii))*;[20]
- it can be clearly ascertained from the document that the document was intended to be a tax invoice *(paragraph 29-70(1)(d))*; and
- it sets out the GST branch registration number of the GST branch (if applicable) *(subsection 54-50(1))*.

Recipient created tax invoice

55. A recipient created tax invoice is a document that must also comply with the above requirements albeit with the following additions or differences:

- it must be issued by the recipient of the supply or supplies to which the document relates *(paragraph 29-70(1)(a))*; and
- it must contain enough information to enable the following to be clearly ascertained from the document:
  - the identity or ABN of the recipient *(subparagraph 29-70(1)(c)(ii))*;

[20] At the time of issuing the Ruling, the regulations do not specify any other matters for tax invoices.

- if GST is payable in relation to any supply – that the GST is payable by the supplier *(subparagraph 29-70(1)(c)(vii))*; and
- such other matters as the regulations specify that relate to recipient created tax invoices *(subparagraph 29-70(1)(c)(viii))*;[21]

- it can be clearly ascertained from the document that it was intended to be a recipient created tax invoice *(paragraph 29-70(1)(d))*; and
- it complies with any of the requirements under the relevant legislative determination that permits the recipient to issue the tax invoices *(subsection 29-70(3))*.

56. Certain requirements are explained in more detail at paragraphs 57 to 86 of this Ruling.

Approved form requirement

57. A document will be in the approved form for a tax invoice if it includes the information required by the GST Act.

58. Details of more than one supply may be shown on a tax invoice. If a document includes multiple supplies (for example, a monthly statement) and does not meet the requirements of subsection 29-70(1) for a particular supply or supplies, it remains a tax invoice in the approved form in relation to all the other supplies on the document for which it does meet the requirements of subsection 29-70(1).

59. Other public rulings that deal with specific circumstances may also have approved form requirements.[22]

Combined tax invoice and recipient created tax invoice

60. In certain circumstances, a recipient may issue a document that combines a recipient created tax invoice and a tax invoice issued as a supplier. Generally, this occurs where the recipient of a supply makes a connected supply to the entity that made the initial supply. An example is a supply of sugar cane by a cane farmer and the supply of services (analysis and testing of sugar) by the sugar mill.

[21] At the time of issuing the Ruling, the regulations do not specify any other matters for recipient created tax invoices.
[22] For example, see Goods and Services Tax Ruling GSTR 2001/2 Goods and Services Tax: foreign exchange conversions (paragraphs 41 to 43).

61. A tax invoice[23] for both supplies combined on the one document will be in the approved form. However, each entity must account for the full amount of GST payable on the supply that it makes. The GST Act does not allow the price of one supply to be reduced by the price of another.[24]

Clearly ascertained

62. Paragraph 29-70(1)(c) requires that particular information is able to be clearly ascertained from the document. This means that the information does not have to be specifically stated or in a particular format. What is required is that the information can be found in the document or determined from information within the document. It further means that it must be clear what the information represents. For example, the price of what is supplied is a requirement.[25] This requirement is satisfied if, for example, the document includes the number of units supplied and the unit price as from this information the price for that supply can be ascertained from the document.[26]

63. One piece of information may also be sufficient to satisfy more than one requirement of paragraph 29-70(1)(c). For example, the supplier's identity[27] and what is supplied[28] are requirements. If the description of what is supplied makes clear the supplier's identity, as might be the case when a new club membership is issued, it is not necessary for the document to separately state the supplier's identity.[29]

64. However, information cannot be clearly ascertained from the document if it can only be determined by reference to another external source or other document. For example, the supplier's ABN is a requirement.[30] If the supplier does not include their ABN but includes sufficient details on the document so that the ABN could be determined by looking up the entity on the Australian Business Register (ABR) this will not satisfy the ABN requirement as the ABN cannot be determined from the document.[31] In this case, the recipient could:

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[23] That is, the requirements of subsection 29-70(1) are satisfied.
[24] See paragraphs 17 and 50 to 52 of Goods and Services Tax Ruling GSTR 2000/10 Goods and services tax: recipient created tax invoices for further details about this situation.
[25] Subparagraph 29-70(1)(c)(iii).
[26] Paragraph 3.19 of the Explanatory Memorandum to *Tax Laws Amendment (2010 GST Administration Measures No. 2) Act 2010*.
[27] Subparagraph 29-70(1)(c)(i).
[28] Subparagraph 29-70(1)(c)(iii).
[29] Paragraph 3.19 of the Explanatory Memorandum to *Tax Laws Amendment (2010 GST Administration Measures No. 2) Act 2010*.
[30] Subparagraph 29-70(1)(c)(i).
[31] Paragraph 3.20 of the Explanatory Memorandum to *Tax Laws Amendment (2010 GST Administration Measures No. 2) Act 2010*.

- ask the supplier to issue a document that complied with the tax invoice requirements; or
- treat the document as a tax invoice by relying on another document issued by the supplier which shows the supplier's ABN (see paragraphs 87 to 93 of this Ruling); or
- request the Commissioner to exercise the discretion to treat the document as a tax invoice (see paragraph 94 of this Ruling).[32]

Alternative view

65. An alternative view is that the relevant information required by paragraph 29-70(1)(c) does not have to be ascertained 'from the document' itself due to the absence of words to that effect. It contends that paragraph 29-70(1)(c) merely requires the document to contain enough information for the relevant matters to be ascertained.

66. On this alternative view a document would satisfy the requirement if it contained enough information to allow the relevant information required to be clearly ascertained from other sources or documents.

67. This alternative view is not the preferred view of the Commissioner. To the extent that the meaning conveyed by the text of the paragraph is ambiguous and obscure it would be open to the Commissioner to consider extrinsic material to determine the meaning of the paragraph.[33] The intended policy in the Explanatory Memorandum indicates that the relevant information be able to be clearly ascertained from the document itself.[34] The Commissioner considers this is further support for the preferred meaning of the paragraph.

Identity of the supplier or recipient

68. The term 'identity' is not defined in the GST Act and therefore takes its ordinary meaning. To satisfy this requirement the tax invoice would need to include enough information to establish the identity of the supplier, and the recipient[35] if applicable. Information sufficient to identify the supplier or recipient includes, but is not limited to, the legal name of the entity; the business name; or the trading name. Typically, a taxi driver licence or accreditation number is not sufficient

[32] The recipient should make a reasonable attempt in the circumstances to obtain the tax invoice from the supplier before making a request to the Commissioner to exercise the discretion to treat a document as a tax invoice.
[33] Section 15AB of the *Acts Interpretation Act 1901*.
[34] See paragraphs 3.19 to 3.21 of the Explanatory Memorandum to *Tax Laws Amendment (2010 GST Administration Measures No. 2) Act 2010*.
[35] Subparagraph 29-70(1)(c)(ii).

to identify the supplier. In this case refer to Example 7 at paragraphs 171 to 172 of Appendix 3 to this Ruling.

Tax invoices issued by the trustee of a trust

69. Although an entity is defined to include a trust,[36] a trust has no legal personality and so will not be registered in its own right on the ABR. Rather, the trustee of the trust will be registered and will be issued with an ABN in its capacity as trustee.[37] The legal name of the entity will be identified on the register as the trustee for the particular trust.

70. For a supply made by the trustee of a trust, in its trustee capacity, it is the trustee's identity and ABN (as trustee of the trust) that must be clearly ascertainable from the tax invoice.[38] Information sufficient to identify the trustee of the trust would include the legal name for the trustee in that capacity, for example, Jones' Pty Ltd as Trustee for the Jones' Family Trust.[39]

What is supplied

71. A tax invoice must include enough information to determine what is supplied. This requires a description of each thing supplied. This will help to establish whether it is a creditable acquisition for the recipient. Typically a Part number or code is not sufficient to identify what has been supplied. In this case refer to Example 6 at paragraphs 167 and 170 of Appendix 3 to this Ruling.

