





# **Tax Laws Amendment (2010 GST Administration Measures No. 1) Act 2010**

**No. 21, 2010**

**An Act to amend legislation relating to indirect tax,  
and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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## **An Act to amend legislation relating to indirect tax, and for related purposes**

*[Assented to 24 March 2010]*

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Tax Laws Amendment (2010 GST  
Administration Measures No. 1) Act 2010*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	24 March 2010
2. Schedule 1, items 1 and 2	The day this Act receives the Royal Assent.	24 March 2010
3. Schedule 1, item 3	The later of: (a) the start of the day this Act receives the Royal Assent; and (b) immediately after the commencement of Schedule 1 to the <i>Tax Laws Amendment (2009 GST Administration Measures) Act 2010</i> .  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
4. Schedule 1, items 4 to 9	The day this Act receives the Royal Assent.	24 March 2010
5. Schedule 1, items 10 and 11	The later of: (a) the start of the day this Act receives the Royal Assent; and (b) immediately after the commencement of Schedule 1 to the <i>Tax Laws Amendment (2009 GST Administration Measures) Act 2010</i> .  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
6. Schedule 1, items 12 to 29	The day this Act receives the Royal Assent.	24 March 2010
7. Schedule 2, item 1	The day this Act receives the Royal Assent.	24 March 2010
8. Schedule 2, item 2	The later of: (a) the start of the day this Act receives the Royal Assent; and (b) immediately after the commencement of Schedule 1 to the <i>Tax Laws Amendment (2009 GST Administration Measures) Act 2010</i> .  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
9. Schedule 2, item 3	The day this Act receives the Royal Assent.	24 March 2010

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

### **3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Adjustments for third party payments**

### ***A New Tax System (Goods and Services Tax) Act 1999***

#### **1 Section 17-99 (after table item 15)**

Insert:

15A Third party payments Division 134

#### **2 Paragraphs 19-40(c) and 19-45(c)**

After “Division 21”, insert “or 134”.

#### **3 Paragraph 19-70(2)(a)**

Omit “or 133”, substitute “, 133 or 134”.

#### **4 Paragraph 19-75(b)**

Omit “or 131”, substitute “, 131 or 134”.

#### **5 Section 19-99 (at the end of the table)**

Add:

4 Third party payments Division 134

#### **6 Section 29-39 (after table item 13)**

Insert:

13A Third party payments Division 134

#### **7 Section 37-1 (after table item 35A)**

Insert:

35B Third party payments Division 134

#### **8 At the end of subsection 54-50(1)**

Add:

; and (c) any \*third party adjustment note for a decreasing adjustment under section 134-5 that relates to a taxable supply made through that GST branch.

**9 At the end of subsection 54-50(2)**

Add “, and section 134-20 (which is about third party adjustment notes)”.

**10 Section 129-80 (heading)**

Repeal the heading, substitute:

**129-80 Effect of adjustment under certain Divisions**

**11 Section 129-80**

Omit “or 133”, substitute “, 133 or 134”.

**12 At the end of subsections 131-55(3) and (4) (before the notes)**

Add:

; or (c) an adjustment for the acquisition under Division 134.

**13 Before Division 135**

Insert:

**Division 134—Third party payments**

**134-1 What this Division is about**

<p>You may have a decreasing adjustment if you make a payment to an entity that acquires something that you had supplied to another entity. The entity receiving the payment may have an increasing adjustment.</p>
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**134-5 Decreasing adjustments for payments made to third parties**

- (1) You have a *decreasing adjustment* if:
- (a) you make a payment to an entity (the *payee*) that acquires a thing that you supplied to another entity (whether or not that other entity supplies the thing to the payee); and
  - (b) your supply of the thing to the other entity was a \*taxable supply; and
  - (c) the payment is in one or more of the following forms:

