



Explanatory Statement

A New Tax System (Goods and Services Tax) (Attribution Rules – Supplies and Acquisitions Relating to Collecting Societies) Determination 2025

General outline of instrument

1. This instrument is made under subsection 29-25(1) of *A New Tax System (Goods and Services Tax) Act 1999* (the Act).
2. This instrument sets out particular attribution rules for supplies and acquisitions made by copyright owners and collecting societies as defined under the *Copyright Act 1968*. The instrument is necessary to prevent Division 29 of the Act applying inappropriately to these arrangements.
3. The instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.
4. 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.

Date of effect

5. This instrument commences on the day after it is registered on the Federal Register of Legislation.

Background

6. Division 29 of the Act sets out the basic attribution rules for attributing GST, input tax credits and adjustments to a tax period. There are also some attribution rules in Chapter 4 of the Act that affect the basic rules in Division 29 of the Act. Section 29-25 of the Act allows the Commissioner to determine particular tax periods that GST, input tax credits and adjustments are attributable to where it is necessary to prevent the attribution rules in Division 29 or Chapter 4 of the Act applying in a way that is inappropriate in certain circumstances. For instance, such circumstances are where there is a delay between when a supply or acquisition occurs and when the supplier or the recipient becomes aware of it or the total consideration received or provided for it.
7. Collecting societies are established under the *Copyright Act 1968*, including to collect copyright fees or royalties on behalf of copyright owners for the use of copyright material. Collecting societies receive consideration for the services they provide to the copyright owner. This consideration may be withheld from the copyright fees or royalties collected by the collecting society before they are passed on to the copyright owner.
8. Generally, collecting societies that are registered for GST make a taxable supply to copyright owners, including for the service of collecting and distributing copyright fees on behalf of the copyright owner. This may also be a creditable acquisition for the copyright owner giving rise to an entitlement to an input tax credit. Copyright owners that are registered for GST may also make a taxable supply to third parties who pay a copyright fee or royalty for use of the copyrighted material.

Basic Attribution Rules

9. Under the basic attribution rules set out in Division 29 of the Act, collecting societies and copyright owners who make taxable supplies would need to attribute any GST payable:

- (a) if they account on a non-cash basis, to the tax period in which any of the consideration for the supply is received or, if before any consideration is received, an invoice for the supply is issued, or
- (b) if they account on a cash basis, to the tax period in which they receive consideration for the supply but only to the extent that the consideration is received in that tax period.

10. Likewise, copyright owners who make a creditable acquisition of the services provided by collecting societies, would need to attribute the input tax credit:

- (a) if they account on a non-cash basis, to the tax period in which they provide any of the consideration for the supply or, if before any consideration is provided, an invoice for the supply is issued, or
- (b) if they account on a cash basis, to the tax period in which they provide consideration for the supply but only to the extent that the consideration is provided in that tax period

11. Under these basic rules, a collecting society or copyright owner may be required to attribute GST or ITC before they become aware of their GST liability, input tax credit entitlements or if any consideration has been received or provided. This would result in the collecting society or copyright owner having to attribute GST or input tax credits to a tax period without knowing how much is attributable.

12. The Commissioner is therefore satisfied under paragraph 29-25(2)(d) of the Act that the application of these basic attribution rules to such supplies and acquisitions would produce an inappropriate result.

13. The terms 'collecting society' and 'remuneration notice' used in the instrument take their meaning from the *Copyright Act 1968*. The term "equitable remuneration" takes its meaning from the *Copyright Regulations 2017*.

14. This instrument repeals and replaces the *Goods and Services Tax: Particular Attribution Rules for supplies and acquisitions relating to the operation of a Collecting Society under the Copyright Act Determination (No. 34) 2015* which would otherwise sunset on 1 October 2025. The instrument has the same substantive effect as the one it is replacing.