The price of what is supplied

72. A tax invoice must contain enough information to enable the price of what is supplied to be clearly ascertained.[40] This requirement could, for example, be satisfied by stating a unit price and the quantity of what is supplied as from this information the price for the supply can be clearly ascertained (see Example 1 at paragraphs 17 to 19 of this Ruling).[41]

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[36] Subsection 184-1(1).
[37] The trustee entity will be issued with a different ABN for each trust for which it acts as trustee. As trustee of each trust it is taken to be a different entity (subsection 184-1(3)).
[38] Subparagraph 29-70(1)(c)(i).
[39] If the trustee's identity as trustee is not clearly ascertainable from the document see the exercise of the Commissioner's discretion at subparagraph 102(d) of this Ruling.
[40] Subparagraph 29-70(1)(c)(iii).
[41] Paragraph 3.19 of the Explanatory Memorandum to *Tax Laws Amendment (2010 GST Administration Measures No. 2) Act 2010*.

Retention payments

73. In certain industries such as the building industry, contracts may provide for the recipient to withhold Part of the contract price pending full and satisfactory performance of the contract or until the end of the defects liability period. As a result of the delay in payment of these retention amounts the Commissioner has made a determination under section 29-25.[42] The effect of the determination is to defer attribution of the GST payable and the input tax credit for the retention amount until it is paid.

74. Although attribution will be delayed for that Part of the contract price retained, the price of what is supplied is the total price payable including the retention amount. To claim the input tax credit for the net amount paid, the recipient must hold a tax invoice from which the total price of what is supplied can be clearly ascertained.[43] You can satisfy this requirement and still have the document show the net amount payable. For example, the document may set out the price of what is supplied less the retention amount, with a net amount payable.

Showing the price for each line on a tax invoice

75. If a supply comprises multiple taxable items that are identified separately on a tax invoice (for example on a 'multiple-line' basis), the price for each taxable item does not have to be shown. However, enough information to determine the price for each taxable supply of items must be shown. This requirement could be satisfied by showing the quantity and value of items for each taxable supply, the amount of GST payable and the total price of all the lines or items added together. See Example 1 at paragraphs 17 to 19 of this Ruling.

76. If a tax invoice relates to a number of separate supplies made during a time period, it must include enough information to ascertain the price of each taxable supply.[44] For example, a monthly statement showing a number of taxable supplies made to a customer during the month must show enough information in the tax invoice to be able to determine the price for each supply.

[42] *A New Tax System (Goods and Services Tax) Act 1999 (Particular Attribution Rules for Retention Payments) Determination (No. 1) 2000.*
[43] Subparagraph 29-70(1)(c)(iii).
[44] Subparagraph 29-70(1)(c)(iii).

Changes to the price in the same tax period that the GST or input tax credit is attributed

77. An adjustment event[45] may occur in the same tax period in which the GST on the supply or input tax credit on the acquisition is attributable or after the tax period but before attribution. In these situations, there will be no adjustment arising from the adjustment event as there has been no GST, or no input tax credit, previously attributed to an earlier tax period.[46] As there is no adjustment, the supplier is not required to issue an adjustment note.[47] Additionally, if the tax invoice included enough information to clearly ascertain the price before the adjustment event, the supplier has fulfilled their obligation under subsection 29-70(2) and is not required to issue an amended tax invoice.

78. In this situation, the tax invoice held by the recipient will no longer show the actual price paid for the supply. A recipient may claim an input tax credit based on the actual price even though the tax invoice shows the price before the adjustment event. However, the recipient must have records that explain the transaction and the amount of the input tax credit claimed, as required by section 382-5 of Schedule 1 to the *Taxation Administration Act 1953* (TAA).

The extent to which each supply is a taxable supply

79. A tax invoice must contain enough information to enable the extent to which a supply is a taxable supply to be determined. This requirement may be satisfied in a number of ways including:

- showing the amount of GST for each taxable supply – for example, if the unit price is $20 excluding GST and the GST is shown as $2, it can be ascertained that the supply is a fully taxable supply;
- a statement of the extent to which the supply is a taxable supply;
- asterisking each taxable supply along with a corresponding statement of the extent to which each asterisked supply is a taxable supply – various types of asterisk may be required to reflect supplies that are partially or fully taxable. See Example 1 at paragraphs 17 to 19 of this Ruling.

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[45] Section 19-10 states that an adjustment event is any event which has the effect of:
- cancelling a supply or an acquisition; or
- changing the consideration for a supply or an acquisition; or
- causing a supply or acquisition to become, or stop being, a taxable supply or creditable acquisition.

[46] Paragraph 19-40(b) for a supply and paragraph 19-70(1)(b) for an acquisition.
[47] Subsection 29-75(1).

For recipient created tax invoices – a statement that the GST is payable by the supplier

80. If the document is a recipient created tax invoice and there is an amount of GST payable, it must be clear from the document that the GST is payable by the supplier. For example, the document could include a statement to the effect that:

> The GST payable of $xx.xx is payable by the supplier

Document intended to be a tax invoice or recipient created tax invoice

81. The document must contain enough information that it can be clearly determined from the document that it is intended to be a tax invoice or recipient created tax invoice. This is an objective test that must be satisfied by reference to the document itself. Other documents relating to the intentions of the supplier are not relevant.

82. A direct way of satisfying that a document is intended as a tax invoice is to include the words 'Tax Invoice'. However, there are alternatives that would similarly make it clear that the document is intended as a tax invoice, for example, including the words 'GST Invoice'.

83. In some situations, the context of the document itself may make the intention clear without any title to that effect. For example, a document could include a statement to the effect that it provides all the information needed for the recipient to claim their input tax credits. However, merely containing all of the other required information will not be sufficient to demonstrate that the document is intended to be a tax invoice.[48]

84. For a recipient issuing a recipient created tax invoice, this requirement can be satisfied by including , for example, the words 'Recipient Created Tax Invoice', 'Recipient Created GST Invoice' or 'Tax Invoice Issued by Recipient' on the document. A statement in the document could also make it clear.

Documents headed 'tax invoice' for supplies that are not taxable

85. A supplier may make both taxable supplies and supplies that are not taxable. It may not always be possible to have two sets of documents. The supplier may issue a document for a non-taxable supply that is headed with the words 'tax invoice' if the document includes enough information to clearly ascertain that the supply does not include GST. The supplier may, for example, include a statement that the supply does not include GST or show the GST as nil or zero. The tax invoice cannot include words that indicate the price of what is supplied is inclusive of GST as this would not be correct.

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[48] Paragraph 3.22 of the Explanatory Memorandum to *Tax Laws Amendment (2010 GST Administration Measures No. 2) Act 2010*.

86. As an alternative, if the supplier issued a document that only included a non-taxable supply or supplies, the supplier could cross out the words 'tax invoice' or the word 'tax'.

When a document that is missing information can be treated as a tax invoice

87. A document issued by the supplier that does not meet all of the tax invoice requirements may be treated by the recipient as a tax invoice if:

- it is clear from the document that it is intended to be a tax invoice;
- it would be a tax invoice but for the missing information,[49] and
- all of that missing information can be clearly ascertained from other documents given to the recipient by the supplier.[50]

88. There is no requirement for these other documents to have been intended as a tax invoice. Other documents can include, for example, a supplier's product list, a business card, or an earlier tax invoice.

89. It is at the discretion of the recipient whether or not to treat a document as a tax invoice. If the recipient prefers, the recipient can require the supplier to issue a tax invoice (that is, a document that meets all of the tax invoice requirements). See Example 2 at paragraphs 26 to 27 of this Ruling. Where the recipient does treat a document as a tax invoice, the recipient may claim an input tax credit for the supply if it is a creditable acquisition.

Recipient created tax invoice

90. Similarly, a document issued by the recipient (in the case of recipient created tax invoices) that does not meet all of the tax invoice requirements may be treated by the supplier as a tax invoice if:

- it is clear from the document that it is intended to be a recipient created tax invoice;
- it would be a recipient created tax invoice but for the missing information; and
- all of that missing information can be clearly ascertained from other documents given to the supplier by the recipient.

