GSTR 2013/D1 - Goods and services tax: adjustment notes

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This document has been finalised by GSTR 2013/2.

There is a Compendium for this document: **GSTR 2013/2EC** .

The Commissioner has released for public comment, in conjunction with the publication of this draft Public Ruling, a legislative instrument and explanatory statement. The draft LI provides information about the circumstances in which the Commissioner proposes to determine in writing that an adjustment note is not required to be held for a decreasing adjustment to be attributable to a tax period. The specific circumstances covered by the draft LI is explained at Appendix 2 to this draft Public Ruling. Links to the draft LI and ES for comment are included in that Appendix as well.

Draft Goods and Services Tax Ruling

Goods and services tax: adjustment notes

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This publication provides you with the following level of protection:

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.

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What this Ruling is about

1. This draft Ruling sets out the requirements for adjustment notes under Division 29 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).[1]

2. In particular, the draft Ruling outlines:

- when a document is in the approved form for an adjustment note;
- the information requirements that the Commissioner has determined under paragraph 29-75(1)(c) and an explanation of how those information requirements in *A New Tax System (Goods and Services Tax) Adjustment Note Information Requirements Determination 2012* apply;
- when the Commissioner will treat a particular document as an adjustment note even though that document does not meet all of the adjustment note requirements under subsection 29-75(1).

3. This draft Ruling also includes an appendix summarising the circumstances when a decreasing adjustment can be attributed without an adjustment note as determined by the Commissioner under subsection 29-20(3).

[1] All legislative references in this draft Ruling are to the GST Act unless otherwise stated.

4. This draft Ruling does not consider third party adjustments and third party adjustment notes under Division 134.[2] The draft Ruling does not consider in detail special rules in the GST Act that may be relevant to adjustment notes, including those concerning agents, insurance brokers, GST groups and GST branches. However, so as to provide additional context, these rules are referred to in the Explanation.

Background

Adjustments

5. Whether you make or receive supplies, subsequent events may lead to too much or too little GST or input tax credits having been attributed in a previous tax period. In either case, you may need to make some adjustments to your net amount for the current period.

6. There are increasing adjustments and decreasing adjustments. An increasing adjustment increases your net amount for the tax period, while a decreasing adjustment decreases your net amount for the tax period.[3]

Adjustment events

7. Adjustments can arise because of adjustment events. Under the GST Act, an adjustment event occurs when:[4]

- a supply or acquisition is cancelled;
- the consideration for a supply or acquisition is changed;
- a supply becomes taxable or stops being taxable; or
- an acquisition becomes creditable or stops being creditable.

Obligation of the supplier to issue an adjustment note

8. When you are a supplier you must issue an adjustment note within 28 days of the earlier of you:

- receiving a request by the recipient of the supply; or
- becoming aware of the adjustment (where you issued or were requested to issue a tax invoice).[5]

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[2] See *A New Tax System (Goods and Services Tax) Third Party Adjustment Note Information Requirements Determination (No. 1) 2010.*
[3] Section 17-10.
[4] Section 19-10.
[5] Subsection 29-75(2). This is subject to the threshold for decreasing adjustments in subsection 29-80(2) and regulation 29-80.02 of the A New Tax System (Goods and Services Tax) Regulations 1999.

9. This means that if you did not issue or were not requested to issue a tax invoice, you only have to issue an adjustment note if the recipient requests one.

10. Where the tax invoice in relation to the supply was (or would have been) a recipient created tax invoice, the recipient must instead issue the adjustment note.

Adjustment notes

11. A document is an adjustment note if it satisfies subsection 29-75(1). This subsection requires that an adjustment note relating to a taxable supply must:

(a) be issued by the supplier, except for recipient created adjustment notes (paragraph 29-75(1)(a));

(b) set out the Australian Business Number (ABN) of the entity that issues it, which in most cases is the supplier (paragraph 29-75(1)(b));

(c) contain other information determined in writing by the Commissioner (paragraph 29-75(1)(c)); and

(d) be in the approved form (paragraph 29-75(1)(d)).

12. You must hold an adjustment note to attribute a decreasing adjustment from an adjustment event when completing your GST return[6] for a tax period.[7] There are, however, some circumstances in which you can attribute a decreasing adjustment even if you do not have an adjustment note.

Circumstances in which an adjustment note is not required

13. Circumstances in which an adjustment note is not required to be held to attribute a decreasing adjustment include where:

- the amount of the decreasing adjustment does not exceed $75;[8]
- the GST on the taxable supply is payable by the recipient because of section 15C of the *A New Tax System (Goods and Services Tax Transition) Act 1999*[9] (GST Transition Act); or

[6] Your GST return forms part of your activity statement.
[7] Subsection 29-20(3).
[8] Subsection 29-80(2) and regulation 29-80.02 of the A New Tax System (Goods and Services Tax) Regulations 1999 (GST Regulations).
[9] 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 the GST Transition 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(4) of the GST Transition Act provides that subsection 29-20(3) does not apply, so that the recipient may make a decreasing adjustment without holding an adjustment note.

