

EXPLANATORY STATEMENT

Select Legislative Instrument 2012 No. 149

Issued by authority of the Assistant Treasurer

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

A New Tax System (Goods and Services Tax) Amendment Regulation 2012 (No. 3)

Section 177-15 of the *A New Tax System (Goods and Services Tax) Act 1999* (the Act) enables the Governor-General to make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act. The Regulation is made under this section.

The purpose of this Regulation is to amend item 6 of the table in Schedule 11 to the *A New Tax System (Goods and Services Tax) Regulations 1999* (the Principal Regulations) to update the reference to the legislation containing the Australian Capital Territory's (ACT's) compulsory third party (CTP) insurance scheme. This scheme is now contained in the *Road Transport (Third-Party Insurance) Act 2008* (ACT) and not in the *Road Transport (General) Act 1999* (ACT).

For an insurer to use special rules in the Division 79 and 80 of the Act, the insurance must qualify as a CTP insurance scheme. This amendment will ensure that the ACT's CTP scheme qualifies as a CTP scheme for the purposes of the Act.

The normal GST rules – taxing supplies and providing input tax credits for acquisitions – are hard to apply under the GST's invoice-credit system in the case of insurance. As a result, special rules are set out in the Act for taxing insurance. Broadly, these rules apply GST to the insurer's margin to reflect the value added due to the insurer's activities.

These rules for general insurance are difficult for insurers to apply to CTP schemes because the insurer will not often know the input tax credit entitlement of the claimant. The process is also complicated by special features of CTP insurance schemes (for example, settlement sharing arrangements across multiple insurers and states, nominal defendants and certain bulk billing arrangements). As a result, the Act provides special rules for CTP insurers. For the insurer to use these special rules, the insurance must be supplied under a CTP insurance scheme. This is defined in section 195-1 of the Act as a scheme or arrangement that is established by an Australian law and specified, or is of a kind specified, in the Principal Regulations.

Regulation 195-1.01 provides that the specified schemes are listed in Schedule 11 to the Principal Regulations. Schedule 11 lists the names of the schemes and arrangements that govern CTP insurance in each of the Australian states and territories. It also identifies the relevant legislation in each of these jurisdictions. The specified ACT legislation in Schedule 11 is no longer accurate. This is due to the removal of the ACT's CTP scheme from *Road Transport (General) Act 1999* (ACT). The *Road Transport (Third-Party Insurance) Act 2008* (ACT) now governs CTP insurance in the ACT and came into force on 3 March 2008.

The ACT Government requested that this outdated reference be corrected.

The amending Regulation replaced the words '*Road Transport (General) Act 1999 (ACT)*' in the second column of the table in Schedule 11 of Regulation 195-1.01 with the words '*Road Transport (Third-Party Insurance) Act 2008 (ACT)*'.

The Regulation commenced on the day after it was registered on the Federal Register of Legislative Instruments.

The Office of Best Practice Regulation agreed that the changes were of a minor nature and no further analysis in the form of a Regulation Impact Statement (RIS) was required. It granted an exemption from the requirement to produce a RIS (reference 12267). Accordingly, a RIS has not been prepared.

However, as the Regulation only confirms the existing practice of ACT CTP insurers (taxpayers), it is not considered to add to compliance costs, and may actually reduce compliance costs by providing a reference to a current rather than incorrect statute. Taxpayers would not have to investigate further to find the current statute.

No detailed consultation was undertaken on this Regulation as it only confirms existing practice and is of a minor technical nature. However, the Australian Taxation Office and the ACT Treasury were consulted.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

A New Tax System (Goods and Services Tax) Regulation 2012 (No. 3)

This Regulation is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview

A New Tax System (Goods and Services Tax) Regulation 2012 (No. 3) amends an out-of-date reference to Australian Capital Territory compulsory third party legislation in item 6 of Schedule 11 to the *A New Tax System (Goods and Services Tax) Regulations 1999*.

Human rights implications

The Regulation does not engage any of the applicable rights or freedoms.

Conclusion

This Regulation is compatible with human rights as it does not raise any human rights issues.