Australian Government
Australian Taxation Office

Australian Taxation Office Legislative Instrument
Instrument ID: 2013/ITX/0004

A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Acquisitions by Recipients Using Electronic Purchasing Systems) Legislative Instrument 2013

Explanatory Statement

General outline of this instrument

1. This legislative instrument is made under subsection 29-10(3) of the *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act).

2. This instrument waives the requirement for a recipient making a creditable acquisition using electronic purchasing systems[1] to hold a tax invoice for an input tax credit to be attributable to a tax period when they hold a document that meets the requirements prescribed in this instrument.

3. This instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

4. All legislative references in this explanatory statement are to provisions in the GST Act unless otherwise specified.

Commencement and application of this instrument

5. This instrument commences on 1 July 2010 and applies to net amounts for tax periods commencing on or after that date.

6. The retrospective application of this instrument does not have an adverse effect on the rights or liabilities of any person other than the Commonwealth.[2] The effect of the instrument is to the advantage of affected parties. It waives the requirement for a recipient making a creditable acquisition of a thing using electronic purchasing systems to hold a tax invoice before an input tax credit is attributable to a tax period when the recipient holds documents that together meet the requirements prescribed in the instrument.

[1] Electronic purchasing systems include 'evaluated receipt settlement', 'purchase without invoice' and 'automatic invoicing' systems.
[2] Subsection 12(2) of the *Legislative Instruments Act 2003* provides that a retrospective legislative instrument (or provision of that instrument) will be of no effect if it applies to adversely affect the rights or liabilities of any person other than the Commonwealth or an authority of the Commonwealth.

7. These prescribed requirements are not substantively different to the requirements under which certain documents relating to an electronic purchasing system were together treated as tax invoices in Goods and Services Tax Ruling GSTR 2000/17 – Goods and services tax: tax invoices (withdrawn on 25 May 2011). This means that a recipient does not have to change their software or accounting systems to issue documents that would comply with this instrument.

8. The instrument applies retrospectively to align to the date of effect of the legislative change for tax invoices.[3]

What is this instrument about?

9. The effect of this instrument is that an input tax credit for a creditable acquisition is attributable to a tax period for an acquisition made using an electronic purchasing system when the recipient holds documents other than a tax invoice. This instrument also sets out the particular information that must be included in these documents for the input tax credit to be attributed to that tax period.

What is the effect of this instrument?

10. This instrument waives the requirement for a recipient to hold a tax invoice before an input tax credit for a creditable acquisition is attributable to a tax period when the recipient holds documents relating to an electronic purchasing system that together meet the requirements of this instrument.

11. This instrument intends to give effect to the same general treatment as when the Commissioner exercised the discretion in GSTR 2000/17 to treat documents (or a combination of documents) that a recipient held as a tax invoice when using electronic purchasing systems.

12. Compliance cost impact: An assessment of the compliance cost impact indicates that the impact will be minimal for both the implementation and on-going compliance costs. The instrument is routine in nature.

Background

13. Generally, when a recipient makes a creditable acquisition, an input tax credit for the acquisition is not attributable to a tax period until they hold a tax invoice. A tax invoice is a document that meets the requirements in subsection 29-70(1).

14. In some cases, the necessity for the recipient to hold a document that meets the requirements of subsection 29-70(1) may impose a disproportionate burden on a supplier or recipient, particularly if the document that they do hold has most of the required features of a tax invoice.

15. GSTR 2000/17 outlined circumstances under which a recipient may arrange and record supplies and issue recipient created tax invoices, using an electronic purchasing system, that were treated as tax invoices because the Commissioner exercised the discretion under former subsection 29-70(1). These systems may create a document that complies with the requirements for a tax invoice, apart from the requirement to be able to clearly ascertain what is supplied, including the quantity (if applicable) and the price of what is supplied under subparagraph 29-70(1)(c)(iii), but

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[3] See *Tax Laws Amendment (2010 GST Administration Measure No.2) Act 2010* and the repeal of regulations 29.70.01 and 29.70.02 to the *A New Tax System (Goods and Services Tax) Regulations 1999* by the *A New Tax System (Goods and Services Tax) Amendment Regulations 2010 (No.1)* (206 of 2010).

refer to another document from which this information could be obtained, such as a purchase order. The Commissioner's discretion to treat a document as a tax invoice is now contained in subsection 29-70(1B).

16. The Commissioner's discretion under subsection 29-70(1B) is administrative, and can only be exercised on a case by case basis. It is therefore no longer appropriate to deal with this matter in a public ruling. Instead, the Commissioner is making a determination under subsection 29-10(3) to ensure that taxpayers do not have to change their administrative practices.

Explanation

17. A recipient created tax invoice is an exception to the requirement that the supplier must issue a tax invoice.[4] To be a recipient created tax invoice, a document issued by a recipient must comply with the information requirements for a recipient created tax invoice under subsection 29-70(1).

18. An electronic purchasing system allows a recipient to make creditable acquisitions, arrange and record supplies, and issue documents that are intended to be recipient created tax invoices.

19. These systems produce a summary document of the taxable supplies acquired from a supplier that otherwise satisfies the requirements of subsection 29-70(1), except for a description of each thing suppled, that is, the requirement to be able to clearly ascertain what is supplied, including the quantity (if applicable) and the price of what is supplied under subparagraph 29-70(1)(c)(iii).

20. As a result, a summary document produced by the electronic purchasing system and issued by the recipient would not satisfy the requirements of section 29-70(1). An input tax credit for a creditable acquisition would therefore not be attributable to a tax period until the recipient held a document that complied with the requirements for a tax invoice.

21. However, where a recipient, in addition to the summary document, holds another document referred to in that summary document, and those documents together meet the requirements in subsection 29-70(1)(c), this instrument has the effect of allowing the input tax credit to be attributed on the basis of those documents together at the time the recipient gives their GST return for the tax period to the Commissioner.

Consultation

22. Section 18 of the *Legislative Instruments Act 2003* specifically provides for circumstances where consultation may not be necessary or appropriate. One of those circumstances is where the instrument is considered minor or machinery in nature, and does not substantially change the law.

[4] A recipient created tax invoice is a tax invoice belonging to a class of tax invoices that the Commissioner has determined in writing may be issued by the recipient of a taxable supply.

23. Although the instrument was considered minor or machinery in nature, and does not substantially change the law, comment was invited from members of the community through the publication of a consultation draft of this instrument and explanatory statement.

James O'Halloran
Deputy Commissioner of Taxation

19 March 2013

Related Rulings / Determinations

GSTR 2000/17 (Withdrawn)

Legislative references

A New Tax System (Goods and Services Tax) Act 1999
29-10(3)
29-70(1)
29-70(1)(c)(iii)
29-70(1B)

Legislative Instruments Act 2003
12(2)
18

Human Rights (Parliamentary Scrutiny) Act 2011
Part 3
3

A New Tax System (Goods and Services Tax) Regulations 1999
29-70.01
29-70.02

Subject references

Goods and services tax
Acquisitions and supplies by agents
Attribution rules
Creditable acquisition
GST input tax credits & creditable acquisitions
Taxable supply
Tax invoices

Tax Office references

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Statement of Compatibility with Human Rights

This Statement 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

This instrument waives the requirement for a recipient making a creditable acquisition using electronic purchasing systems to hold a tax invoice for an input tax credit to be attributable to a tax period.

Human Rights Implications

On an assessment of the compatibility of this instrument with the seven core international human rights treaties to which Australia is a party, it has been determined that this instrument does not engage any of the applicable rights or freedoms because the instrument is minor or machinery in nature.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

James O'Halloran
Deputy Commissioner of Taxation