Tax Laws Amendment (2010 GST Administration Measures No. 2) Act 2010

No. 74, 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/)

Contents

1 Short title 1
2 Commencement 2
3 Schedule(s) 2

Schedule 1—GST groups and GST joint ventures 3

Part 1—Forming, changing and dissolving GST groups and GST joint ventures 3

A New Tax System (Goods and Services Tax) Act 1999 3

Taxation Administration Act 1953 17

Part 2—Indirect tax sharing agreements 30

A New Tax System (Goods and Services Tax) Act 1999 30

Taxation Administration Act 1953 32

Schedule 2—Rulings 37

A New Tax System (Goods and Services Tax) Act 1999 37

Excise Act 1901 38

Income Tax Assessment Act 1997 38

Taxation Administration Act 1953 39

Schedule 3—Tax invoices 47

A New Tax System (Goods and Services Tax) Act 1999 47

Tax Laws Amendment (2010 GST Administration Measures No. 2) Act 2010

No. 74, 2010

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

[*Assented to 28 June 2010*]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Tax Laws Amendment (2010 GST Administration Measures No. 2) Act 2010*.

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.

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	28 June 2010
2. Schedule 1	The day this Act receives the Royal Assent.	28 June 2010
3. Schedule 2	1 July 2010.	1 July 2010
4. Schedule 3	The day this Act receives the Royal Assent.	28 June 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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—GST groups and GST joint ventures

Part 1—Forming, changing and dissolving GST groups and GST joint ventures

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

1 Section 48-1

Omit "be approved as", substitute "form".

2 Subdivision 48-A (heading)

Repeal the heading, substitute:

Subdivision 48-A—Formation and membership of GST groups

3 Section 48-5

Repeal the section, substitute:

48-5 Formation of GST groups

(1) Two or more entities may form a *GST group if:
  (a) each of the entities *satisfies the membership requirements of the group; and
  (b) each of the entities agrees in writing to the formation of the group; and
  (c) one of those entities notifies the Commissioner, in the *approved form, of the formation of the group; and
  (d) that entity is nominated, in that notice, to be the *representative member of the group; and
  (e) that entity is an *Australian resident.

A group of entities that is so formed is a ***GST group***.

(2) If 2 or more entities would *satisfy the membership requirements for the *GST group, the group need not include all those entities.

(3) The formation of the *GST group takes effect from the start of the day specified in the notice under paragraph (1)(c) (whether that day

is before, on or after the day on which the entities decided to form the group).

(4) However, if the notice was given to the Commissioner after the day by which the entity nominated to be the *representative member of the group is required to give to the Commissioner a *GST return for the tax period in which the day specified in the notice occurs, the formation of the *GST group takes effect from the start of:

(a) the day specified in the notice, if that day is approved by the Commissioner under section 48-71; and

(b) if paragraph (a) does not apply—such other day as the Commissioner approves under that section.

48-7 Membership of GST groups

(1) A ***member*** of a *GST group is an entity that:

(a) formed the group under section 48-5, or was added to the group under section 48-70; and

(b) *satisfies the membership requirements of the group.

(2) However, the entity is not a member of the *GST group if the entity has, since the last time the entity became such a member:

(a) left, or been removed from, the group under section 48-70; or

(b) ceased to *satisfy the membership requirements of the group.

(3) The *representative member of a *GST group must notify the Commissioner, in the *approved form, if a *member of the group no longer *satisfies the membership requirements for the GST group.

(4) The notice must be given within 21 days after the *member no longer *satisfies the membership requirements for the *GST group.

Note: Section 286-75 in Schedule 1 to the *Taxation Administration Act 1953* provides an administrative penalty for breach of this subsection.

4 After subsection 48-10(2)

Insert:

(2A) Paragraph (1)(d) does not apply in relation to a tax period that the Commissioner has determined under section 27-30 if the tax period:

(a) ends at the same time as a tax period (a ***corresponding tax period***) of each of the other *members of the *GST group; and

(b) is not longer than any corresponding tax period (other than a tax period that the Commissioner has determined under section 27-30).

5 Subdivision 48-B (heading)

Repeal the heading, substitute:

Subdivision 48-B—Consequences of GST groups

6 Subsection 48-40(1)

Omit "payable on any *taxable supply or *taxable importation that a *member of a *GST group makes", substitute "that is payable on any *taxable supply an entity makes and that is attributable to a tax period during which the entity is a *member of a *GST group".

7 Paragraph 48-40(1)(b)

Omit "the member" (wherever occurring), substitute "the entity".

8 After subsection 48-40(1)

Insert:

(1A) GST that is payable on any *taxable importation an entity makes while the entity is a *member of a *GST group:

(a) is payable by the *representative member; and

(b) is not payable by the member that made it (unless the member is the representative member).

Note: However, each member may be jointly and severally liable to pay the GST that is payable by the representative member (see section 444-90 in Schedule 1 to the *Taxation Administration Act 1953*).

9 Subsection 48-45(1)

Omit "a *member of a *GST group makes a *creditable acquisition or *creditable importation", substitute "an entity makes a *creditable acquisition or *creditable importation the input tax credit for which is attributable to a tax period during which the entity is a *member of a *GST group".

10 Paragraph 48-45(1)(b)

Omit “the member” (wherever occurring), substitute “the entity”.

11 Subsection 48-45(2)

Omit “a *member of a *GST group”, substitute “an entity”.

12 Subsection 48-50(1)

Omit “that a *member of a *GST group has”, substitute “that an entity has and that is attributable to a tax period during which the entity is a *member of a *GST group”.

13 Paragraph 48-50(1)(a)

Omit “that member” (wherever occurring), substitute “the entity”.

14 After section 48-50

Insert:

48-51 Consequences of being a member of a GST group for part of a tax period

(1) If you are a *member of a *GST group only for one or more parts of a tax period:

(a) section 48-40 does not apply to the GST payable on a *taxable supply that you make, to the extent that the GST would be attributable to a period to which subsection (2) applies if it were a tax period applying to you; and

(b) section 48-40 does not apply to the GST payable on a *taxable importation that you make during a period to which subsection (2) applies; and

(c) section 48-45 does not apply to the input tax credit for a *creditable acquisition or *creditable importation that you make, to the extent that the input tax credit would be attributable to a period to which subsection (2) applies if it were a tax period applying to you; and

(d) section 48-50 does not apply to an *adjustment that you have that would be attributable to a period to which subsection (2) applies if it were a tax period applying to you.

(2) This section applies to any period, during the tax period, during which you were not a *member of that *GST group or any other GST group.

48-52 Consequences for a representative member of membership change during a tax period

(1) If an entity is a *member of a *GST group, of which you are the *representative member, only for one or more parts of a tax period:

(a) section 48-40 only applies to the GST payable on a *taxable supply that the entity makes, to the extent that the GST would be attributable to a period to which subsection (2) applies if it were a tax period applying to the entity; and

(b) section 48-40 only applies to the GST payable on a *taxable importation that the entity makes during a period to which subsection (2) applies; and

(c) section 48-45 only applies to the input tax credit for a *creditable acquisition or *creditable importation that the entity makes, to the extent that the input tax credit would be attributable to a period to which subsection (2) applies if it were a tax period applying to the entity; and

(d) section 48-50 only applies to an *adjustment that the entity has that would be attributable to a period to which subsection (2) applies if it were a tax period applying to the entity.

(2) This section applies to any period, during the tax period, during which the entity was a *member of the *GST group of which you are the *representative member.

(3) However, if you are the *representative member of the *GST group only for one or more parts of the tax period, this section has effect subject to section 48-53.

(4) If an entity is a *member of different *GST groups during the same tax period, subsections (1) and (2) apply separately in relation to each of those groups.

