



Explanatory Statement

Goods and Services Tax: (Particular Attribution Rule for Supplies of Gas or Electricity made by Public Utility Providers) Determination 2017

General outline of determination

1. This determination is made under subsection 29-25(1) of the *A New Tax System (Goods and Services Tax) Act 1999*.
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 determination.
3. This determination specifies the particular attribution rule for GST payable on taxable supplies of gas and electricity made by **public utility providers**.
4. This determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

Date of effect

5. This determination commences on the day after its registration on the Federal Register of Legislation.

What is the determination about

6. Sections 29-5 and 29-10 of the GST Act set out the rules for attributing GST payable and input tax credits on your taxable supplies and creditable acquisitions.
7. Section 29-25 of the GST Act empowers the Commissioner to determine the tax periods to which the GST payable on taxable supplies of a specified kind are attributable. This determination provides a rule for the attribution of GST payable on supplies of gas and electricity made by **public utility providers** that have **payment arrangements** in place with their customers and account on a non-cash basis.

What is the effect of this determination

8. Where a public utility provider that does not account on a cash basis, has a **payment arrangement** with a recipient and makes a taxable supply of gas or electricity to the recipient, the GST payable on that supply is attributed to the earlier of the tax period in which:
 - (a) the invoice is issued, or
 - (b) an invoice would have been issued if the provider did not have a **payment arrangement**.
9. Compliance cost impact: Minor – there will be no or minimal impact for both implementation and ongoing compliance costs. This determination is minor or machinery in nature.

Background

10. This determination replaces *A New Tax System (Goods and Services Tax) Act 1999 (Particular Attribution Rules for Lay-By Sales) Determination (No 1) 2000 – F2006B11578* (previous determination), registered 15 November 2006. The previous determination is repealed on commencement of this determination.
11. This 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 in 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

This Legislative Instrument is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

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This 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 Legislative Instrument provides a rule for the attribution of GST payable on a taxable supply of gas or electricity made by a public utility provider that does not account on a cash basis and that has a **payment arrangement** with the recipient of the supply.

Human rights implications

This Legislative Instrument does not engage any of the applicable human rights or freedoms. It requires the application of a particular attribution rule for supplies of gas and electricity made by **public utility providers**.

Conclusion

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