



Explanatory Statement

A New Tax System (Goods and Services Tax) (Waiver of Adjustment Note Requirement - Reverse Charged Supplies) Determination 2026

General outline of instrument

1. This instrument is a determination made under subsection 29-20(3) of the *A New Tax System (Goods and Services Tax) Act 1999* (the Act).
2. Under the Act, the supplier of a taxable supply is usually liable for GST on that supply. However, the liability to pay GST is shifted from a non-resident supplier to the recipient, under section 83-5 of the Act, in certain circumstances ('reverse charge' on supplies). In those circumstances, it may be difficult for the recipient to obtain an adjustment note from the non-resident supplier.
3. Generally, an entity (supplier or recipient) cannot attribute a decreasing adjustment arising from an adjustment event to a tax period unless they hold an adjustment note. However, the Commissioner of Taxation can determine circumstances in which an entity is not required to hold an adjustment note under subsection 29-20(3) of the Act.
4. This instrument waives the requirement for a recipient to hold an adjustment note for a decreasing adjustment where the adjustment relates to a reverse charged supply to which section 83-5 of the Act applies.
5. The instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.
6. 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

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

Background

8. Where GST or input tax credits in relation to a taxable supply have been attributed by an entity to a tax period, but a subsequent adjustment event results in the entity having paid too much GST or claimed too little input tax credits in relation to that supply, a decreasing adjustment in a later tax period is required to correct the previously attributed amounts.
9. Under subsection 29-20(3) of the Act, an entity cannot attribute a decreasing adjustment to a tax period unless they hold an adjustment note (unless the Commissioner has determined that an adjustment note is not required). Once an entity holds an adjustment note they may attribute the decreasing adjustment to the first tax period in which they give a GST return to the Commissioner.
10. Under subsection 29-80(2) of the Act, an adjustment note is not required to attribute decreasing adjustments for an amount that does not exceed \$50, or a higher amount specified by

the regulations. Section 29-80.02 of the *A New Tax System (Goods and Services Tax) Regulations 2019* deems that an adjustment note is not required to attribute decreasing adjustments of \$75 or less.

11. An adjustment note is a document that meets the requirements of subsection 29-75(1) of the Act, including that it must be issued by the supplier, and include the supplier's ABN and any other information that the Commissioner requires.

12. However, in certain circumstances the requirement to hold an adjustment note may impose a disproportionate burden on the entity. The Commissioner has the power, under subsection 29-20(3) of the Act, to determine circumstances in which an entity is not required to hold an adjustment note to attribute a decreasing adjustment to a tax period.

13. Generally, under section 9-40 of the Act, the supplier of a taxable supply is liable to account for GST on the supply they make. However, under section 83-5 of the Act, the liability to pay GST is shifted from the supplier to the recipient if:

- (a) the supplier is a non-resident
- (b) the supplier does not make the supply through an enterprise carried on in the indirect tax zone (indirect tax zone means Australia, it does not include external territories and certain offshore areas for the purposes of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*)
- (c) the recipient is registered or required to be registered, and
- (d) the supplier and recipient agree that the GST is payable by the recipient.

14. Under subsection 83-35(1) of the Act, the non-resident supplier is not required to issue a tax invoice to the recipient for the taxable supply.

15. Where an adjustment event occurs that requires the recipient to attribute a decreasing adjustment in relation to a reverse charged supply, it may be difficult for the recipient to obtain an adjustment note from the non-resident supplier.

16. This instrument repeals and replaces the *Goods and Services Tax: Waiver of Adjustment Note Determination (No. 39) 2016 – Reverse Charged Supplies* (2016 Instrument) which would otherwise sunset on 1 October 2026. The 2016 Instrument waives the requirement for a recipient to hold an adjustment note for a decreasing adjustment if it relates to a taxable supply to which section 83-5 of the Act applies that satisfies all requirements for reverse charging under that provision. This instrument has the same substantive effect as the 2016 Instrument.

Effect of the Instrument

17. Under section 6 of the instrument, an entity is not required to hold an adjustment note for the purpose of attributing a decreasing adjustment to a tax period if the adjustment relates to a taxable supply which is a reverse charged supply under section 83-5 of the Act.

18. Without this instrument, these entities would be required to obtain an adjustment note that meets the requirements in subsection 29-75(1) of the Act from the non-resident supplier before being able to attribute a decreasing adjustment of more than \$75 to a tax period.

Example

OzCoff Company purchases 6 coffee machines from NR Suppliers, a non-resident supplier based in India. OzCoff Company and NR Suppliers agree OzCoff Company will pay GST on the supply. The supply is one to which section 83-5 of the Act applies.

OzCoff Company discovers that one of the coffee machines was defective and seeks a refund from NR Suppliers. NR Suppliers agrees and refunds \$8,800 (GST-inclusive) to OzCoff Company. This cancels the original supply to the extent of the returned coffee machine. This is an adjustment event.

As a result of this adjustment event, OzCoff Company has paid too much GST (\$800) on the supply. A decreasing adjustment will be needed in a later GST return to correct this overpayment.

OzCoff Company will also have a corresponding increasing adjustment for any input tax credits already claimed for the purchase of the defective machine.

Under the general rules in section 29-20(3) of the Act, as the amount of the decreasing adjustment is over \$75, OzCoff Company would be required to hold an adjustment note issued by NR Suppliers before being able to attribute the decreasing adjustment.

However, as the taxable supply is one to which section 83-5 of the Act applies, the circumstances in section 6 of the instrument are met. OzCoff Company can therefore attribute the decreasing adjustment without holding an adjustment note.

Compliance cost assessment

19. TBC.

Consultation

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

21. 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: 10 July 2026

Contact officer: Djurdja Gayler

Email: Djurdja.Gayler@ato.gov.au

Phone: (07) 3213 6700

Statement of compatibility with human rights

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

A New Tax System (Goods and Services Tax) (Waiver of Adjustment Note Requirement - Reverse Charged Supplies) Determination 2026.

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

Under *A New Tax System (Goods and Services Tax) Act 1999* (the Act), the supplier of a taxable supply is usually liable for GST on that supply. However, the liability to pay GST is shifted from a non-resident supplier to the recipient, under section 83-5 of the Act, in certain circumstances ('reverse charge' on supplies). In those circumstances, it may be difficult for the recipient to obtain an adjustment note from the non-resident supplier.

Although an entity is generally required to hold an adjustment note to attribute decreasing adjustments to a tax period, the Commissioner of Taxation can determine circumstances in which an entity is not required to hold an adjustment note.

This instrument waives the requirement for the recipient entity to hold an adjustment note to attribute a decreasing adjustment to a tax period where section 83-5 of the Act applies.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms as it merely waives the requirement for recipients to hold an adjustment note when attributing certain decreasing adjustment to a tax period.

Conclusion

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