- a legislative instrument under subsection 29-20(3) applies to your circumstances (these are summarised at Appendix 2).

14. You do not need to hold an adjustment note to attribute an increasing adjustment.

15. The adjustment note provisions do not apply to adjustments for bad debts under Division 21. The writing off of a bad debt, or a debt becoming overdue for 12 months or more, is not an adjustment event.[10]

16. There is no adjustment where an adjustment event occurs in the same tax period as the GST or input tax credit is attributable. Therefore there is no requirement to issue an adjustment note in these circumstances.

Ruling

Approved Form

17. A document is in the approved form for an adjustment note if it includes the information required by subsection 29-75(1), including the additional information requirements which the Commissioner has determined,[11] and if applicable section 54-50.[12]

18. Paragraph 44 of Goods and Services Tax Ruling GSTR 2001/2 *Goods and Services Tax: foreign exchange conversions*, provides additional approved form requirements for adjustment notes where the consideration for the taxable supply is expressed in a foreign currency.

19. Details of more than one adjustment may be shown on an adjustment note. If a document includes multiple adjustments and does not meet the requirements of subsection 29-75(1) for a particular adjustment or adjustments, it remains an adjustment note in the approved form for all other adjustments for which the requirements of subsection 29-75(1) are met.

[10] See paragraph 18 of Goods and Services Tax Ruling GSTR 2000/2 *Goods and services tax: adjustments for bad debts*.
[11] The Commissioner has determined the other information that an adjustment note must contain in *A New Tax System (Goods and Services Tax) Adjustment Note Information Requirements Determination 2012*.
[12] This draft Ruling when issued as a final Ruling will constitute approval in writing by the Commissioner under subsection 388-50(1) of Schedule 1 to the *Taxation Administration Act 1953* (TAA 1953) for such documents to be in an approved form for adjustment notes.

Combined adjustment note and tax invoice

20. One document may be both a tax invoice and an adjustment note if it satisfies the requirements for a tax invoice in subsection 29-70(1) and the requirements for an adjustment note in subsection 29-75(1). For example:

- a tax invoice that shows the terms of settlement or prompt payment discount may also be an adjustment note;
- a summary statement may be both a tax invoice and an adjustment note; or
- an adjustment note may be combined with a subsequent tax invoice.

Summary statements and subsequent invoices

21. Adjustments may be shown on the next tax invoice. For example, a monthly statement may be issued at the end of the month that shows the supplies made during the month, as well as any adjustments such as returns or discounts. The monthly statement is an adjustment note if it includes the information required by subsection 29-75(1).

22. When a number of adjustments are included on the one summary statement, a separate amount must be shown for each type of adjustment. For example, a monthly statement should show an amount for total returns during the month, as well as a separate amount for the total discounts during the month.

Adjustment notes in electronic form

23. A document in electronic form that meets the requirements of subsections 29-75(1) and 54-50(1) (if applicable) will be in the approved form for an adjustment note.[13]

Other information requirements

24. The Commissioner has made a determination under paragraph 29-75(1)(c) (the legislative instrument)[14] setting out other information requirements that a document must contain to be an adjustment note, or where applicable, a recipient created adjustment note.[15]

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[13] This record must be in English or readily accessible and easily convertible to English as required by subsection 382-5(8) of Schedule 1 to the TAA 1953.

[14] *A New Tax System (Goods and Services Tax) Adjustment Note Information Requirements Determination 2012*

[15] A recipient created adjustment note is an adjustment note issued by the recipient. A recipient may only issue an adjustment note if the tax invoice relating to the supply was a recipient created tax invoice. See subsection 29-75(2).

25. The legislative instrument outlines that the adjustment note must contain certain information, or enough information to enable the information to be clearly ascertained, including the following:

- that the document is intended as an adjustment note and the effect of the adjustment;
- the identity of the supplier or the recipient where required; and
- the difference between the prices of the supply before and after the adjustment event.

Clearly ascertained

26. Subclauses 5(1) and 5(2) of the legislative instrument require that the particular information listed can be clearly ascertained from the information in 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 to be clearly ascertained, enough information must be present and it must be clear what the information represents.

27. If the information required by subclauses 5(1) and 5(2) can only be determined by reference to another external source (such as the Australian Business Register (ABR)) or another document, then that information cannot be clearly ascertained from the information contained in that document as required by the opening words of subclauses 5(1) and 5(2).

