GSTR 2001/D8 - Goods and services tax: recipient created tax invoices and foreign currency conversions

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There is an Erratum notice for this document.
This document has been finalised.

Draft Goods and Services Tax Ruling
Goods and services tax: recipient created tax invoices and foreign currency conversions

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Preamble

This document is a draft for industry and professional comment. As such, it represents the preliminary, though considered views of the Australian Taxation Office. This draft may not be relied on by taxation officers, taxpayers and practitioners. When officially released as a final ruling it will be a public ruling for the purposes of section 37 of the ***Taxation Administration Act 1953*** *and may be relied upon by any entity to whom it applies.*

What this Ruling is about

1. This Ruling explains a Determination that the Commissioner proposes to make under subsection 29-70(3) of the *A New Tax System (Goods and Services Tax) Act 1999* ('GST Act'). The proposed Determination is about how recipient created tax invoices ('RCTIs') are issued when the consideration for a taxable supply is expressed in foreign currency and needs to be converted to Australian currency for GST purposes. (A copy is attached at Schedule 1.)

2. The Ruling also:

- explains a requirement that a recipient needs to satisfy when issuing RCTIs expressed in foreign currency; and
- explains how the proposed Determination affects suppliers and recipients of taxable supplies for which RCTIs may be issued.

3. This Ruling does not apply to taxable importations.

4. Goods and Services Tax Rulings GSTR 2000/10 (Goods and Services Tax: recipient created tax invoices) and GSTR 2001/2 (Goods and Services Tax: foreign exchange conversions) are extensively referred to in this Ruling. Certain terms defined or explained in those rulings appear in **bold** when first mentioned in this Ruling.

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

Date of effect

6. This draft Ruling represents the preliminary, though considered, view of the Australian Taxation Office. This draft may not be relied on by taxation officers, taxpayers or practitioners. When the final Ruling is officially released it will explain our view of the law as it will apply from the date of the proposed Determination. The final Ruling will be a public ruling for the purposes of section 37 of the *Taxation Administration Act 1953* and may be relied upon, after it is issued, by any entity to whom it applies. Goods and Services Tax Ruling GSTR 1999/1 explains the GST rulings system and our view of when you can rely on our interpretation of the law in GST public and private rulings.

Background

7. The Commissioner released Goods and Services Tax Ruling GSTR 2000/10 in May 2000. A copy of the Determination of three broad classes of RCTIs is attached to that Ruling at Schedule 1. The Commissioner has subsequently determined a number of additional classes of RCTIs.[1]

8. Goods and Services Tax Ruling GSTR 2001/2 was released in February 2001. A copy of the Commissioner's foreign exchange conversion Determination is attached to that Ruling at Schedule 1.

9. Good and Services Tax Ruling GSTR 2001/2 discusses how the Commissioner has determined amounts of consideration that are expressed in foreign currency are to be converted into Australian currency so that the GST payable on the supply by the supplier may be calculated. The recipient is entitled to an amount of input tax credit equal to the GST payable in Australian currency (the amount is reduced where the acquisition is only partly creditable).[2]

10. To prepare the RCTI, the recipient has to be provided with the information that the supplier would use to convert the foreign currency into Australian currency and to calculate the GST payable. Specifically, the recipient needs to know **your particular exchange** rate[3] and the conversion day[4] that are to be used.

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[1] The Commissioner's Determinations of classes of RCTIs can be found on the ATO's website at www.ato.gov.au.
[2] Section 11-25.
[3] 'Your particular exchange rate' is explained in paragraphs 20 to 26 of Good and Services Tax Ruling GSTR 2001/2.
[4] 'Conversion day' is explained in paragraphs 27 to 36 of Good and Services Tax Ruling GSTR 2001/2.

Ruling with explanation

The requirement in the proposed RCTI Determination

11. The Commissioner proposes to make a Determination under subsection 29-70(3) varying all previous RCTI Determinations. The proposed Determination requires the recipient to hold information to be used for converting foreign currency to Australian currency.

