



Explanatory Statement

Goods and Services Tax: Waiver of Adjustment Note Requirement (Corporate Card Statements) Determination 2018

General outline of determination

1. This determination is made under subsection 29-20(3) of the *A New Tax System (Goods and Services Tax) Act 1999*.
2. This determination allows corporate credit and charge card holders to claim decreasing adjustments without holding an adjustment note in certain circumstances.
3. 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.
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 it is registered on the Federal Register of Legislation.

What is this determination about

6. Under subsection 29-20(3) of the GST Act, you can only attribute a decreasing adjustment arising from an adjustment event in the first tax period when you hold an adjustment note for the adjustment (unless the adjustment is \$75 or less).
7. However, the Commissioner may determine in writing the circumstances in which you do not require an adjustment note in order to attribute a decreasing adjustment.
8. This determination waives the requirement to hold an adjustment note for a decreasing adjustment provided that the requirements of the determination are met. Instead a corporate card statement can be used provided it includes the required information.

What is the effect of this determination

9. The effect of this determination is, for tax periods commencing on the day after it is registered on the Federal Register of Legislation:
 - (a) To allow the special rules for adjustment notes contained in the repealed determination to continue to operate in a similar way; and
 - (b) To incorporate rules that will operate in the scenario where employee reimbursement has occurred under Division 111 of the GST Act.

Background

10. This determination replaces Goods and Services Tax: Waiver of Adjustment Note Requirement (Corporate Card Statements) Legislative Instrument (No. 1) 2008 F2008L03346 (previous determination), registered on 3 September 2008. The previous determination is repealed on commencement of this determination.
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.
12. Compliance cost impact: Minor – There will be no or minimal impacts for both implementation and ongoing compliance costs. The legislative determination is minor or machinery in nature.

Explanation

13. Provided the requirements of this determination are met, for the purposes of attributing a decreasing adjustment (arising from an adjustment event in respect of an acquisition) to a tax period, a cardholder is not required (under subsection 29-20(3) of the GST Act) to hold an adjustment note for the decreasing adjustment. In summary, the corporate card statement may be used to claim decreasing adjustments where:
 - (a) the cardholder holds a corporate card statement for the decreasing adjustment that contains the information set out in section 7;
 - (b) the GST related information on the corporate card statement meets the accuracy requirements set out in section 11;
 - (c) the cardholder meets the requirements of section 12 that ensure the cardholders use the statement accurately to claim decreasing adjustments;
 - (d) paragraph 10(b) does not apply. This section requires the cardholder to hold an adjustment note in relation to the decreasing adjustment where the statement shows an estimated adjustment amount; and
 - (e) the card statement issued by the corporate card provider/acquirer meets the information requirements specified in this determination by using either of two methods:
 - the accurate method provided by paragraph 7(2)(b); or
 - the signed statement method provided by paragraph 7 (2)(c).
14. For low value decreasing adjustments (currently those that do not exceed \$75 in value) there is no requirement to hold an adjustment note. Therefore, this determination is not applicable to low value decreasing adjustments.

Definition of corporate card provider

15. The definition of corporate card provider (in section 6) requires the corporate card provider issuing the statement to be named in this determination. If a card provider is named, it is not compulsory for the corporate card provider to offer card products that meet these requirements.
16. Cardholders should verify that their corporate card statement is intended to meet the requirements.

Definition of cardholder and corporate card

17. The definition of cardholder and corporate card (in section 5) has been expanded in this determination to cover an entity who requests the corporate card provider to issue a corporate card in another entity's name. This change is required to give effect to new section 13 – Reimbursement of employees etc.

Definition of GST registration number

18. A definition of GST registration number has been added and refers to both the Australian Business Number (ABN) and the ATO Reference Number (ARN) which is used by limited registration entities.

Corporate card statement information requirements

19. The updates made to the section 8 requirements align it with revised legislative requirements for adjustment notes. There has also been an expansion of subparagraph 8(d)(v) to allow the inclusion of a recognised code identifying the supplier's industry. This may be the ANZSIC code but the Commissioner accepts that other recognised codes can be used.

Consultation

20. Broad consultation has occurred. The draft determination and draft explanatory statement were published on the ATO Legal Database at ato.gov.au on 2 August 2018 seeking feedback and comments for a period of three weeks. The ATO Legal Database sends emails and news feeds to direct subscribers such as tax professionals and other industry stakeholders.
21. Targeted consultation was also undertaken. A draft copy of the determination and explanatory statement were sent to the entities listed in the previous determination in early August 2018 seeking comments for a period of three weeks. Comments received either confirmed that the entities listed still provide the cards or that the entity should be removed from the determination. No other substantive issues were raised.

Legislative references:

Acts Interpretation Act 1901

A New Tax System (Goods and Services) Tax Act 1999

Human Rights (Parliamentary Scrutiny) Act 2011

Legislation Act 2003

Statement of compatibility with Human Rights

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

The Legislative Instrument allows corporate card holders to claim a decreasing adjustment without holding an adjustment note in certain circumstances.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms as it allows corporate card holders to claim a decreasing adjustment without holding an adjustment note in certain circumstances.

Conclusion

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