



## **A New Tax System (GST, Luxury Car Tax and Wine Tax) Direction 2015**

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I, MATHIAS HUBERT PAUL CORMANN, Minister for Finance, make the following direction.

Dated 10 April 2015

MATHIAS HUBERT PAUL CORMANN  
Minister for Finance

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## Part 1—Preliminary

### 1 Name

This is the *A New Tax System (GST, Luxury Car Tax and Wine Tax) Direction 2015*.

### 2 Commencement

This instrument is taken to have commenced on 1 April 2015.

### 3 Authority

This instrument is made under the following provisions:

- (a) subsection 177-1(2) of the *A New Tax System (Goods and Services Tax) Act 1999*;
- (b) subsection 21-1(2) of the *A New Tax System (Luxury Car Tax) Act 1999*;
- (c) subsection 27-20(2) of the *A New Tax System (Wine Equalisation Tax) Act 1999*.

### 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

### 5 Definitions

- (1) In this instrument:

**GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999*.

**LCT Act** means the *A New Tax System (Luxury Car Tax) Act 1999*.

**WET Act** means the *A New Tax System (Wine Equalisation Tax) Act 1999*.

Note: An expression used in this instrument that is defined in the GST Act, the LCT Act or the WET Act has the same meaning in this instrument as it has in the GST Act, the LCT Act or the WET Act, as the case requires.

- (2) A reference in this instrument to the Commonwealth includes a reference to an untaxable Commonwealth entity.
- (3) A reference in this instrument to the GST Act includes a reference to the *A New Tax System (Goods and Services Tax Transition) Act 1999*.

### 6 Purpose of instrument

This instrument is made to give effect to the Parliament's intention in relation to the application to the Commonwealth of the GST Act, the LCT Act and the WET Act.

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- Note 1: The Commonwealth and untaxable Commonwealth entities are not liable to pay GST, luxury car tax or wine tax. However, the Parliament's intention (see subsection 177-1(1) of the GST Act, subsection 21-1(1) of the LCT Act and subsection 27-20(1) of the WET Act) is that the Commonwealth and untaxable Commonwealth entities should:
- (a) be notionally liable to pay GST, luxury car tax and wine tax payable under those Acts; and
  - (b) be notionally entitled to input tax credits arising under the GST Act and wine tax credits arising under the WET Act; and
  - (c) notionally have adjustments arising under the GST Act and luxury car tax adjustments arising under the LCT Act.
- Note 2: This instrument must be complied with, despite any other Commonwealth law (see subsection 177-1(3) of the GST Act, subsection 21-1(3) of the LCT Act and subsection 27-20(3) of the WET Act).

## **Part 2—Directions**

### **7 Notional liability to pay GST**

- (1) The Commonwealth is notionally liable to pay GST on taxable supplies and taxable importations that it makes.
- (2) For subsection (1), the amount of notional GST payable is worked out under the GST Act as if the taxable supply or taxable importation were made by a person other than the Commonwealth.
- (3) For subsection (2), the value of the taxable importation (for subsection 13-20(2) of the GST Act) is taken to include the value of any administrative charge payable on the taxable importation in accordance with *Australian Customs Notice 90/124* published by the Australian Customs Service on 11 September 1990.

### **8 Notional entitlement to input tax credits**

- (1) The Commonwealth is notionally entitled to an input tax credit if it makes:
  - (a) a creditable acquisition; or
  - (b) a creditable importation.
- (2) For subsection (1), the amount of a notional input tax credit is worked out under the GST Act as if the creditable acquisition or creditable importation were made by a person other than the Commonwealth.

### **9 Notional liability to pay luxury car tax**

- (1) The Commonwealth is notionally liable to pay luxury car tax if it makes:
  - (a) a taxable supply of a luxury car; or
  - (b) a taxable importation of a luxury car.
- (2) For subsection (1), the amount of notional luxury car tax payable is worked out under the LCT Act as if the taxable supply or taxable importation were made by a person other than the Commonwealth.
- (3) For subsection (2), the luxury car tax value (for subsection 7-15(1) of the LCT Act) is taken to include the value of any administrative charge payable on the taxable importation in accordance with *Australian Customs Notice 90/124* published by the Australian Customs Service on 11 September 1990.

### **10 Notional liability to pay wine tax**

- (1) The Commonwealth is notionally liable to pay wine tax on a taxable dealing to which it is a party.
- (2) For subsection (1), the amount of wine tax payable is worked out under the WET Act as if the taxable dealing were made by a party who is not the Commonwealth.

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- (3) For subsection (2), the taxable value (for subsection 5-5(3) of the WET Act) is taken to include the value of any administrative charge payable on the taxable dealing in accordance with *Australian Customs Notice 90/124* published by the Australian Customs Service on 11 September 1990.

### 11 Notional entitlement to wine tax credits

- (1) The Commonwealth is notionally entitled to wine tax credits arising in the circumstances mentioned in Division 17 of Part 4 of the WET Act.
- (2) For subsection (1), the amount of a wine tax credit is worked out under the WET Act as if the person to whom the circumstances apply were a person other than the Commonwealth.

### 12 Registration

- (1) An untaxable Commonwealth entity must be registered under the GST Act.
- (2) The form of registration, and the procedures for registration, must be in accordance with guidelines made by the Finance Minister.

