Taxation Administration Amendment (Defence Related International Obligations and Other Matters — Indirect Tax Refunds) Determination 2021

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Defence

Taxation Administration Act 1953

Authority for Taxation Administration Amendment (Defence Related International Obligations and Other Matters — Indirect Tax Refunds) Determination 2021 ('the Amending Determination')

The Amending Determination is made by the Minister for Defence under section 105-120 in Schedule 1 to the *Taxation Administration Act 1953*. It amends the *Taxation Administration (Defence Related International Obligations and Other Matters — Indirect Tax Refunds) Determination 2018* ('the Principal Determination'), which was also made under section 105-120.

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, the power shall be construed as including a power exercisable in a like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument. The amendment of earlier determinations made under section 105-120 is therefore authorised by section 105-120.

Purpose of the Amending Determination

The purpose of the Amending Determination is to update references to the *Memorandum of Understanding between the Government of Australia and the Government of the Republic of Singapore Concerning Military Training and Training Area Development in Australia 2016* ('the MOU'), which has now been replaced by the *Agreement between the Government of Australia and the Government of the Republic of Singapore concerning Military Training and Training Area Development in Australia* signed on 23 March 2020 and entered into force on 10 December 2020 ('the Agreement'). The Agreement governs the Australia-Singapore Military Training Initiative, which involves large scale Singapore military training and training area development in central and northern Queensland.

In accordance with section 105-120 of Schedule 1 to the *Taxation Administration Act* 1953, the amendments will allow section 8 of the Principal Determination to continue to facilitate refunds of indirect tax paid by the Defence Department on behalf of Singapore arising from ASMTI development activities. Section 8 continues to operate from 13 October 2016, which was the date of signature of the MOU.

Operation of the Amending Determination

Attachment A provides a provision-by-provision description of the operation of the Amending Determination.

Documents incorporated by reference

The Amending Determination includes references to the Agreement. The references are used in Schedule 1 to the Amending Determination. The effect of these references is described in relation to the relevant provisions in Attachment A. The Agreement is publicly available.

Financial Impact Statement

The Amending Determination will have no additional impact on Commonwealth expenditure or revenue. The Principal Determination, as amended, enables a refund of indirect tax that was already available under the Principal Determination.

Regulatory Impact Statement

The Amending Determination is not likely to have any impact on the business or not-for-profit sectors. The Office of Best Practice Regulation was consulted and no Regulatory Impact Statement is required.

Legislative instrument

The Amending Determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

Commencement

This instrument is taken to have commenced the day after it is registered.

Consultation

The Treasury and Australian Taxation Office have been consulted on the amendments to the Principal Determination.

Attachments

A: Provisions in Taxation Administration Amendment (Defence Related International Obligations and Other Matters — Indirect Tax Refunds) Determination 2021

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

Taxation Administration Amendment (Defence Related International Obligations and Other Matters — Indirect Tax Refunds) Determination 2021 ('the Amending Determination')

The Amending Determination is compatible with the 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 Amending Determination

The Amending Determination amends the *Taxation Administration (Defence Related International Obligations and Other Matters — Indirect Tax Refunds) Determination 2018* ('the Principal Determination') by updating references to the *Memorandum of Understanding between the Government of Australia and the Government of the Republic of Singapore Concerning Military Training and Training Area Development in Australia 2016* ('MOU'), which has now been replaced by the *Agreement between the Government of Australia and the Government of the Republic of Singapore concerning Military Training and Training Area Development in Australia* signed on 23 March 2020 and entered into force on 10 December 2020 ('the Agreement'). The Agreement governs the Australia-Singapore Military Training Initiative ('ASMTI'), which involves large scale Singapore military training and training area development in central and northern Queensland. These amendments will facilitate continued refunds of indirect tax paid by the Defence Department on behalf of Singapore arising from ASMTI development activities.

Human rights implications

Noting the likely impact of the Amending and Principal Determinations and the nature of the human rights and freedoms, the Amending Determination does not raise any human rights issues requiring further discussion.

Conclusion

The Determination is compatible with human rights because it does not raise any human rights requiring further discussion.

ATTACHMENT A

Section 1: Name

This section states that the Amending Determination is to be known as the *Taxation Administration Amendment (Defence Related International Obligations and Other Matters — Indirect Tax Refunds) Determination 2021*.

Section 2: Commencement

This section states that the Amending Determination is taken to have commenced the day after it is registered.

Section 3: Authority

This section provides that the authority for the instrument arises from section 105-120 in Schedule 1 to the *Taxation Administration Act 1953*.

Section 4: Schedules

This section provides that the Principal Determination is amended as set out in Schedule 1 to the Amending Determination.

Schedule 1—Amendments

Item 1: Section 4 (definition of *Australia Singapore Military Training Initiative*)

This item amends section 4 of the Principal Determination so that *Australia Singapore Military Training Initiative* is defined in relation to activities governed by the Agreement, as opposed to an activities set out in the MOU.

Item 2: Section 4 (definition of *development activities*)

This item amends section 4 of the Principal Determination so that *development activities* is defined in relation to activities governed by the Agreement, as opposed to activities described in the MOU.