12. The requirements for issuing RCTIs will be varied by the proposed Determination attached at Schedule 1 of this Ruling. The additional requirement to be satisfied by recipients is to be inserted into paragraph 4(c)[5] or 5(c)[6] as follows:

> '(ii) where the consideration for the supply is expressed in foreign currency, the recipient must hold a written advice stating:
>
> (A) your particular exchange rate; and
>
> (B) the conversion day,
>
> to be used for converting foreign currency to Australian currency before issuing the tax invoice;'.

13. The recipient must issue the RCTI to the supplier within 28 days of the taxable supply being made, or within 28 days from determining the value of the supply.

Written advice

14. If you are a supplier who makes taxable supplies for which the consideration is expressed in foreign currency, you need to give your recipient written advice stating:

- your particular exchange rate; and
- the conversion day.

15. You need to give the advice to the recipient after you make your first taxable supply (after the proposed Determination is made and where the consideration for the supply is expressed in foreign currency). You may provide the advice by means of a document, including one in an electronic form such as an e-mail or fax.[7] It needs

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[5] *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 1) 2000* and the Determination *A New Tax System (Goods and Services Tax) Act Class of Recipient Created Tax Invoice (RCTI) for supplies of reinsurance or supplies of retrocession* (referred to as RCTI 2000/30).

[6] All other determinations of classes of recipient created tax invoices made before the making of the proposed determination.

[7] See section 25 of the *Acts Interpretation Act 1901.*

to be given to enable the recipient to issue the RCTI within 28 days of the taxable supply being made, or within 28 days from determining the value of the supply.[8]

Example 1 – written advice

16. *Smith makes supplies to Jones. They have an RCTI agreement under which Jones issues RCTIs for the supplies. The contract for the supplies expresses the consideration in foreign currency.*

17. *Smith needs to give written advice to Jones after making the first taxable supply (after the proposed Determination is made). It needs to be given to enable Jones to issue the RCTI within 28 days of the supply being made.*

Agreed rate

18. If your particular exchange rate is an **agreed rate**[9] and you have also agreed on the conversion day in writing, then you do not have to give a new written advice to the recipient. If the recipient holds the original or a copy of the agreement it will satisfy the requirement in the Determination to hold an advice. However, if there is an implied agreement about using an agreed rate you need to send a written advice to the recipient. Alternatively, you and the recipient may decide that the recipient can give you a written advice confirming the agreed rate and conversion day.

19. The original or a copy of the advice needs to be held by the recipient before the RCTI for the taxable supply is issued.

20. If the agreed rate and conversion day are contained in a written agreement (and a new written advice has not issued), the recipient needs to hold the original agreement, or a copy, before the RCTI for the taxable supply is issued.

Example 2 – agreed rate in a written agreement

21. *Following on from Example 1, Smith and Jones agree on a method of foreign currency conversion. Jones holds a copy of the written agreement which contains details of the agreed rate and conversion day. There is no need to give a written advice.*

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[8] Suppliers and recipients should not forward originals or copies of advices to the ATO.

[9] 'Agreed rate' is explained in paragraphs 24 to 26 of Goods and Services Tax Ruling GSTR 2001/2.

What happens if you do not meet the requirement?

22. If you (as the recipient) fail to satisfy the requirement to hold a written advice when issuing an RCTI, the document will not be within a class of tax invoices determined as being RCTIs.

23. If this happens, you cannot attribute an input tax credit for the supply to a tax period (although it may be for a creditable acquisition) until you hold a tax invoice issued by your supplier.[10] To obtain the input tax credit, you can request a tax invoice for the taxable supply from your supplier who must give it to you within 28 days after your request.[11]

Record keeping

24. In addition to the record keeping requirements for suppliers and recipients discussed in paragraph 42 of Goods and Services Tax Ruling GSTR 2000/10, the recipient is also required to keep written advices and foreign currency conversion agreements for five years.[12]

25. If you are the supplier, then keeping an original or a copy of the advices and agreements for five years is one way of retaining records of your transactions. These records will help to show that you have followed the Commissioner's foreign exchange conversion Determination and that you have used your particular exchange rate consistently.