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[49] Information to satisfy a particular requirement is missing if the information that is included is incorrect.
[50] Subsection 29-70(1A).

91. However, a recipient cannot treat a document that does not meet the recipient created tax invoice requirements as a tax invoice by relying on other documents. In this case, whether the document meets all of the tax invoice requirements is within the control of the recipient as the issuer and the recipient bears the responsibility for ensuring that a document is issued that meets the necessary requirements.

Supplies and acquisitions made through agents

92. If an agent receives a non-compliant tax invoice for an acquisition made by a principal, the principal (recipient) may treat the document as a tax invoice if the information is contained in other documents provided to either the agent, or the principal, by the supplier.

93. Similarly, when a recipient receives a non-compliant tax invoice for a supply made by a principal through an agent, if the information is contained in other documents provided to the recipient by the agent or the principal (supplier), the recipient may treat the document as a tax invoice.[51]

Circumstances in which the Commissioner may exercise the discretion to treat a document as a tax invoice

94. There may be situations where a document relevant to a taxable supply[52] does not meet all the tax invoice requirements of subsection 29-70(1). In these situations, the requirement to hold a tax invoice may impose a disproportionate burden on a supplier or recipient, particularly if that document substantially complies with the requirements. The Commissioner has the discretion in subsection 29-70(1B) to treat a document or documents as a tax invoice in these situations.[53] However, the Commissioner is under no obligation to exercise the discretion. It is therefore the onus of the supplier or the recipient to demonstrate in their request to the Commissioner[54] that their circumstances make it appropriate for the Commissioner to treat the document or documents as a tax invoice.

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[51] The principal (supplier) may treat a non-compliant tax invoice issued by the recipient (in the case of recipient created tax invoices) as a tax invoice if the information is contained in other documents provided to either the agent, or the principal (supplier), by the recipient.

[52] This document may have been issued by the supplier, or a recipient in the case of a recipient created tax invoice. For example, an invalid tax invoice or recipient created tax invoice, an invoice, a contract, etc.

[53] This discretion can also be used to treat a document that does not meet the requirements of a recipient created tax invoice as a tax invoice.

[54] A recipient should make a genuine attempt to contact the supplier to request a tax invoice prior to making a request for the Commissioner to treat a document as a tax invoice.

95. The relevant principles for making administrative decisions were set out by Mason J in Minister for *Aboriginal Affairs v. Peko-Wallsend Ltd & Ors* (1986) 162 CLR 24, where his Honour said at 39-40:

> What factors a decision-maker is bound to consider in making the decision is determined by construction of the statute conferring the discretion... **where a statute confers a discretion which in its terms is unconfined, the factors that may be taken into account in the exercise of the discretion are similarly unconfined, except in so far as there may be found in the subject matter, scope and purpose of the statute some implied limitation on the factors to which the decision-maker may legitimately have regard** ...By analogy, where the ground of review is that a relevant consideration has not been taken into account and the discretion is unconfined by the terms of the statute, the court will not find that the decision-maker is bound to take a particular matter into account unless an implication that he is bound to do so is to be found in the subject matter, scope and purpose of the Act. [Emphasis added.]

96. It is therefore important to consider the subject matter, scope and purpose of sections 29-10 and 29-70.

97. The GST Act presumes GST is ultimately borne by end consumers. A key design feature of the GST system to ensure this occurs and to avoid double taxation is to generally allow a corresponding input tax credit to a recipient of a supply in business to business transactions. The GST Act envisages a degree of symmetry between the GST payable and the input tax credit which may be claimed in business to business transactions.

98. To give effect to this the recipient needs to know the treatment adopted by a supplier for a supply and the Commissioner needs to be able to reconcile the input tax credit claimed by the recipient. This is achieved by way of the tax invoice. The Explanatory Memorandum to the *A New Tax System (Goods and Services Tax Administration) Bill 1998* at paragraph 7.1 and 4.2 states:

> 7.1 An invoice is a notice of an obligation to pay. A tax invoice is a document that substantiates a creditable acquisition. A tax invoice must contain certain information that may not otherwise appear on an ordinary invoice. You can issue a tax invoice in addition to an ordinary invoice, or you may choose to forego issuing ordinary invoices, and only issue tax invoices. In most cases a normal receipt for a supply can easily be adapted to become a tax invoice.
>
> 4.2 … However, you cannot attribute an input tax credit unless you have a tax invoice for the creditable acquisition when you lodge your return …

99. The Explanatory Memorandum to the *Tax Laws Amendment (2010 GST Administration Measures No. 2) Act 2010* at paragraphs 3.2 and 3.3 state:

> 3.2 Tax invoices play an important role in the GST system. They are the mechanism by which the GST treatment that a supplier adopts for a supply is communicated by the supplier to a recipient and reconciled with the recipient's treatment of an acquisition.

> 3.3 To ensure this communication occurs, recipients must hold a tax invoice to substantiate input tax credit claims for acquisitions over $75 (excluding GST). Similarly, suppliers must provide a tax invoice within 28 days of being requested to do so by the recipient.
> …
>
> 3.6 Schedule 3 amends the present requirements for an invoice to be a tax invoice, replacing the current prescriptive list with equivalent but more flexible principles. It also integrates and streamlines the special requirements for tax invoices that are recipient created tax invoices.
>
> 3.7 As a result of these amendments, a document may be a tax invoice if it is issued by the supplier in the approved form and contains sufficient information to allow a number of key matters to determined, including:
>
> - the supplier's identity and Australia Business Number (ABN);
> - the nature of the supply; and
> - the amount of GST payable. …
>
> 3.10 As a result of these changes … documents generally only fail to constitute a tax invoice where key information has not been provided.

100. It is clear from the scope and purpose of sections 29-10 and 29-70 that the provisions are designed to ensure that the supplier includes sufficient information to communicate to the recipient the treatment it adopted in respect of a supply and that the recipient does not claim an input tax credit for a creditable acquisition that it cannot substantiate. It is these factors that underlie the position that the Commissioner need not, that is, is under no obligation to, treat a document as a tax invoice.

Guiding principles to consider in exercising the discretion

101. Subsection 29-70(1B) does not specify what factors are relevant to the exercise of this discretion. Some of the guiding principles that the Commissioner will have regard to in the exercise of the discretion for recipients who are claiming an input tax credit but do not hold a tax invoice or suppliers who discover defects in documents are explained in Law Administration Practice Statement PS LA 2004/11.

102. In exercising the discretion for documents that are yet to be issued by a supplier or a recipient, in the case of a recipient created tax invoice, the Commissioner will have regard to the following guiding principles.[55]

[55] In providing these guiding principles there is no intention to lay down conditions that may restrict the exercise of the Commissioner's discretion. A decision to exercise the discretion will be made by having regard to the particular facts and circumstances of each case. Entities cannot self-assess the exercise of the discretion, and cannot assume that the Commissioner will always exercise the discretion in the circumstances described in these guiding principles.

(a) The Commissioner must consider each case based on all the relevant facts and circumstances, including:

(i) the compliance record and position within the compliance model of the supplier or recipient, in the case of recipient created tax invoices;

(ii) if the record keeping systems and procedures for generating tax invoices are reasonable and adequate;[56] and

(iii) the alignment of commercial practices with the requirements of a tax invoice,

(b) The Commissioner needs to follow administrative law principles such as not fettering the discretion or taking into account irrelevant considerations.

(c) The Commissioner must have regard to the subject matter, scope and purpose of sections 29-10 and 29-70. As explained in paragraph 100 of this Ruling, it is clear from the scope and purpose of these sections that they are designed to communicate to the recipient the GST treatment that the supplier adopts for a supply and to reconcile the recipient's treatment of a creditable acquisition. These sections are based on the underlying design feature and presumption of the GST system that the cost of the GST is ultimately borne by the non registered end consumer.