48-53 Consequences of changing a representative member during a tax period

(1) If you are the *representative member of a *GST group only for one or more parts of a tax period, then, in relation to your capacity as the representative member:

(a) section 48-40 only applies to the GST payable on a *taxable supply that an entity makes, to the extent that the GST would be attributable to a period to which subsection (2) applies if it were a tax period applying to you; and

(b) section 48-40 only applies to the GST payable on a *taxable importation that an entity makes during a period to which subsection (2) applies; and

(c) section 48-45 only applies to the input tax credit for a *creditable acquisition or *creditable importation that an entity makes, to the extent that the input tax credit would be attributable to a period to which subsection (2) applies if it were a tax period applying to you; and

(d) section 48-50 only applies to an *adjustment that an entity has that would be attributable to a period to which subsection (2) applies if it were a tax period applying to you.

(2) This section applies to any period, during the tax period, during which you were the *representative member of the *GST group.

15 At the end of subsection 48-60(1)

Add:

Note: If you were not a member of a GST group during the whole of a tax period, you are still obliged to give a GST return for the tax period, and (because of section 48-51) your net amount for the tax period will take into account your liabilities and entitlements relating to the one or more parts of the tax period during which you were not a member.

16 Section 48-70

Repeal the section, substitute:

48-70 Changing the membership etc. of GST groups

(1) The following actions may be taken, in accordance with subsection (2), in relation to a *GST group:

(a) the *representative member of the group may, with the written agreement of an entity that *satisfies the membership requirements of the GST group, add the entity to the group;

(b) the representative member may leave the group; or

(c) another *member of the group, nominated by the members, who is an *Australian resident may become the new representative member; or

(d) the representative member may remove from the group any other member of the group; or

(e) if a member of the group is an *incapacitated entity—the entity's *representative may remove the entity from the group; or

(f) the representative member may dissolve the group.

(2) The action is to be taken by notice given to the Commissioner, in the *approved form, by:

(a) if paragraph (1)(a), (d) or (f) applies—the *representative member; or

(b) if paragraph (1)(b) or (c) applies—the new representative member of the group; or

(c) if paragraph (1)(e) applies—the *representative of the *incapacitated entity.

(3) The action takes effect from the start of the day specified in the notice (whether that day is before, on or after the day on which the notice was given to the Commissioner).

(4) However, if the notice was given to the Commissioner after the day by which the *representative member of the group, or the entity nominated to be the new representative member of the group, is required to give to the Commissioner a *GST return for the tax period in which the day specified in the notice occurs, the action takes effect from the start of:

(a) the day specified in the notice, if that day is approved by the Commissioner under section 48-71; and

(b) if paragraph (a) does not apply—such other day as the Commissioner approves under that section.

(5) Despite subsections (3) and (4), action taken under paragraph (1)(e) cannot take effect earlier than the day on which the *member of the group became an *incapacitated entity.

(6) A *GST group is taken to be dissolved if:

(a) a *member of the group ceases to be the *representative member of the group; and

(b) no other member of the group becomes the representative member of the group, with effect from the day after the previous representative member ceased to be the representative member of the group.

(7) A notice that another *member of the *GST group has become the *representative member of the group must be given to the Commissioner within 21 days after the other member became the representative member.

Note: Section 286-75 in Schedule 1 to the *Taxation Administration Act 1953* provides an administrative penalty for breach of this subsection.

48-71 Approval of early day of effect of forming, changing etc. GST groups

(1) If an entity that gives a notice to the Commissioner under paragraph 48-5(1)(c) or subsection 48-70(2) applies, in the *approved form, to the Commissioner for approval of a day specified in the notice, the Commissioner must:

(a) approve, for the purposes of subsection 48-5(4) or 48-70(4), the day specified in the notice; or

(b) approve another day for those purposes.

Note: Approving another day under paragraph (b) is a reviewable GST decision (see Subdivision 110-F in Schedule 1 to the *Taxation Administration Act 1953*).

(2) The Commissioner may revoke an approval given under subsection (1) if the Commissioner is satisfied that the day approved is not appropriate.

Note: Revoking an approval under this subsection is a reviewable GST decision (see Subdivision 110-F in Schedule 1 to the *Taxation Administration Act 1953*).

(3) The Commissioner must give notice, to the entity referred to in subsection (1), of any decision that he or she makes under this section.

17 Section 48-72

Repeal the section.

18 Subsection 48-73(1) (note 2)

Repeal the note, substitute:

Note 2: If the representative member does not make an election under this section when a member of the group becomes an incapacitated entity, the member's membership of the group may cease if, because of section 27-39, the tax periods applying to it are not the same as those applying to the other members of the group.

19 After subsection 48-73(1)

Insert:

(1A) If an entity ceases to be the *representative member of a *GST group as a result of becoming an *incapacitated entity, the entity may make an election under subsection (1), in relation to becoming an incapacitated entity, as if the entity were still the representative member of the group.

(1B) A notice under subsection (1) must be given to the Commissioner within 21 days after the *member becomes an *incapacitated entity.

20 Sections 48-75 to 48-90

Repeal the sections, substitute:

48-75 Effect of representative member becoming an incapacitated entity

(1) If:

(a) the *representative member of a *GST group becomes an *incapacitated entity; and

(b) the representative member does not cease to be a *member of the group;

the representative member ceases to be the representative member of the group unless all the other *members of the group are incapacitated entities.

(2) Subsection (1) does not apply for the purposes of the representative member making an election under subsection 48-73(1) relating to the representative member.

(3) The *representative member of a *GST group ceases to be the representative member of the group if:

(a) all the *members of the group are *incapacitated entities; and

(b) a member of the group who is not the representative member ceases to be an incapacitated entity.

21 Section 51-1

Omit “have it approved as”, substitute “form”.

22 Subdivision 51-A (heading)

Repeal the heading, substitute:

Subdivision 51-A—Formation of and participation in GST joint ventures

23 Section 51-5 (heading)

Repeal the heading, substitute:

51-5 Formation of GST joint ventures

24 Subsection 51-5(1)

Omit “The Commissioner must approve 2 or more entities as”, substitute “Two or more entities may become”.

25 Paragraph 51-5(1)(c)

Repeal the paragraph.

26 Paragraph 51-5(1)(e)

Repeal the paragraph, substitute:

(e) each of those entities agrees in writing to the *formation of the joint venture as a GST joint venture; and

(ea) one of those entities, or another entity, is nominated, in that agreement, to be the *joint venture operator of the joint venture; and

(eb) the nominated joint venture operator notifies the Commissioner, in the *approved form, of the formation of the joint venture as a GST joint venture; and

27 Subsection 51-5(1)

Omit “A joint venture that is so approved”, substitute “Such a joint venture”.

28 Subsection 51-5(2) (including the note)

Repeal the subsection, substitute:

(2) Not all of the entities that are engaged in, or intend to engage in, the joint venture need to become *participants in the *GST joint venture.

(3) The *formation of the *GST joint venture takes effect from the start of the day specified in the notice under paragraph (1)(eb) (whether that day is before, on or after the day on which the entities decided to form the joint venture).

(4) However, if the notice was given to the Commissioner after the day by which the entity nominated to be the *joint venture operator of the *GST joint venture is required to give to the Commissioner a *GST return for the tax period in which the day specified in the notice occurs, the *formation of the GST joint venture takes effect from the start of:

(a) the day specified in the notice, if that day is approved by the Commissioner under section 51-75; and

(b) if paragraph (a) does not apply—such other day as the Commissioner approves under that section.

29 After section 51-5

Insert:

51-7 Participants in GST joint ventures

(1) A ***participant*** in a *GST joint venture is an entity that:

(a) became a participant in the joint venture under section 51-5 or was added to the joint venture under section 51-70; and

(b) *satisfies the participation requirements for the joint venture.

