

WTI 2013/10 -



Legislative Instrument

A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Acquisition of a Motor Vehicle Under a Full or Split Full Novated Lease Arrangement) Legislative Instrument 2013

I, James O'Halloran, Deputy Commissioner of Taxation, make this legislative instrument under subsection 29-10(3) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).

1. Name of instrument

This legislative instrument is the *A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Acquisition of a Motor Vehicle Under a Full or Split Full Novated Lease Arrangement) Legislative Instrument 2013*

2. Commencement and application of this instrument

- (a) This legislative instrument commences on 1 July 2010.
- (b) This legislative instrument applies to net amounts for tax periods commencing on or after 1 July 2010.
- (c) This legislative instrument does not revoke, amend or vary any previous legislative instrument made by the Commissioner or a delegate.

3. Waiver of the requirement to hold a tax invoice

For the purposes of attributing an input tax credit for a creditable acquisition to a tax period, an employer that makes a creditable acquisition by way of a lease of a motor vehicle through a full or split full novation arrangement is not required (under subsection 29-10(3) of the GST Act) to hold a tax invoice for the creditable acquisition if the requirements provided by this instrument are satisfied. However, this instrument does not apply to acquisitions covered by Division 111 of the GST Act.

4. Waiver from holding a tax invoice requirements

At the time the employer gives its GST return for the tax period to the Commissioner, the employer must hold:

- (a) a tripartite agreement (or deed of novation) between the employer, their employee and the finance company for the creditable acquisition by way of a lease of the motor vehicle; and
- (b) a tax invoice issued to their employee for the acquisition by way of a lease of the motor vehicle by the employee prior to the novation; and

those documents must meet the document information requirements set out in clause 5.

5. Document information requirements

- (1) The document referred to in subclause 4(a) must contain enough information to enable the following to be clearly ascertained:
 - (a) the employer's identity or ABN as the recipient of the supply of the motor vehicle under the lease;
 - (b) a description of the motor vehicle being leased; and
 - (c) that the employer has taken over all or part of their employee's rights and obligations under the original lease of the motor vehicle.
- (2) The document referred to in subclause 4(b) otherwise meets the requirements of paragraphs 29-70(1)(a) and 29-70(1)(c) of the GST Act other than subparagraph 29-70(1)(c)(ii) of the GST Act.

6. Definitions

- (1) **Novation** refers to a tripartite arrangement (or deed of novation) whereby an employer, their employee and a finance company agree to transfer to the employer all or some of the rights and obligations in a motor vehicle lease entered between the employee and the finance company. It results in the original lease being rescinded in favour of a new lease being entered into on the same terms between the employer and the finance company.
- (2) **Full Novation** involves a transfer of all the rights and obligations in a motor vehicle lease, or in a lease and sub-lease arrangement. As a result the employer takes over all the rights and obligations contained in the original lease agreement for the motor vehicle.

- (3) **Split Full Novation** is a variation on the full novation whereby an employee's rights and obligations under a motor vehicle lease are transferred to the employer with the exception of the residual payment obligation.
- (4) Other expressions in this legislative instrument have the same meaning as in the GST Act.

Dated 19 March 2013

James O'Halloran
Deputy Commissioner of Taxation