- (i) a payment of money;
  - (ii) an offset of an amount of money that the payee owes to you;
  - (iii) a crediting of an amount of money to an account that the payee holds; and
  - (d) the payment is made in connection with, in response to or for the inducement of the payee's acquisition of the thing; and
  - (e) the payment is not \*consideration for a supply to you.
- (2) The amount of the \*decreasing adjustment is an amount equal to the difference between:
- (a) the amount of GST payable on your supply to the other entity, taking into account any other \*adjustments relating to the supply; and
  - (b) the amount of GST that would have been payable for that supply:
    - (i) if the \*consideration for the supply had been reduced by the amount of your payment to the payee; and
    - (ii) taking into account any other adjustments relating to the supply, as they would have been affected (if applicable) by such a reduction in the consideration.

**134-10 Increasing adjustments for payments received by third parties**

- (1) You have an *increasing adjustment* if:
- (a) you receive a payment from an entity (the *payer*) that supplied a thing that you acquire from another entity (whether or not that other entity acquired the thing from the payer); and
  - (b) your acquisition of the thing from the other entity was a \*creditable acquisition; and
  - (c) the payment is in one or more of the following forms:
    - (i) a payment of money;
    - (ii) an offset of an amount of money that you owe to the payer;
    - (iii) a crediting of an amount of money to an account that you hold; and
  - (d) the payment is made in connection with, in response to or for the inducement of your acquisition of the thing; and
-

- (e) the payment is not \*consideration for a supply from you.
- (2) The amount of the \*increasing adjustment is an amount equal to the difference between:
  - (a) the amount of the input tax credit to which you are entitled for your acquisition from the other entity, taking into account any other \*adjustments relating to the acquisition; and
  - (b) the amount of the input tax credit to which you would have been entitled for that acquisition:
    - (i) if the \*consideration for the acquisition had been reduced by the amount of the payer's payment to you; and
    - (ii) taking into account any other adjustments relating to the acquisition, as they would have been affected (if applicable) by such a reduction in the consideration.

### **134-15 Attribution of decreasing adjustments**

- (1) If:
  - (a) you have a \*decreasing adjustment under section 134-5; and
  - (b) you do not hold a \*third party adjustment note for the adjustment when you give to the Commissioner a \*GST return for the tax period to which the adjustment (or any part of the adjustment) would otherwise be attributable;

then:

- (c) the adjustment (including any part of the adjustment) is not attributable to that tax period; and
- (d) the adjustment (or part) is attributable to the first tax period for which you give to the Commissioner a GST return at a time when you hold that third party adjustment note.

However, this subsection does not apply in circumstances of a kind determined by the Commissioner, by legislative instrument, to be circumstances in which the requirement for an adjustment note does not apply.

Note: For the giving of GST returns to the Commissioner, see Division 31.

- (2) This section does not apply to a \*decreasing adjustment of an amount that does not exceed the amount provided for under subsection 29-80(2).

- (3) This section has effect despite section 29-20 (which is about attributing adjustments).

**134-20 Third party adjustment notes**

- (1) A *third party adjustment note* for a \*decreasing adjustment that you have under section 134-5 is a document:
- (a) that is created by you; and
  - (b) a copy of which is given, in the circumstances set out in subsection (2), to the entity that received the payment that gave rise to the adjustment; and
  - (c) that sets out your \*ABN; and
  - (d) that contains such other information as the Commissioner determines in writing; and
  - (e) that is in the \*approved form.

However, the Commissioner may treat as a third party adjustment note a particular document that is not a third party adjustment note.