(2) However, the entity is not a participant in the *GST joint venture if the entity has, since the last time the entity became such a participant:

(a) left, or been removed from, the joint venture under section 51-70; or

(b) ceased to *satisfy the participation requirements for the joint venture.

(3) The *joint venture operator of a *GST joint venture must notify the Commissioner, in the *approved form, if a *participant in the joint venture no longer *satisfies the participation requirements for the GST joint venture.

(4) The notice must be given within 21 days after the *participant no longer *satisfies the participation requirements for the *GST joint venture.

Note: Section 286-75 in Schedule 1 to the *Taxation Administration Act 1953* provides an administrative penalty for breach of this subsection.

30 Subdivision 51-B (heading)

Repeal the heading, substitute:

Subdivision 51-B—Consequences of GST joint ventures

31 Subdivision 51-C

Repeal the Subdivision, substitute:

Subdivision 51-C—Administrative matters

51-70 Changing the participants etc. of GST joint ventures

(1) The following actions may be taken in relation to a *GST joint venture:

(a) the *joint venture operator of the joint venture may, with the written agreement of an entity that *satisfies the participation requirements of the GST joint venture, add the entity to the joint venture;

(b) the joint venture operator may:

(i) if the joint venture operator is a *participant in the joint venture—leave the joint venture; or

(ii) remove from the joint venture a participant in the joint venture;

(c) another entity, nominated by the participants in the joint venture, that satisfies the requirements of paragraphs 51-10(c) and (f) may become the joint venture operator;

(d) the joint venture operator may dissolve the joint venture;

by notice given to the Commissioner, in the *approved form, by the joint venture operator, or (if subparagraph (b)(i) or paragraph (c) applies) by the new joint venture operator of the joint venture.

(2) The action takes effect from the start of the day specified in the notice (whether that day is before, on or after the day on which the notice was given to the Commissioner).

(3) However, if the notice was given to the Commissioner after the day by which the *joint venture operator of the joint venture, or the entity nominated to be the new joint venture operator of the joint venture, is required to give to the Commissioner a *GST return for the tax period in which the day specified in the notice occurs, the action takes effect from the start of:

(a) the day specified in the notice, if that day is approved by the Commissioner under section 51-75; and

(b) if paragraph (a) does not apply—such other day as the Commissioner approves under that section.

(4) A *GST joint venture is taken to be dissolved if:

(a) an entity ceases to be the *joint venture operator of the joint venture, and no other entity becomes the joint venture operator of the joint venture with effect from the day after the previous joint venture operator ceased to be the joint venture operator; or

(b) there are no longer 2 or more *participants in the joint venture.

(5) A notice that another entity has become the *joint venture operator of the *GST joint venture must be given to the Commissioner within 21 days after the other entity became the joint venture operator.

Note: Section 286-75 in Schedule 1 to the *Taxation Administration Act 1953* provides an administrative penalty for breach of this subsection.

51-75 Approval of early day of effect of forming, changing etc. GST joint ventures

(1) If an entity that gives a notice to the Commissioner under paragraph 51-5(1)(eb) or subsection 51-70(1) applies, in the *approved form, to the Commissioner for approval of a day specified in the notice, the Commissioner must:

(a) approve, for the purposes of subsection 51-5(4) or 51-70(3), the day specified in the notice; or

(b) approve another day for those purposes.

Note: Approving another day under paragraph (b) is a reviewable GST decision (see Subdivision 110-F in Schedule 1 to the *Taxation Administration Act 1953*).

(2) The Commissioner may revoke an approval given under subsection (1) if the Commissioner is satisfied that the day approved is not appropriate.

Note: Revoking an approval under this subsection is a reviewable GST decision (see Subdivision 110-F in Schedule 1 to the *Taxation Administration Act 1953*).

(3) The Commissioner must give notice, to the entity referred to in subsection (1), of any decision that he or she makes under this section.

32 Subsection 58-10(6)

Omit “48-40(1)”, substitute “48-40(1) and (1A)”.

33 Paragraph 151-25(1)(c)

Omit “registered; or”, substitute “registered.”.

34 Paragraph 151-25(1)(d)

Repeal the paragraph.

35 Sections 151-65 and 151-70

Repeal the sections.

36 Section 195-1

Insert:

formation, in relation to a *GST joint venture, means 2 or more entities becoming *participants in the joint venture as mentioned in subsection 51-7(1).

37 Section 195-1 (definition of *joint venture operator*)

Repeal the definition, substitute:

joint venture operator, of a *GST joint venture, is the entity last nominated in relation to the joint venture as mentioned in paragraph 51-5(1)(ea) or 51-70(1)(c), but does not include an entity that does not satisfy the requirements of paragraphs 51-10(c) and (f).

38 Section 195-1 (paragraph (a) of the definition of *member*)

Repeal the paragraph, substitute:

(a) in relation to a *GST group—has the meaning given by section 48-7; or

39 Section 195-1 (definition of *participant*)

Repeal the definition, substitute:

participant, in relation to a *GST joint venture, has the meaning given by section 51-7.

40 Section 195-1 (definition of *representative member*)

Repeal the definition, substitute:

representative member, of a *GST group, is the *member of the group last nominated as mentioned in paragraph 48-5(1)(d) or 48-70(1)(c).

Taxation Administration Act 1953

41 Subsection 110-50(2) in Schedule 1 (table items 23 to 28)

Repeal the items, substitute:

23	approving another day of effect	paragraph 48-71(1)(b)
24	revoking an approval of a day of effect	subsection 48-71(2)

42 Subsection 110-50(2) in Schedule 1 (table items 35 to 41)

Repeal the items, substitute:

35	approving another day of effect	paragraph 51-75(1)(b)
36	revoking an approval of a day of effect	subsection 51-75(2)

43 Transitional provisions for GST groups

GST groups in existence before commencement

(1) Subject to subitems (5) to (8), on the commencement of this item:

(a) a GST group that existed immediately before that commencement is taken to continue in existence as if:

(i) it had been formed, and its formation had been notified to the Commissioner, in accordance with section 48-5 of the *A New Tax System (Goods and Services Tax) Act 1999* as amended by this Act; and

(ii) its formation took effect immediately after that commencement; and

(b) the entities that were members of the group immediately before that commencement are taken, immediately after that commencement, to continue to be the members of the group; and

(c) the entity that was the representative member of the group immediately before that commencement is taken, immediately after that commencement, to continue to be the representative member of the group.

GST groups approved, but not in existence, before commencement

(2) If, before the commencement of this item, the Commissioner approved 2 or more entities as a GST group but the approval did not take effect before that commencement, then, on the date of effect decided by the Commissioner under section 48-85 of the *A New Tax System (Goods and Services Tax) Act 1999*:

(a) the group is taken to have been formed, and its formation is taken to have been notified to the Commissioner, in accordance with section 48-5 of that Act as amended by this Act; and

(b) the entities that jointly applied for that approval are taken to be the members of the group; and

(c) the entity that was nominated in the application to be the representative member of the group is taken to be the representative member of the group.

GST groups applied for, but not approved, before commencement

(3) If:

(a) before the commencement of this item, 2 or more entities applied, in accordance with section 48-5 of the *A New Tax System (Goods and Services Tax) Act 1999*, for approval of a GST group; and

(b) the application did not contain a request (however described) for the Commissioner to decide under section 48-85 of that Act, as a date of effect of approval of the group, a date occurring before the date of that commencement; and

(c) the Commissioner did not approve the group as a GST group, and did not refuse the application, before that commencement;

then, on the date of effect specified in the application:

(d) the group is taken to be formed, and its formation is taken to have been notified to the Commissioner, in accordance with section 48-5 of that Act as amended by this Act; and

(e) the entities that jointly applied for that approval are taken to be the members of the group; and

(f) the entity that was nominated in the application to be the representative member of the group is taken to be the representative member of the group.