28. One piece of information may be sufficient to satisfy more than one information requirement in subclauses 5(1) or 5(2) of the legislative instrument.

Example 1 – clearly ascertained

29. A supply of goods with a value (GST exclusive price) of $5,000 is treated as GST-free on the basis that the goods are to be exported. If some or all of the goods are not exported, the agreement provides that GST is to be imposed on the value of the goods not exported. Subsequently, the recipient exports goods to the value of $3,000 but redirects goods to the value of $2,000 to a branch in Australia.

30. There is an adjustment event because the supply of the goods that remain in Australia becomes a taxable supply. Therefore, the price of the goods remaining in Australia is now $2,200 (including $200 GST). The difference in price so far as the supply becomes taxable is $200, and the amount of the adjustment to the GST payable is $200. Paragraphs 5(1)(f) and (g) of the legislative instrument would both be satisfied if the document included a statement to the effect that the price and the GST payable has increased by $200.

Document intended as an adjustment note or a recipient created adjustment note and the effect of the adjustment

31. It must be clear from the document that it was intended to be an adjustment note or a recipient created adjustment note.[16] This is an objective test that must be satisfied by reference to the document.

32. This requirement may be satisfied by including the words 'Adjustment Note'; 'GST Adjustment'; 'Tax Invoice Adjustment'; 'Amended Tax Invoice', 'Recipient Created Adjustment Note', 'Recipient Created GST Adjustment' or 'Adjustment Note Issued by Recipient' in the heading of the document. A statement in the body of the document could also make the intention clear.

33. In some situations, the context of the document itself may make the intention clear without any title to that effect. For example, a tax invoice could provide terms for a prompt payment discount including the amount of the discount from which it is clearly ascertainable that it is intended as an adjustment note.

34. It must also be clear from the document what the effect of the adjustment is.[17] This requirement can be satisfied, for example, by making it clear if the adjustment to the price is a debit or credit amount for the supplier or the recipient, or a positive or negative amount for the supplier or the recipient.

Identity of the supplier or the recipient

35. An adjustment note must include information to establish the identity of the supplier or supplier's agent, and the recipient or recipient's agent where applicable.[18] Information sufficient to identify the supplier or the supplier's agent, or the recipient or the recipient's agent, includes, but is not limited to, the legal name of the entity or the registered business name.

36. In the case where the supplier or the recipient is a trust, the identity of the trust must be clearly ascertainable from the document. Information sufficient to identify the trust includes, but is not limited to a registered business name[19] under which the trust's enterprise is carried on. In some cases, the identity of the trust may be clearly ascertainable if the trustee's name is included on the adjustment note. The Australian business number (ABN) issued to the trust must also be clearly ascertainable from the document.

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[16] Paragraphs 5(1)(a) and 5(2)(a) of the legislative instrument.
[17] Paragraphs 5(1)(a) and 5(2)(a) of the legislative instrument.
[18] Paragraphs 5(1)(b) and (c) and 5(2)(b) and (c) of the legislative instrument. In the case of recipient created adjustment notes the supplier's or supplier's agent's ABN is also a requirement.
[19] See the *Business Names Registration Act 2011.*

37. Where the supply or acquisition is made by a representative of an incapacitated entity in its capacity as the representative, the supplier or the recipient is the incapacitated entity. Therefore the identity of the incapacitated entity must be clearly ascertainable from the document.

38. Where a member, officer, or employee of a company has made a pre-establishment acquisition to which Division 60 applies, an adjustment note that is required to identify the recipient should identify the member, officer or employee. The company needs to hold the adjustment note for attributing a decreasing adjustment.

The difference in the price of the supply

39. The difference in the price of the supply before the adjustment event and the price of the supply after the adjustment event needs to be shown or enough information needs to be provided for the difference to be clearly ascertainable from the document.[20]

Example 2 – difference in price

40. *Kadel Pty Ltd sells a trail bike to Track Tours Pty Ltd for $6,600 and issues a tax invoice. In the next tax period, Kadel Pty Ltd discovers that they charged Track Tours Pty Ltd the recommended retail price for the trail bike rather than the end of model promotional sales price. Accordingly, Kadel Pty Ltd reduces the price to $5,500.*

41. Kadel Pty Ltd is required to issue an adjustment note to Track Tours Pty Ltd within 28 days of becoming aware of the adjustment. The adjustment note may show the difference in the price as follows.

Trail Bike	*$6,600*
Less adjustment for incorrect price	*-$1,100*
Total price	*$5,500*

The difference in price includes GST.

42. Alternatively, the adjustment note may show the difference in the price by the inclusion of any two of the following three amounts as follows.

