



Australian Government

Australian Taxation Office

Legislative Instrument

Goods and Services Tax: Classes of Recipient Created Tax Invoice Determination (No. 14) 2015

I, James O'Halloran, Deputy Commissioner of Taxation, make this determination under subsection 29-70(3) of the *A New Tax System (Goods and Services Tax) Act 1999*.

James O'Halloran

Deputy Commissioner of Taxation

Dated: 15 September 2015

Name of Determination

1. This determination is the *Goods and Services Tax: Classes of Recipient Created Tax Invoice Determination (No. 14) 2015*.

Commencement

2. This determination commences on the day after registration.

Repeal of previous instrument

3. A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice (RCTI) in relation to an agent or broker in respect of general insurance business Determination (No 44) 2000 - F2005B02799, registered on 29/09/2005 is repealed on the commencement of this determination

Determination (Who is covered by this Determination)

4. This determination applies to:

- an entity that was determined in the previous instrument as being able to issue a tax invoice belonging to a class of tax invoices that may be issued by a recipient; or
- an entity that was not determined in the previous instrument, provided it satisfies all the requirements of this instrument.

Classes of tax invoices that may be issued by the recipient of a taxable supply

5. A tax invoice that belongs to a class of tax invoices for a taxable supply of a defined commission and/or fee based service, may be issued by a recipient, where:

- (a) the recipient establishes the value of the taxable supply acquired from the supplier; and

- (b) the recipient satisfies the requirements set out in Clause 6.

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

6. A recipient of a taxable supply must satisfy the following requirements:
- (a) the recipient must be registered for GST when the invoice is issued;
 - (b) the recipient must set out the Australian Business Number of the supplier in the tax invoice;
 - (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, the 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 becoming aware of the adjustment and must retain the original or the copy;
 - (e) the recipient must reasonably comply with its obligations under the taxation laws; and
 - (f) the recipient must have either a written agreement with the supplier that meets the requirements of Clause 7, or a written agreement embedded in the tax invoice that meets the requirements of Clause 8.

Requirements of a written agreement with the supplier

7. The written agreement the recipient has with the supplier must: specify the supplies to which it relates; be current and effective when the recipient created tax invoice (RCTI) is issued; and agree 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; and
- (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.

Requirements of a written agreement embedded in the tax invoice

8. The agreement the recipient has with the supplier embedded in a tax invoice issued by the recipient must contain 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. Acceptance of this RCTI constitutes acceptance of the terms of this written agreement.

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

Definitions

9. The following expressions are defined for the purposes of this determination:

Agent means an entity that has an agency agreement in respect of the supply of general insurance with the supplier of the supply.

Broker means an entity that has an agency agreement in respect of the supply of general insurance with the recipient of the supply.

Defined commission and/or fee based service means agency or broking services supplied by an agent or broker to an insurer in relation to the supply of general insurance by the insurer.

Establishes the value of the taxable supply means that the entity making the supply does not provide information to the recipient to establish the value of the supply. The supplier must be unaware of the value of the supply and it must be commercially impractical for the supplier to determine the value of the taxable supply. The circumstances must be such that information to determine the value of the supply is only available to the recipient and not the supplier.

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