(4) If:

(a) before the commencement of this item, 2 or more entities applied, in accordance with section 48-5 of the *A New Tax System (Goods and Services Tax) Act 1999*, for approval of a GST group; and

(b) the application contained a request (however described) for the Commissioner to decide under section 48-85 of that Act, as a date of effect of approval of the group, a date occurring before the date of that commencement; and

(c) the Commissioner did not approve the group as a GST group, and did not refuse the application, before that commencement;

then:

(d) an application is taken to have been made to the Commissioner, under section 48-71 of that Act as amended

by this Act, for the Commissioner to approve that date of effect as the day on which the formation of the GST group took effect; and

(e) if the Commissioner decides, under that section as so amended, to approve that day or another day—then, on that day or on that other day:

(i) the group is taken to have been formed, and its formation is taken to have been notified to the Commissioner, in accordance with section 48-5 of that Act as so amended; and

(ii) the entities that jointly applied for approval of the group are taken to be the members of the group; and

(iii) the entity that was nominated, in the application for approval of the group, to be the representative member of the group is taken to be the representative member of the group.

Changes to membership etc. of GST groups applied for, but not approved, before commencement

(5) If:

(a) before the commencement of this item, the representative member of a GST group applied, in accordance with section 48-70 of the *A New Tax System (Goods and Services Tax) Act 1999*, for the Commissioner to:

(i) approve another entity as an additional member of the group; or

(ii) revoke the approval of one of the members of the group as a member of the group; or

(iii) approve another member of the group to replace the representative member of the group; and

(b) the application did not contain a request (however described) for the Commissioner to decide under section 48-85 of that Act, as a date of effect of the approval or revocation, a date occurring before the date of that commencement; and

(c) the Commissioner:

(i) did not give the approval, or revoke the approval, as requested in the application; and

(ii) did not refuse the application;

before that commencement;

then, on and after that commencement, the group is taken to continue in existence as if:

(d) the Commissioner has been notified, in accordance with section 48-70 of that Act as amended by this Act, that the corresponding action referred to in paragraph 48-70(1)(a), (b) or (c) of that Act as so amended has been taken; and

(e) the action took effect on the date of effect specified in the application.

(6) If:

(a) before the commencement of this item, the representative member of a GST group applied, in accordance with section 48-70 of the *A New Tax System (Goods and Services Tax) Act 1999*, for the Commissioner to:

(i) approve another entity as an additional member of the group; or

(ii) revoke the approval of one of the members of the group as a member of the group; or

(iii) approve another member of the group to replace the representative member of the group; and

(b) the application contained a request (however described) for the Commissioner to decide under section 48-85 of that Act, as a date of effect of the approval or revocation, a date occurring before the date of that commencement; and

(c) the Commissioner:

(i) did not give the approval, or revoke the approval, as requested in the application; and

(ii) did not refuse the application;

before that commencement;

then:

(d) an application is taken to have been made to the Commissioner, under section 48-71 of that Act as amended by this Act, for the Commissioner to approve that date of effect as the day on which the approval or revocation took effect; and

(e) if the Commissioner decides, under that section as so amended, to approve that day or another day—then, on that day or on that other day, the group is taken to continue in existence as if:

(i) the Commissioner has been notified, in accordance with section 48-70 of that Act as so amended, that the corresponding action referred to in paragraph 48-70(1)(a), (b) or (c) of that Act as so amended has been taken; and

(ii) the action took effect on that day.

Revocation of approval of GST groups applied for, but revocation not approved, before commencement

(7) If:

(a) before the commencement of this item, the representative member of a GST group applied, in accordance with section 48-75 of the *A New Tax System (Goods and Services Tax) Act 1999*, for the Commissioner to revoke the approval of the group as a GST group; and

(b) the application did not contain a request (however described) for the Commissioner to decide under section 48-85 of that Act, as a date of effect of the revocation, a date occurring before the date of that commencement; and

(c) the Commissioner did not revoke the approval as requested in the application, and did not refuse the application, before that commencement;

then, on the date of effect specified in the application, the group is taken to be dissolved as if the Commissioner has been notified, in accordance with section 48-70 of that Act as amended by this Act, that the action referred to in paragraph 48-70(1)(d) of that Act as so amended has been taken.

(8) If:

(a) before the commencement of this item, the representative member of a GST group applied, in accordance with section 48-75 of the *A New Tax System (Goods and Services Tax) Act 1999*, for the Commissioner to revoke the approval of the group as a GST group; and

(b) the application contained a request (however described) for the Commissioner to decide under section 48-85 of that Act, as a date of effect of the revocation, a date occurring before the date of that commencement; and

(c) the Commissioner did not revoke the approval as requested in the application, and did not refuse the application, before that commencement;

then:

(d) an application is taken to have been made to the Commissioner, under section 48-71 of that Act as amended by this Act, for the Commissioner to approve that date of effect as the day on which the revocation took effect; and

(e) if the Commissioner decides, under that section as so amended, to approve that day or another day—then, on that day or on that other day, the group is taken to be dissolved as if:

(i) the Commissioner has been notified, in accordance with section 48-70 of that Act as amended by this Act, that the action referred to in paragraph 48-70(1)(d) of that Act as so amended has been taken; and

(ii) the action took effect on that day.

44 Transitional provisions for GST joint ventures

GST joint ventures in existence before commencement

(1) Subject to subitems (5) to (8), on the commencement of this item:

(a) a GST joint venture that existed immediately before that commencement is taken to continue in existence as if:

(i) it had been formed, and its formation had been notified to the Commissioner, in accordance with section 51-5 of the *A New Tax System (Goods and Services Tax) Act 1999* as amended by this Act; and

(ii) its formation took effect immediately after that commencement; and

(b) the entities that were participants in the joint venture immediately before that commencement are taken, immediately after that commencement, to continue to be the participants in the joint venture; and

(c) the entity that was the joint venture operator of the joint venture immediately before that commencement is taken, immediately after that commencement, to continue to be the joint venture operator of the joint venture.

GST joint ventures approved, but not in existence, before commencement

(2) If, before the commencement of this item, the Commissioner approved 2 or more entities as a GST joint venture but the approval did not take effect before that commencement, then, on the date of effect decided by the Commissioner under section 51-85 of the *A New Tax System (Goods and Services Tax) Act 1999*:

(a) the joint venture is taken to have been formed, and its formation is taken to have been notified to the Commissioner, in accordance with section 51-5 of that Act as amended by this Act; and

(b) the entities that jointly applied for that approval are taken to be the participants in the joint venture; and

(c) the entity that was nominated in the application to be the joint venture operator of the joint venture is taken to be the joint venture operator of the joint venture.

GST joint ventures applied for, but not approved, before commencement

(3) If:

(a) before the commencement of this item, 2 or more entities applied, in accordance with section 51-5 of the *A New Tax System (Goods and Services Tax) Act 1999*, for approval of a GST joint venture; and

(b) the application did not contain a request (however described) for the Commissioner to decide under section 51-85 of that Act, as a date of effect of approval of the joint venture, a date occurring before the date of that commencement; and

(c) the Commissioner did not approve the joint venture as a GST joint venture, and did not refuse the application, before that commencement;

then, on the date of effect specified in the application:

(d) the joint venture is taken to be formed, and its formation is taken to have been notified to the Commissioner, in accordance with section 51-5 of that Act as amended by this Act; and

(e) the entities that jointly applied for that approval are taken to be the participants in the joint venture; and

(f) the entity that was nominated in the application to be the joint venture operator of the joint venture is taken to be the joint venture operator of the joint venture.

