

**WTI 2013/2 -**



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## Legislative Instrument

# A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Acquisitions from or Acquisitions by a Beneficiary of a Bare Trust) Legislative Instrument 2013

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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 (Acquisitions from or Acquisitions by a Beneficiary of a Bare Trust) 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 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:

- (a) a recipient that makes a creditable acquisition from a beneficiary through the trustee of the bare trust; or
- (b) a beneficiary of a bare trust that makes a creditable acquisition from a third party through the trustee of the bare trust, where the total price of the thing or things acquired is at least \$1,000 (or such higher amount as the regulations made under section 29-70 of the GST Act may specify);

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.

#### 4. Waiver from holding a tax invoice requirements

At the time the recipient or the beneficiary of the bare trust gives its GST return for the tax period to the Commissioner:

- (a) the recipient referred to in clause 3(a) must hold a document for a creditable acquisition that meets the information requirements set out in clause 5; or
- (b) the beneficiary or the trustee of the bare trust referred to in clause 3(b) must hold a document for a creditable acquisition that meets the information requirements set out in clause 5.

#### 5. Document information requirements

- (1) The document referred to in clause 4(a) must:
  - (a) meet the requirements of paragraphs 29-70(1)(a) and 29-70(1)(c) of the GST Act other than subparagraph 29-70(1)(c)(i) of the GST Act<sup>1</sup>; and
  - (b) contain enough information to enable the identity or ABN of the trustee of the bare trust or the bare trust to be clearly ascertained from the document.
- (2) The document referred to in clause 4(b) must:
  - (a) meet 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<sup>2</sup>; and
  - (b) contain enough information to enable the identity or ABN of the trustee of the bare trust or the bare trust to be clearly ascertained from the document.

#### 6. Definitions

- (1) **Bare trust** includes a trust that may not strictly be a bare trust, because the trustee has minor active duties to perform, but nevertheless the trustee is required to act at the direction of the beneficiary in dealing with title to the trust property and has no independent role in respect of the trust property.
- (2) Other expressions in this legislative instrument have the same meaning as in the GST Act.

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Dated 19 March 2013

James O'Halloran  
Deputy Commissioner of Taxation

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<sup>1</sup> In the case of bare trusts, in some circumstances it may be the beneficiary that makes the supply and subparagraph 29-70(1)(c)(i) of the GST Act would be satisfied if the document contains the beneficiary's identity or ABN.

<sup>2</sup> In the case of bare trusts, in some circumstances it may be the beneficiary that makes the creditable acquisition and subparagraph 29-70(1)(c)(ii) of the GST Act would be satisfied if the document contains the beneficiary's identity or ABN.