Difference in the GST exclusive price	*-$1,000*
Difference in the GST inclusive price	*-$1,100*
Amount of the adjustment to GST payable	*-$100*

[20] Paragraphs 5(1)(g) and 5(2)(g) of the legislative instrument.

Partly taxable supplies

43. For a supply that is not a wholly taxable supply before and/or after the adjustment event, the difference in price refers to that part of the supply that is affected by the adjustment event and that is taxable at the time of the adjustment event or that becomes taxable in relation to that adjustment event.[21]

Statement as an alternative to showing the amount of adjustment to GST payable

44. If the amount of GST payable is 1/11th of the price, a statement can be included as an alternative to showing the amount of the adjustment to the GST payable on the adjustment note. The statement must make it clear that the difference in the price of the supply includes GST.[22] See example 2 at paragraph 41 above for an example of a statement.

Adjustment note contained in two documents – a commercial credit or debit note and a tax invoice

45. Some suppliers, instead of only issuing a credit or debit note for the amount of an adjustment, may cancel the original tax invoice with a credit note and then issue a new tax invoice showing the new price.

46. Although these are two separate documents, the entity receiving the adjustment note (the recipient, except in the case of recipient created tax invoices) will have a document that is treated as an adjustment note pursuant to subclause 5(4) of the Determination if:

- that document satisfies subsection 29-75(1)(a) and (b) and
- both documents read together satisfy the requirements that the Commissioner has determined in *A New Tax System (Goods and Services Tax) Adjustment Note Information Requirements Determination 2012*.[23]

47. Both documents must be held before a decreasing adjustment can be claimed.

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[21] Subparagraph 5(1)(g) and 5(2)(g) of the legislative instrument. See Goods and Services Tax Ruling GSTR 2001/8 *Goods and services tax: apportioning the consideration for a supply that includes taxable and non-taxable parts*.

[22] Subclause 5(3) of the legislative instrument.

[23] This rule is only applicable to the entity receiving the adjustment note (see subclause 5(4) of the Determination. The Commissioner is considering whether to amend the Determination to extend this rule to the entity issuing the adjustment note.

Example 3 – adjustment note contained in two documents

48. In March, Margot issues a tax invoice for the sale of equipment to Sam. The price (GST inclusive) of the equipment is $11,000. Sam attributes the input tax credit for this creditable acquisition in the same monthly tax period. Next month, Margot discovers that she undercharged Sam for the equipment.

49. In April, Margot issues a credit note for $11,000 to cancel the original tax invoice and issues a new tax invoice showing the correct price (GST inclusive) of $12,100.

50. The decreasing adjustment of $100 cannot be attributed to a tax period until Sam holds both the new tax invoice and the credit note, as this is when the requirements listed in paragraph 46 above are satisfied. The change in the price has the effect of decreasing his net amount for the tax period to which the adjustment is attributed.

Circumstances in which the Commissioner may exercise the discretion to treat a document as an adjustment note

51. The Commissioner has the discretion to treat a document that does not satisfy the adjustment note requirements as an adjustment note.[24] This discretion can also be used to treat a document that does not meet the requirements for a recipient created adjustment note as an adjustment note. The Commissioner will exercise this discretion on a case by case basis.

52. There are a number of factors that the Commissioner will consider in the exercise of this discretion which are explained in Law Administration Practice Statement PSLA 2004/11: *The Commissioner's discretions to treat a particular document as a tax invoice or adjustment note*. These factors are not exhaustive and there may be other circumstances that are relevant in a particular case.

53. When the Commissioner exercises the discretion to treat a document as an adjustment note, that document is an adjustment note as defined in section 195-1. This treatment applies for the purposes of both the supplier and recipient. The document for which the discretion has been exercised is treated as an adjustment note for the supply from the date it was created.

54. However, this does not mean that the supplier had, before the exercise of the discretion, complied with their obligation to issue an adjustment note within the required time.

[24] Subsection 29-75(1).

Correcting errors on an adjustment note

55. A document issued for an adjustment may not meet all of the requirements for an adjustment note because of an error or omission made by the supplier. For example, the document contains transposition errors in the legal name or ABN, shows an incorrect price, or does not include an ABN or the date of issue of the document. When the supplier becomes aware the document issued does not meet the requirements for an adjustment note they can cancel and reissue the document for the adjustment. In these circumstances, the replacement document showing the required information is the adjustment note for the adjustment.

56. If, however, the Commissioner has exercised the discretion to treat a document as an adjustment note, a supplier does not have to reissue the document to meet the requirements for an adjustment note. A document for which the discretion has been exercised is an adjustment note as defined in section 195-1 for the purposes of both the supplier and recipient.