(d) The discretion should be exercised where it is fair and reasonable to do so and must not be exercised arbitrarily. The circumstances in which the Commissioner considers it may be fair and reasonable to exercise the discretion include, but are not limited to, the following.

(i) The document satisfied as a tax invoice under the previous requirements. To require a supplier that complied with the previous law to make changes to its established systems when it is not needed would impose unnecessary compliance costs.

(ii) If the document does not meet the requirements as a direct result of the actions of the Commissioner.

[56] What is 'reasonable' and 'adequate' will vary depending on the nature and size of the business.

For instance, for a supply made by the trustee of a trust, in its trustee capacity, it is the trustee's identity and ABN (as trustee of the trust) that must be clearly ascertainable from the document. This requirement would not be satisfied where the document shows the ABN for the trust but identifies only the trustee entity in its own right (for example, Jones Pty Ltd) and not the trust relationship (for example, Jones Pty Ltd as trustee for the Jones Family Trust). As explained above at paragraph 64 of this Ruling, for the purposes of subsection 29-70(1), it is not sufficient to establish the identity of the supplier as a trustee of a trust by reference to some other source such as the ABR.

However, the Commissioner had previously stated that the requirement to show the then 'name' of the trustee was satisfied if the document included the correct ABN and identified, for example:

- the legal name of the entity that acts as the trustee – for example, Jones' Pty Ltd or The Trustee for the Jones' Family Trust; or
- the trading name of the enterprise carried on by the trustee of that trust – for example, Jones' Plumbing Services;

as the ABR can be relied upon to reveal the underlying trust relationship.

It may therefore be appropriate to exercise the discretion where the supplier's identity in its trustee capacity is not made clear in the document if the document would otherwise comply with the requirements of subsection 29-70(1).

(iii) The tax invoice requirements prevent giving effect to the intended application of a determination of the Commissioner.

For instance, the Commissioner has made a determination[57] under section 29-25 to vary the attribution rules for supplies which occur before the total consideration is known. This determination provides that a recipient may attribute an input tax credit to a tax period to the extent of the amount of the consideration stated in an invoice issued in that tax period; or to the extent of the consideration provided in that tax period (if an invoice is not issued or the consideration provided is greater than the amount on the invoice). However, before the recipient can claim an input tax credit, the recipient is still required to hold a tax invoice for the taxable supply.[58] As the final price of what is supplied is not known when an interim invoice is issued or an interim payment is made, a tax invoice cannot be issued by the supplier.[59]

In these circumstances it may be appropriate to exercise the discretion such that it would not be necessary for the document to include the final price for the supply if the consideration payable at that time can be clearly ascertained from the document and it otherwise satisfies the requirements of subsection 29-70(1). It would also not be necessary when the total consideration is known for the further document to include the final price if the remainder of the consideration payable at that time can be clearly ascertained from the document and it otherwise satisfies the requirements of subsection 29-70(1).

(iv) A reasonable person would consider that the document was clearly intended to, and would, be a tax invoice but for the missing information[60] and all of that missing information can be clearly ascertained from other documents issued by the supplier or recipient.

[57] See *A New Tax System (Goods and Services Tax) (Particular Attribution Rules Where Total Consideration Not Known) Determination (No. 1) 2000*.
[58] Assuming the value of the taxable supply is more than $75 or such higher amount as the regulations specify.
[59] Subparagraph 29-70(1)(c)(iii).
[60] Information to satisfy a particular requirement is missing if the information that is included is incorrect.

For instance, a recipient may arrange and record supplies and issue recipient created tax invoices[61] using an electronic purchasing system such as 'evaluated receipt settlement', 'purchase without invoice' and 'automatic invoicing'. They typically produce a summary document of taxable supplies that complies with the requirements for a tax invoice, apart from the requirement to include enough information to clearly ascertain a description of each thing supplied.[62] Instead, these systems usually refer to another document, such as a purchase order issued by the recipient that contains this information.

In such circumstances it may be reasonable to treat the summary document as a tax invoice if it together with the other document satisfies the requirements of subsection 29-70(1).

(v) It may also be fair and reasonable to exercise the discretion in situations where that missing information can be clearly ascertained from other sources or documents not issued by the supplier.

For instance, to be a tax invoice, a document must show enough information to determine the price of what is supplied. However, a document for a taxable supply to which Division 156 applies may not show enough information to clearly ascertain the price of all components of the supply.[63] For example, a lease agreement may be for a fixed monthly payment for twelve months, and this amount may be adjusted by the Consumer Price Index (CPI) for the following twelve months. Another example is where the lessee is required to pay an amount for outgoings.

[61] Paragraph 29-70(1)(a) provides that a recipient created tax invoice is an exception to the requirement that the supplier issue the tax invoice. A recipient must come within one of the classes where the Commissioner has determined that the recipient can issue a tax invoice under subsection 29-70(3).
[62] Subparagraph 29-70(1)(c)(iii).
[63] For the purposes of attributing the GST payable and the input tax credit to a tax period for entities that account on a non-cash basis, Division 156 treats each progressive or periodic component of the supply as a separate supply. See further explanation at paragraphs 146 to 149 of this Ruling.

In these situations, the lease will only satisfy the tax invoice requirements for those components of the supply for which enough information to determine the price is included. However, if the lessee holds another document such as notification from the lessor about the amount of the CPI variation or the outgoings contribution, it may be fair and reasonable to treat the lease agreement as a tax invoice if the agreement and the notification together satisfy the requirements of subsection 29-70(1).

However, it would not be necessary for the Commissioner to consider the exercise of the discretion where an agreement prescribes that an attached document forms Part of the agreement. For example, if the price is not the same for every component of the taxable supply, a schedule to the agreement that shows the price for each component may be attached. If the agreement states that the schedule forms Part of the agreement it would constitute the same document. The document would therefore be a tax invoice if it satisfies the requirements of subsection 29-70(1).

103. Generally, the Commissioner will not exercise the discretion for a document yet to be issued in cases where:

(a) it is reasonable to conclude from the information available that the supply to which the document relates will not be or is not a taxable supply; or
(b) a reasonable person would not consider that the document was clearly intended to be a tax invoice which conveyed the relevant information required;

unless there are other countervailing reasons for doing so.

104. Appendix 3 of this Ruling provides further examples of circumstances illustrating the exercise of the Commissioner's discretion in situations which have not been mentioned above.

There may be other circumstances where the Commissioner's discretion is exercised

105. The Commissioner's discretion to treat a document as a tax invoice may also be exercised in other specific circumstances as dealt with in other public rulings.[64]

[64] See Goods and Services Tax Rulings GSTR 2008/3 Goods and services tax: dealings in real property by bare trusts (paragraphs 75 to 79); GSTR 2003/13 Goods and services tax: general law partnerships (paragraphs 114 to 116) and GSTR 2004/6 Goods and services tax: tax law partnerships (paragraphs 209 to 212.

Review rights if the Commissioner does not exercise the discretion

106. In certain cases the Commissioner may decide not to exercise the discretion to treat a document as a tax invoice because, for example, it is believed that the supplier has not made a taxable supply or that the recipient has not made a creditable acquisition. If a supplier or recipient is dissatisfied with this decision, they may request an informal review of that decision under the Taxpayers' Charter, or seek a review of the decision under the *Administrative Decisions (Judicial Review) Act 1977*. However, they cannot object against the decision under Part IVC of the TAA as the decision is not a reviewable decision under section 110-50 of Schedule 1 to the TAA.

