



Legislative Instrument

Goods and Services Tax: Recipient Created Tax Invoice Determination (No. 11) 2016 on Referrals

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

Timothy Dyce

Deputy Commissioner of Taxation

Dated: 24 February 2016

Name of determination

1. This determination is the *Goods and Services Tax: Recipient Created Tax Invoice Determination (No. 11) 2016 on Referrals*.

Commencement

2. This determination commences on the day after registration.

Repeal of previous determination

3. *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 23) 2000* (the previous determination) - F2006B00209, registered on 23 January 2006, is repealed on commencement of this determination.

Determination (Who is covered under this determination)

4. This determination applies to a recipient of a taxable supply of a referral where the recipient satisfies the requirements of this determination.
5. A recipient who satisfied the requirements of the previous determination will satisfy the requirements of this determination.

Class of tax invoices that may be issued by a recipient of a taxable supply under this determination

6. The recipient of a taxable supply of a referral, may issue a tax invoice called a recipient created tax invoice (RCTI) for the taxable supply if the recipient:
 - (a) establishes the value of the referral after the supply is made using a calculation process; and
 - (b) satisfies the requirements set out in Clause 7.

Requirements that must be satisfied by the recipient under this determination

7. A recipient must satisfy the following requirements when issuing a RCTI under this determination:
- (a) be registered for GST;
 - (b) set out the ABN of the supplier on the RCTI;
 - (c) issue the original or a copy of the RCTI to the supplier within 28 days of making, or determining, the value of a taxable supply and 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 any adjustment and must retain the original or the copy;
 - (e) reasonably comply with its obligations under the taxation laws; and
 - (f) have either a written agreement with the supplier that meets the requirements of Clause 8, or a written agreement embedded in the RCTI that meets the requirements of Clause 9.

Requirements of a written agreement with the supplier

8. The written agreement the recipient has with the supplier must:
- (a) specify the supplies to which it relates;
 - (b) be current and effective when the RCTI is issued; and
 - (c) have the following conditions:
 - (i) the recipient can issue RCTIs 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 for GST; and
 - (iv) the recipient acknowledges that it is registered for GST when it enters into the agreement and that it will notify the supplier if it ceases to be registered for GST.

Requirements of a written agreement embedded in the RCTI

9. The embedded agreement in the RCTI that the recipient has with the supplier 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

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

calculation process means any process used by the recipient to calculate the commission or payment to the service provider.

referral means the activity of publicising and promoting an entity and/or the goods and services of that entity with the aim of directing potential clients to that entity. This includes but is not restricted to services such as direct referrals, the display of promotional pamphlets and the inclusion of a hyperlink on a website.

service provider means the entity providing the referral to the recipient.

11. Other expressions in this determination have the same meaning as in the GST Act.