



A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 33) 2000

as amended

made under subsection 29-70(3) of the *A New Tax System (Goods and Services Tax) Act 1999* and subsection 4(1) of the *Acts Interpretation Act 1901*.

This compilation was prepared on **18 May 2009** taking into account amendments up to *Recipient Created Tax Invoice – Embedded Agreement Amending Legislative Instrument 2009*

Prepared by the Goods and Services Tax Centre of Expertise,
Australian Taxation Office

Citation (see Note 1)

1. This determination may be cited as the *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No.33) 2000*.

Commencement (see Note 1)

2. (a) This determination commences on 27 July 2000.
(b) This determination does not revoke or vary any previous determination made by the Commissioner or a delegate of the Commissioner.

Application of determination

3. This determination applies to an entity not determined previously as being able to issue a tax invoice belonging to a class of tax invoices that may be issued by a recipient.

Class of Tax Invoices that may be issued by the recipient of a taxable supply

4. A tax invoice that belongs to a class of tax invoices for a taxable supply of a defined commission and fee based service, involving a financial planning service, may be issued by a recipient that is a securities licensee, or an interposed entity of a securities representative, where the recipient:
 - (a) establishes the value of the taxable supply; and
 - (b) satisfies the requirements set out in Clause 5.

Requirements that must be satisfied by a recipient of a taxable supply

5. A recipient must satisfy the following requirements:
 - (a) the recipient must be registered for GST when the tax invoice is issued;
 - (b) the recipient must set out in the tax invoice the ABN of the supplier;
 - (c) the recipient must issue the original or a copy of the tax invoice to the supplier within 28 days of making, or determining, the value of a taxable supply and must retain the original or the copy;
 - (d) the recipient must issue the original or a copy of an adjustment note to the supplier within 28 days of the adjustment and must retain the original or the copy;
 - (e) the recipient must reasonably comply with its obligations under the taxation laws;
 - (f) the recipient must have either:
 - a written agreement with the supplier specifying the supplies to which it relates, that is current and effective when the RCTI is issued, agreeing that:

- (i) the recipient can issue tax invoices in respect of the supplies;
- (ii) the supplier will not issue tax invoices in respect of the supplies;
- (iii) the supplier acknowledges that it is registered for GST when it enters into the agreement and that it will notify the recipient if it ceases to be registered;
- (iv) the recipient acknowledges that it is registered when it enters into the agreement and that it will notify the supplier if it ceases to be registered for GST; and
- (v) the recipient indemnifies the supplier for any liability for GST and penalty that may arise from an understatement of the GST payable on any of the specified supplies received on a tax invoice the recipient issues; or
- an agreement with the supplier embedded in an RCTI it issues that contains the following statement:

The recipient and the supplier declare that this agreement applies to supplies to which this tax invoice relates. The recipient can issue tax invoices in respect of these supplies. The supplier will not issue tax invoices in respect of these supplies. The supplier acknowledges that it is registered for GST and that it will notify the recipient if it ceases to be registered. The recipient acknowledges that it is registered for GST and that it will notify the supplier if it ceases to be registered for GST. The recipient indemnifies the supplier for any liability for GST and penalty that may arise from an understatement of the GST payable on any of the specified supplies received on a tax invoice the recipient issues. Acceptance of this RCTI constitutes acceptance of the terms of this written agreement.

Both parties to this supply agree that they are parties to an RCTI agreement. The supplier agrees to notify the recipient if the supplier does not wish to accept the proposed agreement within 21 days of receiving this document.

- (g) the recipient must not issue a document that would otherwise be a recipient created tax invoice, on or after the date when the recipient or the supplier has failed to comply with any of the requirements of this determination.

Definitions

6. The following expressions are defined for the purpose of this determination:

defined commission and fee based service means a financial planning service provided on behalf of the recipient by a securities representative, or an interposed entity of a securities representative or an agent of the interposed entity of a securities representative who is also a securities representative.

financial planning service includes:

- the establishment and definition of the client/planner relationship;
- gathering of client data;
- analysis and evaluation of the client's financial status including problem identification;
- development and presentation of recommendations and/or alternatives for negotiation with clients;
- implementation of agreed upon recommendations;
- reviewing and updating of the financial plan as required.

interposed entity of a securities representative means an entity that holds an agency agreement with a securities licensee to receive any

income derived by the securities representative in the course of providing

defined commission or fee based services on behalf of a securities licensee.

proper authority has the meaning provided by subsection 88(1) of the *Corporations Act 1989*.

securities licensee means:

- (i) an entity licensed by the Australian Securities & Investment Commission (ASIC), in accordance with section 783 or section 784 of the *Corporations Act 1989*, to carry on a securities business; or
- (ii) an entity licensed by ASIC, in accordance with section 783 or section 784 of the *Corporations Act 1989*, to carry on an investment advice business.

securities representative means an entity that holds a proper authority from a securities licensee.

7. Other expressions in this determination have the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999*.

Table of Instruments

Notes to the *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 33) 2000*

Note 1

The *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 33) 2000* (in force under subsection 29-70(3) of the *A New Tax System (Goods and Services Tax) Act 1999*) as shown in this compilation is amended as indicated in the Tables below.

Table of Instruments

Title	Date of FRLI registration	Date of commencement
<i>A New Tax System (Goods and Services Tax) 1999 Classes of Recipient Created Tax Invoice Determination (No. 33) 2000</i>	see F2005B02755	27 July 2000
Recipient Created Tax Invoice – Embedded Agreement Amending Legislative Instrument 2009	14 May 2009 (see F2009L01772)	1 July 2009

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Clause 5	am. (F2009L01772)