



Explanatory Statement

Goods and Services Tax: Application of Particular Attribution Rules Determinations (Determination) 2017

General Outline of Determination

1. The determination is made under subsection 29-25(1) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).
2. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.
3. The determination sets out the particular attribution rules for when two or more determinations specify different attribution rules for the same kind of taxable supply or creditable acquisition.
4. The determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

Date of effect

5. The determination is taken to have commenced on the day after its registration on the Federal Register of Legislation.

What is the Determination about

6. The determination provides a tiebreaker rule where two or more determinations specify different attribution rules for the same kind of taxable supply or creditable acquisition.
7. Where GST payable on the same kind of taxable supply is attributable to different tax periods under two or more determinations made under section 29-25 of the GST Act, this determination makes the GST payable attributable to the latter or the latest of those tax periods.
8. Similarly, where the input tax credit for a creditable acquisition is attributable to different tax periods under two or more determinations made under section 29-25 of the GST Act, this determination makes the input tax credit attributable to the latter or the latest of those tax periods.

What is the effect of this Determination

9. The effect of this determination is to clarify the appropriate tax period to attribute GST and input tax credits where more than one determination made under section 29-25 of the GST Act is applicable.

Background

10. This determination repeals and replaces *A New Tax System (Goods and Services Tax) Act 1999 (Application of Particular Attribution Rules Determinations) Determination (No. 1) 2000* (F2006B11604).
11. The determination is substantially the same as the previous determination that it replaces. An entity that satisfied the requirements of the previous determination will satisfy the requirements of this determination.

Consultation

12. Subsection 17(1) of the Legislation Act 2003 requires, before the making of a determination, that the rule-maker is satisfied that appropriate and reasonably practicable consultation has been undertaken.
13. Broad consultation has been undertaken. The draft determination and draft explanatory statement were published on the ATO Legal database at ato.gov.au seeking feedback and comments for a period of two weeks. Notice of the draft determination was also published to ato.gov.au and subscription alerts issued. Tax professionals and tax associations regularly review both the Legal database and ato.gov.au and further promulgate advice of new drafts issued in their internal news bulletins. The major legal publishers also publish news of the drafts in their key tax alerting services - such as the Weekly Tax Bulletin (published by Thomson Reuters Australia) and Tax Tracker and Tax Week (published by CCH Australia). Additionally, draft determinations and draft explanatory statements have been published on the ATO Consultation Hub. Links to these drafts were published organisations and newsletters such as the Taxation News (Chartered Accountants Australia and New Zealand) weekly bulletin. No comments have been received to date.

Legislative references

A New Tax System (Goods and Services Tax) Act 1999 (GST Act)
Acts Interpretation Act 1901
Legislation Act 2003
Human Rights (Parliamentary Scrutiny) Act 2011

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Goods and Services Tax: Application of Particular Attribution Rules Determinations (Determination) 2017

The Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

This determination specifies how the attribution rules operate when two or more determinations made under section 29-25 of the GST Act apply and the GST payable on taxable supplies or input tax credits for creditable acquisitions are attributable to multiple tax periods.

Human rights implications

The Instrument does not engage any of the applicable rights or freedoms. It clarifies the period to attribute GST payable and input tax credits when there is a conflict between different attribution rules.

Conclusion

The Instrument is compatible with human rights as it does not raise any human rights issues.