(4) If:

(a) before the commencement of this item, 2 or more entities applied, in accordance with section 51-5 of the *A New Tax System (Goods and Services Tax) Act 1999*, for approval of a GST joint venture; and

(b) the application contained a request (however described) for the Commissioner to decide under section 51-85 of that Act, as a date of effect of approval of the joint venture, a date occurring before the date of that commencement; and

(c) the Commissioner did not approve the joint venture as a GST joint venture, and did not refuse the application, before that commencement;

then:

(d) an application is taken to have been made to the Commissioner, under section 51-75 of that Act as amended by this Act, for the Commissioner to approve that date of effect as the day on which the formation of the GST joint venture took effect; and

(e) if the Commissioner decides, under that section as so amended, to approve that day or another day—then, on that day or on that other day:

(i) the joint venture is taken to have been formed, and its formation is taken to have been notified to the Commissioner, in accordance with section 51-5 of that Act as so amended; and

(ii) the entities that jointly applied for approval of the joint venture are taken to be the participants in the joint venture; and

(iii) the entity that was nominated, in the application for approval of the joint venture, to be the joint venture operator of the joint venture is taken to be the joint venture operator of the joint venture.

Changes to participation etc. in GST joint ventures applied for, but not approved, before commencement

(5) If:

(a) before the commencement of this item, the joint venture operator of a GST joint venture applied, in accordance with section 51-70 of the *A New Tax System (Goods and Services Tax) Act 1999*, for the Commissioner to:
  (i) approve another entity as an additional participant in the joint venture; or
  (ii) revoke the approval of one of the participants in the joint venture as a participant in the joint venture; or
  (iii) approve another entity that satisfies the requirements of paragraphs 51-10(c) and (f) of that Act as the joint venture operator of the joint venture; and
(b) the application did not contain a request (however described) for the Commissioner to decide under section 51-85 of that Act, as a date of effect of the approval or revocation, a date occurring before the date of that commencement; and
(c) the Commissioner:
  (i) did not give the approval, or revoke the approval, as requested in the application; and
  (ii) did not refuse the application;
  before that commencement;

then, on and after that commencement, the joint venture is taken to continue in existence as if:

(d) the Commissioner has been notified, in accordance with section 51-70 of that Act as amended by this Act, that the corresponding action referred to in paragraph 51-70(1)(a), (b) or (c) of that Act as so amended has been taken; and
(e) the action took effect on the date of effect specified in the application.

(6) If:

(a) before the commencement of this item, the joint venture operator of a GST joint venture applied, in accordance with section 51-70 of the *A New Tax System (Goods and Services Tax) Act 1999*, for the Commissioner to:
  (i) approve another entity as an additional participant in the joint venture; or
  (ii) revoke the approval of one of the participants in the joint venture as a participant in the joint venture; or

(iii) approve another entity that satisfies the requirements of paragraphs 51-10(c) and (f) of that Act as the joint venture operator of the joint venture; and

(b) the application contained a request (however described) for the Commissioner to decide under section 51-85 of that Act, as a date of effect of the approval or revocation, a date occurring before the date of that commencement; and

(c) the Commissioner:

(i) did not give the approval, or revoke the approval, as requested in the application; and

(ii) did not refuse the application;

before that commencement;

then:

(d) an application is taken to have been made to the Commissioner, under section 51-75 of that Act as amended by this Act, for the Commissioner to approve that date of effect as the day on which the approval or revocation took effect; and

(e) if the Commissioner decides, under that section as so amended, to approve that day or another day—then, on that day or on that other day, the joint venture is taken to continue in existence as if:

(i) the Commissioner has been notified, in accordance with section 51-70 of that Act as so amended, that the corresponding action referred to in paragraph 51-70(1)(a), (b) or (c) of that Act as so amended has been taken; and

(ii) the action took effect on that day.

Revocation of approval of GST joint ventures applied for, but revocation not approved, before commencement

(7) If:

(a) before the commencement of this item, the joint venture operator of a GST joint venture applied, in accordance with section 51-75 of the *A New Tax System (Goods and Services Tax) Act 1999*, for the Commissioner to revoke the approval of the joint venture as a GST joint venture; and

(b) the application did not contain a request (however described) for the Commissioner to decide under section 51-85 of that

Act, as a date of effect of the revocation, a date occurring before the date of that commencement; and

(c) the Commissioner did not revoke the approval as requested in the application, and did not refuse the application, before that commencement;

then, on the date of effect specified in the application, the GST joint venture is taken to be dissolved as if the Commissioner has been notified, in accordance with section 51-70 of that Act as amended by this Act, that the action referred to in paragraph 51-70(1)(d) of that Act as so amended has been taken.

(8) If:

(a) before the commencement of this item, the joint venture operator of a GST joint venture applied, in accordance with section 51-75 of the *A New Tax System (Goods and Services Tax) Act 1999*, for the Commissioner to revoke the approval of the joint venture as a GST joint venture; and

(b) the application contained a request (however described) for the Commissioner to decide under section 51-85 of that Act, as a date of effect of the revocation, a date occurring before the date of that commencement; and

(c) the Commissioner did not revoke the approval as requested in the application, and did not refuse the application, before that commencement;

then:

(d) an application is taken to have been made to the Commissioner, under section 51-75 of that Act as amended by this Act, for the Commissioner to approve that date of effect as the day on which the revocation took effect; and

(e) if the Commissioner decides, under that section as so amended, to approve that day or another day—then, on that day or on that other day, the joint venture is taken to be dissolved as if:

(i) the Commissioner has been notified, in accordance with section 51-70 of that Act as amended by this Act, that the action referred to in paragraph 51-70(1)(d) of that Act as so amended has been taken; and

(ii) the action took effect on that day.

45 Application

The amendments made by this Part apply to tax periods starting on or after 1 July 2010.

Part 2—Indirect tax sharing agreements

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

46 Section 9-39 (table item 5B)

Repeal the table item.

47 Section 9-39 (after table item 12)

Insert:

12A	Tax-related transactions	Division 110

48 Section 37-1 (table item 17A)

Repeal the table item.

49 Section 37-1 (after table item 35)

Insert:

35AA	Tax-related transactions	Division 110

50 Subsection 48-40(1) (note)

Omit “is” (first occurring), substitute “may be”.

51 Subsection 51-30(1) (note)

Omit “is” (first occurring), substitute “may be”.

52 Division 110 (heading)

Repeal the heading, substitute:

Division 110—Tax-related transactions

53 Section 110-1

After “income tax”, insert “and other taxes”.

54 After section 110-1

Insert:

Subdivision 110-A—Income tax-related transactions

55 At the end of Division 110

Add:

Subdivision 110-B—Other tax-related transactions

110-60 Indirect tax sharing agreements—entering into agreement etc.

(1) This section applies if:

(a) an entity makes a supply because it enters into or becomes a party to an agreement; and

(b) the agreement:

(i) satisfies the requirements of subsections 444-90(1A) to (1E) in Schedule 1 to the *Taxation Administration Act 1953* in relation to an indirect tax amount referred to in subsection 444-90(1) in that Schedule; or

(ii) satisfies the requirements of subsections 444-80(1A) to (1E) in Schedule 1 to the *Taxation Administration Act 1953* in relation to an indirect tax amount referred to in subsection 444-80(1) in that Schedule.

(2) The supply is not a *taxable supply to the extent that it relates to the fact that the agreement satisfies those requirements.

(3) This section has effect despite section 9-5 (which is about what are taxable supplies).