57. This information also applies to recipients in the case of recipient created adjustment notes.

Date of effect

58. When the final Ruling is issued, it is proposed to apply from 1 July 2010. However, the Ruling will not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Ruling (see paragraphs 75 to 76 of Taxation Ruling TR 2006/10).

59. Goods and Services Tax Ruling GSTR 2000/1 *Goods and Services Tax: adjustment notes* will be withdrawn when the final Ruling is issued. You may rely on GSTR 2000/1 for the purposes of section 357-60 of Schedule 1 to the TAA 1953 until the Ruling is withdrawn.

Commissioner of Taxation
27 February 2013

Appendix 1 – Explanation

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

Overview

60. Whether you make or receive taxable supplies, certain subsequent events may mean that too much or too little GST or input tax credit was attributable in a previous tax period. In these cases, you may need to make some adjustments to your net amount.

61. GST adjustments are either increasing or deceasing. An increasing adjustment increases your net amount for a tax period, while a decreasing adjustment decreases your net amount for the tax period.[25]

62. Except in certain circumstances, a decreasing adjustment of more than $75 cannot be attributed in your GST return to a tax period until you hold an adjustment note.[26] An adjustment note must contain the information about an adjustment as required by subsection 29-75(1), including the other information requirements the Commissioner has determined.

63. A supplier must issue an adjustment note for an adjustment arising from an adjustment event within 28 days of the earlier of receiving a request by the recipient of the supply or becoming aware of the adjustment (where the supplier issued or was requested to issue a tax invoice).[27]

64. Where a recipient receives a document that fails to meet the requirements, but purports to be an adjustment note the recipient can ask the Commissioner to exercise the discretion to treat the document as an adjustment note under subsection 29-75(1).

65. Where the tax invoice in relation to the supply was (or would have been) a recipient created tax invoice, the recipient must instead issue the adjustment note.

[25] Section 17-10.
[26] Subsection 29-20(3).
[27] Subsection 29-75(2).

Requirements for adjustment notes and recipient created adjustment notes

Adjustment notes

66. An adjustment note is a document that complies with the following requirements:

- it is issued by the supplier of the taxable supply (paragraph 29-75(1)(a));
- it sets out the ABN of the entity that issues it (paragraph 29-75(1)(b));
- it is in the approved form (paragraph 29-75(1)(d));
- it meets the information requirements that the Commissioner has determined under paragraph 29-75(1)(c) – for an adjustment note other than a recipient created adjustment note this requires that the following information to be included in the adjustment note, or enough information to enable the following to be clearly ascertained:[28]
  - that the document is intended as an adjustment note and the effect of the adjustment; [29]
  - the identity of the supplier or the supplier's agent;
  - the identity or ABN of the recipient, the recipient's agent, or another member of the recipient's GST group,[30] if the adjustment note:
    (i) relates to a tax invoice showing the total price for the supply or supplies is at least $1,000 (or such higher amount as the regulations specify); or
    (ii) arises out of an adjustment event where a supply that was not taxable becomes taxable and the price of the supply is at least $1,000;

[28] As determined by the Commissioner under paragraph 29-75(1)(c) in *A New Tax System (Goods and Services Tax) Adjustment Note Information Requirements 2012.*
[29] For example, whether it is a positive or negative amount, or a debit or credit amount, to the supplier or the recipient.
[30] Where the document was taken to be a tax invoice under the circumstances in subsection 48-57(1).

- the issue date of the adjustment note;
- a brief explanation of the reason for the adjustment;
- the amount of the adjustment to the GST payable;
- the difference between the price of the supply before the adjustment event and the price of the supply after the adjustment event. If the supply is not a wholly taxable supply, the price of the supply is referable to that part of the supply that is affected by the adjustment event and that is, or becomes, taxable.

Recipient created adjustment notes

67. A recipient created adjustment note must contain the recipient's ABN and following information, or enough information to enable the following to be clearly ascertained:[31]

- that the document is intended as a recipient created adjustment note and the effect of the adjustment,[32]
- the identity and ABN of the supplier or the supplier's agent;
- the identity[33] of the recipient or the recipient's agent;
- the issue date of the adjustment note;
- a brief explanation of the reason for the adjustment;
- the amount of the adjustment to the GST payable;
- the difference between the price of the supply before the adjustment event and the price of the supply after the adjustment event. If the supply is not a wholly taxable supply, the price of the supply is referable to that part of the supply that is affected by the adjustment event and that is, or becomes, taxable.