107. Alternatively, if the decision results in an assessment of a recipient's net amount for the relevant tax period, the recipient may object against that assessment in accordance with the Part IVC of the TAA.[65] Where the Commissioner disallows the objection, the recipient can, under Part IVC of the TAA, apply to the Administrative Appeals Tribunal (including the Small Taxation Claims Tribunal if eligible) for review of the objection decision or appeal to the Federal Court against the decision.[66]

108. If the Court or Tribunal finds that the recipient is entitled to an input tax credit for the acquisition it makes, it would be unnecessarily onerous to insist that the recipient seek a tax invoice or to refuse to exercise the discretion in respect of a document relevant to the taxable supply held by the recipient. The Commissioner has therefore made a determination in respect of this special circumstance that the recipient is not required to hold a tax invoice to claim the input tax credit where the conditions of the determination are met.[67]

Requirement to issue a tax invoice within 28 days of request by a recipient where the discretion is exercised

109. If the Commissioner exercises the discretion to treat a document relevant to a taxable supply as a tax invoice, that document is a tax invoice as defined in section 195-1. This applies to both the supplier and recipient as the document in which the discretion has been exercised is a tax invoice for the taxable supply that has been made.

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[65] The making of an assessment under section 105-5 of Schedule 1 to the TAA is a reviewable indirect tax decision under subsection 105-40(2) of Schedule 1 to the TAA. Subsection 105-40(1) of the TAA gives a right of objection in the manner set out in Part IVC of the TAA.

[66] See paragraphs 6 to 8 of Goods and Services Tax Determination GSTD 2004/1 for further explanation.

[67] See paragraphs 9 to 20 of GSTD 2004/1 and *A New Tax System (Goods and Services Tax) Act 1999 Waiver of Tax Invoice Requirement Determination (No. 1) 2004 - Decision of a Court or Tribunal* for further explanation.

110. It follows that the requirement for a supplier to give a tax invoice to the recipient will be satisfied where the supplier issues a document that is a tax invoice under subsection 29-70(1), or a document in respect of which the Commissioner's discretion has been exercised, within 28 days of the request by a recipient. In these circumstances, the supplier will not be liable to a penalty under subsection 288-45(1) of Schedule 1 to the TAA as the supplier has issued a tax invoice within 28 days of the request by the recipient.

111. If a document in which the discretion has been exercised is not issued, or the discretion has not been exercised for a document, within 28 days of request being made, the supplier may be liable to a penalty under subsection 288-45(1) of Schedule 1 to the TAA. In these circumstances the supplier has committed an offence as the supplier has failed to issue a tax invoice within the prescribed timeframe of the request. A subsequent exercise of the discretion by the Commissioner to treat the document as a tax invoice does not change the fact that a tax invoice was not issued within 28 days of the request.

Requirement to issue a tax invoice or to hold a tax invoice to claim an input tax credit

Low value taxable supplies

112. A supplier does not have to issue a tax invoice and a recipient can claim an input tax credit without holding a tax invoice, if the value of the taxable supply is $75 or less or such higher amount as the regulations specify.[68] However, a supplier and a recipient should keep records that explain the GST payable for all taxable supplies and support all input tax credit claims for acquisitions.[69] For most supplies, a value of $75 corresponds with a price of $82.50.

113. The Commissioner applies this threshold on the basis that a number of things supplied together is one taxable supply, rather than each thing being a separate supply.[70] For example, if the transaction comprises the sale of five taxable items, each with a value of $20, then you need a tax invoice because the total value of the taxable supply exceeds $75.

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[68] Subsection 29-80(1) and regulation 29-80.01 of the A New Tax System (Goods and Services Tax) Regulations 1999 (GST Regulations).
[69] Section 382-5 of Schedule 1 to the TAA.
[70] The manner of application of this threshold does not change the requirement for a tax invoice to contain enough information to clearly ascertain the price for each taxable item in the transaction.

Second hand goods

114. Division 66 provides a special rule where second-hand goods are acquired for the purposes of sale or exchange. The fact that the supply to you is not taxable does not stop the acquisition being creditable.[71] You do not need a tax invoice to claim an input tax credit. However, you cannot claim the input tax credit unless you hold records that:

- set out the name and address of the entity that supplied the goods to you; and
- describe the goods (including their quantity); and
- set out the date of, and the consideration for, the acquisition.[72]

115. If the supply of the second hand goods to you is a taxable supply, the basic rules apply and you must hold a tax invoice to claim the input tax credit.

Circumstances where the Commissioner has determined a tax invoice is not required

116. Under subsection 29-10(3), the Commissioner may determine circumstances in which you may claim an input tax credit without a tax invoice. These circumstances are summarised in a table in Appendix 3.

117. The Commissioner may make further determinations in the future where there are circumstances of a kind that affect a particular entity or class of entities.

Other circumstances where you do not need to hold a tax invoice in order to claim an input tax credit

118. You do not need to hold a tax invoice in order to claim an input tax credit for a creditable acquisition in the following circumstances:

- the GST on the taxable supply is payable by you because of section 15C of Division 2 of the *A New Tax System (Goods and Services Tax Transition) Act 1999*[73] (GST Transition Act);

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[71] Subsection 66-5(1).
[72] Section 66-17
[73] Division 2 of Part 3 of the *A New Tax System (Goods and Services Tax Transition) Act 1999* applies to agreements spanning both 1 July 2000 and 1 July 2005. In the circumstances described in section 15C of that Act, the GST on a taxable supply made under such an agreement is payable by the recipient (to the extent the supply is made on or after a certain date occurring on or after 1 July 2005). Subsection 15H(3) of that Act provides that subsection 29-10(3) of the GST Act does not apply, so that the recipient may claim an input tax credit without holding a tax invoice.

- the GST on the taxable supply is payable by you because it has been reverse charged, for example, under Division 83.[74]

119. If you are claiming an input tax credit for a creditable importation, you also do not need to hold a tax invoice to claim an input tax credit. [75]

120. However, the recipient must have sufficient records to substantiate its input tax credit claims for a creditable acquisition where the supplier is not required to issue a tax invoice.

Other circumstances where a tax invoice is not issued

121. A supplier must not issue a tax invoice for a taxable supply if:

- the recipient issues a recipient created tax invoice.[76]
- the supplier makes a supply through an agent or intermediary and the agent or intermediary (under an arrangement entered into in which the intermediary is treated as the supplier) issues a tax invoice;[77]

122. A tax invoice is also not required to be issued for a taxable supply that is solely a supply of real property under the margin scheme[78] or solely a gambling supply.[79] This is because the recipient is not entitled to an input tax credit. The thing acquired under the supply is not a creditable acquisition.[80]

Keeping a copy of a tax invoice; request for a copy of a tax invoice

123. If you issue a tax invoice for a taxable supply that you make, you do not have to keep a copy. However, keeping a copy would be one way of showing that you complied with the requirement to issue a tax invoice.

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[74] In the circumstances described in sections 83-5, 83-10 and 83-15, the GST on a taxable supply made by a non-resident supplier is payable the recipient. Section 83-35 provides that subsection 29-10(3) of the GST Act does not apply, so that the recipient may claim an input tax credit without holding a tax invoice.
[75] See further at paragraph 292 of Goods and Services Tax Ruling GSTR 2003/15 Goods and services tax: importation of goods into Australia.
[76] Paragraph 29-70(1)(a). GSTR 2000/10 sets out the circumstances in which the recipient of a supply may issue a tax invoice.
[77] Subsection 153-15(2) and paragraph 153-50(b). See also paragraph 61 of Goods and Services Tax Ruling GSTR 2000/37 Goods and services tax: agency relationships and the application of the law.
[78] Section 75-30.
[79] Section 126-33.
[80] Sections 75-20 and 126-30.

124. Sometimes a supplier may issue a tax invoice and the recipient of the supply may request another copy. For example, the tax invoice may be lost or destroyed. If the supplier issues a copy of the tax invoice or a second tax invoice, it is suggested that it be marked 'copy' or 'duplicate' to enable easier identification of the document. If no previous input tax credit amount has been claimed, you may claim an input tax credit if you hold a tax invoice that is a copy or a re-issued tax invoice.

Penalties

125. Penalties may be imposed on a supplier for failing to issue a tax invoice within 28 days of a request by a recipient or for making a false statement in a tax invoice.[81]

126. A recipient may be liable to a penalty for making a false or misleading statement in a material particular where the recipient claims an input tax credit in a tax period and a tax invoice was not held at the time of lodging the relevant Business Activity Statement.