### 13 GST returns

- (1) This section applies to an untaxable Commonwealth entity's GST return that is not lodged electronically.
- (2) The GST return must be signed by a person who has authority to sign the return on behalf of the entity.

### 14 Net amounts

- (1) The net amount for an untaxable Commonwealth entity for a tax period is:

$$\text{GST} + \text{LCT} + \text{WT} - \left( \text{ITC} + \text{WTC} \right)$$

where:

**GST** is the sum of all the amounts of GST for which the entity is notionally liable on the taxable supplies that are attributable to the tax period.

**ITC** is the sum of all of the input tax credits to which the entity is notionally entitled for the creditable acquisitions and creditable importations that are attributable to the tax period.

**LCT** is the sum of all the amounts of luxury car tax for which the entity is notionally liable that are attributable to the tax period, other than amounts notionally payable on taxable importations of luxury cars.

**WT** is the sum of all the amounts of wine tax for which the entity is notionally liable that are attributable to the tax period, other than amounts notionally payable on customs dealings.

**WTC** is the sum of the wine tax credits to which the entity is notionally entitled that are attributable to the tax period.



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- (2) For subsection (1), an amount for which an entity is notionally liable, or to which it is notionally entitled, is attributable to the tax period to which it would be attributable if the entity were actually (instead of notionally) liable for, or entitled to, the amount.

### **15 Notional adjustments**

An untaxable Commonwealth entity has the following notional adjustments, worked out as if the person to whom the adjustment relates were not an untaxable Commonwealth entity:

- (a) any adjustments arising under the GST Act;
- (b) any luxury car tax adjustments arising under the LCT Act.

### **16 Adjustment of net amounts**

- (1) If an untaxable Commonwealth entity has any notional adjustments that are attributable to a tax period, the entity's net amount for the period is to be altered by:
- (a) adding to the net amount the sum of all the notional increasing adjustments that are attributable to the period; and
  - (b) subtracting from the net amount the sum of all the notional decreasing adjustments that are attributable to the period.
- (2) For subsection (1):
- (a) an increasing adjustment is worked out under the GST Act or the LCT Act as if the entity were not an untaxable Commonwealth entity; and
  - (b) a decreasing adjustment is worked out under the GST Act or the LCT Act as if the entity were not an untaxable Commonwealth entity; and
  - (c) an adjustment is attributable to the tax period to which it would be attributable if the entity were not an untaxable Commonwealth entity.

### **17 Transfer of net amounts to Commissioner**

- (1) If the net amount for an untaxable Commonwealth entity for a tax period is greater than zero, the entity must transfer the net amount from a bank account or bank accounts of the entity to an official administered receipts bank account chosen by the Commissioner.
- (2) The net amount must be transferred:
- (a) if the tax period ends during the first 7 days of a month—on or before the 21st day of the month; or
  - (b) in any other case—on or before the 21st day of the month following the end of the tax period.

### **18 Transfer of net amounts by Commissioner**

If the net amount for an untaxable Commonwealth entity for a tax period is less than zero, the Commissioner:

- (a) may offset the net amount, or part of the net amount, against any withholding amounts due and payable to the Commissioner by the entity under Part 2-5 in Schedule 1 to the *Taxation Administration Act 1953*; and

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- (b) must transfer an amount corresponding to the net amount, or the remainder of the net amount, from the appropriate official account of the Commissioner to a bank account of the untaxable Commonwealth entity.

### 19 Transfer of amounts between an entity's accounts

- (1) This section applies to an untaxable Commonwealth entity if:
  - (a) the entity gives its GST return for a tax period to the Commissioner; or
  - (b) the Commissioner transfers a net amount to a bank account of the entity.
- (2) The untaxable Commonwealth entity must, as soon as practicable before the end of the next banking day after the entity gives the return or receives the net amount, transfer amounts between the entity's bank accounts, if necessary, so that the entity's bank account balances correctly reflect the entity's departmental and administered cash balances.

### 20 Transfer of importation amounts to Commissioner

- (1) An untaxable Commonwealth entity that is notionally liable to pay:
  - (a) an amount of GST on a taxable importation; or
  - (b) an amount of luxury car tax on a taxable importation of a luxury car; or
  - (c) an amount of wine tax on a customs dealing;must transfer the amount to an official bank account designated by Customs (within the meaning of section 4AA of the *Customs Administration Act 1985*).
- (2) The amount must be transferred when the relevant goods are entered for home consumption.
- (3) Despite subsections (1) and (2), if the entity has an approval from the Commissioner to defer the transfer of amounts mentioned in paragraph (1)(a), an amount mentioned in that paragraph must be transferred:
  - (a) to the official administered receipts bank account chosen by the Commissioner in accordance with subsection 17(1); and
  - (b) on or before the 21st day after the end of the month in which the notional liability for the amount arose.

### 21 General direction to Commissioner

The Commissioner must:

- (a) collect and account for the notional taxes required by this instrument; and
- (b) administer the GST Act, the LCT Act and the WET Act, in their application to the Commonwealth, as if:
  - (i) a reference to a tax, credit or adjustment in relation to the Commonwealth were a reference to the notional tax, notional credit or notional adjustment imposed by this instrument; and
  - (ii) a requirement for payment of an amount to or by the Commonwealth were a requirement to transfer money between designated accounts in accordance with this instrument.

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## **Schedule 1—Repeals**

### *Finance Minister's (A New Tax System) Directions 2005*

#### **1 The whole of the Directions**

Repeal the Directions.