68. If the amount of the GST payable is 1/11th of the price, a statement can be included as an alternative to the requirement that the amount of the adjustment to the GST payable be clearly ascertainable from the document. The statement must make it clear that the difference in the price of the supply includes GST.[34]

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[31] As determined by the Commissioner under paragraph 29-75(1)(c) in *A New Tax System (Goods and Services Tax) Adjustment Note Information Requirements 2012.*

[32] For example, whether it is a positive or negative amount, or a debit or credit amount, to the supplier or the recipient.

[33] Paragraph 29-75(1)(b) also requires the adjustment note to contain the ABN of the entity that issues it. In the case of a recipient created adjustment note, this is either the recipient or the recipient's agent.

[34] Subclause 5(3) of the legislative instrument.

Approved form requirement

69. An adjustment note must be in the approved form. This draft Ruling when issued as a final Ruling will constitute approval in writing by the Commissioner under subsection 388-50(1) of Schedule 1 to the TAA 1953 for documents including the information set out in paragraphs 17 to 19 to be in the approved form for an adjustment note.

70. In certain circumstances, an adjustment note will be in the approved form for an adjustment note if it includes the additional information requirements which the Commissioner has determined.[35] For example, see paragraph 44 of Goods and Services Tax Ruling GSTR 2001/2 *Goods and services tax: foreign exchange conversions* that provides additional requirements for a document to be in the approved form for an adjustment note where the consideration for a taxable supply is expressed in a foreign currency.

71. There is no particular form that an adjustment note needs to be in. To satisfy the approved form requirements, it merely needs to contain at a minimum the requisite information.

Adjustment notes in electronic form

72. An adjustment note may be issued in electronic form, for example, by Electronic Data Interchange (EDI). Section 2B of the *Acts Interpretation Act 1901* defines 'document' as any record of information. Therefore, a document in electronic form that meets the requirements of subsections 29-75(1) and 54-50(1) (if applicable) is in an approved form for an adjustment note.

Discounts

73. A tax invoice that shows the terms of settlement or prompt payment discount[36] may also be an adjustment note. To be an adjustment note, the tax invoice must contain enough information to enable the difference between the price before and after the adjustment event to be clearly ascertained. The document could therefore show the amount of the reduction in price that is available to the recipient as a settlement or prompt payment discount.

74. If the tax invoice otherwise meets the requirements for an adjustment note under subsection 29-75(1), the tax invoice can also be an adjustment note. The tax invoice will become an adjustment note when the settlement or prompt payment discount is taken up by the recipient.

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[35] See the legislative instrument.

[36] See paragraphs 20 and 21 of Goods and Services Tax Ruling GSTR 2000/19 *Goods and services tax: making adjustments under Division 19 for adjustment event*s.

Summary statements and subsequent invoices

75. Sometimes adjustments are included on tax invoices or on monthly statements that are issued at the end of the month.

76. If an adjustment note is combined on the next tax invoice or another document, you must issue the adjustment note within 28 days of a request by the recipient or of you becoming aware of the adjustment.[37]

Other information requirements

Clearly ascertained

77. The legislative instrument requires that particular information in subclauses 5(1) and 5(2) be able to be clearly ascertained from the information contained in the document being evaluated as an adjustment note or a recipient created adjustment note. This means that provided the particular 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. To be clearly ascertainable, enough information must be present, and it must be clear what the information represents.

78. 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, providing the supplier's ABN is a requirement.[38] 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 ABR, the ABN requirement is not satisfied as the ABN cannot be ascertained from the document. It can only be ascertained from the document *and* some other source. In this case, the recipient could:

- ask the supplier to issue a document that complies with the adjustment note requirements;
- make a request for the Commissioner to exercise the discretion to treat the document as an adjustment note.[39]

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[37] Subsection 29-75(2). In some circumstances, the Commissioner has made a determination to extend the time within which an adjustment note must be issued. For example, see *A New Tax System (Goods and Services Tax) Act 1999 Extension of Time to Issue An Adjustment Note Determination (No. 1) 2000* which provides that a gas retailer may have further time to issue an adjustment note upon becoming aware of an adjustment.

[38] Paragraph 29-75(1)(b).

[39] See paragraphs 51 to 54 of this draft Ruling.

Circumstances in which the Commissioner may exercise the discretion to treat a document as an adjustment note

79. There may be situations where a document relevant to an adjustment does not meet all the adjustment note requirements of subsection 29-75(1). In these situations, the requirement for the recipient to hold an adjustment note 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 29-75(1) to treat a document as an adjustment note in these situations.[40] The Commissioner will exercise the discretion on a case by case basis, depending on the circumstances.

80. When considering the discretion, the Commissioner's officers are required to follow Law Administration Practice Statement PSLA 2004/11: *The Commissioner's discretions to treat a particular document as a tax invoice or adjustment note*.