110-65 Indirect tax sharing agreements—leaving GST group or GST joint venture clear of liability

(1) A supply made to a contributing member (within the meaning of subsection 444-90(1A) in Schedule 1 to the *Taxation Administration Act 1953*) of a *GST group is not a *taxable supply if:

(a) the supply is a release from an obligation relating to a contribution amount (within the meaning of that subsection) relating to liabilities of the *representative member of the group that are referred to in that subsection; and

Example: The obligation could be a contractual obligation created by the agreement under which the contribution amount was determined.

(b) the contributing member leaves the group in circumstances in which subsection 444-90(1B) in that Schedule applies to the contributing member.

(2) A supply made to a contributing participant (within the meaning of subsection 444-80(1A) in Schedule 1 to the *Taxation Administration Act 1953*) of a *GST joint venture is not a *taxable supply if:

(a) the supply is a release from an obligation relating to a contribution amount (within the meaning of that subsection) relating to liabilities of the *joint venture operator of the joint venture that are referred to in that subsection; and

Example: The obligation could be a contractual obligation created by the agreement under which the contribution amount was determined.

(b) the contributing participant leaves the joint venture in circumstances in which subsection 444-80(1B) in that Schedule applies to the contributing participant.

(3) This section has effect despite section 9-5 (which is about what are taxable supplies).

Taxation Administration Act 1953

56 Before subsection 444-80(1) in Schedule 1

Insert:

Joint and several liability

57 Subsection 444-80(1) in Schedule 1

After "any amount", insert "(an ***indirect tax amount***)".

58 After subsection 444-80(1) in Schedule 1

Insert:

Indirect tax sharing agreements

(1A) Despite subsection (1), if:

(a) before the *joint venture operator for the joint venture is required to give to the Commissioner a *GST return for a *tax

period, an agreement (the ***indirect tax sharing agreement***) has been entered into between:

(i) the joint venture operator; and

(ii) one or more *participants in the joint venture (the ***contributing participant***) (other than the joint venture operator); and

(b) a particular amount (the ***contribution amount***) could be determined under the indirect tax sharing agreement for each contributing participant in relation to that tax period; and

(c) the contribution amounts for each of the contributing participants under the indirect tax sharing agreement represent a reasonable allocation among:

(i) the joint venture operator; and

(ii) the contributing participants;

of the total amount payable, under *indirect tax laws, for which the participants in the joint venture would be jointly or severally liable under subsection (1) in relation to that tax period;

then:

(d) if the contributing participant leaves the joint venture before the joint venture operator for the joint venture is required to give to the Commissioner a GST return for that tax period, and subsection (1B) applies—the contributing participant is not liable under subsection (1) in relation to an indirect tax amount relating to that tax period; or

(e) otherwise—the contributing participant's liability under subsection (1) in relation to that tax period is not to exceed that contribution amount.

(1B) This subsection applies if:

(a) leaving the joint venture was not part of an arrangement, a purpose of which was to prejudice the recovery by the Commissioner of the indirect tax amount; and

(b) before the day on which the *joint venture operator is required to give to the Commissioner a *GST return for that tax period, the contributing participant pays to the joint venture operator:

(i) the contribution amount relating to that tax period; or

(ii) if the contribution amount cannot be determined at the time of the payment—an amount that is a reasonable estimate of the contribution amount.

(1C) Subsection (1A) does not apply if:

(a) the indirect tax sharing agreement was entered into as part of an arrangement; and

(b) a purpose of the arrangement was to prejudice the recovery by the Commissioner of the indirect tax amount.

(1D) Subsection (1A) does not apply if:

(a) the Commissioner gives the *joint venture operator of the joint venture written notice under this subsection in relation to the indirect tax sharing agreement (whether before, when or after an indirect tax amount to which the agreement relates becomes payable); and

(b) the notice requires the joint venture operator to give the Commissioner a copy of the agreement in the *approved form within 14 days after the notice is given; and

(c) the Commissioner does not receive a copy of the agreement by the time required.

(1E) Subsection (1A) does not apply if, apart from this subsection, the requirements of subsection (1A) would be satisfied in relation to 2 or more agreements:

(a) that were entered into by the *joint venture operator; and

(b) that relate to the same tax period.

Criminal liability of participants in GST joint ventures

59 Before subsection 444-90(1) in Schedule 1

Insert:

Joint and several liability

60 Subsection 444-90(1) in Schedule 1

After “any amount”, insert “(an ***indirect tax amount***)”.

61 After subsection 444-90(1) in Schedule 1

Insert:

Indirect tax sharing agreements

(1A) Despite subsection (1), if:

(a) before the *representative member of the group is required to give to the Commissioner a *GST return for a *tax period, an agreement (the ***indirect tax sharing agreement***) has been entered into between:

(i) the representative member; and

(ii) one or more other *members of the group (the ***contributing member***); and

(b) a particular amount (the ***contribution amount***) could be determined under the indirect tax sharing agreement for each contributing member in relation to that tax period; and

(c) the contribution amounts for each of the contributing members under the indirect tax sharing agreement represent a reasonable allocation among:

(i) the representative member; and

(ii) the contributing members;

of the total amount payable, under *indirect tax laws, for which the members of the group would be jointly or severally liable under subsection (1) in relation to that tax period;

then:

(d) if the contributing member leaves the group before the representative member of the group is required to give to the Commissioner a GST return for that tax period, and subsection (1B) applies—the contributing member is not liable under subsection (1) in relation to an indirect tax amount relating to that tax period; or

(e) otherwise—the contributing member's liability under subsection (1) in relation to that tax period is not to exceed that contribution amount.

(1B) This subsection applies if:

(a) leaving the group was not part of an arrangement, a purpose of which was to prejudice the recovery by the Commissioner of the indirect tax amount; and

(b) before the day on which the *representative member is required to give to the Commissioner a *GST return for that tax period, the contributing member pays to the representative member:

(i) the contribution amount relating to that tax period; or

(ii) if the contribution amount cannot be determined at the time of the payment—an amount that is a reasonable estimate of the contribution amount.

(1C) Subsection (1A) does not apply if:

(a) the indirect tax sharing agreement was entered into as part of an arrangement; and

(b) a purpose of the arrangement was to prejudice the recovery by the Commissioner of the indirect tax amount.

(1D) Subsection (1A) does not apply if:

(a) the Commissioner gives the *representative member of the group written notice under this subsection in relation to the indirect tax sharing agreement (whether before, when or after an indirect tax amount to which the agreement relates becomes payable); and

(b) the notice requires the representative member to give the Commissioner a copy of the agreement in the *approved form within 14 days after the notice is given; and

(c) the Commissioner does not receive a copy of the agreement by the time required.

(1E) Subsection (1A) does not apply if, apart from this subsection, the requirements of subsection (1A) would be satisfied in relation to 2 or more agreements:

(a) that were entered into by the *representative member; and

(b) that relate to the same tax period.

Effect of prohibitions on certain arrangements

62 Before subsection 444-90(4) in Schedule 1

Insert:

Criminal liability of members of GST groups

63 Application

The amendments made by this Part apply to tax periods starting on or after 1 July 2010.

Schedule 2—Rulings

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

1 Section 2-30

Omit “and 4-15”, substitute “, 4-15 and 5-5”.

2 At the end of section 9-99

Add:

Note: There are other laws that may affect the amount of GST on taxable supplies. For example, see subsection 357-60(3) in Schedule 1 to the *Taxation Administration Act 1953* (about the effect of rulings made under Part 5-5 in that Schedule).

3 At the end of section 11-25

Add:

Note: The basic rule for working out the GST payable on the supply is in Subdivision 9-C. However, the GST payable may be affected by other provisions in:

(a) this Act (for a list of provisions, see section 9-99); and

(b) other GST laws (for example, see subsection 357-60(3) in Schedule 1 to the *Taxation Administration Act 1953* (about the effect of rulings made under Part 5-5 in that Schedule)).