Special rules that affect tax invoices

127. The GST Act also includes a number of special rules for certain types of taxable supplies that affect tax invoices. We have set these rules out below.

Agents

128. Subdivision 153-A has special rules about tax invoices and agents. It reflects the position at common law that when an agent uses his or her authority to act for a principal, then any act done on behalf of that principal is an act of the principal. An entity therefore makes a supply or acquisition if their agent makes it on their behalf.

129. Accordingly, if you make a taxable supply through an agent, your agent can issue a tax invoice for you.[82] It is not necessary that your agent is registered, or required to be registered, for GST. Similarly, you may claim an input tax credit for a creditable acquisition you make through your agent if your agent holds the tax invoice.[83]

Supplies of insurance policies through insurance brokers

130. Subdivision 153-A treats an insurance broker who is an agent for a recipient as an agent of the insurer.[84] This enables the broker to issue a tax invoice on behalf of the insurer. It is not necessary that the broker is registered, or required to be registered, for GST.

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[81] Subsections 288-45(1), 284-75(1) and 284-75(4) of Schedule 1 to the TAA.
[82] Paragraph 153-15(1)(b).
[83] Section 153-5.
[84] Subsection 153-25(1).

Representatives of incapacitated entities

131. Division 58 has special rules about incapacitated entities and their representatives (for example, liquidators, receivers, controllers and administrators). It provides that any supply, acquisition, importation, act or omission by an entity in its capacity as representative of an incapacitated entity is taken to be a supply, acquisition, importation, act or omission by the incapacitated entity. [85] Accordingly, an entity in its capacity as representative of an incapacitated entity can issue a tax invoice for the incapacitated entity. A representative is required to be registered in that capacity if the incapacitated entity id registered or required to be registered for GST. [86]

132. An incapacitated entity, in general, has a legal obligation to set out the type of administration it is under in its public documents. This is usually a suffix after its name. Information sufficient to identify the incapacitated entity on a tax invoice would therefore include the type of administration the entity is under, for example, 'XYZ Pty Ltd (in liquidation)' or 'ABC Pty Ltd (administrators appointed)'.

GST groups

133. If you are a member of a GST group, the representative member of your group is liable for the GST payable on the taxable supplies that you make. [87]

134. Even though the special rule in Division 48 makes the representative member liable to pay the GST, you are the entity that makes the taxable supply. As such, you must issue a tax invoice for the taxable supply when requested by the recipient. However, you may authorise the representative member to issue tax invoices on your behalf. The tax invoice must include your details and not the details of the representative member of your group.

135. Further, if you are a member of a GST group, the representative member of your GST group is entitled to the input tax credit on the creditable acquisitions you make. [88]

136. Even though the representative member is entitled to the input tax credit under the special rule in Division 48, you are the entity that makes the creditable acquisition. Ordinarily, a tax invoice with a total price of at least $1,000, or such higher amount as the regulations specify, would have to include enough information to clearly ascertain your identity or ABN as the recipient of the supply.

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[85] Section 58-5.
[86] Subsection 58-20(1).
[87] Subsection 48-40(1).
[88] Subsection 48-45(1).

137. However, if a document contains sufficient information to clearly show the identity of your GST group, the representative member or another member of your GST group, and would otherwise be a tax invoice if it contained information from which your identity or ABN could be determined, then the document is taken to be a tax invoice.[89]

138. This concession only applies while you are a member of the GST group and the representative member of the GST group is entitled to claim the input tax credit. If the document names another entity from the GST group, the concession only applies if the representative member would have been entitled to claim the input tax credit for the acquisition had that other entity made the acquisition. This ensures that the entity identified is a member of the GST group at the relevant time.[90]

139. However, a recipient that is, or was, a member of a GST group can still require the supplier to issue a compliant tax invoice.[91] For instance, such a request may be made if an adjustment arises under section 48-110 or 48-115 following an entity ceasing to be a member of a GST group.

Interaction of this concession with the concession allowing a recipient to treat a document as a tax invoice

140. One of the requirements for the concession to apply is that the document would be a tax invoice but for the fact that it does not contain enough information to enable the identity or ABN of the recipient to be clearly ascertained.[92]

141. An issue arises as to the interaction of this concession with the concession that allows an entity (for example, a recipient) to treat a document as a tax invoice by relying on other documents issued by the supplier (see paragraphs 87 to 93 of this Ruling). For example, if a document does not identify or include the ABN of the recipient entity (that is a member of a GST group) and it does not include the supplier's ABN (but the recipient has another document issued by the supplier with this information).

[89] Subsection 48-57(1). This concession does not apply to recipient created tax invoices. A recipient issuing a recipient created tax invoice must include their identity on the document.
[90] Subparagraph 48-57(1)(d)(iii).
[91] Subsection 48-57(2).
[92] Paragraph 48-57(1)(a).

142. In considering if the document would be a tax invoice but for the fact that it fails to include the recipient's identity or ABN (that is, there is no other reason why the document would not be a tax invoice), the Commissioner takes into account whether the recipient could otherwise treat the document as a tax invoice if the recipient's identity or ABN was clearly ascertainable from the document. If the recipient could treat the document as a tax invoice (under the concession in subsection 29-70(1A)), but for the fact that the recipient's identity or ABN is not clearly ascertainable, then the requirement in paragraph 48-57(1)(b) is taken to be satisfied.

143. This approach is consistent with the intent of the concession in section 48-57.[93]

144. See Example 3 at paragraphs 39 to 40 of this Ruling.

GST branches

145. If you are a parent entity with a separately registered GST branch, you may make some supplies through that branch. When you register a GST branch, the Commissioner will notify you of the GST branch registration number.[94] You must show this number on a tax invoice (including a recipient created tax invoice) for a taxable supply made through a GST branch.[95]

Supplies made for a period or on a progressive basis

146. Division 156 provides a special rule for entities that account on a non-cash basis for taxable supplies that:

- are made for a period or on a progressive basis; and
- for consideration that is provided on a progressive or periodic basis.

147. For the purposes of attributing the GST payable and the input tax credit to a tax period, this Division treats each progressive or periodic component of the supply as a separate supply. Examples of these supplies are insurance policies that are paid monthly, annual subscriptions paid on a monthly basis, and commercial leases for a period.

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[93] Paragraph 3.48 of the Explanatory Memorandum to *Tax Laws Amendment (2010 GST Administration Measures No. 2) Act 2010*.
[94] Section 54-15.
[95] Paragraph 54-50(1)(a).

148. As a supplier, you do not have to issue separate tax invoices for each component of the supply. A single document can be a tax invoice for all components of the supply if it satisfies the requirements in subsection 29-70(1), and it includes enough information to ascertain the price of each component of the supply. For example, a lease agreement for an item of equipment may show the price as $900 a month. This agreement is a tax invoice for all the months if it also satisfies the requirements of subsection 29-70(1).

149. If the price is not the same for each component, or there is a price variation (for example a CPI adjustment), and you need to rely on other documents, the exercise of the Commissioner's discretion is relevant and is explained at sub-subparagraph 102(d)(v) of this Ruling.

Using a Simplified Accounting Method

150. The Commissioner has published simplified accounting methods for particular types of small retailers under Division 123.[96] If you are eligible to use one of these methods, you can calculate your net amount by estimating your GST-free sales at the end of each tax period instead of tracking each GST-free supply you make.[97] These rules make it easier to work out the amount of GST you have to pay or the extent of your refund.

151. If you use a simplified accounting method, you will still have to issue a tax invoice that complies with the requirements of subsection 29-70(1) within 28 days of a request by the recipient if the value of the taxable supply exceeds $75.[98]

Reimbursements of employees etc

152. Division 111 has special rules covering the situation where you reimburse an employee, an officer of a company or a partner for an expense they incur for an acquisition directly related to that position.

[96] Section 123-5.
[97] Section 123-15.
[98] Subsections 29-70(2) and 29-80(1) and regulation 29-80.01 of the GST Regulations.