Detailed contents list

26. Below is the detailed contents list for this Draft Ruling:

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[10] Subsection 29-10(3).
[11] Subsection 29-70(2).
[12] Section 70 *Taxation Administration Act 1953.*

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Your comments

27. If you wish to comment on this Draft Ruling, please send your comments promptly by **15 February 2002** to:

Contact Officer: **Warren Kennedy/Shauna Winters**
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E-mail address: **GST-Rulings@ato.gov.au**
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Address: **GST Rulings Unit**
GPO Box 920
BRISBANE QLD 4001

Commissioner of Taxation
19 December 2001

Previous Ruling:
Not previously released in draft form

Related Rulings/Determinations:
GSTR 2000/10; GSTR 2001/2;
GSTR 2000/17

Subject references:
- Australian currency
- class of tax invoices
- Commissioner's Determination
- consideration
- creditable acquisition
- exchange rate
- foreign currency
- goods and services tax
- GST payable
- input tax credit
- recipient created tax invoice
- tax invoice
- taxable supply
- value

Legislative references:
- ANTS(GST) A99 11-25
- ANTS(GST) A99 29-10(3)
- ANTS(GST) A99 29-70
- ANTS(GST) A99 29-70(2)
- ANTS(GST) A99 29-70(3)
- TAA 1953 70
- AIA 1901 25

ATO references:
NO T2001/
BO
ISSN: 1443-5160

Schedule 1

COMMONWEALTH OF AUSTRALIA

A NEW TAX SYSTEM (GOODS AND SERVICES TAX) ACT 1999

A NEW TAX SYSTEM (GOODS AND SERVICES TAX) ACT 1999 CLASSES OF RECIPIENT CREATED TAX INVOICE (VARIATION) DETERMINATION
[Number and date to be determined]

Under subsection 29-70(3) of the *A New Tax System (Goods and Services Tax) Act 1999* and subsection 4(1) of the *Acts Interpretation Act 1901* I make the following Determination:

Citation

1. This Determination is the *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice (Variation) Determination* [Number and date to be determined].

Commencement

2. (a) This Determination commences on [the date it is made].

   (b) This Determination does not revoke any previous Determination made by the Commissioner.

   (c) This Determination varies all previous Determinations made by the Commissioner under subsection 29-70(3).

Application of determination

3. This Determination applies to entities determined previously as being able to issue a tax invoice belonging to a class of tax invoices that may be issued by a recipient.

Variation of classes of tax invoices that may be issued by the recipient of a taxable supply

4. All previous Determinations made are varied in the requirements that must be satisfied by a recipient of a taxable supply as follows:

   (a) In *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 1) 2000* and *A New Tax System (Goods and Services Tax) Act Class of Recipient Created Tax Invoice (RCTI) for supplies of reinsurance or supplies of retrocession* (referred to as RCTI 2000/30),

   omit paragraph 4(c), and **substitute** the following paragraph:

   '(c) (i) the recipient must issue the original or a copy of the tax invoice to the supplier within 28 days of the taxable supply being made, or within 28

days from determining the value of the supply, and must retain the original or the copy; and

(ii) where the consideration for the supply is expressed in foreign currency, the recipient must hold a written advice stating:

(A) your particular exchange rate; and

(B) the conversion day,

to be used for converting foreign currency to Australian currency before issuing the tax invoice;'

(b) In all other Recipient Created Tax Invoice Determinations made before the making of this Determination,

omit paragraph 5(c), and **substitute** the following paragraph:

'(c) (i) the recipient must issue the original or a copy of the tax invoice to the supplier within 28 days of the taxable supply being made, or within 28 days from determining the value of the supply, and must retain the original or the copy; and

(ii) where the consideration for the supply is expressed in foreign currency, the recipient must hold a written advice stating:

(A) your particular exchange rate; and

(B) the conversion day,

to be used for converting foreign currency to Australian currency before issuing the tax invoice;'

Definitions

5. The following expressions are defined for the purposes of this Determination:

your particular exchange rate has the same meaning as in the *A New Tax System (Goods and Services Tax) Act Foreign Exchange Conversion Determination (No.1) 2001;*

conversion day has the same meaning as in the *A New Tax System (Goods and Services Tax) Act Foreign Exchange Conversion Determination (No.1) 2001.*

6. Other expressions in this Determination have the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999*.

Signed this xx day of [month] [year]

Delegate of the Commissioner