



Explanatory Statement

A New Tax System (Goods and Services Tax) (Waiver of Tax Invoice Requirement – Reimbursements of Acquisitions Made Under an Assumed Name) Determination 2026

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* (the Act).
2. This instrument waives the requirement for a government law enforcement agency to hold a tax invoice to attribute input tax credits for a creditable acquisition where the acquisition relates to the reimbursement of certain expenses incurred by an employee or agent of theirs when using an assumed name.
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. Under subsection 29-10(3) of the Act, an input tax credit for a creditable acquisition is generally not attributable to a tax period until the entity holds a tax invoice that meets the requirements in subsection 29-70(1) of the Act, at the time they give the Commissioner the GST return for that period.
7. In some cases, the requirement for an entity to hold a tax invoice may impose a disproportionate burden given specific circumstances that apply to the entity, particularly if that entity holds another document that has most of the required features of a tax invoice.

Division 111 of the Act

8. Under Division 111 of the Act, an entity may be entitled to input tax credits for reimbursements made to an agent or employee. An agent, for the purposes of this Division, is not merely an entity that is described as an 'agent'. Rather, an agent is an entity that has been authorised by another entity (the principal) to do something for, or act on behalf of, the principal.
9. Where an agent or employee of an entity, in performing their duties, incur expenses in acquiring things which are then reimbursed by the entity, the reimbursement is treated as being consideration for an acquisition by the entity from their agent or employee. Where the requirements

in Division 111 of the Act are met, this acquisition will be a creditable acquisition for which the entity is entitled to claim input tax credits.

10. Under subsection 29-10(3) of the Act, before the entity can attribute these input tax credits to a tax period, they must hold a tax invoice (unless the GST-exclusive value of the acquisition is \$75 or less or the requirement to hold a tax invoice is waived).

11. A document will be a tax invoice where it meets the requirements in section 29-70 of the Act, including that it contain sufficient information to identify the supplier, what was supplied and when (such as a description of the goods or service acquired and the date of the supply), the price paid in relation to the supply, the amount of GST payable for the supply, and the extent to which the supply is taxable. Where the price for the supply is \$1,000 or more the document must also contain sufficient information to identify the recipient of the supply.

12. Under section 111-15 of the Act, the entity is taken to hold a tax invoice for the purposes of attributing input tax credits for the acquisition to a tax period if the entity holds a tax invoice for the thing acquired by the agent or employee.

Example

An employee of Big Boss Ltd uses their personal credit card to purchase fuel totalling \$500 (GST inclusive) on a trip they undertook for work purposes. Big Boss Ltd reimburses the employee for this expense.

Section 111-5 of the Act applies and the reimbursement of this expense by Big Boss Ltd is consideration for a creditable acquisition from the employee.

The employee provides Big Boss Ltd with the tax invoice they received for the fuel purchase that meets the requirements of section 29-70 of the Act. Due to the operation of section 111-15 of the Act, Big Boss Ltd is taken to hold a tax invoice for the purposes of attributing the input tax credits to a tax period under subsection 29-10(3) of the Act.

13. However, if an agent or employee holds a document in relation to the thing acquired that does not meet the requirements in section 29-70 of the Act, section 111-15 of the Act will not apply. The entity would not be able to attribute the input tax credits for the creditable acquisition to a tax period for the purposes of section 29-10(3) of the Act.

14. Subsection 29-10(3) of the Act enables the Commissioner to determine, in writing, circumstances in which an entity is not required to hold a tax invoice to attribute an input tax credit for a creditable acquisition.

15. This instrument repeals and replaces the *Goods and Services Tax: Waiver of Tax Invoice Requirement Determination (No. 40) 2016 – Government Undercover Agents* (2016 instrument) which would otherwise sunset on 1 October 2026. The instrument has the same substantive effect as the one it is replacing.

Effect of the Instrument

Section 6 – Waiver of requirement to hold a tax invoice

16. Section 6 waives the requirement for a government law enforcement agency to hold a tax invoice when attributing an input tax credit to a tax period for certain creditable acquisitions.