153. Providing the requirements of the Division are met, the reimbursement is treated as consideration for an acquisition you make from that person.[99] This acquisition may be a creditable acquisition for you notwithstanding that the supply to you is not a taxable supply.[100] You may claim the input tax credit for a creditable acquisition if you hold the tax invoice that was issued to the person you reimbursed.[101] The tax invoice may identify that person and not you as the recipient of the taxable supply.

Pre-establishment costs of a company

154. In the circumstances set out in Division 60, a company may claim an input tax credit for creditable acquisitions made before it came into existence. The acquisition must be made by an entity that becomes a member, officer or employee of the company.[102]

155. The company must hold a copy of the tax invoice that is held by the member, officer or employee, (or the person's agent), when attributing the input tax credit in its BAS for a particular tax period.[103] The tax invoice may identify that member, officer or employee, (or the person's agent) and not the company as the recipient of the taxable supply.

[99] Subsection 111-5(1).
[100] Subsection 111-5(2). The circumstances when the acquisition you make is not a creditable acquisition to you are explained in subsection 111-5(3).
[101] Section 111-15.
[102] Subsection 60-15(1).
[103] Subsection 60-25(2).

Appendix 2 – Waiver of tax invoice legislative determinations

This Appendix provides information to help you understand the circumstances in which the Commissioner has determined in writing that a tax invoice is not required to attribute an input tax credit to a tax period. It does not form Part of the binding public ruling.

156. The following table summarises when the Commissioner has determined in writing under subsection 29-10(3) that a tax invoice is not required.

157. You must refer to the legislative instrument before relying on it to ensure you meet the requirements as set out in the instrument.

Legislative instrument	Overview
See WTI 2000/1 – *A New Tax System (Goods and Services Tax) Act 1999 Waiver of Tax Invoice Requirement Determination (No. 1) 2000* F2006B11587	**A document issued before 1 July 2000 for a supply made on or after that date.** The recipient of a supply may claim an input tax credit if a document is held that satisfies the Commissioner's determination that is attached to Goods and Services Tax Ruling GSTR 2000/3.
See WTI 2000/2 – *A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement Determination (No. 2) 2000* F2006B11650	**Reverse charges' on offshore intangible supplies** The Commissioner has determined that if your entitlement to an input tax credit relates to a taxable supply for which you are liable to pay GST under Division 84, you do not have to hold a tax invoice.
WTI 2000/4 – *A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement Determination (No. 4) 2000 – customers of GE Capital Fleet Services Australia Pty Ltd* F2006B11624	**GE Fleet customer** In certain circumstances a GE Fleet customer will not be required to hold a tax invoice for an acquisition in order to attribute an input tax credit.
WTI 2000/5 – *A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement Determination (No. 5) 2000 – holders of InnClub Invoice/Statement issued by Flag Choice Hotels Limited* F2005B02748	**Flag Choice Hotels customer** In certain circumstances a customer of Flag Choice Hotels Limited (Flag Choice) will not be required to hold a tax invoice for a creditable acquisition purchased with a Flag Choice InnClub card in order to attribute an input tax credit.

Legislative instrument	Overview
WTI 2000/6 – *A New Tax System (Goods and Services Tax) Act 1999 Waiver of Requirement to hold a Tax Invoice Determination 2000 – Members of Mastercard International and VISA International* F2007B00013	**Member of Mastercard International and/or VISA International** In certain circumstances members of Mastercard International and/or VISA International being the recipient of a supply of credit and debit card services from other financial institutions, and known as 'bank interchange services' will not be required to hold a tax invoice for an acquisition in order to attribute an input tax credit.
WTI 2000/77 – *A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement Determination (No. 77) 2000 – corporate account holder of CABCHARGE AUSTRALIA* F2006B11621	**Corporate account holder of Cabcharge Australia Limited** In certain circumstances a corporate account holder of Cabcharge Australia Limited will not be required to hold a tax invoice for a creditable acquisition purchased with the corporate card in order to attribute an input tax credit.
WTI 2001/1 – *A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement Determination (No. 1) 2001 – members of* OFFICEWORKS CORPORATE CARD F2005B01874	**Member of Officeworks corporate card** In certain circumstances a member of Officeworks corporate card will not be required to hold a tax invoice for an acquisition in order to attribute an input tax credit.
WTI 2001/3 – *A New Tax System (Goods and Services Tax) Act 1999 Waiver of Tax Invoice Requirement Determination (No.3) 2001 – Direct Entry Services* F2005B01872	**Direct Entry Services** In certain circumstances an entity will not be required to hold a tax invoice for a creditable acquisition of Direct Entry Services in order to attribute an input tax credit.
WTI 2004/1 – *A New Tax System (Goods and Services Tax) Act 1999 Waiver of Tax Invoice Requirement Determination (No. 1) 2004 – Decision of a Court or Tribunal* F2006B11585	**Court or tribunal decisions** In certain circumstances where a Court or Tribunal has found that you have made a creditable acquisition and are entitled to an input tax credit you will not be required to hold a tax invoice.

Legislative instrument	Overview
WTI 2006/1 – *Goods and Services Tax: Waiver of Tax Invoice Requirement – Government Undercover Agents Determination (No. 1) 2006* F2006L03278	**Undercover agents of a government law enforcement agency** In certain circumstances an entity will not be required to hold a tax invoice for a creditable acquisition for which the reimbursement of an expense is treated as consideration for the acquisition from an employee or agent in order to attribute an input tax credit on the acquisition.
WTI 2008/1 – *Goods and Services Tax: Waiver of Tax Invoice Requirement (Corporate Card Statements) Legislative Instrument (No.1) 2008* F2008L03345	**Corporate card holder of listed corporate card providers** In certain circumstances a corporate card holder of a listed corporate card provider that has a corporate card statement is not required to hold a tax invoice in order to attribute an input tax credit.
WTI 2008/2 – *Goods and Services Tax* : *Waiver of Tax Invoice Requirement (Visa Purchasing Card) Legislative Instrument (No.2) 2008* F2008L03348	**Registered entity that holds a Visa Purchasing Card** In certain circumstances a cardholder is not required to hold a tax invoice for a creditable acquisition.

Appendix 3 – Commissioner's exercise of the discretion to treat a document as a tax invoice – Examples

This Appendix provides examples of the circumstances in which it may be appropriate for the Commissioner to exercise the discretion to treat a document as a tax invoice. It does not form Part of the binding public ruling.

158. The operation of the discretion in subsection 29-70(1B) depends on the facts and circumstances of each case. The following examples are not intended to fetter the exercise of the Commissioner's discretion, but are for illustrative purposes only.

Example 4 – documents that are merely offers issued to prospective recipients

159. *A supplier that is a publication house issues a document to a substantial number of its members making them an offer to subscribe for access to an online legal research database. The supplier offers a discount to the members for subscribing and making payment by a particular date. No discount is available for subscriptions or payments made after that particular date. It cannot be determined if a supply will be made by a member accepting the offer*[104] *or the final price for a supply accepted at the time of issuing the document.*

160. *However, the document when completed by the recipient will indicate the supply accepted, the final price of the supply, and the GST included in the price of the supply. It also includes a statement that the document will be a tax invoice when completed and a payment made by the recipient.*

161. This may be an appropriate situation for the exercise of the Commissioner's discretion to treat the document as a tax invoice when the offer is accepted and payment made. The offer document, when issued by the supplier, meets the requirements of subsection 29-70(1) in respect of the total of the supply being offered and has been made to a substantial number of its members. It is clear from the statement that the offer document was intended to be a tax invoice when completed by a prospective recipient and it indicates the supply has been accepted, the final price and amount of GST payable in relation to what is supplied. However, the offer document would not be treated as a tax invoice if the offer is not accepted or payment is not made by the recipient.

[104] As a tax invoice is a document that relates to a taxable supply, the offer document cannot be a tax invoice when it is issued.