Review rights if the Commissioner does not exercise the discretion

81. The recipient may object under Part IVC of the TAA 1953 against an assessment that excludes a decreasing adjustment as a result of the decision not to exercise the discretion. Where the Commissioner disallows the objection, the recipient can, under Part IVC, apply to the Administrative Appeals Tribunal (including the Small Taxation Claims Tribunal, if eligible) for a review of the objection decision or appeal to the Federal Court against the objection decision.[41]

82. If the Court or Tribunal finds that an adjustment has occurred, the adjustment is attributable to that tax period without the recipient being required to hold an adjustment note, provided the conditions of the Commissioner's legislative instrument in respect of decisions of a Court or Tribunal are met.[42]

Special rules that affect adjustment notes

83. The GST Act provides a number of special rules for certain types of taxable supplies that affect adjustment notes. These rules are outlined below.

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[40] This discretion can also be used to treat a document that does not meet the requirements of a recipient created adjustment note as an adjustment note.
[41] See paragraphs 6 to 8 of GSTD 2004/1 for further explanation.
[42] See paragraphs 9 to 20 of GSTD 2004/1 and *A New Tax System (Goods and Services Tax) Act 1999 Waiver of Adjustment Note Requirement Determination (No. 1) 2004 - Decision of a Court or Tribunal* for further explanation.

Agents

84. Subdivision 153-A has special rules about 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.

85. Accordingly, if you have a decreasing adjustment for a supply you make through an agent, you or your agent can issue an adjustment note.[43] Similarly, a decreasing adjustment for a supply or acquisition you make through your agent is attributable to a tax period if you or your agent holds the adjustment note.[44]

86. A supplier must not issue an adjustment note for a decreasing adjustment if the supplier makes a supply through an agent and the agent issues an adjustment note.[45]

Supplies of insurance policies through insurance brokers

87. Subdivision 153-A treats an insurance broker who is an agent for a recipient as an agent of the insurer.[46] This enables the broker to issue an adjustment note on behalf of the insurer. It is not necessary that the broker is registered, or required to be registered, for GST.

GST groups

88. 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 you make.[47] The representative member is also liable for any increasing adjustments and entitled to any decreasing adjustments for supplies or acquisitions that you make.[48]

89. Even though the special rule in Division 48 makes the representative member liable for any increasing adjustments and entitled to any decreasing adjustments, you or your agents[49] are responsible for issuing adjustment notes for any adjustments for a supply that you make.

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[43] Paragraph 153-20(1)(b).
[44] Section 153-10.
[45] Subsection 153-20(2) and paragraph 153-50(1)(b). See also paragraph 68 of Goods and Services Tax Ruling GSTR 2000/37 *Goods and services tax: agency relationships and the application of the law*.
[46] Subsection 153-25(1).
[47] Subsection 48-40(1).
[48] Section 48-50.
[49] Your agent may include the representative member or another member of your GST group.

90. Even though the representative member is entitled to any decreasing adjustment for a creditable acquisition you make, an adjustment note for a supply 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 the identity or ABN of:

- you as the recipient of the supply;
- your agent; or
- another member of your GST group[50].

GST branches

91. If you are a parent entity with a separately registered GST branch, you may make some supplies through that branch. When the Commissioner registers a GST branch, the Commissioner will notify you of the GST branch registration number.[51] You must show this number on an adjustment note (including a recipient created adjustment note) for an adjustment relating to a supply made through a GST branch for the adjustment note to be in the approved form.[52]

Penalties

92. Penalties may be imposed on a supplier for failing to issue an adjustment note within 28 days of the request by the recipient, or within 28 days of becoming aware of the adjustment (if the supplier issued a tax invoice for the supply),[53] or for making a false statement in an adjustment note.[54]

[50] Paragraph 5(1)(c) of the legislative instrument.
[51] Section 54-15.
[52] Paragraph 54-50(1)(b).
[53] Subsection 288-45(2) of Schedule 1 to the TAA 1953.
[54] Subsection 284-75(4) of Schedule 1 to the TAA 1953.

Appendix 2 – Waiver of adjustment notes legislative instruments

This Appendix provides information to help you understand the circumstances in which the Commissioner has determined in writing that the requirement for an adjustment note under subsection 29-20(3) does not apply. It does not form part of the binding public ruling.

93. The following table provides a summary of the circumstances determined in writing by the Commissioner to be the circumstances in which the requirement to hold an adjustment note under subsection 29-20(3) does not apply.

