

WTI 2017/5 - Explanatory statement -



Explanatory Statement

Goods and Services Tax: Waiver of Tax Invoice Requirement (Corporate Card Statements) Legislative Instrument 2017

General Outline of Instrument

1. This instrument is made under subsection 29-10(3) 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 instrument.
3. This determination allows corporate card holders to claim input tax credits without holding a tax invoice in certain circumstances.
4. The instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Date of effect

5. The instrument is taken to have commenced on the day after it is registered on the Federal Register of Legislation.

What is this instrument about

6. The purpose of this instrument is:
 - a) to ensure consistency with the legislative requirements for tax invoices;
 - b) to make minor technical changes to ensure the instrument operates as intended.

What is the effect of this instrument

7. The effect of this instrument is, for tax periods commencing on the day after it is registered on the Federal Register of Legislation:
 - a) that the GST tax invoice record keeping concessions contained in the revoked instruments continue to operate in a similar way;
 - b) the instrument applies more broadly where Corporate cards are issued to another entity at the Cardholder's request;
 - c) to incorporate rules that will operate in the scenario where employee reimbursement has occurred under Division 111 of the GST Act.
8. Compliance Cost Impact: Minor – There will be no or minimal impacts for both implementation and ongoing compliance costs. The legislative instrument is minor or machinery in nature.

Background

9. This determination replaces *Goods and Services Tax: Waiver of Tax Invoice Requirement (Corporate Card Statements) Legislative Instrument (No. 1) 2008* F2008L03345, registered on 3 September 2008 and *Goods and Services Tax: Waiver of Tax Invoice Requirement Determination 2017 – customers of Custom Service Leasing Pty Ltd* F2017L00335, (previous determinations). The previous determinations are repealed on commencement of this determination.
10. This determination is substantially the same as the previous determinations that it replaces. An entity that satisfied the requirements of the previous determinations will satisfy the requirements of this determination.
11. The concession was granted to reduce compliance costs for entities claiming input tax credits for creditable acquisitions, by permitting the entity (the holder of certain corporate cards) to claim an input tax credit without holding a tax invoice. Instead, the cardholder was required to hold a corporate card statement (issued by the corporate card provider) that met certain information requirements specified in the instruments.

Explanation

12. Provided the requirements of this instrument are met, for the purposes of attributing an input tax credit for a creditable acquisition to a tax period, a cardholder is not required (under subsection 29-10(3) of the GST Act) to hold a tax invoice for the creditable acquisition (section 7). In summary, the corporate card statement may be used to claim input tax credits where:
- a) the cardholder holds a corporate card statement for the creditable acquisition that contains the information set out in section 9;
 - b) the GST related information on the corporate card statement meets the accuracy requirements set out in section 12;
 - c) the cardholder meets the requirements of section 13 that ensure the cardholders use the statement accurately to claim input tax credits;
 - d) section 11 does not apply. This section requires the cardholder to hold a tax invoice in relation to the acquisition where the statement shows an estimated GST amount, or there is an error in relation to the acquisition; and
 - e) the card statement issued by the corporate card provider meets the information requirements specified in this instrument by using either of two methods:
 - i. the accurate method provided by paragraph 8(2)(b); or
 - ii. the signed statement method provided by paragraph 8(2)(c).
13. For low value transactions (currently those that do not exceed \$75 in value) there is no requirement under subsection 29-70(3) of the GST Act to hold a tax invoice. Therefore, this instrument is not applicable to low value transactions.

Definition of Cardholder and Corporate card

14. The definition of *Cardholder and Corporate card* (in section 6) has been expanded in this instrument 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 14 – Reimbursement of Employees etc.

Corporate card statement information requirements

15. The updates made to the section 9 requirements align it with revised legislative requirements for tax invoices. There has also been an expansion of paragraph 9(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:

16. An initial proposal to expand the scope of the instrument more broadly did not receive a favourable response from industry and, therefore, the changes were limited to those set out above.
17. This instrument was developed in consultation with a number of card providers and their representatives as well as through industry forums such as the Australian Banker's Association.
18. Additionally, eight small business representatives were recruited in 2015 to participate in telephone interviews. Information was gathered around small businesses' current processes for claiming input tax credits to assess the impact of the proposed changes.
19. The instrument was published in draft of the on 22 June 2017 and provided a two week period for consultation. No comments were received.

Legislative References

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

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*

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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 Instrument

This Legislative Instrument allows corporate card holders to claim input tax credits without holding a tax invoice in certain circumstances.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms as it is considered to be minor or machinery in nature and does not substantially change the law.

Conclusion

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