4 At the end of section 13-99

Add:

Note: There are other laws that may affect the amount of GST on taxable importations. For example, see subsection 357-60(3) in Schedule 1 to the *Taxation Administration Act 1953* (about the effect of rulings made under Part 5-5 in that Schedule).

5 At the end of section 15-20

Add:

Note: The basic rule for working out the GST payable on the importation is in section 13-20. However, the GST payable may be affected by other provisions in:

(a) this Act (for a list of provisions, see section 13-99); and

(b) other GST laws (for example, see subsection 357-60(3) in Schedule 1 to the *Taxation Administration Act 1953* (about the effect of rulings made under Part 5-5 in that Schedule)).

Excise Act 1901

6 At the end of Part XII

Add:

155 Limited dispute rights because of objection against private ruling

(1) This section applies if there has been a taxation objection under Part IVC of the *Taxation Administration Act 1953* against a private ruling (within the meaning of the *Income Tax Assessment Act 1997*) that relates to:

(a) the amount or rate of duty; or

(b) the liability of goods to duty.

(2) The right of the owner to commence an action mentioned in subsection 154(2) of this Act in relation to the goods is limited to a right to bring an action on the grounds that neither were, nor could have been, grounds for the taxation objection against the ruling.

Income Tax Assessment Act 1997

7 Subsection 995-1(1)

Insert:

excise duty has the meaning given by the *GST Act.

8 Subsection 995-1(1)

Insert:

excise law means:

(a) the *Excise Act 1901*; and

(b) any Act that imposes *excise duty; and

(c) the *Taxation Administration Act 1953*, so far as it relates to any Act covered by paragraphs (a) and (b); and

(d) any other Act, so far as it relates to any Act covered by paragraphs (a) to (c) (or to so much of that Act as is covered); and

(e) regulations under any Act, so far as they relate to any Act covered by paragraphs (a) to (d) (or to so much of that Act as is covered).

9 Subsection 995-1(1)

Insert:

indirect tax or excise ruling means a *public ruling or a *private ruling, to the extent that the ruling relates to:

(a) an *indirect tax law (other than the *fuel tax law); or

(b) an *excise law.

10 Subsection 995-1(1) (definition of *indirect tax ruling*)

Repeal the definition.

11 Subsection 995-1(1) (definition of *private indirect tax ruling*)

Repeal the definition.

12 Subsection 995-1(1) (definition of *public indirect tax ruling*)

Repeal the definition.

Taxation Administration Act 1953

13 Subsection 2(1)

Insert:

excise law has the meaning given by the *Income Tax Assessment Act 1997*.

14 Subsection 2(1)

Insert:

fuel tax law has the meaning given by the *Fuel Tax Act 2006*.

15 Subsection 2(1)

Insert:

indirect tax law has the meaning given by the *Income Tax Assessment Act 1997*.

16 Subsection 2(1)

Insert:

private indirect tax ruling means a private ruling, to the extent that it relates to an indirect tax law (other than the fuel tax law).

17 Subsection 2(1)

Insert:

private ruling has the meaning given by section 359-5 in Schedule 1.

18 Section 14ZQ (definition of *private ruling*)

Repeal the definition.

19 Section 14ZVA

Omit "against an assessment", substitute "under this Part against an assessment, or against a decision made under an indirect tax law or an excise law,".

20 After subsection 14ZW(1AAA)

Insert:

(1AAB) The person cannot lodge a taxation objection against a private indirect tax ruling after the end of whichever of the following ends last:

(a) 60 days after the ruling was made;

(b) 4 years after the end of the tax period, or after the importation of goods, to which the ruling relates.

21 Subsection 14ZW(1A)

After "private ruling", insert "(other than a private indirect tax ruling, or a ruling that relates to an excise law)".

22 Section 105-1 in Schedule 1

Omit:

(d) the effect of relying on a ruling;

23 Section 105-60 in Schedule 1

Repeal the section.

24 After paragraph 357-55(fa) in Schedule 1

Insert:

(fb) *indirect tax;

(fc) *excise duty;

25 Paragraph 357-55(g) in Schedule 1

After "taxes", insert ", levies and duties".

26 At the end of section 357-55 in Schedule 1

Add:

; (j) a *net amount, or the administration, collection or payment of a net amount;

(k) a *wine tax credit, or the administration or payment of a wine tax credit.

27 Subsection 357-60(1) in Schedule 1

Omit "A ruling binds", substitute "Subject to subsection (5), a ruling binds".

28 Subsection 357-60(1) in Schedule 1 (after example 2)

Insert:

Example 3: Cathie obtains a private ruling that a type of supply she makes is GST-free. She relies on the ruling by:

(a) giving her customers invoices that show no GST payable on the supplies; and

(b) lodging her GST return on the basis that the supplies are GST-free.

The Commissioner must administer the GST law in relation to Cathie on the basis that the supplies to which the ruling relates are GST-free. This does not apply if Cathie stops relying on the ruling, such as by issuing tax invoices that show GST payable on the supplies: see paragraph (1)(b).

29 At the end of section 357-60 in Schedule 1

Add:

GST rulings

(3) The *GST payable on a *supply or importation is the amount worked out in accordance with a ruling (if any) that:

(a) relates to the GST payable on the supply or importation; and

(b) binds the Commissioner in relation to the supplier or importer.

Note: The ruling will stop affecting the GST payable if the supplier or importer stops relying on the ruling: see paragraph (1)(b).

(4) Subsection (3) does not apply for the purposes of an objection to the ruling under section 359-60.

Indirect tax rulings

(5) An *indirect tax or excise ruling (except to the extent that the ruling relates to an *excise law) binds the Commissioner in relation to:

(a) an entity (the ***representative entity***) that is:

(i) the *representative member of a *GST group; or

(ii) the *joint venture operator of a *GST joint venture; or

(iii) the *representative of an *incapacitated entity; and

(b) an entity (the ***member entity***) that is:

(i) a *member of the GST group; or

(ii) a *participant in the GST joint venture; or

(iii) the incapacitated entity;

if, and only if, both the representative entity and the member entity rely on the ruling by acting (or omitting to act) in accordance with the ruling.

(6) Subsection (5) applies if:

(a) the ruling applies to the member entity; and

(b) the ruling relates to what would be:

(i) a liability of the member entity to *indirect tax; or

(ii) an entitlement of the member entity to a credit (other than a *fuel tax credit) under an *indirect tax law; or

(iii) an *increasing adjustment, a *decreasing adjustment, or a luxury car tax adjustment (within the meaning of the *Luxury Car Tax Act), that the member entity has;

if the rules in the indirect tax law relating to *GST groups, *GST joint ventures or *incapacitated entities did not apply; and

(c) because of those rules:

(i) if that indirect tax were payable, it would be payable by the representative entity; or

(ii) if there was an entitlement to that credit, it would be an entitlement of the representative entity; or

(iii) if any entity had that adjustment, it would be an adjustment that the representative entity had.

30 Subsection 357-75(1) in Schedule 1

After "inconsistency", insert ", and do not apply to *indirect tax or excise rulings".

31 Subsection 357-75(1) in Schedule 1 (at the end of the table heading)

Add "**(other than indirect tax or excise rulings)**".

32 After subsection 357-75(1) in Schedule 1

Insert:

(1A) If:

(a) 2 inconsistent *indirect tax or excise rulings apply to you; and

(b) the rulings are both *public rulings;

then, to the extent of the inconsistency, you may rely on either of the rulings.

(1B) If:

(a) 2 inconsistent *indirect tax or excise rulings apply to you; and

(b) at least one of the rulings is not a *public ruling;

then, to the extent of the inconsistency:

(c) the later ruling is taken to apply from the later of:

(i) the time it is made; and

(ii) the time (if any) specified in the ruling as being the time from which it begins to apply; and

(d) the earlier ruling is taken to cease to apply at that later time.