17. A government law enforcement agency is a government related entity that undertakes law enforcement activities for preventing criminal behaviour. As part of these activities an agent or employee of the agency may need to undertake their duties while using an assumed name.

18. If an agent or employee incurs an expense while using an assumed name, and the invoice in relation to the thing acquired (the taxable supply) is issued under the assumed name, section 111-15 of the Act will not apply. Additionally, depending on the activities being undertaken by the agent or employee when the expense is incurred, they may not be able to obtain a tax invoice for the taxable supply at all.

19. The requirement for a government law enforcement agency to hold a tax invoice is therefore waived under section 6 where:

- (a) an agent or employee of the agency incurs an expense in acquiring a taxable supply and, at the time the expense was incurred, the agent or employee was using an assumed name
- (b) the agency reimburses the agent or employee for this expense and, due to the operation of Division 111 of the Act, this reimbursement is treated as consideration for a creditable acquisition by the agency from the agent or employee, and
- (c) at the time the agency gives their GST return for the tax period, they hold one of the following documents
 - (i) a credit card statement that is issued in the assumed name of the agent or employee which records information about the expense incurred
 - (ii) a statement by the agent or employee that contains all of the information required under section 7
 - (iii) a document that would meet all the requirements of a tax invoice under section 29-70 of the Act in relation to the supply, if it had not been issued in the assumed name used by the agent or employee.

20. This ensures an agency can attribute input tax credits in relation to expenses incurred by their agent or employee in performing their duties, in circumstances where it may be difficult or unsafe for the agent or employee to obtain a valid tax invoice in relation to the taxable supply to which the expense relates.

Section 7 – Document information requirements

21. Section 7 specifies the information that an agent or employee must include in a statement under subparagraph 6(d)(ii).

22. The statement must identify the agent or employee and include both their actual name and the assumed name they were using when the expense was incurred.

23. The statement must also include all of the following information about the taxable supply that the agent or employee acquired when they incurred the expense:

- (a) the date of the supply
- (b) enough information to enable the supplier's identity and ABN to be ascertained
- (c) a description of what was supplied, such as the quantity and the nature of the supply
- (d) the total amount paid and whether this amount includes GST
- (e) if the GST paid in relation to the acquisition is not one-eleventh of the total paid, the actual amount of GST paid. This allows the agency to accurately calculate their input tax credit entitlement where amounts of GST paid are not one-eleventh of the total price.

Compliance cost assessment

24. To be advised.

Consultation

25. 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 legislative instrument.

26. 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:	24 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*

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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

At the time a GST return is lodged, a tax invoice is generally required in order to attribute input tax credits for creditable acquisitions to the tax period. However, there may be circumstances in which the requirement for an entity to hold a tax invoice may not be appropriate, particularly if that entity holds other documents that provide necessary information in relation to the acquisition.

A government law enforcement agency is a government related entity that undertakes law enforcement activities for preventing criminal behaviour. As part of these activities an agent or employee of the agency may need to undertake their duties while using an assumed name.

This instrument waives the requirement for government law enforcement agencies to hold a tax invoice to claim input tax credits for a creditable acquisition where:

- (a) an agent or employee of the agency incurs an expense and, at the time the expense was incurred, the agent or employee was using an assumed name
- (b) the agency reimburses the agent or employee for this expense and, due to the operation of Division 111 of the *A New Tax System (Goods and Services Tax) Act 1999*, this reimbursement is treated as consideration for a creditable acquisition by the agency from the agent or employee, and
- (c) at the time the agency gives their GST return for the tax period, they hold a document that meets specified information requirements.

Waiving the requirement for the government law enforcement agency to hold a tax invoice ensures the agency can still claim input tax credits for expenses incurred by their agent or employee, in circumstances where it is difficult or unsafe for the agent or employee to obtain a tax invoice in relation to the taxable supply.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms. It allows government law enforcement agencies to claim input tax credits relating to reimbursements in situations where it may be difficult to obtain a tax invoice from an employee or agent who is using an assumed name as part of their duties.

Conclusion

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