162. Other examples of documents in which it may be appropriate to exercise the discretion include offers for subscriptions to trade magazines, membership of professional associations, and provision of training courses or seminars. In these situations the document should:

- meet the requirements of subsection 29-70(1) in respect of the total of all supplies being offered when issued by the supplier;
- indicate which supplies have been accepted, the total price and amount of GST payable in relation to what is supplied when completed by the prospective recipient; and
- include the following or similar statement:

  This document will be a tax invoice for GST when fully completed and you make a payment.

163. The discretion would not be exercised for an offer made by a supplier to a single recipient (for example, a 'quote' given by a professional or tradesperson).

Example 5 – insurance renewal notices

164. *A home insurer issues an insurance renewal notice to a customer to renew their house and contents insurance. The document contains all the information required by subsection 29-70(1) and includes a statement that the document will be a tax invoice when the customer makes a payment. However, the insurance renewal notice cannot be a tax invoice when it is issue as the insurer does not know whether there will be a supply at that time.*

165. It may be appropriate in this circumstance for the Commissioner to treat the document as a tax invoice when the insurance has been renewed by the customer making the payment. The renewal notice, when issued, meets the requirements of subsection 29-70(1) and the statement makes it clear that the notice was intended to be a tax invoice when payment is made.

166. It may still be appropriate to exercise the discretion where the GST payable on the supply of insurance is less than 1/11th of the price.[105] This is because under subsection 29-70(1), the tax invoice must show enough information to clearly ascertain from the document the price, the extent to which each supply is a taxable supply and the amount of GST payable in relation to each supply.

[105] Section 78-5.

Example 6 – document lists items by reference to Part numbers and codes

167. *A supplier issues a document that is clearly intended as a tax invoice. The document complies with all of the tax invoice requirements other than that it lists the things supplied by Part numbers or codes. It cannot be determined from the Part numbers or codes what has been supplied.*

168. *However, the recipient has two other documents issued by the supplier, one that describes the items that match the Part numbers and one that describes the items that match the codes.*

169. This may be an appropriate circumstance for the exercise of the Commissioner's discretion to treat the document as a tax invoice. A reasonable person would consider that the document was clearly intended to be a tax invoice but for the lack of a description of the thing supplied and this missing information can be determined from the other documents held by the recipient.

170. The recipient could in any case treat the document issued by the supplier as a tax invoice under subsection 29-70(1A) because the recipient has those other documents which were issued by the supplier.

Example 7 – document identifies authority number of taxi driver

171. *A taxi driver makes a supply of taxi travel to an employee of a company. The value of the taxable supply exceeds $75. The taxi driver issues a document, for example, a Cabcharge or EFTPOS receipt that complies with the tax invoice requirements other than it includes the taxi driver licence or accreditation number issued by a State or Territory government regulatory body that authorises the person to drive a taxi. This results from the limitation of the EFTPOS terminal which links to the taxi meter that follows industry practice in using the authority (DC) number as the unique identifier for the driver rather than the driver's name. The disclosure of the name of the driver is also considered to be security issue within the industry.*

172. It is fair and reasonable to exercise the discretion to treat the document as a tax invoice in this circumstance as a result of the limitations of the record keeping system that generates the tax invoice as it follows industry practice to protect the safety of the driver.

Example 8 – supply made through an agent

173. *A real estate agent acts under a commercial property management agreement with a landlord to arrange a supply of premises by the landlord. The real estate agent has the landlord's authority to enter into the lease agreement on behalf of the landlord. The real estate agent makes a supply on behalf of the landlord when it arranges a lease with a tenant if the agent. The real estate agent issues a document for the landlord in relation to the first month of the lease. This document complies with all of the tax invoice requirements other than that it includes the real estate agent's identity and ABN. This is in accordance with the existing commercial practice of the real estate agent.*

174. On balance, the Commissioner is likely to exercise the discretion to treat the document as a tax invoice in this circumstance. Although it is the landlord's identity and ABN that should be able to be clearly ascertained from the document the exercise of the discretion would align the tax invoice requirements with the existing commercial practices of the real estate agent. It would be expected, however, that the landlord and real estate agent would keep records that evidence that the supply was made on behalf of the landlord.

175. For a similar reason, the Commissioner will likely treat a document as a tax invoice if an insurance broker's or representative of an incapacitated entity's identity and ABN instead of the identity and ABN of the insurer can be clearly ascertained from the document (and the other requirements of subsection 29-70(1) are satisfied).

176. It may also be appropriate to exercise the discretion to enable a recipient to claim an input tax credit for a creditable acquisition made through an agent where the agent holds a document[106] that includes the agent's identity or ABN in accordance with the guidance in PS LA 2004/11.[107]

Example 9 – multiple supplies made through an agent in a single dealing

177. *A small newsagent acts as an agent for several publishers. In a single dealing the newsagent makes a supply on behalf of more than one publisher to a corporate customer. The real estate agent issues a single document for both publishers in relation to supply that complies with all of the tax invoice requirements other than it is the identity and ABN of the newsagent and the total price for all of the taxable supplies that can clearly ascertainable from the document. This is in accordance with the existing commercial practice of the newsagent.*

[106] Section 153-5.
[107] The identity or ABN of the recipient only has to be shown if the total price of the supply or supplies on a tax invoice is at least $1,000 or such higher amount as the regulations specify: subparagraph 29-70(1)(c)(ii).

178. On balance, the Commissioner is likely to exercise the discretion to treat the document as a tax invoice in this circumstance. Although it is each publisher's identity and ABN and the price for each separate taxable supply that should be able to be clearly ascertained from the document, the exercise of the discretion would align the tax invoice requirements with the existing commercial practices of the newsagent. Other relevant factors to consider would include the adequacy of the record keeping system in view of the size of the newsagent and the administrative difficulty or costs it would cause the newsagent to change its systems or to issue multiple tax invoices for a single document.

Example 10 – single acquisition made through an agent for multiple principals (recipients) in a single dealing

179. *An agent makes a creditable acquisition of fuel from a fuel supplier on behalf of more than one bus line. The supply of the fuel is made to a fuel depot where each bus line draws fuel from the depot. The fuel supplier issues a document that complies with the tax invoice requirements other than it is the identity and ABN of the agent and total price for all the taxable supplies that can be clearly ascertained from the document. This could be because the fuel supplier does not know who the multiple recipients are, may not know how much of the supply is destined for each of those recipients, or may be unwilling to deal with more than one entity in relation to the supply.*

180. If Subdivision 153-A applies, and the total price for all the supplies is at least $1,000 or such higher amount as the regulations specify, it may be appropriate on balance for the Commissioner to treat the document as a tax invoice. Although it is each bus line's identity and ABN and the price for each taxable supply that should be able to be clearly ascertained from the document, the exercise of the discretion in accordance with the guidance in PS LA 2004/11.

181. Each bus line would be able to claim an input tax credit for the fuel if the discretion is exercised and the agent holds the document. However, each bus line would be required to keep records to explain their input tax credit claim on a basis that reflects the amount of consideration they provided and their use of the acquisition for a creditable purpose.[108] The total amount of input tax credits claimed by each cannot exceed the total amount of GST payable in relation to the supply.

[108] Section 11-15 provides that an entity acquires a thing for a creditable purpose to the extent it is made in carrying on an enterprise. A thing is not acquired for a creditable purpose to the extent it is of a private or domestic nature or relates to making supplies that would be input taxed.

Appendix 4 – Your comments

182. You are invited to comment on this draft Ruling. Please forward your comments to the contact officer by the due date.

183. 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 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:	**8 July 2011**
Contact officer:	**Grant Murphy**
Email address:	**grant.murphy@ato.gov.au**
Telephone:	**(07) 3213 5707**
Facsimile:	**(07) 3213 5061**
Address:	**Australian Taxation Office** **GPO Box 9977** **BRISBANE QLD 4000**

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- GST invoices
- Recipient created tax invoices
- Tax invoices

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