33 Subsection 357-75(2) in Schedule 1

Omit “the table”, substitute “this section”.

34 Subsections 358-10(2) and 358-20(3) in Schedule 1

After “*public ruling”, insert “, other than an *indirect tax or excise ruling,”.

35 Subsection 359-25(4) in Schedule 1

After “*private ruling”, insert “, other than an *indirect tax or excise ruling,”.

36 At the end of subsection 359-25(4) in Schedule 1

Add:

Note: A private ruling that:

(a) is an indirect tax or excise ruling; and

(b) does not specify an end time;

continues to apply until it is overridden by a later indirect tax or excise ruling: see subsection 357-75(1B).

37 Paragraph 359-30(a) in Schedule 1

Before “the beneficiaries”, insert “if the ruling is not an *indirect tax or excise ruling—”.

38 Paragraph 359-30(b) in Schedule 1

Before “another trustee”, insert “in any case—”.

39 Paragraph 359-55(1)(b) in Schedule 1

Before “when”, insert “if the ruling is not an *indirect tax or excise ruling—”.

40 Subsection 359-55(1) in Schedule 1 (note)

Omit “public”.

41 Subsection 359-55(3) in Schedule 1

Omit “in the circumstances mentioned in paragraph (1)(b)”.

42 At the end of section 359-55 in Schedule 1

Add:

(5) However, if:

(a) the *private ruling is an *indirect tax or excise ruling; and

(b) the revised private ruling specifies the time from which the revision begins to apply (being a time after the time the revision is made);

the ruling in its initial form stops applying to you at the time so specified.

43 At the end of subsection 359-60(3) in Schedule 1

Add:

; or (c) all of the following subparagraphs apply:

(i) the ruling relates to *excise duty, or another amount, payable in relation to the goods under an *excise law;

(ii) the Commissioner has made a decision about the excise duty, or other amount, payable in relation to those goods;

(iii) the decision is reviewable under an excise law.

44 Before subsection 360-5(1) in Schedule 1

Insert:

Applying for oral rulings

45 After subsection 360-5(2) in Schedule 1

Insert:

(2A) You or your *legal personal representative must not apply for advice under this section in relation to:

(a) an *indirect tax law (other than the *fuel tax law); or

(b) an *excise law.

Making of oral rulings

46 Transitional provision

Interpretation

(1) In this item:

indirect tax ruling has the meaning given by the *Income Tax Assessment Act 1997*, as in force just before the commencement of this item.

private indirect tax ruling has the meaning given by the *Income Tax Assessment Act 1997*, as in force just before the commencement of this item.

Rulings

(2) A private indirect tax ruling that is in force just before the commencement of this item has effect, from that commencement, as if it had been made under Division 359 in Schedule 1 to the *Taxation Administration Act 1953*, as amended by this Schedule.

(3) An indirect tax ruling that:

(a) is in force just before the commencement of this item; and

(b) is labelled as a public ruling, or was described as a public ruling in the *Gazette* in which it was published;

has effect, from that commencement, as if it had been made under Division 358 in Schedule 1 to the *Taxation Administration Act 1953*, as amended by this Schedule.

Applications for private rulings

(4) An application for a private indirect tax ruling is taken to have been made under Division 359 in Schedule 1 to the *Taxation Administration Act 1953*, as amended by this Schedule, if:

(a) you made the application before the commencement of this item; and

(b) just before the commencement of this item:

(i) the Commissioner had neither made the ruling nor declined to make the ruling; and

(ii) you had not withdrawn the application.

Schedule 3—Tax invoices

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

1 Subsection 29-70(1)

Repeal the subsection, substitute:

(1) A ***tax invoice*** is a document that complies with the following requirements:

(a) it is issued by the supplier of the supply or supplies to which the document relates, unless it is a *recipient created tax invoice (in which case it is issued by the *recipient);

(b) it is in the *approved form;

(c) it contains enough information to enable the following to be clearly ascertained:

(i) the supplier's identity and the supplier's *ABN;

(ii) if the total *price of the supply or supplies is at least $1,000 or such higher amount as the regulations specify, or if the document was issued by the recipient—the recipient's identity or the recipient's ABN;

(iii) what is supplied, including the quantity (if applicable) and the price of what is supplied;

(iv) the extent to which each supply to which the document relates is a *taxable supply;

(v) the date the document is issued;

(vi) the amount of GST (if any) payable in relation to each supply to which the document relates;

(vii) if the document was issued by the recipient and GST is payable in relation to any supply—that the GST is payable by the supplier;

(viii) such other matters as the regulations specify;

(d) it can be clearly ascertained from the document that the document was intended to be a tax invoice or, if it was issued by the recipient, a recipient created tax invoice.

Note: If the recipient is a member of a GST group, section 48-57 may relax the requirements relating to the recipient's identity or the recipient's ABN.

(1A) A document issued by an entity to another entity may be treated by the other entity as a *tax invoice for the purposes of this Act if:

(a) it would comply with the requirements for a tax invoice but for the fact that it does not contain certain information; and

(b) all of that information can be clearly ascertained from other documents given by the entity to the other entity.

Note: The requirements for a tax invoices are primarily contained in subsection (1), but can be affected by sections 48-57 and 54-50.

(1B) However, the Commissioner may treat as a *tax invoice a particular document that would not, apart from this subsection, be a tax invoice.

Note: A request to the Commissioner, to which the Commissioner agrees, to treat a document as a tax invoice is taken to be a notification of your entitlement to the relevant input tax credit: see subsection 105-55(2A) in Schedule 1 to the *Taxation Administration Act 1953*.

2 Section 29-99 (after table item 3)

Insert:

3A	GST groups	Division 48

3 After section 48-55

Insert:

48-57 Tax invoices that are required to identify recipients

(1) A document issued for a supply is taken to be a ***tax invoice*** if:

(a) it would not, but for this section, be a tax invoice because it does not contain enough information to enable the identity, or the *ABN, of the *recipient of the supply to be clearly ascertained; and

(b) there is no other reason why it would not be a tax invoice; and

(c) the *representative member of a *GST group is entitled under section 48-45 to an input tax credit for the *creditable acquisition relating to the supply; and

(d) the document contains enough information to enable the identity of at least one of the following to be clearly ascertained:

(i) the GST group;

(ii) the representative member;

(iii) another entity that is or was a *member of the GST group, if the representative member would still have been entitled under section 48-45 to that input tax credit if that other entity had been the recipient of the supply.

Note: Subparagraph (d)(iii) ensures that a member of the GST group identified in the document was a member of the group at the relevant time for the supply in question.

(2) However, any obligation that the supplier of a *taxable supply has under subsection 29-70(2) is an obligation to give to the *recipient of the supply a document that would be a *tax invoice for the supply even if subsection (1) of this section had not been enacted.

Note: This subsection ensures that a recipient's entitlement to a tax invoice, including (if subparagraph 29-70(1)(c)(ii) requires it) an entitlement to a tax invoice that enables the recipient's identity or the recipient's ABN to be clearly ascertained, is unaffected by this section.

(3) This section has effect despite section 29-70 (which is about tax invoices).

4 Section 195-1 (definition of *tax invoice*)

Repeal the definition, substitute:

tax invoice has the meaning given by subsections 29-70(1) and 48-57(1), and includes a document that the Commissioner treats as a tax invoice under subsection 29-70(1B). However, it does not include a document that does not comply with the requirements of section 54-50 (if applicable).

5 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.

[*Minister's second reading speech made in—*
House of Representatives on 18 March 2010
Senate on 15 June 2010]

(73/10)