Effect of this instrument

15. This instrument alters some of the basic attribution rules in Division 29 of the Act for supplies and acquisitions made by collecting societies and copyright owners.

16. Sections 6 to 8 of the instrument alter the attribution rules for:

- (a) GST payable by collecting societies on taxable supplies they make to copyright owners,
- (b) GST payable by copyright owners on taxable supplies they make to third parties, and
- (c) input tax credits for creditable acquisitions made by copyright owners.

Attribution rules for GST for collecting societies

17. Under section 6, the GST payable by a collecting society on a taxable supply made to a copyright owner is attributable to the tax period in which the society becomes aware that the copyright owner is entitled to receive a distribution of an amount collected by the society, where:

- (a) the society is given a remuneration notice for the amount,
- (b) the amount is collected by the society, and
- (c) the consideration for the supply, which is the payment for the administrative costs of the society out of the amount, is withheld by the society.

Attribution rules for GST for copyright owners

18. Under section 7, the tax period in which GST payable by a copyright owner is attributable is determined by whether the copyright owner accounts on a cash or non-cash basis. If the owner accounts on a:

- (a) non-cash basis – GST is attributable to the earlier of the tax period in which they become aware that consideration has been received for the supply or they become aware that an invoice relating to the supply has been issued; or
- (b) cash basis – GST is attributable in the tax period in which the owner becomes aware that any consideration has been received. Only the GST that relates to the consideration received is attributable in that period.

Attribution rules for input tax credits for copyright owners

19. Under section 8, the tax period in which an input tax credit for a creditable acquisition made by a copyright owner from a collecting society is determined by whether the copyright owner accounts on a cash or non-cash basis. If the owner accounts on a:

- (a) non-cash basis – the input tax credit is attributable to the earlier of the tax period in which they become aware that consideration has been provided for the acquisition or the period in which they become aware that an invoice relating to the acquisition has been issued; or
- (b) cash basis – the input tax credit is attributable in the tax period in which the owner becomes aware that any consideration has been received. Only the input tax credit that relates to the consideration received is attributable in that period.

Awareness by collecting society or copyright owner

20. When a collecting society or a copyright owner 'becomes aware' of consideration being received or provided, or an invoice being issued, is a question of fact in each case. It may depend on any specific arrangements in place between the collecting society and each copyright owner.

21. For example, a copyright owner may only become aware of consideration being received when they receive payment from a collecting society. A collecting society, under their arrangement with a copyright owner, may deposit an amount collected on behalf of the copyright owner into a bank account of the copyright owner. The copyright owner would be considered to have become aware of having received consideration when the amount is deposited in their account.

Compliance cost assessment

22. To be advised.

Consultation

23. Subsection 17(1) of the *Legislation Act 2003* requires the Commissioner to be satisfied that appropriate and reasonably practicable consultation has been undertaken before they make an instrument.

24. As part of the consultation process, you are invited to comment on the draft instrument and its accompanying draft explanatory statement.

Please forward your comments to the contact officer by the due date.

Due date:	2 July 2025
Contact officer:	Stephen Willis
Email:	Stephen.Willis@ato.gov.au
Phone:	07 3213 8967

Legislative references

Acts Interpretation Act 1901

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

Copyright Act 1968

Copyright Regulations 2017

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

This legislative instrument alters some of the basic attribution rules in Division 29 of the *A New Tax System (Goods and Services Tax) Act 1999* for supplies and acquisitions made by collecting societies and copyright owners. If the basic rules applied, a collecting society or copyright owner may be required to attribute GST or input tax credits before they become aware of their GST liability, input tax credit entitlements or if any consideration has been received or provided. The instrument allows collecting societies and copyright owners to attribute the GST payable or input tax credits to a tax period after they become aware of an amount to be attributed.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms, as it merely changes the tax period in which GST or input tax credits are attributable by collecting societies and copyright owners to better reflect when the collecting society or copyright owner becomes aware of their GST liability or input tax credits.

Conclusion

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