- (2) You must give the copy of the document to the entity that received the payment:
- (a) within 28 days after the entity requests you to give the copy; or
  - (b) if you become aware of the \*adjustment before the copy is requested—within 28 days, or such other number of days as the Commissioner determines under subsection (4) or (6), after becoming aware of the adjustment.
- (3) Subsection (2) does not apply to an \*adjustment of an amount that does not exceed the amount provided for under subsection 29-80(2).
- (4) The Commissioner may determine in writing that paragraph (2)(b) has effect, in relation to a particular document, as if the number of days referred to in that paragraph is the number of days specified in the determination.
- (5) A determination made under subsection (4) is not a legislative instrument.
- (6) The Commissioner may determine, by legislative instrument, circumstances in which paragraph (2)(b) has effect, in relation to

those circumstances, as if the number of days referred to in that paragraph is the number of days specified in the determination.

- (7) A determination made under subsection (4) has effect despite any determination made under subsection (6).

#### **134-25 Adjustment events do not arise**

To avoid doubt, a payment that gives rise to an \*adjustment under this Division cannot give rise to an \*adjustment event.

#### **14 Paragraph 153-10(1)(b)**

After “\*adjustment note”, insert “or \*third party adjustment note”.

#### **15 At the end of paragraph 153-10(1)(d)**

Add “or third party adjustment note”.

#### **16 Subsection 153-10(2)**

Repeal the subsection, substitute:

- (2) This section has effect despite subsections 29-20(3) (which is about the requirement to hold an adjustment note) and 134-15(1) (which is about the requirement to hold a third party adjustment note).

#### **17 Subsection 153-20(1)**

After “for the adjustment”, insert “, or an obligation under subsection 134-20(2) to issue a \*third party adjustment note for the adjustment”.

#### **18 Paragraphs 153-20(1)(a) and (b)**

After “an adjustment note”, insert “or a third party adjustment note”.

#### **19 Subsection 153-20(2)**

After “\*adjustment notes”, insert “or \*third party adjustment notes”.

#### **20 Subsection 153-20(3)**

Repeal the subsection, substitute:

- (3) This section has effect despite sections 29-75 (which is about adjustment notes) and 134-20 (which is about third party adjustment notes).

**21 Section 195-1 (before table item 7 of the definition of *decreasing adjustment*)**

Insert:

6B Section 134-5 Third party payments

**22 Section 195-1 (after table item 5B of the definition of *increasing adjustment*)**

Insert:

6 Section 134-10 Third party payments

**23 Section 195-1**

Insert:

*third party adjustment note* means a document that complies with the requirements of section 134-20 and (if applicable) section 54-50.

***Taxation Administration Act 1953***

**24 At the end of paragraph 8J(10)(a)**

Add “or”.

**25 Paragraph 8J(10)(aa)**

Repeal the paragraph, substitute:

(aa) made in:

- (i) a tax invoice (within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*); or
  - (ii) an adjustment note (within the meaning of that Act); or
  - (iii) a third party adjustment note (within the meaning of that Act);
- given to the person; or

**26 Section 288-45 in Schedule 1 (heading)**

Repeal the heading, substitute:

**288-45 Penalty for failing to issue tax invoice etc.**

**27 At the end of section 288-45 in Schedule 1 (before the note)**

Add:

- (3) You are liable to an administrative penalty of 20 penalty units if you fail to issue a third party adjustment note as required by section 134-20 of the \*GST Act.

**28 Paragraph 288-50(b) in Schedule 1**

After “adjustment notes”, insert “, or third party adjustment notes,”.

**29 Application**

The amendments made by this Schedule apply in relation to payments made on or after 1 July 2010.

## Schedule 2—Attribution of input tax credits

### *A New Tax System (Goods and Services Tax) Act 1999*

#### **1 Subsection 29-10(4)**

Omit “the tax period referred to in paragraph (3)(b)”, substitute “a tax period”.

#### **2 At the end of section 29-10**

Add:

Note: Section 93-5 may provide a time limit on your entitlement to an input tax credit.

#### **3 Application of amendments**

The amendments made by this Schedule apply in relation to net amounts for tax periods starting on or after 1 July 2010.

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*[Minister’s second reading speech made in—  
House of Representatives on 10 February 2010  
Senate on 10 March 2010]*

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