94. 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**
A New Tax System (Goods and Services Tax) Act 1999 Waiver of Requirement to hold an Adjustment Note for a Decreasing Adjustment Determination 2000	The requirement to hold an adjustment note under subsection 29-20(3) does not apply where the decreasing adjustment relates to a taxable supply under section 84-5.
A New Tax System (Goods and Services Tax) Act 1999 Waiver to hold a Adjustment Note for a Decreasing Adjustment Determination 2000 – MEMBERS of MASTERCARD INTERNATIONAL and VISA INTERNATIONAL	Where a member of Mastercard International or Visa International holds of a 'bank interchange services' report produced by Mastercard International and/or Visa International prior to lodging a GST return/BAS, the member is not required to hold an adjustment note for an acquisition recorded on the report.
A New Tax System (Goods and Services Tax) Act 1999 Waiver of Adjustment Note Requirement Determination (No. 1) 2004 – Decision of a Court or Tribunal	Where a Court or Tribunal has found that you have a decreasing adjustment arising from an adjustment event that has occurred in respect of an acquisition, in certain circumstances you are not required to hold an adjustment note.
A New Tax System (Goods and Services Tax) Act 1999 Waiver of Requirement to hold an Adjustment Note for a Decreasing Adjustment Determination (No. 7) 2004	The requirement to hold an adjustment note under subsection 29-20(3) does not apply where the decreasing adjustment relates to a taxable supply to which section 83-5 applies.
Goods and Services Tax : Waiver of Adjustment Note Requirement (Corporate Card Statements) Legislative Instrument (No.1) 2008	In certain circumstances a corporate card holder of a listed corporate card provider that has a corporate card is not required to hold an adjustment note for a decreasing adjustment.

Legislative instrument	Overview
A New Tax System (Goods and Services Tax) Waiver of Adjustment Note Requirement (Decreasing Adjustments Relating to Reimbursements of an Employee etc) Legislative Instrument 2013 **This instrument and statement are drafts for public comment.** Explanatory Statement	In certain circumstances, a decreasing adjustment (arising from an adjustment event in respect of an acquisition made under subsection 111-5(1) where the total price was at least $1,000) is attributable to a tax period when an entity holds a document other than an adjustment note.

Appendix 3 – Your comments

95. You are invited to comment on this draft Ruling including the proposed date of effect.

96. You are also invited to comment on what, if any, transitional arrangements are appropriate in implementing the final Ruling, including arrangements appropriate to cater for circumstances where an entity needs to make systems or process changes to be fully compliant with the views expressed in it.

97. Please forward your comments to the contact officer by the due date.

98. A compendium of comments is 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
- be published 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:	**10 April 2013**
Contact officer:	**Stephen Willis**
Email address:	**stephen.willis@ato.gov.au**
Telephone:	**(07) 3213 8967**
Facsimile:	**(07) 3213 8499**
Address:	**PO Box 9977** **Chermside QLD 4032**

Appendix 4 – Detailed contents list

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References

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

GSTD 2004/1; GSTR 2000/1; GSTR 2000/2; GSTR 2000/19; GSTR 2000/37; GSTR 2001/2; GSTR 2001/8; TR 2006/10

Subject references:

- adjustments
- adjustment events
- adjustment notes
- GST branches
- GST groups
- Goods and Services Tax
- Tax invoices

Legislative references:

- AIA 2B
- ANTS(GST)A 17-10
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- ANTS(GST)A Div 21
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- ANTS(GST)A 29-20(3)
- ANTS(GST)A 29-70(1)
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- ANTS(GST)A 29-75(1)(a)
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- TAA 1953 Sch 1 382-5(8)
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- A New Tax System (Goods and Services Tax) Act 1999 Waiver of Requirement to hold an Adjustment Note for a Decreasing Adjustment Determination 2000
- A New Tax System (Goods and Services Tax) Act 1999 Waiver of Requirement to hold an Adjustment Note for a Decreasing Adjustment Determination (No. 7) 2004
- A New Tax System (Goods and Services Tax) Act 1999 Waiver to hold a Adjustment Note for a Decreasing Adjustment Determination 2000 – MEMBERS of MASTERCARD INTERNATIONAL and VISA INTERNATIONAL
- A New Tax System (Goods and Services Tax) Act 1999 Waiver of Adjustment Note Requirement Determination (No. 1) 2004 – Decision of a Court or Tribunal
- A New Tax System (Goods and Services Tax) Act 1999 Extension of Time to Issue An Adjustment Note Determination (No. 1) 2000
- A New Tax System (Goods and Services Tax) Third Party Adjustment Note

Information Requirements Determination (No.1) 2010
- A New Tax System (Goods and Services Tax) Adjustment Note Information Requirements Determination 2012 AN2012/1
- Goods and Services Tax : Waiver of Adjustment Note Requirement (Corporate Card Statements) Legislative Instrument (No.1) 2008

Other references:
- Business Names Registrations Act 2011
- PS LA 2004/11

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